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IN THIS ISSUE

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RELATION OF THE INDIANA REGISTER TO THE INDIANA ADMINISTRATIVE CODE

The Indiana Register is an official monthly 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 annual 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.

RETENTION SCHEDULE

A person must consult the following publications to find the current rules of state agencies:

(1) Indiana Administrative Code (2001).
(2) The 2002 Supplement.
(3) Volumes 25 and 26 of the Indiana Register.

The 1996 Edition of the Indiana Administrative Code, the 2000 Cumulative Supplement, and other volumes of the Indiana Register may be discarded. (Please consider recycling.)

JUDICIAL NOTICE AND CITATION FORM

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 notice 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, regardless of whether it has been published in a supplement to the Indiana Administrative Code. 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 contains later adopted amendments. Cite a noncodified rule provision by LSA document number, SECTION number, and Indiana Register citation to the page at which the cited text begins. If a reference to a particular version of a rule or a page in the Indiana Register is appropriate, cite the volume, page, and year of publication as "25 Ind. Reg. 120 (2002)." A shorter Indiana Register citation form is "25 IR 120."

PRINTING CODE

This style type is used to indicate that substantive text is being inserted by amendment into a rule, and ~~this style type~~ 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 and to indicate that an entry in a reference table or the index concerns a final rule.

REFERENCE TABLES AND INDEX

The page location of rules and other documents printed in the Indiana Register may be found by using the tables and index published in the Indiana Register. A citation listing of the general and permanent rules affected in a volume and a cumulative index are published in each issue. Cumulative tables that cite executive orders, attorney general's opinions, and other nonrule policy documents printed in a calendar year are published quarterly.

FILING AND PUBLISHING SCHEDULE

NOTICE AND PUBLICATION SCHEDULE. The Legislative Services Agency publishes documents filed by 4:45 p.m. on the tenth day of a month (no later than the twelfth day of a month, excluding holidays or weekends) in the following month's Indiana Register according to the schedule below:

PUBLICATION SCHEDULE

Closing Dates:	Publication Dates:	Closing Dates:	Publication Dates:
November 12, 2002	December 1, 2002	June 10, 2003	July 1, 2003
December 10, 2002	January 1, 2003	July 10, 2003	August 1, 2003
January 10, 2003	February 1, 2003	August 11, 2003	September 1, 2003
February 10, 2003	March 1, 2003	September 10, 2003	October 1, 2003
March 10, 2003	April 1, 2003	October 10, 2003	November 1, 2003
April 10, 2003	May 1, 2003	November 10, 2003	December 1, 2003
May 9, 2003	June 1, 2003	December 10, 2003	January 1, 2004

Documents will be accepted for filing on any business day from 8:00 a.m. to 4:45 p.m.

AROC NOTICES: Under IC 2-5-18-4, the Administrative Rules Oversight Committee is established to oversee the rules of any agency not listed in IC 4-21.5-2-4. As a result, certain notices to the AROC are required and are printed in the Indiana Register.

CORRECTIONS: IC 4-22-2-38 authorizes an agency to correct typographical, clerical, or spelling errors in a final rule without initiating a new rulemaking procedure. Correction notices are printed on errata pages in the Indiana Register.

EFFECTIVE DATE: IC 4-22-2-36 provides that, unless a later date is specified in the rule, a rule becomes effective thirty (30) days after filing with the Secretary of State.

EMERGENCY RULES: IC 4-22-2-37.1 provides summary rulemaking procedures for certain specified categories of rules.

INCORPORATION BY REFERENCE: IC 4-22-2-21 requires that a copy of matters that are incorporated by reference into a rule must be filed with the Attorney General, the Governor, and the Secretary of State along with the text of the incorporating final rule.

NONRULE POLICY DOCUMENTS: IC 4-22-7-7 requires that any nonrule document that interprets, supplements, or implements a statute and that the issuing agency may use in conducting its external affairs must be filed with the Legislative Services Agency and published in the Indiana Register.

NOTICE OF INTENT TO ADOPT A RULE: IC 4-22-2-23 requires an agency to publish a Notice of Intent to Adopt a Rule at least thirty (30) days before publication of the proposed rule.

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 is published. The final rule must then be filed with the Secretary of State.

PUBLIC HEARINGS: IC 4-22-2-24 requires that the public hearing on a proposed rule be scheduled at least twenty-one (21) days after a notice of the hearing is published in the Indiana Register and in a newspaper of general circulation in Marion County.

RULES READOPTION: IC 4-22-2.5 provides that a rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date.

State Agencies

ALPHABETICAL LIST

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

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†325.1 Air Pollution Control Board
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†Agency's rules are entirely repealed, transferred, or otherwise voided.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #01-444(F)

DIGEST

Amends 312 IAC 9-10-11 that governs nuisance wild animal control. Establishes examination requirements before a person can lawfully assist another with the capture, possession, and release of a nuisance wild animal. Establishes requirements for periodic reexamination or for the completion of continuing education. Minimum standards are provided for measures to control, treat, or euthanize a wild animal. Identifies causes for which a permit can be suspended or revoked. Effective 30 days after filing with secretary of state.

312 IAC 9-10-11

SECTION 1. 312 IAC 9-10-11 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-10-11 Nuisance wild animal control permit

Authority: IC 14-22-2-6; IC 14-22-28
Affected: IC 14-22; IC 35-46-3-12

Sec. 11. (a) The director may without fee issue a temporary permit to control ~~outside the seasons established by this article,~~ a nuisance wild animal **that is causing damage or threatening to cause damage to property or posing a health or safety threat to persons or domestic animals.** The method of control and disposition of the animal shall be set forth in the permit.

(b) A wild animal taken under this section shall not be possessed for more than ~~twelve (12)~~ **forty-eight (48)** hours and shall not be sold, traded, bartered, or gifted.

(c) A ~~person who applies for~~ **property owner or lessee may obtain** a permit under this section ~~to assist a landowner with~~ **for the control of** a nuisance wild animal. ~~control problem must provide a written recommendation from a conservation officer.~~

(d) A person who charges a fee or provides a service to the public for nuisance wild animal control services must obtain a permit under this subsection to assist a property owner or lessee with the control of a nuisance wild animal. The following testing requirements apply:

(1) A permit applicant must correctly answer at least eighty percent (80%) of the questions on a written examination of basic knowledge supervised and administered by the division of fish and wildlife.

(2) A permittee who has satisfied subdivision (1) must, within four (4) years of being issued the permit, either:

(A) satisfy the same requirements as are set forth in subdivision (1) on another examination; or

(B) complete thirty-two (32) hours of continuing education as approved by the division.

(3) A person who fails an examination under this section may retake the examination one (1) additional time within forty-five (45) days, but not again within one hundred eighty (180) days after a second failure.

(e) A person who does not hold a permit under subsection (d) may assist a permittee, but only if the permittee directly supervises the unpermitted person. A copy of the permit must be on the person when conducting any authorized activities.

(f) A captive animal must be handled in an expeditious and humane manner in compliance with IC 35-46-3-12.

(g) Permittees may use the following:

(1) Firearms if possessed and used in compliance with all applicable state, local, and federal firearm laws.

(2) Steel and live traps, except for the following:

(A) A foot-hold trap possessing saw-toothed or spiked jaws.

(B) A foot-hold trap sized #3 or larger without offset jaws unless the trap is completely covered with water.

(C) A Conibear, Dahlgren, Bigelow, or other killer trap that is eight (8) inches or larger in diameter or is larger than eight (8) inches by eight (8) inches unless the trap is completely covered by water.

(3) Snares with a circumference no greater than fifteen (15) inches unless:

(A) at least fifty percent (50%) of the loop of the snare is covered by water; or

(B) the snare employs a relaxing snare lock (a lock that will allow the snare's loop size to increase once pulling tension is no longer exerted along the snare from its anchored end).

(h) All traps must be checked at least once every twenty-four (24) hours.

(i) The following restrictions apply to the treatment of an animal captured live under this permit:

(1) When on-site release is not the best viable option, the animal must be released in the county of capture, euthanized, or treated as otherwise authorized in the permit.

(2) An animal must be euthanized with the safest, quickest, and most painless available method as recommended and approved by the division of fish and wildlife.

(3) Prior consent is required from the landowner or the landowner's agent before an animal is released on any property.

~~If~~ **(j)** A permit **expires on December 31 of the year the permit** is issued. ~~that person~~ **The permittee** must maintain a current record to include the following:

(1) The name and address of the landowner assisted.

(2) The date assistance was provided.

(3) The number and species of animals affected.

(4) The method of disposition.

~~At the end of the calendar year, the information required under this subsection must be sent to the division for each permit issued.~~ **A copy of the records shall be kept on the premises**

of the permittee for at least two (2) years after the transaction and must be presented to a conservation officer upon request.

(k) A permittee must file an application by January 15 of each year in order to renew a permit. The annual report required under subsection (l) must accompany the renewal application.

(l) The permit holder shall provide an annual report to the division by January 15 of each year. The report shall list the following:

(1) The number of animals taken.
(2) The species of animals taken.
(3) The county where the animal was captured.
(4) The method of disposition.
(5) The county where released (if applicable).

(m) A permit issued under this section may be suspended or revoked if the permittee:

(1) Fails to comply with IC 14-22 or this article.
(2) Fails to comply with a term of the permit.
(3) Provides false information to obtain a permit under this section.
(4) Uses or employs any deception, false pretense, or false promise to cause a consumer to enter into an agreement for the removal of a nuisance wild animal.

~~(d)~~ **(n)** No permit ~~will~~ **shall** be issued under this section:
(1) for the control of a migratory bird;
(2) for a wild animal ~~which~~ **that** is identified under this article as an endangered species or a threatened species; or
(3) if ~~to grant~~ **granting** the permit would violate a federal law.

(Natural Resources Commission; 312 IAC 9-10-11; filed May 12, 1997, 10:00 a.m.: 20 IR 2732; filed Oct 28, 2002, 12:03 p.m.: 26 IR 692)

LSA Document #01-444(F)
Notice of Intent Published: 25 IR 1669
Proposed Rule Published: May 1, 2002; 25 IR 2551
Hearing Held: May 23, 2002
Approved by Attorney General: October 10, 2002
Approved by Governor: October 25, 2002
Filed with Secretary of State: October 28, 2002, 12:03 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

LSA Document #01-377(F)

DIGEST

Amends 345 IAC 7-7 concerning disposal of dead animals. Adds 345 IAC 7-7-1.5 to define terms. Makes other changes in the law of dead animal disposal. Repeals 345 IAC 7-7-6 and 345 IAC 7-7-8. *NOTE: Under IC 4-22-2-40, LSA Document #01-377, printed at 25 IR 1991, was recalled by the Indiana State Board of Animal Health. This document was revised and readopted*. Effective 30 days after filing with the secretary of state.

345 IAC 7-7-1.5
345 IAC 7-7-2
345 IAC 7-7-3
345 IAC 7-7-3.5
345 IAC 7-7-4
345 IAC 7-7-5
345 IAC 7-7-6
345 IAC 7-7-7
345 IAC 7-7-8
345 IAC 7-7-9
345 IAC 7-7-10

SECTION 1. 345 IAC 7-7-1.5 IS ADDED TO READ AS FOLLOWS:

345 IAC 7-7-1.5 Definitions

Authority: IC 15-2.1-3-19; IC 15-2.1-24-7
Affected: IC 15-2.1-2-15; IC 15-2.1-3-13; IC 15-2.1-4; IC 15-2.1-16; IC 15-2.1-24

Sec. 1.5. The definitions in IC 15-2.1-2 and the following definitions apply throughout this rule:

(1) "Animal" means domestic animal.
(2) "Condemned and inedible waste" means any part of a slaughtered animal that is unfit for human food or that is not intended for human food. The term does not include eggs and parts thereof.
(3) "Dead animal" means an animal that has died other than by slaughter.
(4) "Domestic animal" has the meaning set forth in IC 15-2.1-2-15.
(5) "Exotic animal" means a flesh-eating wild animal. Some examples are tigers, lions, bears, and cougars.
(6) "Restaurant grease" means animal or vegetable oils and fats that have been used or generated as a result of the preparation of food by a restaurant or other establishment that prepares food for human consumption.
(7) "Slaughter" means the killing and processing of an animal for human food.
(8) "Slaughtering establishment" means an establishment that is inspected or that has been granted an exemption from inspection under IC 15-2.1-24, the Federal Meat Inspection Act (21 U.S.C. et seq.), or the Federal Poultry Products Inspection Act (21 U.S.C. 451 et seq.).
(9) "State veterinarian" means the state veterinarian appointed under IC 15-2.1-4 and all authorized representatives.
(10) "Wild animal" means an animal that is not a domestic animal.

(Indiana State Board of Animal Health; 345 IAC 7-7-1.5; filed Nov 4, 2002, 12:07 p.m.: 26 IR 693)

SECTION 2. 345 IAC 7-7-2 IS AMENDED TO READ AS FOLLOWS:

345 IAC 7-7-2 Exemption or license required

Authority: IC 15-2.1-3-19; IC 15-2.1-24-7
Affected: IC 15-2.1-3-13; IC 15-2.1-16-1; IC 15-2.1-16-7; IC 15-2.1-24

Sec. 2. (a) No person shall transport ~~carcasses of~~ **dead** animals, ~~or poultry~~ **condemned and inedible waste, or restaurant grease in the state** unless ~~he holds either~~ **that person meets one (1) of the following requirements:**

(1) The person holds a **valid** disposal plant ~~permit or exotic animal feeding permit.~~ **license or collection service license and transport vehicle licenses issued under IC 15-2.1-16.**

(2) The person is exempt under IC 15-2.1-16-1 or this rule.

(b) A person who owns, cares for, or possesses an animal that dies must dispose of all parts of the dead animal within twenty-four (24) hours of knowing of the death in a manner that meets the requirements in this rule.

(c) A slaughtering establishment must dispose of condemned and inedible waste in compliance with IC 15-2.1-24, 345 IAC 9, 345 IAC 10, and this rule.

~~(b)~~ **(d)** The following persons ~~matters or vocations~~ **and activities** are exempt from ~~section (a) requiring a permit:~~ **the requirements in this rule:**

(1) ~~Persons slaughtering, butchering, manufacturing,~~ **The transportation** or selling ~~in any manner~~ **of** any animal flesh or products solely for the purpose of human consumption.

~~(2) Persons engaged in transporting dead animal and poultry bodies for human consumption.~~

~~(3)~~ **(2)** Persons transporting, disposing of, or selling the hides or skins of animals, or tanning ~~such~~ **animal** hides or skins ~~for himself or others,~~ provided no **other** byproducts operation is involved.

~~(4)~~ **(3)** Persons transporting **and disposing of** bodies of dead fish, reptiles, dogs, cats, and small game. ~~in numbers not to exceed five (5) at one time.~~

~~(5)~~ **(4) Any** governmental ~~agencies~~ **agency** collecting, transporting, or disposing of dead animals ~~or poultry.~~ **in any manner.**

~~(6)~~ **(5)** Any ~~livestock~~ **animal** owner transporting his **or her** dead ~~livestock~~ **animal** to a ~~rendering plant or to a~~ diagnostic facility **or a site for disposal in compliance with this rule.**

~~(7) Exotic animal owners who pick up only carcasses of~~ **(6) Transportation and disposal of dead wild** deer and other ~~non-domestic~~ **wild** animals.

(7) Any person collecting, transporting, or disposing of dead animals or poultry in any manner for educational or research purposes.

(e) The following apply to disposal plant, collection service, and transport vehicle licenses issued under this section:

(1) The license fees are those listed in IC 15-2.1-16-7.

(2) Each license expires at the end of the day on January 31 or the date a replacement license is issued, whichever is earlier. Licenses issued in November or December expire January 31 of the next year.

(3) A license may be renewed.

(Indiana State Board of Animal Health; 345 IAC 7-7-2; filed Jan 20, 1988, 4:04 p.m.: 11 IR 1758; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Nov 4, 2002, 12:07 p.m.: 26 IR 694)

SECTION 3. 345 IAC 7-7-3 IS AMENDED TO READ AS FOLLOWS:

345 IAC 7-7-3 Disposal methods

Authority: IC 15-2.1-3-19; IC 15-2.1-24-7
Affected: IC 15-2.1-3-13; IC 15-2.1-16-19; IC 15-2.1-16-26; IC 15-2.1-24-15

Sec. 3. ~~Any person owning, caring for, or having possession of an animal that has died~~ **(a) Dead animals and condemned and inedible waste** shall ~~dispose~~ **be disposed** of ~~the carcass within twenty-four (24) hours of the death~~ by **one (1) or more of the following methods:**

~~(a)~~ **(1)** Removal ~~of the carcass~~ to a licensed disposal plant.

~~(b)~~ **(2)** Burying the carcass **or condemned and inedible waste** on the owner's premises to a depth of four (4) feet or more, with a covering of at least four (4) feet of earth in addition to any other materials that may be used for ~~that purpose.~~ **covering. Burying a carcass or condemned and inedible waste in a location without the land owner's permission is prohibited.**

~~(c)~~ **(3)** Thorough and complete incineration of the carcass or **condemned and inedible waste.**

~~(d) Removal~~ **(4) Thorough and complete composting** of the carcass ~~to an exotic animal feeding permit holder.~~ **or condemned and inedible waste in compliance with the standards in this rule.**

(5) By sale to a plant producing pet food under permit issued by the state veterinarian under IC 15-2.1-16-26.

(b) A person may dispose of a dead animal or condemned and inedible waste by delivering the animal or waste to a facility approved by the state to operate as a landfill. But a person may not dispose of a dead animal or waste as described in this subsection if other state laws or local ordinances prohibit such activity. The operator of a landfill is not required by this rule to accept dead animals or condemned and inedible waste.

(c) A person meets the disposal requirement in section 2(b) of this rule if they have arranged for a disposal plant or collection service to pick up the dead animal or animals, including a prearranged contract for ongoing periodic collection, even if the actual pick up by the disposal plant or collection service occurs after twenty-four (24) hours have passed. The person responsible for disposal shall take steps to prevent other animals from accessing the dead animals

prior to pick-up. An authorized person may give permission for a disposal plant or collection service to enter a premises as required under IC 15-2.1-16-19 and section 7(4) of this rule in any manner that communicates their intent, including placing an order to pick up a dead animal or entering into a prearranged contract for ongoing periodic collection.

(d) No person may bury an animal or condemned and inedible waste within the corporate limits of any city or town if prohibited by a city or town ordinance.

(e) A person applying for meat or poultry inspection or an exemption from inspection under IC 15-2.1-24 shall notify the state veterinarian in writing of the method by which the applicant will dispose of the dead animals and condemned and inedible waste from the establishment. If the establishment changes the method of disposal the owner must notify the state veterinarian in writing within fifteen (15) days of the change.

(f) The state veterinarian may authorize or order that any particular animal or condemned and inedible waste, or any class of animal or waste, be disposed of in a particular manner, including a manner not listed in subsection (a), for the purpose of addressing an emergency, facilitating research, preventing the spread of disease, or protecting the public health. *(Indiana State Board of Animal Health; 345 IAC 7-7-3; filed Jan 20, 1988, 4:04 p.m.: 11 IR 1759; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Nov 4, 2002, 12:07 p.m.: 26 IR 694)*

SECTION 4. 345 IAC 7-7-3.5 IS ADDED TO READ AS FOLLOWS:

345 IAC 7-7-3.5 Composting

Authority: IC 15-2.1-3-19; IC 15-2.1-24-7
Affected: IC 15-2.1-3-13; IC 15-2.1-16; IC 15-2.1-24-15

Sec. 3.5. (a) A person composting dead animals or condemned and inedible waste must meet the following standards:

(1) The composting operation must be operated in a manner that meets all of the following conditions:

(A) Domestic animals are kept from accessing the compost pile.

(B) Rodents and other wild animals are controlled so they do not disrupt the compost pile or create a health hazard to humans or animals.

(C) Leachate run-off must be prevented or controlled.

(D) The material must be thoroughly and completely composted. Any part that is not completely composted must be removed from the compost prior to application and must be disposed of in accordance with section 3 of this rule.

(2) Dead animals and condemned and inedible waste from other operations may not be accepted for composting. But, the following may be transported to another site and accepted for composting:

(A) Sheep and goat condemned and inedible waste from slaughtering establishments.

(B) Animals excluded from this rule under section 2(d) of this rule.

(C) Dead animals and condemned and inedible waste from facilities under common ownership or management.

(b) A slaughtering establishment must meet the following additional requirements to compost dead animals and condemned and inedible waste:

(1) The composting operation may not be located in a facility that:

(A) shares a common wall or roof with the slaughtering establishment; or

(B) utilizes the same air handling equipment as the slaughtering establishment.

(2) Equipment and supplies used in the composting operation may not be moved into the slaughtering establishment.

(3) The slaughtering establishment must establish and follow procedures that will prevent adulteration of products intended for human food from the movement of personnel between the compost facility and the slaughtering establishment.

(c) The state veterinarian may order that any particular animal or condemned and inedible waste, or any class of animal or waste, not be composted, or composted in a particular manner, in order to prevent the spread of disease and protect the public health. *(Indiana State Board of Animal Health; 345 IAC 7-7-3.5; filed Nov 4, 2002, 12:07 p.m.: 26 IR 695)*

SECTION 5. 345 IAC 7-7-4 IS AMENDED TO READ AS FOLLOWS:

345 IAC 7-7-4 Unloading of trucks

Authority: IC 15-2.1-3-19
Affected: IC 15-2.1-3-13; IC 15-2.1-16; IC 15-2.1-24-15

Sec. 4. **(a)** No **dead animal** carcasses ~~of dead animals~~ **or condemned and inedible waste** shall remain on a truck ~~overnight,~~ **more than twenty-four (24) hours,** but shall be unloaded ~~within~~ **at** a licensed disposal plant **or** a licensed substation. ~~or at the premises of an exotic animal feeding permit-holder.~~

(b) All carcasses of dead animals ~~which~~ **and condemned and inedible waste that** have been unloaded in a licensed substation shall be transferred to a licensed disposal plant within twenty-four (24) hours of the time the carcasses ~~were placed in~~ **and waste arrived at** the substation. *(Indiana State Board of Animal Health; 345 IAC 7-7-4; filed Jan 20, 1988, 4:04 p.m.: 11 IR 1759; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Nov 4, 2002, 12:07 p.m.: 26 IR 695)*

SECTION 6. 345 IAC 7-7-5 IS AMENDED TO READ AS FOLLOWS:

345 IAC 7-7-5 Transportation for feeding
Authority: IC 15-2.1-3-19
Affected: IC 15-2.1-3-13; IC 15-2.1-16; IC 15-2.1-24-15

Sec. 5. ~~Exotic animal owners, who wish to~~ **(a) No person may** transport **and dispose of** carcasses of domestic animals ~~for the purpose of~~ **by** feeding the carcasses to exotic animals. ~~shall obtain~~ **But,** a ~~permit from~~ **person who, prior to July 1, 2003, notifies** the ~~board before transporting such~~ **state veterinarian of their intent to transport and dispose of the** carcasses **of domestic animals by feeding them to exotic animals may transport and dispose of carcasses in that manner.**

(b) A person transporting carcasses for feeding to exotic animals shall keep records of the following information for each collection:

(1) The name and address of the person from whom the dead animal is obtained.

(2) The date the dead animal is obtained.

(3) A description of what was obtained from the premises on each date.

The records shall be kept for not less than two (2) years.

(c) A person storing on their premises dead animal carcasses for the purpose of feeding exotic animals shall totally dispose of the carcasses and waste within seventy-two (72) hours of arrival at the premises. Any remains of a carcass not eaten within seventy-two (72) hours shall be disposed of by a method allowed under section 3 of this rule. But, carcasses that are placed in a refrigerator or freezer immediately upon arrival at the premises shall be disposed of within seventy-two (72) hours of being removed from the appliance. *(Indiana State Board of Animal Health; 345 IAC 7-7-5; filed Jan 20, 1988, 4:04 p.m.: 11 IR 1759; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Nov 4, 2002, 12:07 p.m.: 26 IR 695)*

SECTION 7. 345 IAC 7-7-7 IS AMENDED TO READ AS FOLLOWS:

345 IAC 7-7-7 Vehicle requirements
Authority: IC 15-2.1-3-19
Affected: IC 15-2.1-3-13; IC 15-2.1-16; IC 15-2.1-24-15

Sec. 7. ~~(a) Exotic animal feeder permit holders~~ **A person transporting dead animals and condemned and inedible waste under this rule** shall ~~use a~~ **comply with the following requirements:**

(1) A vehicle ~~for transporting~~ **used to transport** dead animals ~~which does~~ **or waste must be configured to** not allow ~~dripping and seepage. The carcasses~~ **fluids from the dead animals or waste to leak onto public roads.**

(2) Dead animals and waste shall **be contained or covered while transported so that they are** not ~~be~~ visible when ~~the vehicle is~~ on ~~the~~ public ~~highways.~~ **roads.**

~~(b) The vehicles~~ **(3) A vehicle used to transport dead animals or waste** shall be thoroughly cleaned and disinfected after each ~~use~~ **time that it is used** for transporting ~~carcasses.~~ **dead animals or waste.**

~~(c)~~ **(4)** A vehicle ~~of exotic animal feeder permit holders~~ transporting ~~carcasses~~ **dead animals or waste** from a ~~premise~~ **premises** is prohibited from entry onto any other ~~premise~~ **premises unless given permission by the owner,** until the carcasses **and waste** are unloaded at the final destination **and the vehicle is cleaned and disinfected.**

(5) In the event any dead animal, condemned and inedible waste, or seepage therefrom escapes from the transporting vehicle, the licensee shall clean it up as soon as is reasonably possible.

(Indiana State Board of Animal Health; 345 IAC 7-7-7; filed Jan 20, 1988, 4:04 p.m.: 11 IR 1759; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Nov 4, 2002, 12:07 p.m.: 26 IR 696)

SECTION 8. 345 IAC 7-7-10 IS AMENDED TO READ AS FOLLOWS:

345 IAC 7-7-10 Denial, suspension, or revocation of licenses
Authority: IC 15-2.1-3-19
Affected: IC 15-2.1-3-13; IC 15-2.1-16; IC 15-2.1-17-5

Sec. 10. The state veterinarian may **refuse to issue a license under this rule and may** suspend or revoke any license issued under this ~~chapter for failure to comply with this chapter.~~ **rule if the state veterinarian finds the following:**

(1) The applicant or licensee violated a requirement of this rule.

(2) Any reason listed in IC 15-2.1-16, IC 15-2.1-17-5, or this rule.

(3) The transportation or disposal of dead animals or condemned and inedible waste by the applicant or licensee presents a health hazard to animals or the citizens of Indiana.

(Indiana State Board of Animal Health; 345 IAC 7-7-10; filed Jan 20, 1988, 4:04 p.m.: 11 IR 1760; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Nov 4, 2002, 12:07 p.m.: 26 IR 696)

SECTION 9. THE FOLLOWING ARE REPEALED: 345 IAC 7-7-6; 345 IAC 7-7-8; 345 IAC 7-7-9.

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TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #01-373(F)

DIGEST

Amends 405 IAC 6-2-3, 405 IAC 6-2-5, 405 IAC 6-2-9, 405 IAC 6-2-12, 405 IAC 6-2-14, 405 IAC 6-2-18, 405 IAC 6-2-20, 405 IAC 6-2-21, 405 IAC 6-3-2, 405 IAC 6-3-3, 405 IAC 6-4-2, 405 IAC 6-5-1, 405 IAC 6-5-2, 405 IAC 6-5-3, 405 IAC 6-5-4, 405 IAC 6-5-5, 405 IAC 6-5-6, 405 IAC 6-6-2, 405 IAC 6-6-3, and 405 IAC 6-6-4 concerning provisions affecting applicants, enrollees, eligibility and enrollment requirements, benefits, and policy for the Indiana prescription drug program. Adds 405 IAC 6-2-5.3, 405 IAC 6-2-5.5, 405 IAC 6-2-12.5, 405 IAC 6-2-16.5, 405 IAC 6-2-20.5, 405 IAC 6-2-22.5, 405 IAC 6-8, and 405 IAC 6-9 concerning provisions that will set forth procedures for point of service processing and provider claims, payments, overpayments, and appeals for the Indiana prescription drug program. Effective 30 days after filing with the secretary of state.

405 IAC 6-2-3
405 IAC 6-2-5
405 IAC 6-2-5.3
405 IAC 6-2-5.5
405 IAC 6-2-9
405 IAC 6-2-12
405 IAC 6-2-12.5
405 IAC 6-2-14
405 IAC 6-2-16.5
405 IAC 6-2-18
405 IAC 6-2-20
405 IAC 6-2-20.5
405 IAC 6-2-21
405 IAC 6-2-22.5
405 IAC 6-3-2
405 IAC 6-3-3
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405 IAC 6-5-1
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405 IAC 6-5-6
405 IAC 6-6-2
405 IAC 6-6-3
405 IAC 6-6-4
405 IAC 6-8
405 IAC 6-9

SECTION 1. 405 IAC 6-2-3 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-2-3 "Benefit period" defined
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 3. "Benefit period" means a specified time frame during which an enrollee accrues **or expends** the cost of prescription drugs. The benefit periods are specified in 405 IAC 6-5-3. *(Office of the Secretary of Family and Social Services; 405 IAC 6-2-3; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2456; filed Nov 4, 2002, 12:13 p.m.: 26 IR 697)*

SECTION 2. 405 IAC 6-2-5 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-2-5 "Complete application" defined
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 5. "Complete application" means an application which includes the following information about the applicant and applicant's spouse, if applicable:

(1) Name.
(2) Address **of domicile.**
(3) Date of birth.
(4) Social Security number.
(5) Marital status.
~~(4)~~ **(6)** Whether the ~~person~~ **applicant** had health insurance **with a prescription drug benefit** in the past ~~six~~ ~~(6)~~ ~~months.~~ **year.**
~~(5)~~ **(7)** Whether the ~~person~~ **applicant** currently has insurance that includes a prescription drug benefit.
~~(6)~~ **(8)** Whether the ~~person~~ **applicant** is on Medicaid, **including Medicaid with a spend-down.**
~~(7)~~ **(9)** Whether the ~~person~~ **applicant** has ~~lived~~ **resided** in Indiana for at least ninety (90) days in the past twelve (12) months.
~~(8)~~ **(10)** Proof of income. ~~and~~
~~(9)~~ **(11)** Signature.

(Office of the Secretary of Family and Social Services; 405 IAC 6-2-5; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2457; filed Nov 4, 2002, 12:13 p.m.: 26 IR 697)

SECTION 3. 405 IAC 6-2-5.3 IS ADDED TO READ AS FOLLOWS:

405 IAC 6-2-5.3 "Complete claim" defined
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 5.3. "Complete claim" means a claim submitted by a provider for processing that contains the enrollee's name and for each drug listed all of the following information:

(1) The day the drug was dispensed.
(2) The corresponding National Drug Code (NDC) number.
(3) The identification of prescribing physician.
(4) The name and dosage of drug.
(5) The provider's selling price in accordance with 405 IAC 6-8-3.
(6) If discounts are given, the actual price enrollee paid for the drug.

(Office of the Secretary of Family and Social Services; 405 IAC 6-2-5.3; filed Nov 4, 2002, 12:13 p.m.: 26 IR 697)

SECTION 4. 405 IAC 6-2-5.5 IS ADDED TO READ AS FOLLOWS:

405 IAC 6-2-5.5 "Domicile" defined
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 5.5. "Domicile" means the applicant's true, fixed, principal, and permanent home. *(Office of the Secretary of Family and Social Services; 405 IAC 6-2-5.5; filed Nov 4, 2002, 12:13 p.m.: 26 IR 697)*

SECTION 5. 405 IAC 6-2-9 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-2-9 "Family" defined
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 9. "Family" means the applicant, spouse, and any child who ~~live~~ **reside** in the same residence. *(Office of the Secretary of Family and Social Services; 405 IAC 6-2-9; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2457; filed Nov 4, 2002, 12:13 p.m.: 26 IR 698)*

SECTION 6. 405 IAC 6-2-12 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-2-12 "Health insurance with a prescription drug benefit" defined
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 12. "Health insurance with a prescription drug benefit" means any contract with an insurance company or organization approved or recognized by the Indiana department of insurance, under which an individual receives health benefits, including a prescription drug benefit. This term includes Medicaid and veteran's benefits. A prescription discount ~~card~~ offered by an insurance company, **department, manufacturer, provider,** or organization is not considered to be a prescription drug insurance benefit. *(Office of the Secretary of Family and Social Services; 405 IAC 6-2-12; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2457; filed Nov 4, 2002, 12:13 p.m.: 26 IR 698)*

SECTION 7. 405 IAC 6-2-12.5 IS ADDED TO READ AS FOLLOWS:

405 IAC 6-2-12.5 "Income" defined
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 12.5. "Income" means the amount of money or its equivalent received in exchange for or as a result of labor or services, from the sale of goods or property or as profits from financial investments. *(Office of the Secretary of Family and Social Services; 405 IAC 6-2-12.5; filed Nov 4, 2002, 12:13 p.m.: 26 IR 698)*

SECTION 8. 405 IAC 6-2-14 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-2-14 "Net income" defined
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 14. "Net income" means the earned **income minus tax deductions, tax exemptions, and other tax reductions,** and unearned income **minus Medicare premiums** that an applicant and an applicant's family receives, calculated on a monthly basis. *(Office of the Secretary of Family and Social Services; 405 IAC 6-2-14; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2457; filed Nov 4, 2002, 12:13 p.m.: 26 IR 698)*

SECTION 9. 405 IAC 6-2-16.5 IS ADDED TO READ AS FOLLOWS:

405 IAC 6-2-16.5 "Point of service" defined
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 16.5. "Point of service" means receiving the program benefit at the time of purchase of the prescription drugs. *(Office of the Secretary of Family and Social Services; 405 IAC 6-2-16.5; filed Nov 4, 2002, 12:13 p.m.: 26 IR 698)*

SECTION 10. 405 IAC 6-2-18 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-2-18 "Prescription printout" defined
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 18. "Prescription printout" means an itemized report prepared by a ~~pharmacy~~ **provider** for an enrollee showing prescription data for the enrollee for a stated benefit period. Such prescription data must include, but is not limited to, **the following:**

(1) Enrollee name and address.
(2) Prescription number.
(3) NDC code.
(4) Drug name.
(5) Drug strength.
(6) Dosage form.
(7) Quantity dispensed.
(8) Date of dispense.
(9) The amount of any discount provided.
~~(9)~~ **(10)** The amount paid by the enrollee or any insurance plan.

(Office of the Secretary of Family and Social Services; 405 IAC 6-2-18; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2458; filed Nov 4, 2002, 12:13 p.m.: 26 IR 698)

SECTION 11. 405 IAC 6-2-20 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-2-20 "Proof of income" defined
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 20. "Proof of income" means documentation of the ~~earned and unearned~~ income of an applicant and an applicant's family. *(Office of the Secretary of Family and Social Services; 405 IAC 6-2-20; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2458; filed Nov 4, 2002, 12:13 p.m.: 26 IR 698)*

SECTION 12. 405 IAC 6-2-20.5 IS ADDED TO READ AS FOLLOWS:

405 IAC 6-2-20.5 "Provider" defined
Authority: IC 12-10-16-5
Affected: IC 12-10-16; IC 25-26-13-17

Sec. 20.5. (a) "Provider" means an entity who:
(1) participates in the program;
(2) is licensed under IC 25-26-13;
(3) holds a proper permit under IC 25-26-13-17; and
(4) complies with the same state enrollment requirements established for the Medicaid program at 405 IAC 5-4.

(b) Nothing in this rule prevents an enrolled provider from dispensing a prescription from an out-of-state branch location as long as the:
(1) provider has an Indiana presence and is enrolled under the provisions of this article; and
(2) branch location where the prescription is dispensed is located within the United States of America.
(Office of the Secretary of Family and Social Services; 405 IAC 6-2-20.5; filed Nov 4, 2002, 12:13 p.m.: 26 IR 699)

SECTION 13. 405 IAC 6-2-21 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-2-21 "Refund certificate" defined
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 21. "Refund certificate" means the **claim** document issued to an enrollee by the office ~~which~~ **that** authorizes the enrollee, **who has not received a benefit at point of service,** to request a refund for prescription drugs purchased during a benefit period. *(Office of the Secretary of Family and Social Services; 405 IAC 6-2-21; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2458; errata filed May 30, 2001, 10:00 a.m.: 24 IR 3070; filed Nov 4, 2002, 12:13 p.m.: 26 IR 699)*

SECTION 14. 405 IAC 6-2-22.5 IS ADDED TO READ AS FOLLOWS:

405 IAC 6-2-22.5 "Reside" defined
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 22.5. "Reside" means the place where an applicant actually lives as distinguished from a domicile. *(Office of the Secretary of Family and Social Services; 405 IAC 6-2-22.5; filed Nov 4, 2002, 12:13 p.m.: 26 IR 699)*

SECTION 15. 405 IAC 6-3-2 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-3-2 Date of application
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 2. For purposes of determining the effective date of availability of the program to an applicant, the date of application is the date the **complete** application is received by the office. *(Office of the Secretary of Family and Social Services; 405 IAC 6-3-2; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2459; filed Nov 4, 2002, 12:13 p.m.: 26 IR 699)*

SECTION 16. 405 IAC 6-3-3 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-3-3 Date of availability
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 3. **(a)** The program is available to an ~~applicant~~ **enrollee** beginning with the benefit period prior to the one in which the ~~applicant~~ ~~applies~~ **enrollee applied** for enrollment in the program.

(b) After July 1, 2002, program availability will be no sooner than the date complete application is received and approved.

(c) Those enrollees applying on or before the tenth of a month will have point of service benefits available on the first day of the following month. Those enrollees applying after the tenth of a month will have point of service benefits available no later than the first day of the second following month.

(d) The program is not available for prescription drugs purchased prior to the month in which the ~~applicant~~ **enrollee** turned sixty-five (65) years of age. *(Office of the Secretary of Family and Social Services; 405 IAC 6-3-3; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2459; filed Nov 4, 2002, 12:13 p.m.: 26 IR 699)*

SECTION 17. 405 IAC 6-4-2 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-4-2 Income
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 2. (a) To be eligible for the program, an applicant's monthly family net income must not exceed the income limit listed below for the applicant's family size:

Family Size	Net Monthly Income Limit
1	~~$940~~ **$997**
2	~~$1,266~~ **$1,344**
3	~~$1,592~~ **$1,690**

(b) For each additional family member over three (3), the family member standard shall be added to the net monthly income limit for a family of three in order to calculate the net monthly income limit. A child who earns more than the family member standard per month is not included in the calculation of monthly net income or in family size.

(c) The monthly net income limits are determined by multiplying the **annual** federal poverty guideline **amounts** for each family size by one hundred thirty-five percent (135%), dividing by twelve (12), and then rounding up to the next whole dollar.

(d) The income standards in **subsection** (a) shall increase annually in the same percentage (%) amount that is applied to the federal poverty guideline. The increase shall be effective on the first day of the second month following the month of publication of the federal poverty guideline in the Federal Register. *(Office of the Secretary of Family and Social Services; 405 IAC 6-4-2; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2459; filed Nov 4, 2002, 12:13 p.m.: 26 IR 699)*

SECTION 18. 405 IAC 6-5-1 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-5-1 Prescription drug coverage
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 1. **(a)** The program shall issue a partial refund to an enrollee for the purchase of prescription drugs, as defined under this article, based upon the limitations set forth in this rule **if an enrollee submits a refund certificate.**

(b) Rather than submit a refund certificate, an eligible enrollee may go to any participating provider to purchase prescription drugs and present his or her prescription and program identification card at the point of service to receive immediate program benefits. At the point of service, the provider shall determine the following:

(1) Whether the enrollee is eligible.

(2) Whether the individual whose name appears on the identification card is the same as the individual for whom the prescription is written.

(3) Whether the enrollee has benefits available.

(4) The price of a prescription drug in accordance with 405 IAC 6-8-3.

(5) That all prescription discounts, if applicable, are taken after the appropriate drug price has been determined.

(6) The amount of the enrollee's copayment.

(Office of the Secretary of Family and Social Services; 405 IAC 6-5-1; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2460; filed Nov 4, 2002, 12:13 p.m.: 26 IR 700)

SECTION 19. 405 IAC 6-5-2 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-5-2 Benefit defined by family income level
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 2. (a) The refund **or benefit at the time of purchase, which is** issued to an enrollee per benefit period, is limited by family **monthly net** income as follows:

Income Guideline	Individual's Monthly Net Income	Couple's Monthly Net Income	Annual Benefit
Up to 135% of federal poverty guideline	Up to ~~$940~~ **$997** per month	Up to ~~$1,266~~ **$1,344** per month	50% ~~refund,~~ **benefit,** up to $500 benefit/year
Up to 120% of federal poverty guideline	Up to ~~$835~~ **$886** per month	Up to ~~$1,125~~ **$1,194** per month	50% ~~refund,~~ **benefit,** up to $750 benefit/year
Under 100% of federal poverty guideline	Up to ~~$696~~ **$739** per month	Up to ~~$938~~ **$995** per month	50% ~~refund,~~ **benefit,** up to $1,000 benefit/year

(b) An enrollee and spouse who are enrolled in the program will each receive the maximum refund, **or benefit at the time** of **purchase, for** prescription drug expenses up to the annual benefit in subsection (a) for which they qualify by family income level.

(c) ~~The benefit income guidelines are determined by multiplying the federal poverty guideline for each family size by each income guideline percentage (%), dividing by twelve (12), and then rounding up to the next whole dollar.~~ **Upon such time as the enrollee exceeds the annual benefit, the enrollee may use the program identification card to access program benefit prescription drug rates as defined by 405 IAC 6-8-3 and 405 IAC 6-8-4 until the enrollee benefit period expires.**

~~(d) The benefit income guidelines in (a) shall increase annually in the same percentage (%) amount that is applied to the federal poverty guideline. The increase shall be effective on the first day of the second month following the month of publication of the federal poverty guideline in the Federal Register.~~ *(Office of the Secretary of Family and Social Services; 405 IAC 6-5-2; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2460; filed Nov 4, 2002, 12:13 p.m.: 26 IR 700)*

SECTION 20. 405 IAC 6-5-3 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-5-3 Benefit period
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 3. **(a)** The **refund certificate** program shall consist of four **(4)** benefit periods per year, defined as follows:

(1) Benefit period one: October 1 through December 31.

(2) Benefit period two: January 1 through March 31.

(3) Benefit period three: April 1 through June 30.

(4) Benefit period four: July 1 through September 30.

(b) The point of service benefit shall be one (1) year of continuous eligibility up to the benefit limit in accordance

with section 2 of this rule. *(Office of the Secretary of Family and Social Services; 405 IAC 6-5-3; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2460; filed Nov 4, 2002, 12:13 p.m.: 26 IR 700)*

SECTION 21. 405 IAC 6-5-4 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-5-4 Benefit duration
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 4. **(a)** The **refund certificate** program is available to an enrollee for a maximum of four (4) consecutive benefit periods.

(b) The point of service benefit is available to an enrollee for one (1) year.

(c) If an enrollee is utilizing both the refund certificate program and the point of service program, the maximum benefit duration to an enrollee is one (1) year of continuous benefits.

(d) To reenroll in the **refund certificate** program ~~following the expiration of the enrollee's last benefit period,~~ **or for point of service benefits** a new application must be submitted to the office in accordance with this article. *(Office of the Secretary of Family and Social Services; 405 IAC 6-5-4; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2460; filed Nov 4, 2002, 12:13 p.m.: 26 IR 701)*

SECTION 22. 405 IAC 6-5-5 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-5-5 Benefit period ineligibility
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 5. ~~(a)~~ An enrollee is ineligible for a ~~refund~~ **program benefit** for prescription drugs purchased during any benefit period in which the enrollee has health insurance **or Medicaid** with a prescription drug benefit.

~~(b) Ineligibility for a refund under (a) does not terminate enrollment in the program. An enrollee may request a refund during any later benefit period during which the enrollee does not have health insurance with a prescription drug benefit.~~ *(Office of the Secretary of Family and Social Services; 405 IAC 6-5-5; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2460; filed Nov 4, 2002, 12:13 p.m.: 26 IR 701)*

SECTION 23. 405 IAC 6-5-6 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-5-6 Benefits; program appropriations
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 6. (a) Upon submission of a completed refund certificate, **or at the point of service,** benefits are available under this program on a first come, first ~~serve~~ **served** basis.

(b) Benefits will exist under this program to the extent that appropriations are available for the program.

(c) The state budget director shall determine if appropriations are available to continue **offering and** paying benefits to enrollees. *(Office of the Secretary of Family and Social Services; 405 IAC 6-5-6; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2460; filed Nov 4, 2002, 12:13 p.m.: 26 IR 701)*

SECTION 24. 405 IAC 6-6-2 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-6-2 Letter of eligibility
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 2. Once the office has ~~processed a complete application,~~ **determined eligibility,** the applicant will receive a letter of eligibility ~~by mail~~ notifying the applicant of his or her status in the program. An applicant will either be eligible and enrolled in the program, or ineligible and not enrolled in the program. **New applicants determined to be eligible after July 1, 2002, will receive an approved letter of eligibility and a program benefit card.** *(Office of the Secretary of Family and Social Services; 405 IAC 6-6-2; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2461; filed Nov 4, 2002, 12:13 p.m.: 26 IR 701)*

SECTION 25. 405 IAC 6-6-3 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-6-3 Refund certificates
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 3. (a) An enrollee will receive up to four (4) refund certificates with a letter of eligibility which enrolls the applicant into the program.

(b) Each refund certificate corresponds to one (1) of four (4) refund periods as defined ~~below:~~ **as follows:**
(1) Refund period one: January 1 through March 31.
(2) Refund period two: April 1 through June 30.
(3) Refund period three: July 1 through September 30.
(4) Refund period four: October 1 through December 31.

(c) Each refund period corresponds to one (1) benefit period as set forth ~~below:~~ **as follows:**

Benefit Period	Refund Period
October 1 through December 31	January 1 through March 31
January 1 through March 31	April 1 through June 30
April 1 through June 30	July 1 through September 30
July 1 through September 30	October 1 through December 31

(d) Refund certificates will not be available on or after July 1, 2002.

(e) Refund certificates for July–September 2002 will be the last quarter paid by the program. *(Office of the Secretary of Family and Social Services; 405 IAC 6-6-3; filed Mar 8, 2001, 11:19 a.m. 24 IR 2461; filed Nov 4, 2002, 12:13 p.m.: 26 IR 701)*

SECTION 26. 405 IAC 6-6-4 IS AMENDED TO READ AS FOLLOWS:

405 IAC 6-6-4 Refund certificate redemption
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 4. (a) **If the enrollee is using a refund certificate,** during each refund period, the enrollee must submit the applicable refund certificate with the prescription printout for the corresponding benefit period to the office in the manner prescribed by the office.

(b) The refund period deadline is the date which corresponds to the later of thirty-five (35) days from the date on the letter of eligibility or the last day of the applicable refund period.

(c) An enrollee will be notified by mail if the enrollee submits an incomplete request for refund. An incomplete request for refund includes:

(1) an unsigned refund certificate;

(2) a refund certificate with no insurance verification;

(3) a prescription printout which fails to state all information in ~~405 IAC 6-2-17;~~ **405 IAC 6-2-18;**

(4) the absence of a refund certificate for the applicable benefit period;

(5) the absence of a prescription printout for the applicable benefit period; or

(6) the absence of any other information that is necessary under this article to process a refund request.

The enrollee must submit the information requested in the letter of notification by the deadline in the letter of notification.

(d) **A** refund ~~certificates~~ **certificate** received by the office after the refund deadline date will not be processed and no refund will be issued. Any refund certificate or prescription printout requested in **subsection** (c) that is received by the office after the stated deadline date will not be processed and no refund will be issued. *(Office of the Secretary of Family and Social Services; 405 IAC 6-6-4; filed Mar 8, 2001, 11:19 a.m.: 24 IR 2461; filed Nov 4, 2002, 12:13 p.m.: 26 IR 702)*

SECTION 27. 405 IAC 6-8 IS ADDED TO READ AS FOLLOWS:

Rule 8. Provider Appeal; Records; Drug Price; Dispensing Fee

405 IAC 6-8-1 Provider appeal procedures
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 1. All provider appeals from office action taken under this article shall be governed by the procedures and time limits for Medicaid providers set out in 405 IAC 1-1.5 and 405 IAC 6-9-1, if applicable. *(Office of the Secretary of Family and Social Services; 405 IAC 6-8-1; filed Nov 4, 2002, 12:13 p.m.: 26 IR 702)*

405 IAC 6-8-2 Provider records
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 2. The provisions of 405 IAC 1-5 concerning contents, retention, and disclosure of records of Medicaid providers shall apply to providers of covered drugs under this title. *(Office of the Secretary of Family and Social Services; 405 IAC 6-8-2; filed Nov 4, 2002, 12:13 p.m.: 26 IR 702)*

405 IAC 6-8-3 Drug price methodology
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 3. Drug prices for purposes of determining provider reimbursement and enrollee copayment shall be calculated using the reimbursement methodology for Medicaid prescription drugs under rules adopted by the secretary at 405 IAC 5-24. *(Office of the Secretary of Family and Social Services; 405 IAC 6-8-3; filed Nov 4, 2002, 12:13 p.m.: 26 IR 702)*

405 IAC 6-8-4 Dispensing fee
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 4. The Indiana prescription drug dispensing fee maximum under this title shall be the same as that which is allowable under rules adopted by the secretary at 405 IAC 5-24-6. *(Office of the Secretary of Family and Social Services; 405 IAC 6-8-4; filed Nov 4, 2002, 12:13 p.m.: 26 IR 702)*

SECTION 28. 405 IAC 6-9 IS ADDED TO READ AS FOLLOWS:

Rule 9. Provider Claims; Payments; Overpayments; Sanctions

405 IAC 6-9-1 Filing of claims; filing date; payment liability
Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 1. (a) All provider claims for payment for point of service benefits rendered to enrollees must be originally filed with the office's contractor within twelve (12) months of the date of the provision of the service. A provider who is dissatisfied with the amount of his or her reimbursement may appeal under the provisions of 405 IAC 6-8-1. However, prior to filing such an appeal, the provider must:

(1) resubmit the claim if the reason for denial of payment was due to incorrect or inaccurate billing by the provider;

(2) submit, if appropriate, an adjustment request to the office contractor's adjustment and resolution unit; or

(3) submit a written request to the office's contractor, stating why the provider disagrees with the denial or amount of reimbursement.

(b) All requests for payment adjustments or reconsideration of a claim that has been denied must be submitted to the office contractor within sixty (60) days of the date of notification that the claim was paid or denied. In order to be considered for payment, each subsequent claim resubmission or adjustment request must be submitted within sixty (60) days of the most recent notification that the claim was paid or denied. The date of notification shall be considered to be three (3) days following the date of mailing from the office's contractor. All claims filed after twelve (12) months of the date of the provision of the service, as well as claims filed after sixty (60) days of the date of notification that the claim was paid or denied shall be rejected for payment unless a waiver has been granted. In extenuating circumstances a waiver of the filing limit may be authorized by the contractor or the office when justification is provided to substantiate why the claim could not be filed or refiled within the filing limit. Some examples of situations considered to be extenuating circumstances are as follows:

(1) Contractor or state error or action that has delayed payment.

(2) Reasonable and continuous attempts on the part of the provider to resolve a claim problem.

(c) All claims filed for reimbursement shall be reviewed prior to payment by the office or its contractor, for completeness, including required documentation, appropriateness of services and charges, application of discounts, and other areas of accuracy and appropriateness as indicated.

(d) The office is only liable for the payment of claims filed by providers who were certified providers at the time the service was rendered and for services provided to persons who were enrolled in the Indiana prescription drug program as eligible enrollees at the time service was provided. The claim will not be paid if the services provided are outside the service parameters as established by the office.

(e) A provider shall collect from an enrollee or from the authorized representative of the enrollee that portion of his or her charge for a benefit as defined by 405 IAC 6-5-2, which is not reimbursed by the Indiana prescription drug program and after all prescription discounts have been calculated in accordance with this article. *(Office of the Secretary of Family and Social Services; 405 IAC 6-9-1; filed Nov 4, 2002, 12:13 p.m.: 26 IR 702)*

405 IAC 6-9-2 Denial of claim payment; basis

Authority: IC 12-10-16-5
Affected: IC 4-21.5-3-7; IC 4-21.5-4; IC 12-10-16

Sec. 2. (a) The office may deny payment, or instruct the contractor to deny payment, to any provider if, after investigation by the office, the office's designee, or other governmental authority, the office finds any of the following:

(1) The services claimed cannot be documented by the provider in accordance with 405 IAC 6-8-2.

(2) The services claimed were provided to a person other than a person in whose name the claim is made.

(3) The services claimed were provided to a person who was not eligible for benefits at the time of the provision of the service.

(4) The claim arises out of any of the following acts or practices:

(A) Presenting, or causing to be presented, for payment any false or fraudulent claim.

(B) Submitting, or causing to be submitted, information for the purpose of obtaining greater compensation than that to which the provider is legally entitled.

(C) Submitting, or causing to be submitted, any false information.

(D) Failure to disclose, or make available to the office, or its authorized agent, records of services provided to enrollees and records of payments made therefor.

(E) Engaging in a course of conduct or performing an act deemed by the office to be improper or abusive of the program or continuing such conduct following notification that the conduct should cease.

(F) Breach of the terms of the Indiana prescription drug pharmacy provider agreement or failure to comply with the terms of the provider certification on the claim form.

(G) Violating any provision of state law or any rule or regulation promulgated pursuant to this article or any provider bulletin published thereto.

(H) Submission of a false or fraudulent application for provider status.

(I) Failure to meet standards required by the state for participating in the program.

(J) Refusal to execute a new Indiana prescription drug Pharmacy Provider agreement when requested by the office or its contractor to do so.

(K) Failure to correct deficiencies to provider operations after receiving written notice of these deficiencies from the office.

(L) Failure to repay within sixty (60) days or make acceptable arrangements for the repayment of identified overpayments or otherwise erroneous payments, except as provided in this rule.

(M) Presenting claims for which benefits are not available.

(5) The claim arises out of any act or practice prohibited by rules of the office.

(b) The decision as to denial of payment for a particular

claim or claims is at the discretion of the office. This decision shall be final and:

(1) will be mailed to the provider by United States mail at the address contained in the office records and on the claims or transmitted electronically if the provider has elected to receive electronic remittance advices;

(2) will be effective upon receipt; and

(3) may be administratively appealed in accordance with this article.

(c) The decision as to claim payment suspension is at the discretion of the office and may include either of the following:

(1) The denial of payment for all claims that have been submitted by the provider pending further investigation by the office, the office's designee, or other governmental authority.

(2) The suspension or withholding of payment on any or all claims of the provider pending an audit or further investigation by the office, the office's designee, or other governmental authority.

(d) The decision of the office under subsection (c) shall:

(1) be served upon the provider by certified mail, return receipt requested;

(2) contain a brief description of the decision;

(3) become final fifteen (15) days after its receipt; and

(4) contain a statement that any appeal from the decision shall be taken in accordance with IC 4-21.5-3-7 and 405 IAC 6-8-1.

(e) If an emergency exists, as determined by the office, the office may issue an emergency directive suspending or withholding payment on any or all claims of the provider pending further investigation by the office, the office's designee, or other governmental authority under IC 4-21.5-4. Any order issued under this subsection shall:

(1) be served upon the provider by certified mail, return receipt requested;

(2) become effective upon receipt;

(3) include a brief statement of the facts and law that justifies the office's decision to issue an emergency directive; and

(4) contain a statement that any appeal from the decision of the assistant secretary made under this subsection shall be taken in accordance with IC 4-21.5-3-7 and 405 IAC 6-8-1.

(Office of the Secretary of Family and Social Services; 405 IAC 6-9-2; filed Nov 4, 2002, 12:13 p.m.: 26 IR 703)

405 IAC 6-9-3 Overpayments made to providers; recovery

Authority: IC 12-10-16-5
Affected: IC 4-21.5-3; IC 6-8.1-10-1; IC 12-10-16

Sec. 3. (a) The office may recover payment, or instruct its contractor to recover payment, from any provider for services rendered to an individual, or claimed to be rendered to an individual, if the office, after investigation or audit, finds that:

(1) the services paid for cannot be documented by the provider as required by 405 IAC 6-8-2;

(2) the services were provided to a person other than the person in whose name the claim was made and paid;

(3) the service reimbursed was provided to a person who was not eligible for benefits at the time of the provision of the service;

(4) the paid claim arises out of any act or practice prohibited by law or by rules of the office;

(5) overpayment resulted from an inaccurate description of prescription data;

(6) overpayment resulted from duplicate billing; and

(7) overpayment to the provider resulted from any other reason not specified in this subsection.

(b) The office may determine the amount of overpayments made to a provider by means of a random sample audit. The random sample audit shall be conducted in accordance with generally accepted statistical methods, and the selection criteria shall be based on a table of random numbers derived from any book of random sampling generally accepted by the statistical profession.

(c) The office or its designee may conduct random sample audits for the purpose of determining overcharges to the Indiana prescription drug program. The following criteria apply to random sample audits:

(1) In the event that the provider wishes to appeal the accuracy of the random sample methodology under IC 4-21.5-3, the provider may present evidence to show that the sample used by the office was invalid and therefore cannot be used to project the overpayments identified in the sample to total billings for the audit period.

(2) The provider may also conduct an audit, at the provider's expense, of either a valid random sample audit, using the same random sampling methodology as used by the office, or an audit of one hundred percent (100%) of medical records of payments received during the audit period. Any such audit must be completed within one hundred eighty (180) days of the date of appeal and must demonstrate that the provider's records for the unaudited services provided during the audit period were in compliance with state and federal law. The provider must submit supporting documentation to demonstrate this compliance.

(d) If the office determines that an overcharge has occurred, the office shall notify the provider by certified mail. The notice shall include a demand that the provider reimburse the office, within sixty (60) days of the provider's receipt of the notification, for any overcharges determined by the office. Except as provided in subsection (f), a provider who receives a notice and request for repayment may elect to do one (1) of the following:

(1) Repay the amount of the overpayment not later than sixty (60) days after receiving notice from the office, including interest from the date of overpayment.

(2) Request a hearing and repay the amount of the alleged overpayment not later than sixty (60) days after receiving notice from the office.

(3) Request a hearing not later than sixty (60) days after receiving notice from the office and not repay the alleged overpayment, except as provided in subsection (e).

(e) If:

(1) a provider elects to proceed under subsection (d)(3); and

(2) the office of the secretary determines after the hearing and any subsequent appeal that the provider owes the money;

the provider shall pay the amount of the overpayment, including interest from the date of the overpayment.

(f) The office may enter into an agreement with the provider regarding the repayment of any overpayment made to the provider. Such agreement shall state that the amount of overpayment shall be deducted from subsequent payments to the provider. Such subsequent payment deduction shall not exceed a period of six (6) months from the date of the agreement. The repayment agreement shall include provisions for the collection of interest on the amount of the overpayment. Such interest shall not exceed the percentage rate that is determined by the commissioner of the department of state revenue under IC 6-8.1-10-1(c). Recovering interest:

(1) at a rate that is the percentage rounded to the nearest whole number that equals the average investment yield on state money for the state's previous fiscal year, excluding pension fund investments, as published in the auditor of state's comprehensive annual financial report; and

(2) accruing from the date of overpayment on amounts paid to a provider that are in excess of the amount subsequently determined to be due the provider as a result of an audit, a reimbursement cost settlement or a judicial or an administrative proceeding.

(g) If the office recovers an overpayment to a provider that is subsequently found not to have been owing to the office, either in whole or in part, then the office will pay to the provider interest on the amount erroneously recovered from the provider. Such interest will accrue from the date that the overpayment was recovered by the office until the date the overpayment is restored to the provider. Such interest will accrue at the rate of interest set by the commissioner for interest payments from the department of state revenue to a taxpayer. The office will not pay interest to a provider under any other circumstances.

(h) If, after receiving a notice and request for repayment, the provider fails to elect one (1) of the options listed in subsection (d) within sixty (60) days and the administrator determines that reasonable grounds exist to suspect that the provider has acted in a fraudulent manner, then the office shall immediately certify the facts of the case to the appropriate county prosecutor. *(Office of the Secretary of Family and Social Services; 405 IAC 6-9-3; filed Nov 4, 2002, 12:13 p.m.: 26 IR 704)*

405 IAC 6-9-4 Repayment of overpayment to office

Authority: IC 12-10-16-5
Affected: IC 12-10-16

Sec. 4. (a) The office may require the repayment of any amount determined by the office to have been paid to the provider in error, prior to an evidentiary hearing or summary review, unless an appeal is pending and the provider has elected not to repay an alleged overpayment pursuant to section 3(d)(3) of this rule. The office may, in its discretion, recoup any overpayment to the provider by the following means:

(1) Offset the amount of the overpayment against current payments to a provider.

(2) Require that the provider satisfy the overpayment by refunding the entire amount of the overpayment to the office directly.

(3) Enter into an agreement with the provider in accordance with section 3 of this rule.

(b) Interest from the date of the overpayment will be assessed even if the provider repays the overpayment to the office within thirty (30) days after receipt of the notice of the overpayment. This subsection applies to any of the methods of recoupment set out in this section. *(Office of Family and Social Services; 405 IAC 6-9-4; filed Nov 4, 2002, 12:13 p.m.: 26 IR 705)*

405 IAC 6-9-5 Sanctions against providers; determination after investigation

Authority: IC 12-10-16-5
Affected: IC 4-21.5-3-6; IC 4-21.5-3-7; IC 4-21.5-4; IC 12-10-16

Sec. 5. (a) If, after investigation by the office, the office's designee, or other governmental authority, the office determines that a provider has violated any provision of IC 12-10-16, or has violated any rule established under one (1) of those sections, the office may impose one (1) or more of the following sanctions:

(1) Deny payment to the provider for services rendered during a specified period of time.

(2) Reject a prospective provider's application for participation in the program.

(3) Remove a provider's certification for participation in the program (decertify the provider).

(4) Assess a fine against the provider in an amount not to exceed three (3) times the amounts paid to the provider in excess of the amounts that were legally due.

(5) Assess an interest charge, at a rate not to exceed the rate established within this article on the amounts paid to the provider in excess of the amounts that were legally due. The interest charge shall accrue from the date of the overpayment to the provider.

(b) Specifically, the office may impose the sanctions in subsection (a) if, after investigation by the office, the office's designee, or other governmental authority, the office determines that the provider did any of the following:

(1) Submitted, or caused to be submitted, claims for services which cannot be documented by the provider.

(2) Submitted, or caused to be submitted, claims for services provided to a person other than a person in whose name the claim is made.

(3) Submitted, or caused to be submitted, any false or fraudulent claims for services.

(4) Submitted, or caused to be submitted, information with the intent of obtaining greater compensation than that which the provider is legally entitled.

(5) Engaged in a course of conduct or performed an act deemed by the office to be abusive of the program or continuing such conduct following notification that the conduct should cease.

(6) Breached, or caused to be breached, the terms of the provider certification agreement.

(7) Failed to comply with the terms of the provider certification on the claim form.

(8) Overutilized, or caused to be overutilized, the program.

(9) Submitted, or caused to be submitted, a false or fraudulent provider certification agreement.

(10) Submitted, or caused to be submitted, any claims for services arising out of any act or practice prohibited by the criminal provisions of the Indiana Code or by the rules of the office.

(11) Failed to disclose or make available to the office, the office's designee, or other governmental authority, after reasonable request and notice to do so, documentation of services provided to enrollees and office records of payments made therefor.

(12) Failed to meet standards required by the state law for participation.

(13) Charged an enrollee copayment for covered services over and above that allowable under this article.

(14) Refused to execute a new provider certification agreement when requested to do so.

(15) Failed to correct deficiencies to provider operations after receiving written notice of these deficiencies from the office.

(16) Failed to repay or make arrangements for the repayment of identified overpayments or otherwise erroneous payments, unless an appeal is pending and the provider has elected not to repay an alleged overpayment.

(c) The office may enter a directive imposing a sanction under IC 4-21.5-3-6. Any directive issued under this subsection shall:

(1) be served upon the provider by certified mail, return receipt requested;

(2) contain a brief description of the order;

(3) become final fifteen (15) days after its receipt; and

(4) contain a statement that any appeal from the decision of the office made under this section shall be taken in accordance with IC 4-21.5-3-7 and 405 IAC 6-8-1.

(d) If an emergency exists, as determined by the office, the office may issue an emergency directive imposing a sanction under IC 4-21.5-4. Any order issued under this subsection shall:

(1) be served upon the provider by certified mail, return receipt requested;

(2) become effective upon receipt;

(3) include a brief statement of the facts and law that justifies the office's decision to issue an emergency directive; and

(4) contain a statement that any appeal from the decision made under this section shall be taken in accordance with IC 4-21.5-3-7 and 405 IAC 6-8-1.

(e) The decision to impose a sanction shall be made at the discretion of the office. *(Office of the Secretary of Family and Social Services; 405 IAC 6-9-5; filed Nov 4, 2002, 12:13 p.m.: 26 IR 705)*

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TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-13(F)

DIGEST

Amends 405 IAC 1-14.6-2, 405 IAC 1-14.6-4, 405 IAC 1-14.6-6, 405 IAC 1-14.6-7, 405 IAC 1-14.6-9, 405 IAC 1-14.6-12, 405 IAC 1-14.6-16, and 405 IAC 1-14.6-22 to revise the case mix reimbursement methodology that the Medicaid program utilizes to reimburse nursing facilities as follows: removes from consideration as allowable cost indirect costs associated with ancillary services provided to non-Medicaid residents; establishes a children's nursing facility designation

for Medicaid reimbursement purposes and removes the profit add-on portion of the direct care component for nursing facilities not designated as children's nursing facilities; establishes a minimum occupancy parameter for the direct care, indirect care, and administrative rate components; provides for rebasing of Medicaid payment rates every other year, rather than annually; and updates mortgage interest rate parameter used to establish Medicaid reimbursement for capital costs of nursing facilities. Effective 30 days after filing with the secretary of state.

405 IAC 1-14.6-2	**405 IAC 1-14.6-9**
405 IAC 1-14.6-4	**405 IAC 1-14.6-12**
405 IAC 1-14.6-6	**405 IAC 1-14.6-16**
405 IAC 1-14.6-7	**405 IAC 1-14.6-22**

SECTION 1. 405 IAC 1-14.6-2, AS AMENDED AT 25 IR 2462, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-14.6-2 Definitions

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15; IC 16-10-1

Sec. 2. (a) As used in this rule, "administrative component" means the portion of the Medicaid rate that shall reimburse providers for allowable administrative services and supplies, including prorated employee benefits based on salaries and wages. Administrative services and supplies include the following:

(1) Administrator and co-administrators, owners' compensation (including directors fees) for patient-related services.
(2) Services and supplies of a home office that are allowable and patient related and are appropriately allocated to the nursing facility.
(3) Office and clerical staff.
(4) Legal and accounting fees.
(5) Advertising.
(6) Travel.
(7) Telephone.
(8) License dues and subscriptions.
(9) Office supplies.
(10) Working capital interest.
(11) State gross receipts taxes.
(12) Utilization review costs.
(13) Liability insurance.
(14) Management and other consultant fees.
(15) Qualified mental retardation professional (QMRP).

(b) As used in this rule, "allowable per patient day cost" means a ratio between allowable cost and patient days.

(c) As used in this rule, "annual financial report" refers to a presentation of financial data, including appropriate supplemental data, and accompanying notes, derived from accounting records and intended to communicate the provider's economic resources or obligations at a point in time, or changes therein for a period of time in compliance with the reporting requirements of this rule.

(d) As used in this rule, "allowable cost determination" means a computation performed by the office or its contractor to determine a nursing facility's per patient day cost based on a review of an annual financial report and supporting information by applying this rule.

~~(d)~~ **(e)** As used in this rule, "average allowable cost of the median patient day **applicable to providers with an actual occupancy rate of at least sixty-five percent (65%)"** means the allowable per patient day cost (including any applicable inflation adjustment) of the median patient day from all providers when ranked in numerical order based on average allowable cost. The average allowable cost (including any applicable inflation adjustment) shall be computed on a statewide basis **using each provider's actual occupancy from the most recently completed annual financial report** and shall be maintained by the office with revisions made four (4) times per year effective January 1, April 1, July 1, and October 1.

(f) As used in this rule, "average allowable cost of the median patient day applicable to providers with an actual occupancy rate of less than sixty-five percent (65%)" means the allowable per patient day cost (including any applicable inflation adjustment) of the median patient day from all providers when ranked in numerical order based on average allowable cost. The average allowable cost (including any applicable inflation adjustment) shall be computed on a statewide basis using an occupancy rate equal to the greater of sixty-five percent (65%), or each provider's actual occupancy rate from the most recently completed annual financial report, and shall be maintained by the office with revisions made four (4) times per year effective January 1, April 1, July 1, and October 1.

~~(e)~~ **(g)** As used in this rule, "average historical cost of property of the median bed" means the allowable patient-related property per bed for facilities that are not acquired through an operating lease arrangement, when ranked in numerical order based on the allowable patient-related historical property cost per bed that shall be updated each calendar quarter. Property shall be considered allowable if it satisfies the conditions of section 14(a) of this rule.

~~(f)~~ **(h)** As used in this rule, "calendar quarter" means a three (3) month period beginning January 1, April 1, July 1, or October 1.

~~(g)~~ **(i)** As used in this rule, "capital component" means the portion of the Medicaid rate that shall reimburse providers for the use of allowable capital-related items. Such capital-related items include the following:

(1) The fair rental value allowance.
(2) Property taxes.
(3) Property insurance.

~~(h)~~ **(j)** As used in this rule, "case mix index" (CMI) means a numerical value score that describes the relative resource use for each resident within the groups under the Resource Utilization Group (RUG-III) classification system prescribed by the office based on an assessment of each resident. The facility CMI shall be based on the resident CMI, calculated on a facility-average, time-weighted basis for the following:

(1) Medicaid residents.

(2) All residents.

~~(i)~~ **(k)** As used in this rule, "cost center" means a cost category delineated by cost reporting forms prescribed by the office.

(l) As used in this rule, "children's nursing facility" means a nursing facility that has twenty-five percent (25%) or more of its residents who are under the chronological age of twenty-one (21) years and has received written approval from the office to be designated as a children's nursing facility.

~~(j)~~ **(m)** As used in this rule, "delinquent MDS resident assessment" means an assessment that is ~~not electronically transmitted by the fifteenth day of the second month following the end of a calendar quarter, or an assessment that is not electronically transmitted by the fifteenth day of the second month following the end of a calendar quarter, or an assessment that is~~ greater than one hundred thirteen (113) days old, as measured by the R2b date field on the MDS. **This determination is made on the fifteenth (15th) day of the second (2nd) month following the end of a calendar quarter.**

~~(k)~~ **(n)** As used in this rule, "desk ~~audit"~~ **review"** means a review ~~of a written audit report and its supporting documents by a qualified auditor, together with the auditor's written findings and recommendations.~~ **and application of these regulations to a provider submitted annual financial report including accompanying notes and supplemental information.**

~~(l)~~ **(o)** As used in this rule, "direct care component" means the portion of the Medicaid rate that shall reimburse providers for allowable direct patient care services and supplies, including prorated employee benefits based on salaries and wages. Direct care services and supplies include all:

(1) nursing and nursing aide services;

(2) nurse consulting services;

(3) pharmacy consultants;

(4) medical director services;

(5) nurse aide training;

(6) medical supplies;

(7) oxygen; and

(8) medical records costs.

~~(m)~~ **(p)** As used in this rule, "fair rental value allowance" means a methodology for reimbursing nursing facilities for the use of allowable facilities and equipment, based on establishing a rental valuation on a per bed basis of such facilities and equipment, and a rental rate.

~~(n)~~ **(q)** As used in this rule, "field audit" means a formal official verification and methodical examination and review, including the final written report of the examination of original books of accounts and resident assessment data and its supporting documentation by auditors.

~~(o)~~ **(r)** As used in this rule, "forms prescribed by the office" means cost reporting forms provided by the office or substitute forms that have received prior written approval by the office.

~~(p)~~ **(s)** As used in this rule, "general line personnel" means management personnel above the department head level who perform a policymaking or supervisory function impacting directly on the operation of the facility.

~~(q)~~ **(t)** As used in this rule, "generally accepted accounting principles" or "GAAP" means those accounting principles as established by the American Institute of Certified Public Accountants.

~~(r)~~ **(u)** As used in this rule, "incomplete MDS resident assessment" means an assessment that ~~does not contain all data items that are required to classify a resident pursuant to the RUG-III resident classification system, for example, MDS RUG fields that include blanks, out of range, or inconsistent responses, or an assessment that~~ is not printed by the nursing facility provider upon request by the office or its contractor.

~~(s)~~ **(v)** As used in this rule, "indirect care component" means the portion of the Medicaid rate that shall reimburse providers for allowable indirect patient care services and supplies, including prorated employee benefits based on salaries and wages. Indirect care services and supplies include the following:

(1) Allowable dietary services and supplies.

(2) Raw food.

(3) Patient laundry services and supplies.

(4) Patient housekeeping services and supplies.

(5) Plant operations services and supplies.

(6) Utilities.

(7) Social services.

(8) Activities supplies and services.

(9) Recreational supplies and services.

(10) Repairs and maintenance.

~~(t)~~ **(w)** As used in this rule, "minimum data set (MDS)" means a core set of screening and assessment elements, including common definitions and coding categories, that form the foundation of the comprehensive assessment for all residents of long term care facilities certified to participate in the Medicaid program. The items in the MDS standardize communication about resident problems, strengths, and conditions

within facilities, between facilities, and between facilities and outside agencies. Version 2.0 (1/30/98) is the most current form to the minimum data set (MDS 2.0). The Indiana system will employ the MDS 2.0 or subsequent revisions as approved by the Centers for Medicare & Medicaid Services (CMS), formerly the Health Care Financing Administration.

~~(u)~~ **(x)** As used in this rule, "medical and nonmedical supplies and equipment" include those items generally required to assure adequate medical care and personal hygiene of patients.

(y) As used in this rule, "non-rebasing year" means the year during which a nursing facility's annual Medicaid rate is not established based on a review of its annual financial report covering its most recently completed historical period. The annual Medicaid rate effective during a non-rebasing year shall be determined by adjusting the Medicaid rate components from the previous year by an inflation adjustment. The following year shall be a non-rebasing year: July 1, 2003, through June 30, 2004.

~~(v)~~ **(z)** As used in this rule, "normalized allowable cost" means total allowable direct patient care costs for each facility divided by that facility's average case mix index (CMI) for all residents.

~~(w)~~ **(aa)** As used in this rule, "office" means the office of Medicaid policy and planning.

~~(x)~~ **(bb)** As used in this rule, "ordinary patient-related costs" means costs of allowable services and supplies that are necessary in delivery of patient care by similar providers within the state.

~~(y)~~ **(cc)** As used in this rule, "patient/recipient care" means those Medicaid program services delivered to a Medicaid enrolled recipient by a certified Medicaid provider.

~~(z)~~ **(dd)** As used in this rule, "reasonable allowable costs" means the price a prudent, cost conscious buyer would pay a willing seller for goods or services in an arm's-length transaction, not to exceed the limitations set out in this rule.

(ee) As used in this rule, "rebasing year" means the year during which a nursing facility's Medicaid rate is based on a review of its annual financial report covering its most recently completed historical period. The following years shall be rebasing years:

July 1, 2002, through June 30, 2003
July 1, 2004, through June 30, 2005
And every year thereafter.

~~(aa)~~ **(ff)** As used in this rule, "related party/organization" means that the provider is associated or affiliated with, or has the ability to control, or be controlled by, the organization furnishing the service, facilities, or supplies, whether or not such control is actually exercised.

~~(bb)~~ **(gg)** As used in this rule, "RUG-III resident classification system" means the resource utilization group used to classify residents. When a resident classifies into more than one (1) RUG III group, the RUG III group with the greatest CMI will be utilized to calculate the facility-average CMI and facility-average CMI for Medicaid residents.

~~(cc)~~ **(hh)** As used in this rule, "therapy component" means the portion of each facility's direct costs for therapy services, including any employee benefits prorated based on total salaries and wages, rendered to Medicaid residents that are not reimbursed by other payors, as determined by this rule.

~~(dd)~~ **(ii)** As used in this rule, "unit of service" means all patient care included in the established per diem rate required for the care of an inpatient for one (1) day (twenty-four (24) hours).

~~(ee)~~ **(jj)** As used in this rule, "unsupported MDS resident assessment" means an assessment where one (1) or more data items that are required to classify a resident pursuant to the RUG-III resident classification system ~~is~~ **are** not supported according to the MDS supporting documentation guidelines as set forth in 405 IAC 1-15, **and such data items result in the assessment being classified into a different RUG-III category.**

~~(ff)~~ **(kk)** As used in this rule, "untimely MDS resident assessment" means a significant change MDS assessment, as defined by CMS' Resident Assessment Instrument (RAI) Manual, that is not completed within fourteen (14) days of determining that a nursing facility resident's condition has changed significantly; or a full or quarterly MDS assessment that is not completed as required by 405 IAC 1-15-6(a) following the conclusion of all physical therapy, speech therapy, and occupational therapy. *(Office of the Secretary of Family and Social Services; 405 IAC 1-14.6-2; filed Aug 12, 1998, 2:27 p.m.: 22 IR 69, eff Oct 1, 1998; filed Mar 2, 1999, 4:42 p.m.: 22 IR 2238; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Mar 18, 2002, 3:30 p.m.: 25 IR 2462; filed Oct 10, 2002, 10:47 a.m.: 26 IR 707)*

SECTION 2. 405 IAC 1-14.6-4, AS AMENDED AT 25 IR 2465, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-14.6-4 Financial report to office; annual schedule; prescribed form; extensions; penalty for untimely filing

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 4. (a) Each provider shall submit an annual financial report to the office not later than ~~ninety (90) days~~ **the last day of the fifth (5th) calendar month** after the close of the provider's reporting year. The annual financial report shall coincide with the fiscal year used by the provider to report federal

income taxes for the operation unless the provider requests in writing that a different reporting period be used. Such a request shall be submitted within sixty (60) days after the initial certification of a provider. This option may be exercised only one (1) time by a provider **and must coincide with the fiscal year end for Medicare cost reporting purposes.** If a reporting period other than the tax year is established, audit trails between the periods are required, including reconciliation statements between the provider's records and the annual financial report. **Nursing facilities that are certified to provide Medicare-covered skilled nursing facility services are required to submit a written and electronic cost report (ECR) file copy of their Medicare cost report that covers their most recently completed historical reporting period. Nursing facilities that have been granted an exemption to the Medicare filing requirement to submit the ECR file by the Medicare fiscal intermediary shall not be required to submit the ECR file to the office.**

(b) The first annual Financial Report for Nursing Facilities for a provider that has undergone a change of provider ownership or control through an arm's-length transaction between unrelated parties shall coincide with that provider's first fiscal year end in which the provider has a minimum of six (6) full calendar months of actual historical financial data. The provider shall submit their first annual financial report to the office not later than ~~ninety (90) days~~ **the last day of the fifth (5th) calendar month** after the close of the provider's reporting year or thirty (30) days following notification that the change of provider ownership has been reviewed by the office or its contractor. ~~Any extension granted under this section may not exceed an additional ninety (90) days, for a total of one hundred eighty (180) days after the close of the provider's~~ **Nursing facilities that are certified to provide Medicare-covered skilled nursing facility services are required to submit a written and electronic ECR file copy of their Medicare cost report that covers their most recently completed historical** reporting ~~year.~~ **period.**

(c) The provider's annual financial report shall be submitted using forms prescribed by the office. All data elements and required attachments shall be completed so as to provide full financial disclosure and shall include the following as a minimum:

(1) Patient census data.

(2) Statistical data.

(3) Ownership and related party information.

(4) Statement of all expenses and all income, excluding non-Medicaid routine income.

(5) Detail of fixed assets and patient-related interest bearing debt.

(6) Complete balance sheet data.

(7) Schedule of Medicaid and private pay charges in effect on the last day of the reporting period. Private pay charges shall be the lowest usual and ordinary charge.

(8) Certification by the provider that:

(A) the data are true, accurate, related to patient care; and

(B) expenses not related to patient care have been clearly identified.

(9) Certification by the preparer, if different from the provider, that the data were compiled from all information provided to the preparer by the provider and as such are true and accurate to the best of the preparer's knowledge.

(10) Copy of the working trial balance that was used in the preparation of their submitted Medicare cost report.

(d) Extension of the ~~ninety (90) day~~ **five (5) month** filing period shall not be granted. ~~unless the provider substantiates to the office circumstances that preclude a timely filing. Requests for extensions shall be submitted to the office, prior to the date due, with full and complete explanation of the reasons an extension is necessary. The office shall review the request for extension and notify the provider of approval or disapproval within ten (10) days of receipt. If the request for extension is disapproved, the report shall be due twenty (20) days from the date of receipt of the disapproval from the office. Any extension granted under this section may not exceed an additional ninety (90) days, for a total of one hundred eighty (180) days after the close of the provider's reporting year.~~

(e) Failure to submit an annual financial report **or Medicare cost report by nursing facilities that are certified to provide Medicare-covered skilled nursing facility services** within the time limit required shall result in the following actions:

(1) No rate review shall be accepted or acted upon by the office until the delinquent ~~report is~~ **reports are** received.

(2) When an annual financial report **or Medicare cost report by nursing facilities that are certified to provide Medicare-covered skilled nursing facility services** is ~~thirty (30) days~~ **more than one (1) calendar month** past due, ~~and an extension has not been granted,~~ the rate then currently being paid to the provider shall be reduced by ten percent (10%), effective on the first day of the **seventh (7th)** month following the ~~thirtieth day the annual financial report is past due,~~ **provider's fiscal year end** and shall so remain until the first day of the month after the delinquent annual financial report **or Medicare cost report (if required)** is received by the office. No rate adjustments will be allowed until the first day of the calendar quarter following receipt of the delinquent annual financial report. Reimbursement lost because of the penalty cannot be recovered by the provider. **If the Medicare filing deadline for submitting the Medicare cost report is delayed by the Medicare fiscal intermediary, and the provider fails to submit their Medicare cost report to the office on or before the due date as extended by the Medicare fiscal intermediary, then the ten percent (10%) rate reduction for untimely filing to the office as referenced herein shall become effective on the first day of the month following the due date as extended by the Medicare fiscal intermediary.**

(f) Nursing facilities are required to electronically transmit MDS resident assessment information in a complete, accurate, and timely manner. MDS resident assessment information for a calendar quarter must be transmitted by the fifteenth day of the second month following the end of that calendar quarter. Extension of the electronic MDS assessment transmission due date may be granted by the office to a new operation attempting to submit MDS assessments for the first time if the new operation is not currently enrolled or submitting MDS assessments under the Medicare program and the provider can substantiate to the office circumstances that preclude timely electronic transmission.

(g) Residents discharged prior to completing an initial assessment that is not preceded by a Medicare assessment or a regularly scheduled assessment will be classified in one (1) of the following RUG-III classifications:

(1) SSB classification for residents discharged before completing an initial assessment where the reason for discharge was death or transfer to hospital.

(2) CC1 classification for residents discharged before completing an initial assessment where the reason for discharge was other than death or transfer to hospital.

(3) The classification from their immediately preceding assessment for residents discharged before completing a regularly scheduled assessment.

(h) If the office or its contractor determines that a nursing facility has ~~transmitted~~ incomplete MDS resident assessments, then, for purposes of determining the facility's CMI, such assessment(s) shall be assigned the case mix index associated with the RUG-III group "BC1 - Unclassifiable".

(i) If the office or its contractor determines that a nursing facility has delinquent MDS resident assessments, then, for purposes of determining the facility's CMI, such assessment(s) shall be assigned the case mix index associated with the RUG-III group "BC2 - Delinquent".

(j) If the office or its contractor determines due to an MDS field audit that a nursing facility has untimely MDS resident assessments, then such assessment(s) shall be counted as an unsupported assessment for purposes of determining whether a corrective remedy shall be applied under subsection (k).

(k) If the office or its contractor determines due to an MDS field audit that a nursing facility has unsupported MDS resident assessments, then the following procedures shall be followed in applying any corrective remedy:

(1) The office or its contractor shall audit a sample of MDS resident assessments and will determine the percent of assessments in the sample that are unsupported.

(2) If the percent of assessments in the sample that are unsupported is greater than the threshold percent as shown in column (B) of the table below, the office or its contractor shall expand the scope of the MDS audit to all residents. If the percent of assessments in the sample that are unsupported is equal to or less than the threshold percent as shown in column (B) of the table below, the office or its contractor shall conclude the **field portion of the** MDS audit and no corrective remedy shall be applied.

(3) For nursing facilities with MDS audits performed on all residents, the office or its contractor will determine the percent of assessments audited that are unsupported.

(4) If the percent of assessments of all residents that are unsupported is greater than the threshold percent as shown in column (B) of the table below, a corrective remedy shall apply, which shall be calculated as follows. The administrative component portion of the Medicaid rate in effect for the calendar quarter following completion of the MDS audit shall be reduced by the percentage as shown in column (C) of the table below. In the event a corrective remedy is imposed, for purposes of determining the average allowable cost of the median patient day for the administrative component, there shall be no adjustment made by the office or its contractor to the provider's allowable administrative costs. Reimbursement lost as a result of any corrective remedies shall not be recoverable by the provider.

(5) If the percent of assessments of all residents that are unsupported is equal to or less than the threshold percent as shown in column (B) of the table below, the office or its contractor shall conclude the **MDS** audit and no corrective remedy shall apply.

(6) The threshold percent and the administrative component corrective remedy percent in columns (B) and (C) of the table in this subdivision, respectively, shall be applied to audits begun by the office or its contractor on or after the effective date as stated in column (A) as follows:

Effective Date	Threshold Percent	Administrative Component Corrective Remedy Percent
(A)	(B)	(C)
October 1, 2002	40%	5%
January 1, 2004	30%	10%
April 1, 2005	20%	15%

(l) Based on findings from the MDS audit, beginning on the effective date of this rule, the office or its contractor shall make adjustments or revisions to all MDS data items that are required to classify a resident pursuant to the RUG-III resident classification system that are not supported according to the MDS supporting documentation guidelines as set forth in 405 IAC 1-15. Such adjustments or revisions to MDS data transmitted by the nursing facility will be made in order to reflect the resident's highest functioning level that is supported according to the MDS supporting documentation guidelines as set forth in 405 IAC 1-15. The resident assessment will then be used to reclassify the resident pursuant to the RUG-III resident classification system by incorporating any adjustments or revisions made by the office or its contractor.

(m) Beginning on the effective date of this rule, upon

conclusion of an MDS audit, the office or its contractor shall recalculate the facility's CMI. If the recalculated CMI results in a change to the established Medicaid rate, the rate shall be recalculated and any payment adjustment shall be made. *(Office of the Secretary of Family and Social Services; 405 IAC 1-14.6-4; filed Aug 12, 1998, 2:27 p.m.: 22 IR 72, eff Oct 1, 1998; filed Mar 2, 1999, 4:42 p.m.: 22 IR 2240; errata filed Jun 21, 1999, 12:25 p.m.: 22 IR 3419; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Mar 18, 2002, 3:30 p.m.: 25 IR 2465; filed Oct 10, 2002, 10:47 a.m.: 26 IR 709)*

SECTION 3. 405 IAC 1-14.6-6, AS AMENDED AT 25 IR 2468, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-14.6-6 Active providers; rate review
Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 6. (a) The normalized average allowable cost of the median patient day for the direct care component, and the average allowable cost of the median patient day for the indirect, administrative, and capital components, **which are applicable to the facility based on their actual occupancy rate from the most recently completed historical period,** shall **only** be determined ~~once per~~ **during a rebasing** year for each provider for the purpose of performing the provider's annual rate review.

(b) **The annual rate review that shall become effective during a rebasing year shall be established by determining** the normalized allowable per patient day cost for **the** direct care **component,** and the allowable per patient day costs for the therapy, indirect care, administrative, and capital components ~~shall be established once per year~~ for each provider based on the annual financial report.

(c) The annual rate review that shall become effective during a non-rebasing year shall be established by applying an inflation adjustment to the previous year's indirect care, administrative, capital, and therapy Medicaid rate components. The direct care component of the annual rate review during a non-rebasing year shall be established by applying an inflation adjustment to the previous year's normalized allowable cost and applying the Medicaid case mix adjustment as prescribed by this rule. The inflation adjustment prescribed by this subsection shall be applied by using the CMS Nursing Home without Capital Market Basket index as published by DRI/WEFA. The inflation adjustment shall apply from the midpoint of the previous year's annual Medicaid rate period to the midpoint of the current year annual Medicaid rate period prescribed as follows:

Rate Effective Date	Midpoint Quarter
January 1, Year 1	July 1, Year 1
April 1, Year 1	October 1, Year 1
July 1, Year 1	January 1, Year 2
October 1, Year 1	April 1, Year 2

~~(c)~~ **(d)** The rate effective date of the annual rate review **during rebasing years and non-rebasing years** shall be the first day of the second calendar quarter following the provider's reporting year end.

~~(d)~~ **(e)** Subsequent to the annual rate review **established during rebasing years and non-rebasing years,** the direct care component of the Medicaid rate will be adjusted quarterly to reflect changes in the provider's case mix index for Medicaid residents. If the facility has no Medicaid residents during a quarter, the facility's average case mix index for all residents will be used in lieu of the case mix index for Medicaid residents. This adjustment will be effective on the first day of each of the following three (3) calendar quarters beginning after the effective date of the annual rate review.

~~(e)~~ **(f)** The case mix index for Medicaid residents in each facility shall be updated each calendar quarter and shall be used to adjust the direct care component that becomes effective on the second calendar quarter following the updated case mix index for Medicaid residents.

~~(f)~~ **(g)** All rate-setting parameters and components used to calculate the annual rate review, except for the case mix index for Medicaid residents in that facility, shall apply to the calculation of any change in Medicaid rate that is authorized under subsection (d).

~~(g) The office may consider changes in federal or state law or regulation during a calendar year to determine whether a significant rate increase is mandated. This review will be considered separately by the office.~~ *(Office of the Secretary of Family and Social Services; 405 IAC 1-14.6-6; filed Aug 12, 1998, 2:27 p.m.: 22 IR 73, eff Oct 1, 1998; filed Mar 2, 1999, 4:42 p.m.: 22 IR 2243; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Mar 18, 2002, 3:30 p.m.: 25 IR 2468; filed Oct 10, 2002, 10:47 a.m.: 26 IR 712)*

SECTION 4. 405 IAC 1-14.6-7, AS AMENDED AT 25 IR 2468, SECTION 6, IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-14.6-7 Inflation adjustment; minimum occupancy level; case mix indices
Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15-13-6

Sec. 7. (a) For purposes of determining the average allowable cost of the median patient day and a provider's annual rate review **during a rebasing year,** each provider's cost from the most recent completed year will be adjusted for inflation by the office using the methodology in this subsection. All allowable costs of the provider, except for mortgage interest on facilities and equipment, depreciation on facilities and equipment, rent or lease costs for facilities and equipment, and working capital interest shall be adjusted for inflation using the ~~Health Care Financing Administration/Skilled Nursing Facility~~

~~(HCFA/SNF)~~ **CMS Nursing Home without Capital Market Basket** index as published by ~~DRI/McGraw-Hill.~~ **DRI/WEFA.** The inflation adjustment shall apply from the midpoint of the annual financial report period to the midpoint prescribed as follows:

Effective Date	Midpoint Quarter
January 1, Year 1	July 1, Year 1
April 1, Year 1	October 1, Year 1
July 1, Year 1	January 1, Year 2
October 1, Year 1	April 1, Year 2

(b) Notwithstanding subsection (a), beginning on the effective date of this rule through September 30, 2003, the inflation adjustment determined as prescribed in subsection (a) shall be reduced by an inflation reduction factor equal to three and three-tenths percent (3.3%). The resulting inflation adjustment shall not be less than zero (0). Prior to September 30, 2003, the office may reduce or eliminate the inflation reduction factor to increase aggregate expenditures up to levels appropriated by the Indiana general assembly. Any reduction or elimination of the inflation reduction factor shall be made effective no earlier than permitted under IC 12-15-13-6(a).

(c) In determining prospective allowable costs for a new provider that has undergone a change of provider ownership or control through an arm's-length transaction between unrelated parties, when the first fiscal year end following the change of provider ownership or control is less than six (6) full calendar months **for use in establishing the annual rebasing year rate review,** the previous provider's most recently completed annual financial report ~~for which a rate has been established~~ shall be utilized to calculate the new provider's first annual **rebasing year** rate review. The inflation adjustment for the new provider's first annual **rebasing year** rate review shall be applied from the midpoint of the previous provider's most recently completed annual financial report period to the midpoint prescribed under subsection (a).

~~(d) The normalized average allowable cost of the median patient day for direct care costs and the average allowable cost of the median patient day for indirect care, administrative and capital-related costs shall not be less than the average allowable cost of the median patient day effective October 1, 1998.~~

(d) Allowable costs per patient day for direct care, indirect care, and administrative costs shall be computed based on an occupancy rate equal to the greater of sixty-five percent (65%) or the provider's actual occupancy rate from the most recently completed historical period.

(e) Notwithstanding subsection (d), the office or its contractor shall reestablish a provider's Medicaid rate effective on the first day of the month following the date that the conditions specified in this subsection are met, by applying all provisions of this rule, except for the sixty-five percent (65%) minimum occupancy requirement, if the following conditions can be established to the satisfaction of the office:

(1) the provider demonstrates that its current resident census has increased to sixty-five percent (65%) or greater since the facility's fiscal year end of the cost report used to establish its Medicaid rate during the most recent rebasing year and has remained at such level for no less than ninety (90) days; and

(2) the provider demonstrates that its resident census has increased by a minimum of fifteen percent (15%) since the facility's fiscal year end of the cost report used to establish its Medicaid rate during the most recent rebasing year.

~~(e)~~ **(f)** Allowable costs per patient day for capital-related costs shall be computed based on an occupancy ~~level~~ **rate** equal to the greater of ninety-five percent (95%) or the provider's actual occupancy **rate** from the most recently completed historical period.

~~(f)~~ **(g)** The case mix indices (CMIs) contained in this subsection shall be used for purposes of determining each resident's CMI used to calculate the facility-average CMI for all residents and the facility-average CMI for Medicaid residents.

	~~RUG-II~~ **RUG-III**	
RUG-III Group	Code	CMI Table
~~Special~~ Rehabilitation	RAD	2.02
~~Special~~ Rehabilitation	RAC	1.69
~~Special~~ Rehabilitation	RAB	1.50
~~Special~~ Rehabilitation	RAA	1.24
Extensive Services	SE3	2.69
Extensive Services	SE2	2.23
Extensive Services	SE1	1.85
Special Care	SSC	1.75
Special Care	SSB	1.60
Special Care	SSA	1.51
Clinically Complex	CC2	1.33
Clinically Complex	CC1	1.27
Clinically Complex	CB2	1.14
Clinically Complex	CB1	1.07
Clinically Complex	CA2	0.95
Clinically Complex	CA1	0.87
Impaired Cognition	IB2	0.93
Impaired Cognition	IB1	0.82
Impaired Cognition	IA2	0.68
Impaired Cognition	IA1	0.62
Behavior Problems	BB2	0.89
Behavior Problems	BB1	0.77
Behavior Problems	BA2	0.67
Behavior Problems	BA1	0.54
Reduced Physical Functions	PE2	1.06
Reduced Physical Functions	PE1	0.96
Reduced Physical Functions	PD2	0.97

Reduced Physical Functions	PD1	0.87
Reduced Physical Functions	PC2	0.83
Reduced Physical Functions	PC1	0.76
Reduced Physical Functions	PB2	0.73
Reduced Physical Functions	PB1	0.66
Reduced Physical Functions	PA2	0.56
Reduced Physical Functions	PA1	0.50
Unclassifiable	BC1	0.48
Delinquent	BC2	0.48

~~(g)~~ **(h)** The office or its contractor shall provide each nursing facility with the following:

(1) Two (2) preliminary CMI reports. These preliminary CMI reports serve as confirmation of the MDS assessments transmitted by the nursing facility and provide an opportunity for the nursing facility to correct and transmit any missing or incorrect MDS assessments. The first preliminary report will be provided by the seventh day of the first month following the end of a calendar quarter. The second preliminary report will be provided by the seventh day of the second month following the end of a calendar quarter.

(2) Final CMI reports utilizing MDS assessments received by the fifteenth day of the second month following the end of a calendar quarter. These assessments received by the fifteenth day of the second month following the end of a calendar quarter will be utilized to establish the facility-average CMI and facility-average CMI for Medicaid residents utilized in establishing the nursing facility's Medicaid rate.

~~(h)~~ **(i)** The office may increase Medicaid reimbursement to nursing facilities that provide inpatient services to more than eight (8) ventilator-dependent residents. Additional reimbursement shall be made to such facilities at a rate of eight dollars and seventy-nine cents ($8.79) per Medicaid resident day. **Such additional reimbursement shall be effective on the day the nursing facility provides inpatient services to more than eight (8) ventilator-dependent residents and shall remain in effect until the first day of the calendar quarter following the date the nursing facility provides inpatient services to eight (8) or fewer ventilator-dependent residents.** *(Office of the Secretary of Family and Social Services; 405 IAC 1-14.6-7; filed Aug 12, 1998, 2:27 p.m.: 22 IR 74, eff Oct 1, 1998; filed Mar 2, 1999, 4:42 p.m.: 22 IR 2243; readopted filed Jun 27, 2001, 9:40 a.m.:24 IR 3822; filed Mar 18, 2002, 3:30 p.m.: 25 IR 2468; filed Oct 10, 2002, 10:47 a.m.: 26 IR 712)*

SECTION 5. 405 IAC 1-14.6-9, AS AMENDED AT 25 IR 2470, SECTION 7, IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-14.6-9 Rate components; rate limitations; profit add-on

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15-13-6

Sec. 9. (a) The Medicaid reimbursement system is based on recognition of the provider's allowable costs for the direct care, therapy, indirect care, administrative, and capital components, plus a potential profit add-on payment. The direct care, therapy, indirect care, administrative, and capital rate components are calculated as follows:

(1) The indirect care, administrative, and capital components are equal to the provider's allowable per patient day costs for each component, plus the allowed profit add-on payment as determined by the methodology in subsection (b).

(2) The therapy component is equal to the provider's allowable per patient day **direct therapy** costs.

(3) The direct care component is equal to the provider's normalized allowable per patient day **direct care** costs times the facility-average case mix index for Medicaid residents, plus the allowed profit add-on payment as determined by the methodology in subsection (b).

(b) The profit add-on payment will be calculated as follows:

(1) For **nursing facilities designated by the office as children's nursing facilities,** the direct care component ~~the~~ profit add-on is equal to fifty-two percent (52%) of the difference (if greater than zero (0)) of:

(A) the normalized average allowable cost of the median patient day for direct care costs **applicable to the facility based on its actual occupancy rate from the most recently completed historical period,** times the facility average case mix index for Medicaid residents times one hundred five percent (105%); minus

(B) ~~a~~ **the** provider's normalized allowable per patient day costs times the facility average case mix index for Medicaid residents.

(2) Beginning on the effective date of this rule, and continuing for eight (8) full calendar quarters thereafter, for nursing facilities that are not designated by the office as children's nursing facilities, the direct care component profit add-on is equal to zero (0). Beginning on the first day of the ninth (9th) full calendar quarter after the effective date of this rule, the direct care component profit add-on is equal to fifty-two percent (52%) of the difference (if greater than zero (0)) of:

(A) the normalized average allowable cost of the median patient day for direct care costs applicable to the facility based on its actual occupancy rate from the most recently completed historical period, times the facility average case mix index for Medicaid residents times one hundred five percent (105%); minus

(B) the provider's normalized allowable per patient day costs times the facility average case mix index for Medicaid residents.

~~(2) For~~ **(3)** The indirect care component ~~the~~ profit add-on is equal to fifty-two percent (52%) of the difference (if greater than zero (0)) of:

(A) the average allowable cost of the median patient day **applicable to the facility based on its actual occupancy**

rate from the most recently completed historical period, times one hundred percent (100%); minus

(B) a provider's allowable per patient day cost.

~~(3) For~~ **(4)** The administrative component ~~the~~ profit add-on is equal to sixty percent (60%) of the difference (if greater than zero (0)) of:

(A) the average allowable cost of the median patient day **applicable to the facility based on its actual occupancy rate from the most recently completed historical period,** times one hundred percent (100%); minus

(B) a provider's allowable per patient day cost.

~~(4) For~~ **(5)** The capital component ~~the~~ profit add-on is equal to sixty percent (60%) of the difference (if greater than zero (0)) of:

(A) the average allowable cost of the median patient day times eighty percent (80%); minus

(B) a provider's allowable per patient day cost.

~~(5) For~~ **(6)** The therapy component ~~the~~ profit add-on is equal to zero (0).

(c) Notwithstanding subsections (a) and (b), in no instance shall a rate component exceed the overall rate component limit defined as follows:

(1) The normalized average allowable cost of the median patient day for direct care costs **applicable to the facility based on its actual occupancy rate from the most recently completed historical period,** times the facility-average case mix index for Medicaid residents times one hundred ten percent (110%).

(2) The average allowable cost of the median patient day for indirect care costs **applicable to the facility based on its actual occupancy rate from the most recently completed historical period,** times one hundred percent (100%).

(3) The average allowable cost of the median patient day for administrative costs **applicable to the facility based on its actual occupancy rate from the most recently completed historical period,** times one hundred percent (100%).

(4) The average allowable cost of the median patient day for capital-related costs times eighty percent (80%).

(5) For the therapy component, no overall rate component limit shall apply.

(d) In order to determine the normalized allowable direct care costs from each facility's Financial Report for Nursing Facilities, the office or its contractor shall determine each facility's CMI for all residents on a time-weighted basis.

(e) The office shall publish guidelines for use in determining the time-weighted CMI. These guidelines shall be published as a provider bulletin and may be updated by the office as needed. Any such updates shall be made effective no earlier than permitted under IC 12-15-13-6(a). *(Office of the Secretary of Family and Social Services; 405 IAC 1-14.6-9; filed Aug 12, 1998, 2:27 p.m.: 22 IR 75, eff Oct 1, 1998; filed Mar 2, 1999, 4:42 p.m.: 22 IR 2244; readopted filed Jun 27, 2001, 9:40 a.m.:24 IR 3822; filed Mar 18, 2002, 3:30 p.m.: 25 IR 2470; filed Oct 10, 2002, 10:47 a.m.: 26 IR 714)*

SECTION 6. 405 IAC 1-14.6-12 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-14.6-12 Allowable costs; fair rental value allowance

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 12. Providers shall be reimbursed for the use of allowable patient-related facilities and equipment, regardless of whether they are owned or leased, by means of a fair rental value allowance. The fair rental value allowance shall be in lieu of the costs of all depreciation, interest, lease, rent, or other consideration paid for the use of property. This includes all central office facilities and equipment whose patient care-related depreciation, interest, or lease expense is appropriately allocated to the facility.

(1) The fair rental value allowance is calculated by determining, on a per bed basis, the historical cost of allowable patient-related property for facilities that are not acquired through an operating lease arrangement, including:

(A) land, building, improvements, vehicles, and equipment; and

(B) costs;

required to be capitalized in accordance with generally accepted accounting principles. Land, buildings, and improvements shall be adjusted for changes in valuation by inflating the reported allowable patient-related historical cost of property from the later of July 1, 1976, or the date of facility acquisition to the present based on the change in the R. S. Means Construction Index.

(2) The inflation-adjusted historical cost of property per bed as determined above is arrayed to arrive at the average historical cost of property of the median bed.

(3) The average historical cost of property of the median bed as determined above is extended times the number of beds for each facility that are used to provide nursing facility services to arrive at the fair rental value amount.

(4) The fair rental value amount is extended by a rental rate to arrive at the fair rental allowance. The rental rate shall be a simple average of the United States Treasury bond, ~~thirty (30)~~ **ten (10)** year amortization, constant maturity rate plus three percent (3%), in effect on the first day of the month that the index is published for each of the twelve (12) months immediately preceding the rate effective date as determined in section 6(a) of this rule. The rental rate shall be updated quarterly on January 1, April 1, July 1, and October 1.

(Office of the Secretary of Family and Social Services; 405 IAC 1-14.6-12; filed Aug 12, 1998, 2:27 p.m.: 22 IR 77, eff Oct 1, 1998; filed Sep 1, 2000, 2:10 p.m.: 24 IR 21; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:47 a.m.: 26 IR 715)

SECTION 7. 405 IAC 1-14.6-16 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-14.6-16 Unallowable costs; cost adjustments; charity and courtesy allowances; discounts; rebates; refunds of expenses

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 16. (a) Charity, courtesy allowances, discounts, refunds, rebates, and other similar items granted by a provider shall not be included in allowable costs. Bad debts incurred by a provider shall not be an allowable cost.

(b) Payments that must be reported on the annual financial report form that are received by a provider, an owner, or other official of a provider in any form from a vendor shall be considered a reduction of the provider's costs for the goods or services from that vendor.

(c) The cost of goods or services sold to nonpatients shall be offset against the total cost of such service to determine the allowable patient-related expenses. If the provider has not determined the cost of such items, the revenue generated from such sales shall be used to offset the total cost of such services.

(d) For nursing facilities that are certified to provide Medicare-covered skilled nursing facility services and are required by the Medicare fiscal intermediary to submit a full Medicare cost report, the office or its contractor shall remove from allowable indirect care and administrative costs the portion of those costs that are allocable to therapy services reimbursed by other payers and nonallowable ancillary services. In determining the amount of indirect care costs and administrative costs that shall be removed from allowable costs, the office or its contractor shall apply cost allocation principles established by the federal Medicare cost report methodology based on each facility's Medicare cost report.

(e) For nursing facilities that are certified to provide Medicare-covered skilled nursing facility services that are not required by the Medicare fiscal intermediary to submit a full Medicare cost report, the office or its contractor shall remove from allowable indirect care and administrative costs the portion of those costs that are allocable to therapy services reimbursed by other payers and nonallowable ancillary services. In determining the amount of indirect care costs and administrative costs that shall be removed from allowable costs, the office or its contractor shall apply cost allocation principles established by the federal Medicare cost report methodology based on a statewide average ratio of indirect costs to direct costs for such therapy and ancillary services, as determined from full Medicare cost reports. *(Office of the Secretary of Family and Social Services; 405 IAC 1-14.6-16; filed Aug 12, 1998, 2:27 p.m.: 22 IR 79, eff Oct 1, 1998; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:47 a.m.: 26 IR 716)*

SECTION 8. 405 IAC 1-14.6-22 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-14.6-22 Administrative reconsideration; appeal

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-3
Affected: IC 4-21.5-3; IC 12-13-7-3; IC 12-15

Sec. 22. (a) The Medicaid rate-setting contractor shall notify each provider of the provider's rate **and allowable cost determinations** after ~~such rate has~~ **they have** been computed. If the provider disagrees with the rate ~~determination~~ **or allowable cost determinations,** the provider must request an administrative reconsideration by the Medicaid rate-setting contractor. Such reconsideration request shall be in writing and shall contain specific issues to be reconsidered and the rationale for the provider's position. The request shall be signed by the provider or the authorized representative of the provider and must be received by the contractor within forty-five (45) days after release of the rate **or allowable cost determinations as** computed by the Medicaid rate-setting contractor. Upon receipt of the request for reconsideration, the Medicaid rate-setting contractor shall evaluate the data. After review, the Medicaid rate-setting contractor may amend the rate, amend the challenged procedure or **allowable cost** determination, or affirm the original decision. The Medicaid rate-setting contractor shall thereafter notify the provider of its final decision in writing, within forty-five (45) days of the Medicaid rate-setting contractor's receipt of the request for reconsideration. In the event that a timely response is not made by the rate-setting contractor to the provider's reconsideration request, the request shall be deemed denied and the provider may pursue its administrative remedies as set out in subsection (d).

(b) If the provider disagrees with a rate **or allowable cost** redetermination resulting from a financial audit adjustment or reportable condition affecting a rate **or allowable cost redetermination,** the provider must request an administrative reconsideration from the Medicaid financial audit contractor. Such reconsideration request shall be in writing and shall contain specific issues to be considered and the rationale for the provider's position. The request shall be signed by the provider or authorized representative of the provider and must be received by the Medicaid audit contractor within forty-five (45) days after release of the rate **or allowable cost redeterminations** computed by the Medicaid rate-setting contractor. Upon receipt of the request for reconsideration, the Medicaid audit contractor shall evaluate the data. After review, the Medicaid audit contractor may amend the audit adjustment or reportable condition or affirm the original adjustment. The Medicaid audit contractor shall thereafter notify the provider of

its final decision in writing within forty-five (45) days of the Medicaid audit contractor's receipt of the request for reconsideration. In the event that a timely response is not made by the audit contractor to the provider's reconsideration request, the request shall be deemed denied and the provider may pursue its administrative remedies under subsection (d).

(c) If the provider disagrees with a rate redetermination resulting from a recalculation of its CMI due to an MDS audit affecting the established Medicaid rate, the provider must request an administrative reconsideration from the MDS audit contractor. Such reconsideration request shall be in writing and shall contain specific issues to be considered and the rationale for the provider's position. The request shall be signed by the provider or authorized representative of the provider and must be received by the MDS audit contractor within forty-five (45) days after release of the rate computed by the Medicaid rate-setting contractor. Upon receipt of the request for reconsideration, the MDS audit contractor shall evaluate the data. After review, the MDS audit contractor may amend the audit adjustment or affirm the original adjustment. The MDS audit contractor shall thereafter notify the provider of its final decision in writing within forty-five (45) days of the MDS audit contractor's receipt of the request for reconsideration. In the event that a timely response is not made by the audit contractor to the provider's reconsideration request, the request shall be deemed denied and the provider may pursue its administrative remedies under subsection (d).

(d) After completion of the reconsideration procedure under subsection (a), (b), or (c), the provider may initiate an appeal under IC 4-21.5-3. *(Office of the Secretary of Family and Social Services; 405 IAC 1-14.6-22; filed Aug 12, 1998, 2:27 p.m.: 22 IR 81, eff Oct 1, 1998; filed Mar 2, 1999, 4:42 p.m.: 22 IR 2247; errata filed Jul 28, 1999, 3:10 p.m.: 22 IR 3937; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:47 a.m.: 26 IR 716)*

SECTION 9. **If the provisions in this document are not already in effect under an emergency rulemaking action, then the following shall apply. For purposes of implementing the revisions to 405 IAC 1-14.6 contained in this document, the following shall apply:**

(1) Reimbursement rates for all Medicaid certified nursing facilities shall be calculated effective on the effective date of this document. The office or its designee shall calculate a new rate for each nursing facility under this document based on the most recent submitted and completed cost report filed under 405 IAC 1-14.6. Subsequent quarterly changes to a nursing facility's rate will be made as prescribed by this document and 405 IAC 1-14.6.

(2) The average inflated allowable cost of the median patient day and the historical cost of property of the median bed used to calculate reimbursement rates shall be established on the effective date of this document using the most recent cost report data for which a Medicaid rate is established as of the effective date of this document. Subsequent revisions to these parameters shall be made as prescribed by this document.

(3) The case mix indices (CMIs) shall be recalculated using the 5.12, 34-grouper version of the Resource Utilization Group, version III (RUG-III) based on the same MDS data that was previously used to establish the CMIs using the 5.01, 44-grouper version of the RUG-III.

(4) For purposes of implementing SECTION 7 of this document, the office or its contractor shall use the most recent Medicare cost report that has been submitted to the Medicare fiscal intermediary. For nursing facilities that are certified to provide Medicare-covered skilled nursing facility services that fail to timely submit their Medicare cost report upon request, the office or its contractor shall determine the portion of such facility's costs that are allocable to therapy services reimbursed by other payers and nonallowable ancillary services based on a statewide average ratio of indirect costs to direct costs for such therapy and ancillary services, as determined from Medicare cost reports of nursing facilities that timely submit their Medicare cost report.

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TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-16(F)

DIGEST

Amends 405 IAC 1-12 to revise the reimbursement methodology that the Medicaid program utilizes to reimburse nonstate-owned intermediate care facilities for the mentally retarded (ICFs/MR) and community residential facilities for the developmentally disabled (CRFs/DD) such that rebasing of Medicaid payment rates will occur every other year, rather than annually. Makes other technical changes to remove outdated language and references to repealed provisions and to conform with federal and state statutes and regulations. Effective 30 days after filing with the secretary of state.

405 IAC 1-12-1
405 IAC 1-12-2
405 IAC 1-12-4
405 IAC 1-12-5
405 IAC 1-12-6
405 IAC 1-12-7
405 IAC 1-12-8
405 IAC 1-12-9
405 IAC 1-12-12
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405 IAC 1-12-15
405 IAC 1-12-16
405 IAC 1-12-17
405 IAC 1-12-19
405 IAC 1-12-24
405 IAC 1-12-26

SECTION 1. 405 IAC 1-12-1 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-1 Policy; scope
Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15-13-3

Sec. 1. (a) This rule sets forth procedures for payment for services rendered to Medicaid recipients by duly certified intermediate care facilities for the mentally retarded (ICF/MR), with the exception of those facilities operated by the state, and community residential facilities for the developmentally disabled (CRF/DD). Reimbursement for facilities operated by the state is governed by ~~405 IAC 1-4.~~ **405 IAC 1-17.** All payments referred to within this rule for the provider groups and levels of care are contingent upon the following:

(1) Proper and current certification.

(2) Compliance with applicable state and federal statutes and regulations.

(b) The procedures described in this rule set forth methods of reimbursement that promote quality of care, efficiency, economy, and consistency. These procedures recognize level and quality of care, establish effective accountability over Medicaid expenditures, provide for a regular review mechanism for rate changes, and compensate providers for reasonable, allowable costs. ~~which must be incurred by efficiently and economically operated facilities.~~ The system of payment outlined in this rule is a prospective system. Cost limitations are contained in this rule which establish parameters regarding the allowability of costs and define reasonable allowable costs.

(c) Retroactive repayment will be required by providers when an audit verifies overpayment due to discounting, intentional misrepresentation, billing or payment errors, or misstatement of historical financial or historical statistical data which caused a higher rate than would have been allowed had the data been true and accurate. Upon discovery that a provider has received overpayment of a Medicaid claim from the office, the provider must complete the appropriate Medicaid billing adjustment form and reimburse the office for the amount of the overpayment, or the office shall make a retroactive payment adjustment, as appropriate.

(d) The office may implement Medicaid rates and recover overpayments from previous rate reimbursements, either through deductions of future payments or otherwise, without awaiting the outcome of the administrative appeal process.

(e) Providers must pay interest on all overpayments. The interest charge shall not exceed the percentage set out in ~~IC 24-4.6-1-101.~~ **IC 12-15-13-3(f)(1).** The interest shall accrue from the date of the overpayment to the provider and shall apply to the net outstanding overpayment during the periods in which such overpayment exists. *(Office of the Secretary of Family and Social Services; 405 IAC 1-12-1; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2314; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:52 a.m.: 26 IR 718)*

SECTION 2. 405 IAC 1-12-2, AS AMENDED AT 25 IR 3121, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-2 Definitions
Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) "All-inclusive rate" means a per diem rate which, at a minimum, reimburses for all nursing or resident care, room and board, supplies, and all ancillary services within a single, comprehensive amount.

(c) "Allowable cost determination" means a computation performed by the office or its contractor to determine the per patient day cost based on a review of an annual financial report and supporting information by applying this rule.

~~(c)~~ **(d)** "Allowable per patient or per resident day cost" means a ratio between total allowable costs and patient or resident days.

~~(d)~~ **(e)** "Annual or historical financial report" refers to a presentation of financial data, including appropriate supplemental data and accompanying notes derived from accounting records and intended to communicate the provider's economic resources or obligations at a point in time, or changes therein for a period of time in compliance with the reporting requirements of this rule, which shall constitute a comprehensive basis of accounting.

(f) "Annualized" means restating an amount to an annual value. This computation is performed by multiplying an amount applicable to a period of less or greater than three hundred sixty-five (365) days, by a ratio determined by dividing the number of days in the reporting period by three hundred sixty-five (365) days, except in leap years, in which case the divisor shall be three hundred sixty-six (366) days.

~~(e)~~ **(g)** "Average inflated allowable cost of the median patient

day" means the inflated allowable per patient day cost of the median patient day from all providers when ranked in numerical order based on average inflated allowable cost. The average inflated allowable cost shall be computed on a statewide basis for like levels of care, with the exception noted in this subsection, and shall be maintained by the office and revised four (4) times per year effective April 1, July 1, October 1, and January 1. If there are fewer than six (6) homes with rates established that are licensed as developmental training homes, the average inflated allowable cost for developmental training homes shall be computed on a statewide basis utilizing all basic developmental homes with eight and one-half ~~(½)~~ **(8½)** or fewer hours per patient day of actual staffing. If there are fewer than six (6) homes with rates established that are licensed as small behavior management residences for children, the average inflated allowable cost for small behavior management residences for children shall be the average inflated allowable cost for child rearing residences with specialized programs increased by two hundred forty percent (240%) of the average staffing cost per hour for child rearing residences with specialized programs. If there are fewer than six (6) homes with rates established that are licensed as small extensive medical needs residences for adults, the average inflated allowable cost of the median patient day for small extensive medical needs residences for adults shall be the average inflated allowable cost of the median patient day for basic developmental increased by one hundred fifty-nine percent (159%).

~~(f)~~ **(h)** "Change of provider status" means a bona fide sale, ~~or capital~~ lease, **or termination of an existing lease** that for reimbursement purposes is recognized as creating a new provider status that permits the establishment of an initial interim rate. Except as provided under section 17(f) of this rule, the term includes only those transactions negotiated at arm's length between unrelated parties. ~~The term does not include a facility lease transaction that does not constitute a capital lease under Financial Accounting Standards Board Statement 13 as issued by the American Institute of Certified Public Accountants in November 1976.~~

~~(g)~~ **(i)** "Cost center" means a cost category delineated by cost reporting forms prescribed by the office.

~~(h)~~ **(j)** "CRF/DD" means a community residential facility for the developmentally disabled.

~~(i)~~ **(k)** "DDARS" means the Indiana division of disability, aging, and rehabilitative services.

~~(j)~~ **(l)** "Debt" means the lesser of the original loan balance at the time of acquisition and original balances of other allowable loans or eighty percent (80%) of the allowable historical cost of facilities and equipment.

~~(k)~~ **(m)** "Desk audit" means a review of a written audit report and its supporting documents by a qualified auditor, together with the auditor's written findings and recommendations.

~~(l)~~ **(n)** "Equity" means allowable historical costs of facilities and equipment, less the unpaid balance of allowable debt at the provider's reporting year end.

~~(m)~~ **(o)** "Field audit" means a formal official verification and methodical examination and review, including the final written report of the examination of original books of accounts by auditors.

~~(n)~~ **(p)** "Forms prescribed by the office" means forms provided by the office or substitute forms which have received prior written approval by the office.

~~(o)~~ **(q)** "General line personnel" means management personnel above the department head level who perform a policy making or supervisory function impacting directly on the operation of the facility.

~~(p)~~ **(r)** "Generally accepted accounting principles" or "GAAP" means those accounting principles as established by the American Institute of Certified Public Accountants.

~~(q)~~ **(s)** "ICF/MR" means an intermediate care facility for the mentally retarded.

~~(r)~~ **(t)** "Like levels of care" means:
(1) care within the same level of licensure provided in a CRF/DD; or
(2) care provided in a nonstate-operated ICF/MR.

(u) "Non-rebasing year" means the year during which nonstate operated ICFs/MR and CRFs/DD annual Medicaid rate is not established based on a review of their annual financial report covering their most recently completed historical period. The annual Medicaid rate effective during a non-rebasing year shall be determined by adjusting the Medicaid rate from the previous year by an inflation adjustment. The following years shall be non-rebasing years:
October 1, 2003, through September 30, 2004
October 1, 2005, through September 30, 2006
October 1, 2007, through September 30, 2008
October 1, 2009, through September 30, 2010
And every second year thereafter.

~~(s)~~ **(v)** "Office" means the Indiana office of Medicaid policy and planning.

~~(t)~~ **(w)** "Ordinary patient or resident related costs" means costs of services and supplies that are necessary in delivery of patient or resident care by similar providers within the state.

~~(u)~~ **(x)** "Patient or resident/recipient care" means those

Medicaid program services delivered to a Medicaid enrolled recipient by a certified Medicaid provider.

~~(v)~~ **(y)** "Profit add-on" means an additional payment to providers in addition to allowable costs as an incentive for efficient and economical operation.

~~(w)~~ **(z)** "Reasonable allowable costs" means the price a prudent, cost conscious buyer would pay a willing seller for goods or services in an arm's-length transaction, not to exceed the limitations set out in this rule.

(aa) "Rebasing year" means the year during which nonstate operated ICFs/MR and CRFs/DD Medicaid rate is based on a review of their annual financial report covering their most recently completed historical period. The following years shall be rebasing years:

October 1, 2002, through September 30, 2003
October 1, 2004, through September 30, 2005
October 1, 2006, through September 30, 2007
October 1, 2008, through September 30, 2009
And every second year thereafter.

~~(x)~~ **(bb)** "Related party/organization" means that the provider is associated or affiliated with, or has the ability to control, or be controlled by, the organization furnishing the service, facilities, or supplies.

~~(y)~~ **(cc)** "Routine medical and nonmedical supplies and equipment" includes those items generally required to assure adequate medical care and personal hygiene of patients or residents by providers of like levels of care.

~~(z)~~ **(dd)** "Unit of service" means all patient or resident care at the appropriate level of care included in the established per diem rate required for the care of a patient or resident for one (1) day (twenty-four (24) hours).

~~(aa)~~ **(ee)** "Use fee" means the reimbursement provided to fully amortize both principal and interest of allowable debt under the terms and conditions specified in this rule. *(Office of the Secretary of Family and Social Services; 405 IAC 1-12-2; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2314; filed Aug 15, 1997, 8:47 a.m.: 21 IR 76; filed Oct 31, 1997, 8:45 a.m.: 21 IR 949; filed Aug 14, 1998, 4:27 p.m.: 22 IR 63; errata filed Dec 14, 1998, 11:37 a.m.: 22 IR 1526; filed Sep 3, 1999, 4:35 p.m.: 23 IR 19; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 10, 2002, 2:24 p.m.: 25 IR 3121; filed Oct 10, 2002, 10:52 a.m.: 26 IR 718)*

SECTION 3. 405 IAC 1-12-4 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-4 Financial report to office; annual schedule; prescribed form; extensions; penalty for untimely filing

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 4. (a) Each provider shall submit an annual financial report to the office not later than ninety (90) days after the close of the provider's reporting year. The annual financial report shall coincide with the fiscal year used by the provider to report federal income taxes for the operation unless the provider requests in writing that a different reporting period be used. Such a request shall be submitted within sixty (60) days after the initial certification of a provider. This option may be exercised only one (1) time by a provider. If a reporting period other than the tax year is established, audit trails between the periods are required, including reconciliation statements between the provider's records and the annual financial report.

(b) The provider's annual financial report shall be submitted using forms prescribed by the office. All data elements and required attachments shall be completed so as to provide full financial disclosure and shall include the following as a minimum:

(1) Patient or resident census data.
(2) Statistical data.
(3) Ownership and related party information.
(4) Statement of all expenses and all income.
(5) Detail of fixed assets and patient or resident related interest bearing debt.
(6) Complete balance sheet data.
(7) Schedule of Medicaid and private pay charges in effect on the last day of the reporting period and on the rate effective date as defined by this rule; private pay charges shall be the lowest usual and ordinary charge.
(8) Certification by the provider that the data are true, accurate, related to patient or resident care, and that expenses not related to patient or resident care have been clearly identified.
(9) Certification by the preparer, if different from the provider, that the data were compiled from all information provided to the preparer by the provider, and as such are true and accurate to the best of the preparer's knowledge.

(c) Extension of the ninety (90) day filing period shall not be granted unless the provider substantiates to the office or its representatives circumstances that preclude a timely filing. Requests for extensions shall be submitted to the office or its representatives prior to the date due, with full and complete explanation of the reasons an extension is necessary. The office or its representatives shall review the request for extension and notify the provider of approval or disapproval within ten (10) days of receipt. If the request for extension is disapproved, the report shall be due twenty (20) days from the date of receipt of the disapproval from the office or its representatives.

(d) Failure to submit an annual financial report within the time limit required shall result in the following actions:

(1) No rate review requests shall be accepted or acted upon by the office until the delinquent report is received, **and the effective date of the Medicaid rate calculated utilizing the**

delinquent annual financial report shall be the first day of the month after the delinquent annual financial report is received by the office. All limitations in effect at the time of the original effective date of the annual rate review shall apply.

(2) When an annual financial report is thirty (30) days past due and an extension has not been granted, the rate then currently being paid to the provider shall be reduced by ten percent (10%), effective on the first day of the month following the thirtieth day the annual financial report is past due and shall so remain until the first day of the month after the delinquent annual financial report is received by the office. Reimbursement lost as a result of this penalty cannot be recovered by the provider.

(Office of the Secretary of Family and Social Services; 405 IAC 1-12-4; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2316; filed Aug 14, 1998, 4:27 p.m.: 22 IR 64; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:52 a.m.: 26 IR 720)

SECTION 4. 405 IAC 1-12-5, AS AMENDED AT 25 IR 3123, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-5 New provider; initial financial report to office; criteria for establishing initial interim rates; supplemental report; base rate setting

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 5. (a) Rate requests to establish initial interim rates for a new operation, a new type of certified service, a new type of licensure for an existing group home, or a change of provider status shall be filed by submitting an initial rate request to the office on or before thirty (30) days after notification of the certification date or establishment of a new service or type of licensure. Initial interim rates will be set at the greater of:

(1) the prior provider's then current rate, **including any changes due to a field audit**, if applicable; or

(2) the fiftieth percentile rates as computed in this subsection.

Initial interim rates shall be effective upon the later of the certification date, the effective date of a licensure change, or the date that a service is established. The fiftieth percentile rates shall be computed on a statewide basis for like levels of care, except as provided in subsection (b), using current rates of all CRF/DD and ICF/MR providers. The fiftieth percentile rates shall be maintained by the office, and a revision shall be made to these rates four (4) times per year effective on April 1, July 1, October 1, and January 1.

(b) If there are fewer than six (6) homes with rates established that are licensed as developmental training homes, the fiftieth percentile rates for developmental training homes shall be computed on a statewide basis using current rates of all basic developmental homes with eight and one-half (8½) or fewer hours per patient day of actual staffing. If there are fewer than six (6) homes with rates established that are licensed as small behavior management residences for children, the fiftieth percentile rate for small behavior management residences for children shall be the fiftieth percentile rate for child rearing residences with specialized programs increased by two hundred forty percent (240%) of the average staffing cost per hour for child rearing residences with specialized programs. If there are fewer than six (6) homes with rates established that are licensed as small extensive medical needs residences for adults, the fiftieth percentile rate for small extensive medical needs residences for adults shall be the fiftieth percentile rate for basic developmental increased by one hundred fifty-nine percent (159%).

(c) The provider shall file a nine (9) month historical financial report within sixty (60) days following the end of the first nine (9) months of operation. The nine (9) months of historical financial data shall be used to determine the provider's base rate. The base rate shall be effective from the first day of the tenth month of certified operation until the next regularly scheduled annual review. An annual financial report need not be submitted until the provider's first fiscal year end that occurs after the rate effective date of a base rate. In determining the base rate, limitations and restrictions otherwise outlined in this rule, except the annual rate limitation, shall apply. For purposes of this subsection, in determining the nine (9) months of the historical financial report, if the first day of certification falls on or before the fifteenth day of a calendar month, then that calendar month shall be considered the provider's first month of operation. If the first day of certification falls after the fifteenth day of a calendar month, then the immediately succeeding calendar month shall be considered the provider's first month of operation.

(d) The provider's historical financial report shall be submitted using forms prescribed by the office. All data elements and required attachments shall be completed so as to provide full financial disclosure and shall include the following at a minimum:

(1) Patient or resident census data.

(2) Statistical data.

(3) Ownership and related party information.

(4) Statement of all expenses and all income.

(5) Detail of fixed assets and patient or resident related interest bearing debt.

(6) Complete balance sheet data.

(7) Schedule of Medicaid and private pay charges in effect on the last day of the reporting period and on the rate effective date as defined in this rule; private pay charges shall be the lowest usual and ordinary charge.

(8) Certification by the provider that:

(A) the data are true, accurate, and related to patient or resident care; and

(B) expenses not related to patient or resident care have been clearly identified.

(9) Certification by the preparer, if different from the provider, that the data were compiled from all information

provided to the preparer, by the provider, and as such are true and accurate to the best of the preparer's knowledge.

~~(e) The base rate may be in effect for longer or shorter than twelve (12) months. In such cases, the various applicable limitations shall be proportionately increased or decreased to cover the actual time frame, using a twelve month period as the basis for the computation.~~

~~(f) The base rate established from the nine (9) months of historical data shall be the rate used for determining subsequent limitations on annual rate adjustments.~~

~~(g)~~ **(e)** Extension of the sixty (60) day filing period shall not be granted unless the provider substantiates to the office circumstances that preclude a timely filing. Requests for extensions shall be submitted to the office prior to the date due, with full and complete explanation of the reasons an extension is necessary. The office shall review the request and notify the provider of approval or disapproval within ten (10) days of receipt. If the extension is disapproved, the report shall be due twenty (20) days from the date of receipt of the disapproval from the office.

~~(h)~~ **(f)** If the provider fails to submit the nine (9) months of historical financial data within ninety (90) days following the end of the first nine (9) months of operation and an extension has not been granted, the initial interim rate shall be reduced by ten percent (10%), effective on the first day of the tenth month after certification and shall so remain until the first day of the month after the delinquent annual financial report is received by the office. Reimbursement lost because of the penalty cannot be recovered by the provider. **The effective date of the base rate calculated utilizing the delinquent historical financial report shall be the first day of the month after the delinquent historical financial report is received by the office. All limitations in effect at the time of the original effective date of the base rate review shall apply.**

~~(i)~~ **(g)** Except as provided in section 17(f) of this rule, neither an initial interim rate nor a base rate shall be established for a provider whose change of provider status was a related party transaction as established in this rule.

~~(j) The change of provider status shall be rescinded if subsequent transactions by the provider cause a capital lease to be reclassified as an operating lease under the pronouncements adopted in November 1976 by the American Institute of Certified Public Accountants.~~ *(Office of the Secretary of Family and Social Services; 405 IAC 1-12-5; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2317; filed Aug 21, 1996, 2:00 p.m.: 20 IR 12; filed Aug 15, 1997, 8:47 a.m.: 21 IR 78; filed Oct 31, 1997, 8:45 a.m.: 21 IR 950; filed Sep 3, 1999, 4:35 p.m.: 23 IR 20; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 10, 2002, 2:24 p.m.: 25 IR 3123; filed Oct 10, 2002, 10:52 a.m.: 26 IR 721)*

SECTION 5. 405 IAC 1-12-6 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-6 Active providers; rate review; annual request

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 6. (a) ~~As a normal practice, rates shall be reviewed once each year using the annual financial report as the basis of the review.~~ The rate effective date **of the annual rate review established during rebasing years and non-rebasing years** shall be the first day of the fourth month following the provider's reporting year end, provided the annual financial report is submitted within ninety (90) days of the end of the provider's reporting period.

(b) ~~A provider shall not be granted an additional rate review until the review indicated in subsection (a) has been completed. A provider may request no more than one (1) additional rate review during its rate effective year when the provider can reasonably demonstrate the need for a change in rate based on more recent historical data. This additional rate review shall be completed in the same manner as~~ The annual rate review ~~using all other limitations in effect at the time the annual review took place.~~ **that shall become effective during a rebasing year shall be established using the annual financial report as the basis of the review.**

(c) ~~To request the additional review, the provider shall submit, on forms prescribed by the office, a minimum of six (6) months of historical data, of which at least four (4) months must be subsequent to the fiscal year end of the annual financial report. Any new rate resulting from this additional review shall be effective on the first day of the month following the submission of data to the office.~~ **The annual rate review that shall become effective during a non-rebasing year shall be established by applying an inflation adjustment to the previous year's annual or base Medicaid rate. The inflation adjustment prescribed by this subsection shall be applied by using the CMS Nursing Home without Capital Market Basket index as published by DRI/WEFA. The inflation adjustment shall apply from the midpoint of the previous year's annual or base Medicaid rate period to the midpoint of the current year annual Medicaid rate period prescribed as follows:**

Rate Effective Date	Midpoint Quarter
January 1, Year 1	July 1, Year 1
April 1, Year 1	October 1, Year 1
July 1, Year 1	January 1, Year 2
October 1, Year 1	April 1, Year 2

~~(d) The office may consider changes in federal or state law or regulation during a calendar year to determine whether a significant rate increase is mandated. This review will be~~

~~considered separately by the office and will not be considered as an additional rate review.~~

~~(e) When changes to historical costs meet the requirements of section 5 of this rule, this section, and section 7 of this rule and amount to five percent (5%) or more of the historical cost of the facilities and equipment as reported on the most recent annual or historical report, the provider may request a rate review to establish a new basis for computation of the capital return factor portion of the rate. The change in the capital return factor shall be allowed subject to the maximum allowable annual rate increase limitation, adjusted by the difference between the capital return factor allowed before the change and the capital return factor allowed after the change. The capital return factor allowed after the change shall be computed using the actual occupancy level for existing beds, plus, where appropriate, those added census days needed to project the census in the additional beds in the following manner:~~

~~(1) For large ICFs/MR, the greater of:~~

~~(A) ninety-five percent (95%) of total beds available; or~~

~~(B) the occupancy the provider could reasonably anticipate for the additional beds.~~

~~(2) For CRFs/DD, the greater of:~~

~~(A) ninety percent (90%) of total beds available; or~~

~~(B) the occupancy the provider could reasonably anticipate for the additional beds.~~

~~In no event shall the occupancy used to calculate the capital return factor be less than ninety-five percent (95%) of total beds available for large ICFs/MR and ninety percent (90%) for CRFs/DD. Rate reviews completed under this section will not constitute the provider's additional rate review in one (1) reporting year. This review shall be completed in the same manner as the annual rate review, using all limitations in effect at the time the annual review or base rate review took place, whichever is later.~~ *(Office of the Secretary of Family and Social Services; 405 IAC 1-12-6; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2318; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:52 a.m.: 26 IR 722)*

SECTION 6. 405 IAC 1-12-7 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-7 Request for rate review; effect of inflation; occupancy level assumptions

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 7. (a) Rate setting **during rebasing years** shall be ~~prospective,~~ based on the provider's annual or historical financial report for the most recent completed year. In determining prospective allowable costs **during rebasing years,** each provider's costs from the most recent completed year will be adjusted for inflation by the office using the following methodology. All allowable costs of the provider, except for mortgage interest on facilities and equipment, depreciation on facilities and equipment, rent or lease costs for facilities and equipment, and working capital interest shall be increased for inflation using the ~~Health Care Financing Administration/Skilled Nursing Facility (HCFA/SNF)~~ **CMS Nursing Home without Capital Market Basket** index as published by ~~DRI/McGraw-Hill.~~ **DRI/WEFA.** The inflation adjustment shall apply from the midpoint of the annual or historical financial report period to the midpoint of the expected rate period.

(b) For purposes of determining the average allowable cost of the median patient day **as applicable during rebasing years**, each provider's costs from their most recent completed year will be adjusted for inflation by the office using the following methodology. All allowable costs of the provider, except for mortgage interest on facilities and equipment, depreciation on facilities and equipment, rent or lease costs for facilities and equipment, and working capital interest shall be increased for inflation using the ~~Health Care Financing Administration/Skilled Nursing Facility (HCFA/SNF)~~ **CMS Nursing Home without Capital Market Basket** index as published by ~~DRI/McGraw-Hill.~~ **DRI/WEFA.** The inflation adjustment shall apply from the midpoint of the annual or historical financial report period to the midpoint prescribed as follows:

Median Effective Date	Midpoint Quarter
January 1, Year 1	July 1, Year 1
April 1, Year 1	October 1, Year 1
July 1, Year 1	January 1, Year 2
October 1, Year 1	April 1, Year 2

(c) For ICFs/MR and CRFs/DD, allowable costs per patient or resident day shall be determined based on an occupancy level equal to the greater of actual occupancy, or ninety-five percent (95%) for ICFs/MR and ninety percent (90%) for CRFs/DD, for certain fixed facility costs. The fixed costs subject to this minimum occupancy level standard include the following:

(1) Director of nursing wages.

(2) Administrator wages.

(3) All costs reported in the ownership cost center, except repairs and maintenance.

(4) The capital return factor determined in accordance with sections 12 through 17 of this rule.

(Office of the Secretary of Family and Social Services; 405 IAC 1-12-7; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2319; filed Sep 3, 1999, 4:35 p.m.: 23 IR 21; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:52 a.m.: 26 IR 723)

SECTION 7. 405 IAC 1-12-8 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-8 Limitations or qualifications to Medicaid reimbursement; advertising; vehicle basis

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 8. (a) Advertising is not an allowable cost under this rule except for those advertising costs incurred in the recruitment of

facility personnel necessary for compliance with facility certification requirements. Advertising costs are not allowable in connection with public relations or fundraising or to encourage patient or resident utilization.

(b) Each facility and **distinct** home office **location** shall be allowed:

(1) one (1) patient or resident care-related automobile; and

(2) one (1) vehicle that can be utilized for facility maintenance or patient or resident support or for both uses;

to be included in the vehicle basis for purposes of cost reimbursement under this rule. Vehicle basis means the purchase price of the vehicle used for facility or home office ~~operation.~~ **operations.** If a portion of the use of the vehicle is for personal purposes or for purposes other than operation of the facility or home office, then such portion of the cost must not be included in the vehicle basis. The facility and home office **location(s)** are responsible for maintaining records to substantiate operational and personal use for all allowable vehicles. This limitation does not apply to vehicles with a gross vehicle weight of more than six thousand (6,000) pounds. *(Office of the Secretary of Family and Social Services; 405 IAC 1-12-8; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2319; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:52 a.m.: 26 IR 723)*

SECTION 8. 405 IAC 1-12-9, AS AMENDED AT 25 IR 3124, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-9 Criteria limiting rate adjustment granted by office

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 9. **During rebasing years and for base rate reviews,** the Medicaid reimbursement system is based on recognition of the provider's allowable costs plus a potential profit add-on payment. The payment **rate established during rebasing years and for base rate reviews** is subject to ~~several limitations. Rates will be established at the lowest of~~ the **following** four (4) limitations: ~~listed as follows:~~

(1) In no instance shall the approved Medicaid rate be higher than the rate paid to that provider by the general public for the same type of services. For purposes of this rule, the rates paid by the general public shall not include rates paid by the DDARS.

(2) Should the rate calculations produce a rate higher than the reimbursement rate requested by the provider, the approved rate shall be the rate requested by the provider.

(3) Inflated allowable per patient or per resident day costs plus the allowed profit add-on payment as determined by the methodology in Table I.

(4) In no instance shall the approved Medicaid rate exceed the overall rate limit percent (Column A) in Table II, times the average inflated allowable cost of the median patient or resident day.

TABLE I
Profit Add-On

The profit add-on is equal to the percent (Column A) of the difference (if greater than zero (0)) between a provider's inflated allowable per patient or resident day cost, and the ceiling (Column B) times the average inflated allowable per patient or resident day cost of the median patient or resident day. Under no circumstances shall a provider's per patient or resident day profit add-on exceed the cap (Column C) times the average inflated allowable per patient or resident day cost of the median patient or resident day.

Level of Care	(A) Percent	(B) Ceiling	(C) Cap
Sheltered living	40%	105%	10%
Intensive training	40%	120%	10%
Child rearing	40%	130%	12%
Nonstate-operated ICF/MR	40%	125%	12%
Developmental training	40%	110%	10%
Child rearing with a specialized program	40%	120%	12%
Small behavior management residences for children	40%	120%	12%
Basic developmental	40%	110%	10%
Small extensive medical needs residences for adults	40%	110%	10%

TABLE II
Overall Rate Limit

Level of Care	(A) Percent
Sheltered living	115%
Intensive training	120%
Child rearing	130%
Developmental training	120%
Child rearing with a specialized program	120%
Small behavior management residences for children	120%
Basic developmental	120%
Small extensive medical needs residences for adults	120%
Nonstate-operated ICF/MR	107%

(Office of the Secretary of Family and Social Services; 405 IAC 1-12-9; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2320; filed Aug 15, 1997, 8:47 a.m.: 21 IR 79; filed Oct 31, 1997, 8:45 a.m.: 21 IR 951; filed Aug 14, 1998, 4:27 p.m.: 22 IR 65; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Jun 10, 2002, 2:24 p.m.: 25 IR 3124; filed Oct 10, 2002, 10:52 a.m.: 26 IR 724)

SECTION 9. 405 IAC 1-12-12 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-12 Allowable costs; capital return factor

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 12. (a) Providers shall be reimbursed for the use of

facilities and equipment, regardless of whether they are owned or leased, by means of a capital return factor. The capital return factor shall be composed of a use fee to cover the use of facilities, land and equipment, and a return on equity. Such reimbursement shall be in lieu of the costs of all depreciation, interest, lease, rent, or other consideration paid for the use of property. This includes all central office facilities and equipment whose patient or resident care-related depreciation, interest, or lease expense is allocated to the facility.

(b) The capital return factor portion of the established rate **during rebasing years** is the sum of the allowed use fee, return on equity, and rent payments.

(c) Allowable patient or resident care-related rent, lease payments, and fair rental value of property used through contractual arrangement shall be subjected to limitations of the capital return factor as described in this section. *(Office of the Secretary of Family and Social Services; 405 IAC 1-12-12; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2322; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:52 a.m.: 26 IR 724)*

SECTION 10. 405 IAC 1-12-13 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-13 Allowable costs; capital return factor; computation of use fee component; interest; allocation of loan to facilities and parties

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 13. (a) The use fee limitation is based on the following:
(1) The assumption that facilities and equipment are prudently acquired and financed.
(2) Providers will obtain independent financing in accordance with a sound financial plan.
(3) Owner capital will be used for the balance of capital requirements.

(b) The amortization period to be used in computing the use fee shall be the greater of twenty (20) years or the actual amortization period for the facility and for facilities and equipment where a single lending arrangement covers both. Where equipment is specifically financed by means of a separate lending arrangement, a minimum of seven (7) years shall be the amortization period. Provided, however, that a mortgage existing on April 1, 1983, has a fully amortizing life of less than twenty (20) years, the use fee will be calculated using the actual life of the lending arrangement, but not less than twelve (12) years. **If facility payments toward the principal loan amount are less than the amount derived from a standard loan amortization during the reporting period, the computation of the use fee shall be limited to the principal and interest amounts actually paid during the reporting period, unless the financing arrangement specifically requires that amortized payments to be made to a sinking fund, or its equivalent, for future principal payments and the provider can demonstrate that payments from the sinking fund are actually made**.

(c) The use fee component of the capital return factor shall be limited by the lesser of:
(1) the original loan balance at the time of acquisition;
(2) eighty percent (80%) of historical cost of the facilities and equipment; or
(3) eighty percent (80%) of the maximum allowable property basis at the time of the acquisition plus one-half (½) of the difference between that amount and the maximum property basis per bed on the rate effective date.

(d) The maximum interest rate allowed in computing the use fee shall not exceed one and one-half percent (1.5%) above the United States Treasury bond, ~~thirty (30)~~ **ten (10)** year amortization, constant maturity rate plus three percent (3%), rounded to the nearest one-half percent (0.5%) or the actual interest rate, whichever is lower. For property financing with a fixed interest rate, the date that the financing commitment was signed by the lender and borrower shall be the date upon which the allowable rate shall be determined. For property financing with a variable interest rate, the allowable interest rate shall be determined each year at the provider's report year end.

(e) The use fee determined under this section shall be subject to the limitations under section 15(b) of this rule.

(f) Refinancing of mortgages shall be amortized over the amortization period of the refinancing; however, the amortization period for the refinanced mortgage shall not be less than twenty (20) years. Refinancing arrangements shall be recognized only when the interest rate is less than the original financing, and the interest rate on the refinancing shall not be allowable in excess of the interest rate limit established on the date the refinancing commitment was signed and the interest rate fixed by the lender and borrower.

(g) Variable interest debt will be recognized for the purpose of calculation of the use fee if the variable rate is a function of an arrangement entered into and incorporated in the lending arrangement at the time of the acquisition of the facility or as part of an allowable refinancing arrangement under subsection (f).

(h) Interest costs on borrowed funds used to construct facilities or enlarge existing facilities which are incurred during the period of construction shall be capitalized as part of the cost of the facility or addition.

(i) Interest costs on operating loans each reporting period shall be limited to interest costs of principal amounts that do not exceed a value equal to two (2) months of actual revenues. Interest on such loans shall be recognized only if the provider

can demonstrate that such loans were reasonable and necessary in providing patient or resident related services. Working capital interest must be reduced by investment income. Working capital interest is an operating cost and will not be included in calculating the use fee.

(j) Loans covering more than one (1) facility or asset shall apply to the several facilities or assets acquired in proportion to the cost that each item bears to the total cost. Accordingly, if any building or asset covered by the loan is used for purposes other than patient or resident care, the use fee applicable to such assets will be determined based upon its proportionate share of the total asset cost.

(k) Loans from a related party must be identified and reported separately on the annual or historical financial report. Such loans shall be allowable if they meet all other requirements, the interest does not exceed the rate available in the open market, and such loans are repaid in accordance with an established repayment schedule.

(l) Use fee for variable interest rate mortgages will be calculated as follows:

(1) Recalculate the use fee for the reporting year based upon the provider's average actual rate of interest paid.

(2) Compare the use fee allowed in the reporting year and the recalculated use fee and determine the variance (amount by which the amount allowed in the prior rate case exceeded or was less than the amount earned under the recalculation in subdivision (1)).

(3) Calculate the prospective use fee based upon the interest rate in effect at the end of the provider's reporting year.

(4) The use fee on the prospective rate is the amount determined in subdivision (3) plus or minus the variance in subdivision (2).

(Office of the Secretary of Family and Social Services; 405 IAC 1-12-13; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2322; filed Sep 1, 2000, 2:10 p.m.: 24 IR 16; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:52 a.m.: 26 IR 725)

SECTION 11. 405 IAC 1-12-14 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-14 Allowable costs; capital return factor; computation of return on equity component

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 14. (a) For a provider with an initial interim rate resulting from:

(1) a change of provider status; or

(2) a new operation;

before the effective date of this rule, the return on equity shall be computed on the higher of twenty percent (20%) of the allowable historical cost of facilities and equipment or actual equity in allowable facilities and equipment up to sixty percent (60%) of allowable historical cost of facilities and equipment. Allowable historical cost of facilities and equipment is the lesser of the provider's actual historical costs of facilities and equipment, or the maximum allowable property basis at the time of the acquisition plus one-half (½) of the difference between that amount and the maximum allowable property basis per bed on the rate effective date.

(b) For a provider with an initial interim rate resulting from:

(1) a change of provider status; or

(2) a new operation;

on or after the effective date of this rule, the return on equity shall be computed on the actual equity in allowable facilities and equipment up to a maximum of eighty percent (80%) of allowable historical cost of facilities and equipment.

(c) The return on equity factor shall be equal to the interest rate used in computing the use fee plus one percent (1%), or one percent (1%) below the United States Treasury bond, ~~thirty (30)~~ **ten (10)** year amortization, constant maturity rate on the last day of the reporting period, plus three percent (3%), whichever is higher.

(d) The return on equity determined under this section shall be subject to the limitations of section 15(b) of this rule. *(Office of the Secretary of Family and Social Services; 405 IAC 1-12-14; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2323; filed Sep 1, 2000, 2:10 p.m.: 24 IR 17; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:52 a.m.: 26 IR 726)*

SECTION 12. 405 IAC 1-12-15 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-15 Allowable costs; capital return factor; use fee; depreciable life; property basis

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 15. (a) The following is a schedule of allowable use fee lives by property category:

Property Basis	Use Fee Life
Land	20 years
Land improvements	20 years
Buildings and building components	20 years
Building improvements	20 years
Movable equipment	7 years
Vehicles	7 years

The maximum property basis per bed at the time of acquisition shall be in accordance with the following schedule:

Acquisition Date	Maximum Property Basis Per Bed
7/1/76	$12,650
4/1/77	$13,255

10/1/77	$13,695
4/1/78	$14,080
10/1/78	$14,630
4/1/79	$15,290
10/1/79	$16,115
4/1/80	$16,610
10/1/80	$17,490
4/1/81	$18,370
10/1/81	$19,140
4/1/82	$19,690
9/1/82	$20,000
3/1/83	$20,100
9/1/83	$20,600
3/1/84	$20,600
9/1/84	$21,200
3/1/85	$21,200
9/1/85	$21,200
3/1/86	$21,400
9/1/86	$21,500
3/1/87	$21,900
9/1/87	$22,400
3/1/88	$22,600
9/1/88	$23,000
3/1/89	$23,100
9/1/89	$23,300
3/1/90	$23,600
9/1/90	$23,900
3/1/91	$24,500
9/1/91	$24,700
3/1/92	$24,900
9/1/92	$25,300
3/1/93	$25,400
9/1/93	$25,700

The schedule shall be updated semiannually effective on March 1 and September 1 by the office and rounded to the nearest one hundred dollars ($100) based on the change in the R.S. Means Construction Index.

(b) The capital return factor portion of a rate that becomes effective after the acquisition date of an asset shall be limited to the maximum capital return factor which shall be calculated as follows:

(1) The use fee portion of the maximum capital return factor is calculated based on:

(A) the maximum property basis per bed at the time of acquisition of each bed, plus one-half (½) of the difference between that amount and the maximum property basis per bed at the rate effective date;

(B) the term is determined per bed at the time of acquisition of each bed and is twenty (20) years for beds acquired on or after April 1, 1983, and twelve (12) years for beds acquired before April 1, 1983; and

(C) the allowable interest rate is the United States Treasury bond, ~~thirty~~ ~~(30)~~ **ten (10)** year amortization, constant maturity rate plus three percent (3%), rounded to the nearest one-half percent (0.5%) plus one and one-half percent (1.5%) at the earlier of the acquisition date of the beds or the commitment date of the attendant permanent financing.

(2) The equity portion of the maximum capital return factor is calculated based on:

(A) the allowable equity as established under section 14 of this rule; and

(B) the rate of return on equity is the greater of the United States Treasury bond, ~~thirty~~ ~~(30)~~ **ten (10)** year amortization, constant maturity rate plus three percent (3%), rounded to the nearest one-half percent (0.5%) on the last day of the reporting period minus one percent (1%), or the weighted average of the United States Treasury bond, thirty (30) year amortization, constant maturity rate plus three percent (3%), rounded to the nearest one-half percent (0.5%) plus one percent (1%) at the earlier of the acquisition date of the beds or the commitment date of the attendant permanent financing.

(c) For facilities with a change of provider status, the allowable capital return factor of the buyer/lessee shall be no greater than the capital return factor that the seller/lessor would have received on the date of the transaction, increased by one-half (½) of the percentage increase (as measured from the date of acquisition/lease commitment date by the seller/lessor to the date of the change in provider status) in the Consumer Price Index for All Urban Consumers (CPI-U) (United States city average). Any additional allowed capital expenditures incurred by the buyer/lessee shall be treated in the same manner as if the seller/lessor had incurred the additional capital expenditures.

(d) The following costs which are attributable to the negotiation or settlement of the sale or purchase of any capital asset (by acquisition or merger) for which any payment has been previously made under the Indiana Medicaid program shall not be recognized as an allowable cost:

(1) Legal fees.

(2) Accounting and administrative costs.

(3) Travel costs.

(4) The costs of feasibility studies.

(Office of the Secretary of Family and Social Services; 405 IAC 1-12-15; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2324; filed Sep 1, 2000, 2:10 p.m.: 24 IR 17; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:52 a.m.: 26 IR 726)

SECTION 13. 405 IAC 1-12-16 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-16 Capital return factor; basis; historical cost; mandatory record keeping; valuation

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 16. (a) The basis used in computing the capital return

factor shall be the historical cost of all assets used to deliver patient or resident related services, provided the following:

(1) They are in use.

(2) They are identifiable to patient or resident care.

(3) They are available for physical inspection.

(4) They are recorded in provider records.

If an asset does not meet all of the requirements prescribed in this section, the cost **and any associated property financing(s) or capital lease(s)** shall not be included in computing the capital return factor.

(b) The provider shall maintain detailed property schedules to provide a permanent record of all historical costs and balances of facilities and equipment. Summaries of such schedules shall be submitted with each annual or historical financial report, and the complete schedule shall be submitted to the office upon request.

(c) Assets used in computing the capital return factor shall include only items currently used in providing services customarily provided to patients or residents.

(d) When an asset is acquired by trading one (1) asset for another, or a betterment or improvement is acquired, the cost of the newly acquired asset, betterment, or improvement shall be added to the appropriate property category. All of the historical cost of the traded asset or replaced betterment or improvement shall be removed from the property category in which it was included.

(e) If a single asset or collection of like assets acquired in quantity, including permanent betterment or improvements, has at the time of acquisition an estimated useful life of at least three (3) years and a historical cost of at least five hundred dollars ($500), the cost shall be included in the property basis for the approved useful life of the asset. Items that do not qualify under this subsection shall be expensed in the year acquired.

(f) The property basis of donated assets, except for donations between providers or related parties, shall be the fair market value defined as the price a prudent buyer would pay a seller in an arm's-length sale or, if over two thousand dollars ($2,000), the appraised value, whichever is lower. An asset is considered donated when the provider acquires the asset without making any payment for it in the form of cash, property, or services. If the provider and the donor are related parties, the net book value of the asset to the donor shall be the basis, not to exceed fair market value. Cash donations shall be treated as revenue items and not as offsets to expense accounts. *(Office of the Secretary of Family and Social Services; 405 IAC 1-12-16; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2325; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:52 a.m.: 26 IR 727)*

SECTION 14. 405 IAC 1-12-17 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-17 Capital return factor; basis; sale or capital lease of facility; valuation; sale or lease among family members

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 17. (a) If a facility is sold or leased within eight (8) years of the seller's or lessor's acquisition date and this transaction is recognized as a change of provider status, the buyer's or lessee's property basis in facilities and equipment shall be the seller's or lessor's historical cost basis plus one percent (1%) of the difference between the purchase price, or appraised value if lower, and the seller's or lessor's historical cost basis, for each month the seller or lessor has owned or leased the property.

(b) Leases shall be subject to the following purchase equivalency test based on the maximum capital return factor. The provider shall supply sufficient information to the office so as to determine the terms and conditions of a purchase that would be equivalent to the lease agreement. Such information shall include the following:

(1) Property basis and fair market value on the initial lease effective date.

(2) Inception date of the initial agreement between lessee and lessor.

(3) Imputed or stated interest rate.

(4) Duration of payments.

(5) Renewal options.

Such purchase equivalency terms and conditions shall be utilized to calculate the capital return factor as if it were a purchase. The provisions of section 15(c) through 15(d) of this rule shall apply. The lease payments determined under this section shall be subject to the limitations under section 15(b) of this rule.

(c) Where the imputed or stated interest rate is a variable rate, it shall be recognized only if the rate is reasonable and only if such arrangement was incorporated into the lease agreement at the time of acquisition.

(d) All leases, rental agreements, and contracts involving the use of property shall be subject to the same limitations as owners of property. The use fee calculation for variable rate leases will be calculated in the same manner as that set forth in section 13(k) of this rule. In no event shall the capital return factor be greater than the actual lease payment.

(e) If a provider rents, leases, or purchases facilities or equipment from a related party, the historical cost to the related party, not to exceed fair market value, shall be utilized in computing the capital return factor except as described in this section for the sale of facilities between family members.

(f) The sale of facilities between family members shall be eligible for consideration as a change of provider status transaction if all of the following requirements are met:

(1) There is no spousal relationship between parties.
(2) The following persons are considered family members:
(A) Natural parents, child, and sibling.
(B) Adopted child and adoptive parent.
(C) Stepparent, stepchild, stepsister, and stepbrother.
(D) Father-in-law, mother-in-law, sister-in-law, brother-in-law, and daughter-in-law.
(E) Grandparent and grandchild.
(3) The provider can demonstrate to the satisfaction of the office that the primary business purpose for the sale is other than increasing the established rate.
(4) The transfer is recognized and reported by all parties as a sale for federal income tax purposes.
(5) The seller ~~is~~ **and all parties with an ownership interest in the previous provider are** not associated with the facility in any way after the sale other than as a passive creditor.
(6) The buyer is actively engaged in the operation of the facility after the sale with earnings from the facility accruing to at least one (1) principal buyer primarily as salaries or self-employment income and not as leases, rents, or other passive income.
(7) This family sale exception has not been utilized during the previous eight (8) years on this facility.
(8) None of the entities involved is a publicly held corporation as defined by the Securities and Exchange Commission.
(9) If any of the entities involved are corporations, they must be family owned corporations, where members of the same family control the corporations through ownership of fifty percent (50%) or more of the voting stock.

(g) In order to establish an historical cost basis in the sale of facilities between family members, the buyer shall obtain a Member Appraiser Institute (MAI) appraisal, which appraisal is subject to the approval of the office. The appraisal shall be done within ninety (90) days of the date of the sale. The historical cost basis shall be the lower of the historical cost basis of the buyer or ninety percent (90%) of the MAI appraisal of facilities and equipment.

(h) If the conditions of this section are met, the cost basis and financing arrangements of the facility shall be recognized for the purpose of computing the capital return factor in accordance with this rule for a bona fide sale arising from an arm's-length transaction.

(i) If a lease of facilities between family members under subsection (f)(2) qualifies as a capitalized lease under guidelines issued in November 1976 by the American Institute of Certified Public Accountants, the transaction shall be treated as a sale of facilities between family members, for purposes of determining the basis, cost, and valuation of the buyer's capital return factor component of the Medicaid rate. *(Office of the Secretary of Family and Social Services; 405 IAC 1-12-17; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2325; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:52 a.m.: 26 IR 728)*

SECTION 15. 405 IAC 1-12-19 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-19 Allowable costs; wages; costs of employment; record keeping; owner or related party compensation

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15

Sec. 19. (a) Reasonable compensation of individuals employed by a provider is an allowable cost, provided such employees are engaged in patient or resident care-related functions and that compensation amounts are reasonable and allowable under this section and sections 20 through 22 of this rule.

(b) The provider shall report using the forms or in a format prescribed by the office all patient and resident related staff costs and hours incurred to perform the function for which the provider was certified. Both total compensation and total hours worked shall be reported. Staffing limitations to determine Medicaid allowable cost shall be based on hours worked by employees. If a service is performed through a contractual agreement, imputed hours for contracted services are only required when such services obviate the need for staffing of a major function or department that is normally staffed by in-house personnel. Hours for laundry services in CRF/DD or ICF/MR facilities that are properly documented through appropriate time studies, whether paid in-house or contracted, shall not be included in calculating the staffing limitation for the facility. Hours associated with the provision of day services and other ancillary services, **except as specified in subsection (d),** shall be excluded from the staffing limitation.

(c) Payroll records shall be maintained by the provider to substantiate the staffing costs reported to the office. The records shall indicate each employee's classification, hours worked, rate of pay, and the department or functional area to which the employee was assigned and actually worked. If an employee performs duties in more than one (1) department or functional area, the payroll records shall indicate the time allocations to the various assignments.

(d) When an owner or related party work assignment is at or below a department head level, the hours and compensation shall be included in the staffing hours reported using the forms prescribed by the office. Such hours and compensation must be reported separately and so identified. Compensation paid to owners or related parties for performing such duties shall be subject to the total staffing limitations and allowed if the compensation paid to owners or related parties does not exceed the price paid in the open market to obtain such services by nonowners or nonrelated parties. Such compensation to owners or related parties is not subject to the limitation found in section 20 of this rule. *(Office of the Secretary of Family and Social Services; 405 IAC 1-12-19; filed Jun 1, 1994, 5:00 p.m.: 17 IR*

2327; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:52 a.m.: 26 IR 729)

SECTION 16. 405 IAC 1-12-24, AS AMENDED AT 25 IR 381, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-24 Assessment methodology
Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15-32-11

Sec. 24. (a) CRF/DD and ICF/MR facilities that are not operated by the state will be assessed an amount not to exceed ten percent (10%) of ~~the gross residential services~~ **total annual facility** revenue. ~~of the facility for the facility's annual reporting period year for annual rate reviews. CRF/DD and ICF/MR facilities that are not operated by the state will be assessed an amount not exceed ten percent (10%) of the annualized gross residential services~~ **In determining total annual** revenue ~~of the facility for the facility's preceding nine (9) months for determining the base rate as set out in section 5(d) of this rule.~~ **when the financial report period is other than three hundred sixty-five (365) days, the total revenue shall be annualized based on the number of days in the reporting period.** The assessment percentage **applied to total annual revenue** shall ~~be determined annually by the office or its contractor in such a manner that the amount assessed shall, in the aggregate,~~ not exceed **the greater of** six percent (6%) ~~of total facility revenues.~~ **or such percentage determined to be eligible for federal financial participation under federal law.**

(b) The assessment on provider ~~gross residential services~~ **total annual** revenue authorized by IC 12-15-32-11 shall be an allowable cost for cost reporting and audit purposes. ~~Gross residential services~~ **Total annual** revenue is defined as revenue from the provider's previous reporting period as set out in section 4(a) of this rule or previous base rate reporting period set out in section ~~5(d)~~ **5(c)** of this rule. ~~and excludes allowable day services costs for the period.~~ Providers will submit data to calculate the amount of provider assessment with their annual **and** base ~~and~~ rate reviews as set out in sections 4(a) and ~~5(d)~~ **5(c)** of this rule, using forms or in a format prescribed by the office. These forms are subject to audit by the office or its designee.

(c) If federal financial participation to match the assessment becomes unavailable under federal law after the implementation date, the authority to impose the assessment terminates on the date that the federal statutory, regulatory, or interpretive change takes place, and such termination will apply prospectively. In addition, prospective termination of the assessment as described in this subsection will result in the simultaneous termination of the assessment being considered as an allowable cost for rate setting purposes. *(Office of the Secretary of Family and Social Services; 405 IAC 1-12-24; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2329; filed Aug 14, 1998, 4:27 p.m.: 22 IR 67; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 3, 2001, 9:40 a.m.: 25 IR 381; filed Oct 10, 2002, 10:52 a.m.: 26 IR 730)*

SECTION 17. 405 IAC 1-12-26 IS AMENDED TO READ AS FOLLOWS:

405 IAC 1-12-26 Administrative reconsideration; appeal
Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 4-21.5; IC 12-13-7-3

Sec. 26. (a) The Medicaid rate-setting contractor shall notify each provider of the provider's rate **and allowable cost determinations** after ~~such rate has~~ **they have** been computed. If the provider disagrees with the rate ~~determination,~~ **or allowable cost determinations,** the provider must request an administrative reconsideration by the Medicaid rate-setting contractor. Such reconsideration request shall be in writing and shall contain specific issues to be reconsidered and the rationale for the provider's position. The request shall be signed by the provider or the authorized representative of the provider and must be received by the contractor within forty-five (45) days after release of the rate **or allowable cost determinations as** computed by the Medicaid rate-setting contractor. Upon receipt of the request for reconsideration, the Medicaid rate-setting contractor shall evaluate the data. After review, the Medicaid rate-setting contractor may amend the rate, amend the challenged procedure or **allowable cost** determination, or affirm the original decision. The Medicaid rate-setting contractor shall thereafter notify the provider of its final decision in writing, within forty-five (45) days of the Medicaid rate-setting contractor's receipt of the request for reconsideration. In the event that a timely response is not made by the rate-setting contractor to the provider's reconsideration request, the request shall be deemed denied and the provider may pursue its administrative remedies as set out in subsection (c).

(b) If the provider disagrees with a rate **or allowable cost** redetermination resulting from an audit adjustment or a reportable condition affecting a rate, the provider must request an administrative reconsideration from the Medicaid audit contractor. Such reconsideration request shall be in writing and shall contain specific issues to be considered and the rationale for the provider's position. The request shall be signed by the provider or the authorized representative of the provider and must be received by the Medicaid audit contractor within forty-five (45) days after release of the rate **or allowable cost determinations as** computed by the Medicaid rate-setting contractor. Upon receipt of the request for reconsideration, the Medicaid audit contractor shall evaluate the data. After review, the Medicaid audit contractor may amend the audit adjustment or reportable condition or affirm the original adjustment or reportable condition. The Medicaid audit contractor shall thereafter notify the provider of its final decision in writing within forty-five (45) days of the Medicaid audit contractor's receipt of the request for reconsideration. In the event that a timely response is not made by the audit contractor to the provider's reconsideration request, the request shall be deemed denied and the provider may pursue its administrative remedies under subsection (c).

(c) After completion of the reconsideration procedure under subsection (a) or (b), the provider may initiate an appeal under IC 4-21.5.

(d) The office may take action to implement Medicaid rates without awaiting the outcome of the administrative process, in accordance with section 1(d) of this rule. *(Office of the Secretary of Family and Social Services; 405 IAC 1-12-26; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2331; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:52 a.m.: 26 IR 730)*

LSA Document #02-16(F)
Notice of Intent Published: 25 IR 1670
Proposed Rule Published: June 1, 2002; 25 IR 2790
Hearing Held: June 28, 2002
Approved by Attorney General: September 23, 2002
Approved by Governor: September 25, 2002
Filed with Secretary of State: October 10, 2002, 10:52 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-45(F)

DIGEST

Adds 405 IAC 2-3-23 to specify that a United States Savings Bond is considered available for Medicaid eligibility purposes beginning on the date of purchase. Effective 30 days after filing with the secretary of state.

405 IAC 2-3-23

SECTION 1. 405 IAC 2-3-23 IS ADDED TO READ AS FOLLOWS:

405 IAC 2-3-23 Savings bonds
Authority: IC 12-8-1-9; IC 12-8-6-5; IC 12-15-1-10
Affected: IC 12-15-3

Sec. 23. United States Savings Bonds are considered available for Medicaid eligibility purposes beginning on the date of purchase. During the six (6) month period following the date of issue, bonds are valued for eligibility purposes as follows:

(1) Bonds issued at face value, including, but not limited to, Series I and HH bonds, are valued at face value.

(2) Bonds issued for less than face value, including, but not limited to, Series EE bonds, are valued at the purchase price.

(Office of the Secretary of Family and Social Services; 405 IAC 2-3-23; filed Oct 10, 2002, 10:50 a.m.: 26 IR 730)

SECTION 2. **405 IAC 2-3-23, as added by SECTION 1 of this document, applies to United States Savings Bonds purchased on or after the effective date of that section.**

LSA Document #02-45(F)
Notice of Intent Published: 25 IR 1927
Proposed Rule Published: May 1, 2002; 25 IR 2555
Hearing Held: May 22, 2002
Approved by Attorney General: September 23, 2002
Approved by Governor: September 25, 2002
Filed with Secretary of State: October 10, 2002, 10:50 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-87(F)

DIGEST

Amends 405 IAC 2-8-1 to add certain nonprobate assets to the definition of estate for Medicaid estate recovery purposes. Adds 405 IAC 2-8-1.1 to provide an exception for certain nonprobate assets valued at less than $125,000. Effective 30 days after filing with the secretary of state.

405 IAC 2-8-1
405 IAC 2-8-1.1

SECTION 1. 405 IAC 2-8-1 IS AMENDED TO READ AS FOLLOWS:

405 IAC 2-8-1 Claims against estate for benefits paid
Authority: IC 12-8-6-5; IC 12-13-5-3; IC 12-15-1-10
Affected: IC 12-15-9; IC 12-15-39.6-10

Sec. 1. (a) Upon the death of a Medicaid recipient fifty-five (55) years of age or older, the office of Medicaid policy and planning (office) shall seek recovery from the recipient's estate for medical assistance paid on behalf of the recipient after the recipient became fifty-five (55) years of age or older. Recovery shall be made for benefits provided prior to October 1, 1993, only if the recipient was sixty-five (65) years of age or older at the time the benefits were provided.

(b) As used in this section, "estate", with respect to a deceased recipient, shall include **all of the following:**

(1) All real and personal property and other assets included within the recipient's estate as defined for purposes of state probate law.

(2) Any interest in real property owned by the individual at the time of death that was conveyed to the individual's survivor through joint tenancy with right of survivorship, if the joint tenancy was created after June 30, 2002; and

(3) Any real or personal property conveyed through a nonprobate transfer. As used in this section, "nonprobate

transfer" means a valid transfer, effective at death, by a transferor who immediately before death had the power, acting alone, to prevent transfer of the property by revocation or withdrawal and:

(A) use the property for the benefit of the transferor; or

(B) apply the property to discharge claims against the transferor's probate estate.

The term does not include a transfer of a survivorship interest in a tenancy by the entireties real estate, transfer of a life insurance policy or annuity, or payment of the death proceeds of a life insurance policy or annuity.

(c) If the recipient is survived by a spouse, recovery shall be made after the death of the surviving spouse. Only those assets that are included in the recipient's estate as defined in subsection (b) are subject to recovery.

(d) If the recipient is survived by a child, no recovery shall be made while the child is either:

(1) under twenty-one (21) years of age; or

(2) blind or disabled as defined in 42 U.S.C. 1382c.

(e) A claim may not be enforced against the following assets:

(1) Personal effects, ornaments, or keepsakes of the deceased.

(2) Assets of an individual who purchases a long term care insurance policy that are disregarded pursuant to ~~IC 12-15-3-6.~~ **IC 12-15-39.6-10.**

(3) Nonprobate assets that were determined exempt or unavailable for purposes of the decedent's Medicaid eligibility prior to May 1, 2002.

(4) Assets that the decedent transferred through a nonprobate transfer prior to May 1, 2002.

(f) The office may waive the application of this section in cases of undue hardship pursuant to section 2 of this rule. *(Office of the Secretary of Family and Social Services; 405 IAC 2-8-1; filed May 1, 1995, 10:45 a.m.: 18 IR 2226; filed Feb 15, 1996, 11:20 a.m.: 19 IR 1563; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Oct 10, 2002, 10:55 a.m.: 26 IR 731)*

SECTION 2. 405 IAC 2-8-1.1 IS ADDED TO READ AS FOLLOWS:

405 IAC 2-8-1.1 Claims against estate; exemption

Authority: IC 12-8-6-5; IC 12-13-5-3; IC 12-15-1-10
Affected: IC 12-15-3-6; IC 12-15-9

Sec. 1.1. (a) This section applies only to real property owned by the individual at the time of death that was conveyed to the individual's survivor through joint tenancy with right of survivorship.

(b) The office may enforce its claim against property described in subsection (a) only to the extent that the value of the recipient's combined total interest in all real property described in subsection (a) subject to the claim exceeds one hundred twenty-five thousand dollars ($125,000).

(c) This section expires January 1, 2008. *(Office of the Secretary of Family and Social Services; 405 IAC 2-8-1.1; filed Oct 10, 2002, 10:55 a.m.: 26 IR 732)*

LSA Document #02-87(F)
Notice of Intent Published: 25 IR 2278
Proposed Rule Published: June 1, 2002; 25 IR 2804
Hearing Held: July 2, 2002
Approved by Attorney General: September 23, 2002
Approved by Governor: September 25, 2002
Filed with Secretary of State: October 10, 2002, 10:55 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-141(F)

DIGEST

Amends 405 IAC 5-24-7 to revise copayment structure for drugs reimbursed by Medicaid. Brand name legend drugs will be subject to a three dollar ($3) copayment. Generic legend drugs, all nonlegend drugs, and compounded prescriptions will be subject to a fifty cent ($.50) copayment. Effective 30 days after filing with the secretary of state.

405 IAC 5-24-7

SECTION 1. 405 IAC 5-24-7 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-24-7 Copayment for legend and nonlegend drugs

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-21-2
Affected: IC 12-13-7-3; IC 12-15-6

Sec. 7. (a) Under IC 12-15-6, a copayment is required for legend and nonlegend drugs and insulin in accordance with the following:

(1) The copayment shall be paid by the recipient and collected by the provider at the time the service is rendered. Medicaid reimbursement to the provider shall be adjusted to reflect the copayment amount for which the recipient is liable.

(2) In accordance with 42 CFR 447.15, the provider may not deny services to any eligible individual on account of the individual's inability to pay the copayment amount. Under 42 CFR 447.15, this service guarantee does not apply to an individual who is able to pay, nor does an individual's inability to pay eliminate his or her liability for the copayment.

(3) The amount of the copayment will be as follows:

(A) Fifty cents ($0.50) for each generic **legend** drug dispensed. ~~irrespective of the Medicaid payment for the generic drug.~~

(B) Fifty cents ($0.50) for each ~~brand name~~ **nonlegend** drug dispensed, ~~for which the Medicaid payment is ten dollars ($10) or less.~~ **whether brand name or generic.**

~~(C) One dollar ($1) for each brand name drug dispensed for which the Medicaid payment is from ten dollars and one cent ($10.01) to thirty dollars ($30).~~
~~(D) Two dollars ($2) for each brand name drug dispensed for which the Medicaid payment is from thirty dollars and one cent ($30.01) to fifty-five dollars ($55).~~
~~(E)~~ **(C)** Three dollars ($3) for each brand name **legend** drug dispensed. ~~for which the Medicaid payment is fifty-five dollars and one cent ($55.01) or more.~~
(D) Fifty cents ($0.50) for each compounded prescription, whether legend or nonlegend.
The pharmacy provider shall collect a copayment for each drug dispensed by the provider and covered by Medicaid.

(b) The following pharmacy services are exempt from the copayment requirement:
(1) Emergency services provided in a hospital, clinic, office, or other facility equipped to furnish emergency care.
(2) Services furnished to individuals less than eighteen (18) years of age.
(3) Services furnished to pregnant women if such services are related to the pregnancy or any other medical condition that may complicate the pregnancy.
(4) Services furnished to individuals who are inpatients in hospitals, nursing facilities, intermediate care facilities for the mentally retarded, or other medical institutions.
(5) Family planning services and supplies furnished to individuals of child bearing age.
(6) Health maintenance organization (HMO) pharmacy services.
(Office of the Secretary of Family and Social Services; 405 IAC 5-24-7; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3346; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Nov 4, 2002, 12:16 p.m.: 26 IR 732)

LSA Document #02-141(F)
Notice of Intent Published: 25 IR 2748
Proposed Rule Published: August 1, 2002; 25 IR 3825
Hearing Held: August 29, 2002
Approved by Attorney General: October 22, 2002
Approved by Governor: October 30, 2002
Filed with Secretary of State: November 4, 2002, 12:16 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

LSA Document #02-42(F)

DIGEST

Adds 440 IAC 1.5 concerning the licensure of private mental health institutions. Repeals 440 IAC 1-1.5. Effective 30 days after filing with the secretary of state.

440 IAC 1-1.5
440 IAC 1.5

SECTION 1. 440 IAC 1.5 IS ADDED TO READ AS FOLLOWS:

ARTICLE 1.5. LICENSURE OF PRIVATE MENTAL HEALTH INSTITUTIONS

Rule 1. Definitions

440 IAC 1.5-1-1 Applicability
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 1. The definitions in this rule apply throughout this article. *(Division of Mental Health and Addiction; 440 IAC 1.5-1-1; filed Oct 11, 2002, 11:26 a.m.: 26 IR 733)*

440 IAC 1.5-1-2 "Accreditation" defined
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 2. "Accreditation" means an accrediting agency has determined that a private mental health institution has met specific requirements of the accrediting agency. *(Division of Mental Health and Addiction; 440 IAC 1.5-1-2; filed Oct 11, 2002, 11:26 a.m.: 26 IR 733)*

440 IAC 1.5-1-3 "Accrediting agency" defined
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 3. "Accrediting agency" means an organization, included on a list of accrediting organizations approved by the division, which has developed clinical, financial, and organizational standards for the operation of a provider of mental health services and which evaluates a private mental health institution's compliance with its established standards on a regularly scheduled basis. *(Division of Mental Health and Addiction; 440 IAC 1.5-1-3; filed Oct 11, 2002, 11:26 a.m.: 26 IR 733)*

440 IAC 1.5-1-4 "Consumer" defined
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 4. "Consumer" means an individual who is receiving assessment or mental health services from the private mental health institution. *(Division of Mental Health and Addiction; 440 IAC 1.5-1-4; filed Oct 11, 2002, 11:26 a.m.: 26 IR 733)*

440 IAC 1.5-1-5 "Division" defined
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 5. "Division" means the division of mental health and addiction. *(Division of Mental Health and Addiction; 440 IAC 1.5-1-5; filed Oct 11, 2002, 11:26 a.m.: 26 IR 733)*

440 IAC 1.5-1-6 "Licensed mental health professional" defined
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 6. "Licensed mental health professional" means a mental health professional whose scope of practice under Indiana licensure encompasses the expertise involved in writing orders for treatment and who is appropriately credentialed under the private mental health institution's bylaws and policies to write such orders. *(Division of Mental Health and Addiction; 440 IAC 1.5-1-6; filed Oct 11, 2002, 11:26 a.m.: 26 IR 734)*

440 IAC 1.5-1-7 "Mental health services" defined
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 7. "Mental health services" means psychological services, counseling services, case management services, residential services, and other social services for the treatment and care of individuals with psychiatric disorders or chronic addictive disorders, or both. *(Division of Mental Health and Addiction; 440 IAC 1.5-1-7; filed Oct 11, 2002, 11:26 a.m.: 26 IR 734)*

440 IAC 1.5-1-8 "Private mental health institution" defined
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25; IC 16

Sec. 8. "Private mental health institution" means an inpatient hospital setting, including inpatient and outpatient services provided in that setting, for the treatment and care of individuals with psychiatric disorders or chronic addictive disorders, or both, that is physically, organizationally, and programmatically independent of any hospital or health facility licensed by the Indiana state department of health under IC 16. *(Division of Mental Health and Addiction; 440 IAC 1.5-1-8; filed Oct 11, 2002, 11:26 a.m.: 26 IR 734)*

440 IAC 1.5-1-9 "PRN" defined
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 9. "PRN" means as needed. *(Division of Mental Health and Addiction; 440 IAC 1.5-1-9; filed Oct 11, 2002, 11:26 a.m.: 26 IR 734)*

Rule 2. General Provisions

440 IAC 1.5-2-1 Applicability
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25; IC 16

Sec. 1. This article applies to any inpatient, hospital setting, including inpatient and outpatient services provided in that setting, for the treatment and care of individuals with psychiatric disorders or chronic addictive disorders, or both, that is physically, organizationally, and programmatically independent of any hospital or health facility licensed by the Indiana state department of health under IC 16. *(Division of Mental Health and Addiction; 440 IAC 1.5-2-1; filed Oct 11, 2002, 11:26 a.m.: 26 IR 734)*

440 IAC 1.5-2-2 Licensure by the division
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 2. (a) Before an entity may operate as a private mental health institution, the entity must be licensed by the division under this article.

(b) A private mental health institution shall be accredited by an accrediting agency approved by the division.

(c) The following components are required to be present for licensure as a private mental health institution:
(1) Governing board.
(2) Medical or professional staff organization.
(3) Quality assessment and improvement program.
(4) Dietetic service.
(5) Infection control program.
(6) Medical record services.
(7) Nursing service.
(8) Physical plant, maintenance, and environmental services.
(9) Intake and treatment services.
(10) Discharge planning services.
(11) Pharmacy services.
(12) Plan for special procedures.

(d) The private mental health institution shall have a written plan that clearly defines their course of action and arrangements for emergency services.

(e) The facility shall make a verbal report to the division within twenty-four (24) hours of occurrence of any of the following:
(1) Death or kidnaping of consumer occurring after admission.
(2) A disruption, exceeding four (4) hours, in the continued safe operation of the facility or in the provision of consumer care, caused by internal or external disasters, strikes by health care workers, or unscheduled revocation of vital services.
(3) Any fire or explosion.

(f) In addition, a written report on occurrences listed in subsection (e) shall be submitted to the division within ten (10) working days.

(g) The facility shall make a written report within ten (10) working days of the occurrence of any of the following:

(1) Serious consumer injuries with the potential of a loss of function or marked deterioration of a consumer's condition occurring under unanticipated or unexpected circumstances.
(2) Chemical poisoning occurring within the facility resulting in a negative consumer outcome.
(3) Unexplained loss of or theft of a controlled substance.
(4) Missing consumer whose whereabouts are unknown for over twenty-four (24) hours.

(h) All written reports shall include the following:
(1) An explanation of the circumstances surrounding the incident.
(2) Summaries of all findings, conclusions, and recommendations associated with the review of the incident.
(3) A summary of actions taken to resolve identified problems, to prevent recurrence of the incident, and to improve overall consumer care.

(i) In the event of flood, fire, or other disaster, when significant damage has occurred to the facility, the governing board, or the governing board's designee, or the director of the division shall suspend the use of all or that part of the facility as may be necessary to ensure the safety and well being of consumers. The director of the division shall issue a permit to reoccupy the facility after it is inspected and approved as safe by the Indiana state department of health or the department of fire prevention and building safety commission, or both.

(j) A private mental health institution that has applied for licensure or has been licensed must supply any information requested by the division as fully as it is capable. Failure to comply with a request from the division may result in revocation or denial of a private mental health institution's licensure.

(k) As the licensing body, the division may conduct inspections and investigate complaints and incidents in any private mental health institution.

(l) A private mental health institution's license shall be posted in a conspicuous place in the facility open to consumers and the public. *(Division of Mental Health and Addiction; 440 IAC 1.5-2-2; filed Oct 11, 2002, 11:26 a.m.: 26 IR 734)*

440 IAC 1.5-2-3 Application for licensure
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25-1-6

Sec. 3. (a) An entity seeking licensure as a private mental health institution shall file an application with the division.

(b) The application shall contain the following:
(1) A description of the organizational structure and mission of the applicant.
(2) The location of all operational sites of the applicant.
(3) The consumer population to be served and the program focus.
(4) List of governing board members and executive staff.
(5) A copy of the applicant's procedures to ensure protection of consumer rights and confidentiality.
(6) Evidence of an on-site review and inspection by the Indiana state department of health and the correction of any deficiencies.
(7) Evidence of an on-site review and inspection by the department of fire prevention and building safety commission and the correction of any deficiencies.
(8) Other materials as requested by the division to assist in the evaluation of the application.

(c) An applicant that is accredited must forward to the division proof of accreditation in all services provided by the applicant, site survey recommendations from the accrediting agency, and the applicant's responses to the site survey recommendations.

(d) The division may require the applicant to correct any deficiencies described in the site survey.

(e) If the entity is not yet accredited in all services provided by the applicant, a temporary license may be issued for six (6) months, if the entity provides proof of application to an accrediting body approved by the division.

(f) If the nonaccredited entity continues to meet the other requirements for licensure, temporary licensure may be extended for no more than six (6) additional months.

(g) Before the extended temporary license expires, the applicant must forward to the division the following:
(1) Proof of accreditation.
(2) Site survey recommendations from the accrediting agency.
(3) The applicant's responses to the site survey recommendations.
(4) The division may require the applicant to correct any deficiencies described in the site survey.
(5) Any other materials requested by the division as a part of the application process.

(h) If the applicant fails to achieve accreditation within twelve (12) months, the applicant may not reapply for licensure until twelve (12) months after the extended temporary license ends.

(i) The division may issue a license as a private mental health institution to the applicant after the division has determined that the applicant meets all criteria for a private mental health institution set forth in this rule and in federal and state law.

(j) The regular licensure shall expire one (1) year after the date of issuance.

(k) Relicensure of a facility is required when any of the following occur:

(1) Change in ownership.

(2) Change in the location of the physical plant.

(3) Change in the primary program focus.

(4) When the existing license expires.

(l) The applicant has the right to a hearing conducted by the director of the division or the director's designee, pursuant to IC 12-25-1-6.

(m) If an applicant is denied licensure, a new application for licensure may not be submitted until twelve (12) months have passed. *(Division of Mental Health and Addiction; 440 IAC 1.5-2-3; filed Oct 11, 2002, 11:26 a.m.: 26 IR 735)*

440 IAC 1.5-2-4 Maintenance of licensure

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25; IC 12-27

Sec. 4. Maintenance of licensure is dependent upon the following:

(1) The private mental health institution shall maintain accreditation from an accrediting agency approved by the division. The division shall annually provide all private mental health institutions with a list of accrediting agencies approved by the division.

(2) The private mental health institution shall maintain compliance with required health, fire, and safety codes as prescribed by federal, state, and local law.

(3) Each private mental health institution shall have written policies and enforce these policies to support and protect the fundamental human, civil, constitutional, and statutory rights of each consumer.

(4) Each private mental health institution shall do the following:

(A) Give a written statement of rights under IC 12-27 to each consumer. The statement shall include the toll free consumer service line number and the telephone number for Indiana protection and advocacy services.

(B) Post the written statement of rights in the reception area of the facility.

(C) Document that staff provides both a written and an oral explanation of these rights to each consumer.

(D) Each private mental health institution shall respond to complaints from the consumer service line in a timely manner.

(Division of Mental Health and Addiction; 440 IAC 1.5-2-4; filed Oct 11, 2002, 11:26 a.m.: 26 IR 736)

440 IAC 1.5-2-5 Notification of changes

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25; IC 12-27

Sec. 5. (a) A private mental health institution must notify the division, in writing, thirty (30) days prior to any of the following:

(1) Change in the location of the private mental health institution's operational site.

(2) Change in the primary program focus.

(3) Date of the scheduled accreditation survey and the name of the accrediting agency to provide accreditation.

(b) A private mental health institution must notify the division, in writing, within ten (10) working days after any of the following:

(1) Change in the accreditation status of the private mental health institution.

(2) Change in the president of the governing board.

(3) Change in the chief executive officer of the private mental health institution.

(4) Unannounced accreditation surveys.

(5) The initiation of bankruptcy proceedings.

(6) Adverse action against the entity as the result of the violation of health, fire, or safety codes as prescribed by federal, state, or local law.

(7) Documented violation of the rights of an individual being treated in the private mental health institution under IC 12-27.

(Division of Mental Health and Addiction; 440 IAC 1.5-2-5; filed Oct 11, 2002, 11:26 a.m.: 26 IR 736)

440 IAC 1.5-2-6 Conditional licensure

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25-2

Sec. 6. (a) The division shall change the licensure status of a private mental health institution to that of conditional licensure if the division determines that the private mental health institution has received conditional accreditation status.

(b) The division may change the licensure status of a private mental health institution to that of conditional licensure if the division determines that the private mental health institution no longer meets the requirements in this article.

(c) Within a conditional licensure period, the division may:

(1) require that the facility stop all new admissions;

(2) grant an extension of the conditional licensure;

(3) reinstate the regular license of the private mental health institution if the division requirements are met within the imposed deadline; or

(4) take action to suspend or revoke the entity's licensure as a private mental health institution if the division requirements are not met within the imposed deadline.

(d) The division shall notify the chief executive officer of

the private mental health institution of the change in certification status in writing. The notice shall include the following:

(1) The standards not met and the actions the private mental health institution must take to meet those standards.

(2) The amount of time granted the private mental health institution to meet the required standard.

(3) Actions to be taken by the private mental health institution during the time period of the extension.

(e) The division has the discretion to determine the time period and frequency of a conditional licensure; however, a conditional licensure plus any extensions may not exceed twelve (12) months.

(f) Extension requirements shall include the following:

(1) If the division grants an extension of a conditional licensure, the division shall notify the private mental health institution in writing.

(2) The notice shall include the following:

(A) The time period of the extension.

(B) The standards not met and the actions the private mental health institution must take to meet those standards.

(C) Actions to be taken by the private mental health institution during the time period of the extension.

(g) If the private mental health institution does not attain the improvements required by the division within the period of time required, the division shall take action to suspend or revoke the private mental health institution's license in accordance with IC 12-25-2. *(Division of Mental Health and Addiction; 440 IAC 1.5-2-6; filed Oct 11, 2002, 11:26 a.m.: 26 IR 736)*

440 IAC 1.5-2-7 Revocation of licensure

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25-2

Sec. 7. (a) The division may revoke the licensure issued under this article after the division's investigation and determination of the following:

(1) A substantive change in the operation of the private mental health institution, which, under the standards for accreditation, would cause the accrediting agency to revoke the accreditation.

(2) Failure of the private mental health institution to regain accreditation within ninety (90) days following expiration of the private mental health institution's current accreditation by the private mental health institution's accrediting agency.

(3) Failure to comply with this article.

(4) That the physical safety of the consumers or staff of the private mental health institution is compromised by a physical or sanitary condition of a physical facility of a private mental health institution.

(5) Violation of a federal, state, or local statute, ordinance, rule, or regulation in the course of the operation of the private mental health institution that endangers the health, safety, or continuity of services to consumers.

(6) The private mental health institution or its corporate owner files for bankruptcy.

(b) To revoke a license, the director shall follow the requirements in IC 12-25-2.

(c) If the division revokes an entity's licensure as a private mental health institution, the entity may not continue to operate.

(d) If the division revokes an entity's licensure as a private mental health institution, the entity may not reapply to become a private mental health institution until a lapse of twelve (12) months from the date of the revocation. *(Division of Mental Health and Addiction; 440 IAC 1.5-2-7; filed Oct 11, 2002, 11:26 a.m.: 26 IR 737)*

440 IAC 1.5-2-8 Appeal rights

Authority: IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25-3

Sec. 8. A private mental health institution that is aggrieved by any adverse action taken under this rule may appeal the action under IC 12-25-3. *(Division of Mental Health and Addiction; 440 IAC 1.5-2-8; filed Oct 11, 2002, 11:26 a.m.: 26 IR 737)*

Rule 3. Organizational Standards and Requirements

440 IAC 1.5-3-1 Governing board

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 1. (a) The private mental health institution shall have a governing board.

(b) The purpose of the governing board is to make policy and to assure the effective implementation of the policy.

(c) The duties of the governing board include the following:

(1) Meet on a regular basis.

(2) Employ a chief executive officer for the private mental health institution who is delegated the authority and responsibility for managing the private mental health institution.

(3) Delineate in writing the responsibility and authority of the chief executive officer.

(4) Ensure that all workers, including contract and agency personnel, for whom a license, registration, or certification is required, maintain current license, registration, or certification and keep documentation of same so that it can be made available within a reasonable period of time.

(5) Ensure that orientation and training programs are provided to all employees and that each employee has a periodic performance evaluation that includes competency evaluation and an individualized education plan.

(6) Evaluate the performance of the chief executive officer. Evaluations must be conducted every other year, at a minimum.

(7) Establish and enforce prudent business and fiscal policies for the private mental health institution.

(8) Develop and enforce written policies governing private mental health institution operations.

(9) Develop and implement an ongoing strategic plan that identifies the priorities of the governing board and considers community input and consumer assessment of programs and services offered.

(10) Assure that minutes of all meetings are maintained and accurately reflect the actions taken.

(11) Conduct an annual assessment that includes the following:

(A) A review of the business practices of the private mental health institution to ensure that:

(i) appropriate risk management procedures are in place;

(ii) prudent financial practices occur; and

(iii) professional practices are maintained in regard to information systems, accounts receivable, and accounts payable.

A plan of corrective action shall be implemented for any identified deficiencies in the private mental health institution's business practices.

(B) A review of the programs of the private mental health institution, assessing whether the programs are well utilized, cost effective, and clinically effective. A plan of corrective action shall be implemented for any identified deficiencies in the private mental health institution's current program practices.

(d) The governing board is responsible for the conduct of the medical or professional staff. The governing board shall do the following:

(1) Determine, with the advice and recommendation of the medical or professional staff, and in accordance with state law, which categories of practitioners are eligible candidates for appointment to the medical or professional staff.

(2) Ensure that:

(A) the requests of practitioners, for appointment or reappointment to practice in the private mental health institution, are acted upon, with the advice and recommendation of the medical or professional staff;

(B) reappointments are acted upon at least biennially;

(C) practitioners are granted privileges consistent with their individual training, experience, and other qualifications; and

(D) this process occurs within a reasonable period of time, as specified by the medical or professional staff bylaws.

(3) Ensure that the medical or professional staff has approved bylaws and rules and that the bylaws and rules are reviewed and approved at least triennially. Governing board approval of medical or professional staff bylaws and rules shall not be unreasonably withheld.

(4) Ensure that the medical or professional staff is accountable and responsible to the governing board for the quality of care provided to consumers.

(5) Ensure that criteria for selection for medical or professional staff membership are individual character, competence, education, training, experience, and judgment.

(6) Ensure that the granting of medical or professional staff membership or professional privileges in the private mental health institution is not solely dependent upon certification, fellowship, or membership in a specialty body or society.

(Division of Mental Health and Addiction; 440 IAC 1.5-3-1; filed Oct 11, 2002, 11:26 a.m.: 26 IR 737)

440 IAC 1.5-3-2 Medical or professional staff organization

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 2. (a) There shall be a single organized medical or professional staff that has the overall responsibility for the quality of all clinical care provided to consumers and for the professional practices of its members as well as for accounting to the governing board.

(b) The appointment and reappointment of medical or professional staff shall be based on well-defined, written criteria whereby it can satisfactorily be determined that the individual is appropriately licensed, certified, registered, or experienced and is qualified for privileges and responsibilities sought.

(c) Clinical privileges shall be facility specific and based on an individual's demonstrated current competency.

(d) The facility shall provide clinical supervision when required or indicated.

(e) There shall be a physician on call twenty-four (24) hours a day.

(f) The private mental health institution shall have on staff a medical services director who:

(1) has responsibility for the oversight and provision of all medical services; and

(2) is a physician licensed to practice medicine in Indiana.

(Division of Mental Health and Addiction; 440 IAC 1.5-3-2; filed Oct 11, 2002, 11:26 a.m.: 26 IR 738)

440 IAC 1.5-3-3 Quality assessment and improvement
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 3. (a) The facility shall establish a planned, systematic, organizational approach to process design, performance, analysis, and improvement. The plan must be interdisciplinary and involve all areas of the facility. Performance expectations shall be established, measured, aggregated, and analyzed on an ongoing basis, comparing performance over time and with other sources. Through this process, the facility identifies changes that will lead to improved performance that is achieved and sustained and reduce the risk of sentinel events.

(b) The process analyzes and makes necessary improvements to the following:
(1) All services, including service by contractor.
(2) All functions, including, but not limited to, the following:
(A) Discharge and transfer.
(B) Infection control.
(C) Medication use.
(D) Response to emergencies.
(E) Restraint and seclusion.
(F) Consumer injury.
(G) Staff injury.
(H) Any other areas that are high risk, problem prone, or high volume incidents.
(3) All medical and treatment services performed in the facility with regard to appropriateness of diagnosis and treatments related to a standard of care and anticipated or expected outcomes.

(c) The facility shall take appropriate action to address the opportunities for improvement found through the quality assessment and improvement plan, and:
(1) the action shall be documented; and
(2) the outcome of the action shall be documented as to its effectiveness, continued follow-up, and impact on consumer care.
(Division of Mental Health and Addiction; 440 IAC 1.5-3-3; filed Oct 11, 2002, 11:26 a.m.: 26 IR 739)

440 IAC 1.5-3-4 Dietetic services
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 4. (a) The private mental health institution shall have organized food and dietary services that are directed and staffed by adequate, qualified personnel, or a contract with an outside food management company that meets the minimum standards specified in this section.

(b) The food and dietetic service shall have the following:
(1) A full-time employee who:
(A) serves as director of the food and dietetic services; and
(B) is responsible for the daily management of the dietary services.
(2) A registered dietitian, full time, part time, or on a consulting basis. If a consultant is used, he or she shall:
(A) submit periodic written reports on the dietary services provided;
(B) provide the number of on-site dietitian hours commensurate with the:
(i) type of dietary supervision required;
(ii) bed capacity; and
(iii) complexity of the consumer care services;
(C) complete nutritional assessments; and
(D) approve menus.
(3) Administrative and technical personnel competent in their respective duties.

(c) The dietary service shall do the following:
(1) Provide for liaison with the private mental health institution medical or professional staff for recommendations on dietetic policies affecting consumer treatment.
(2) Correlate and integrate dietary care functions with those of other consumer care personnel that include, but are not limited to, the following:
(A) Consumer nutritional assessment and intervention.
(B) Recording pertinent information on the consumer's chart.
(C) Conferring with and sharing specialized knowledge with other members of the consumer care team.

(d) Menus shall meet the needs of the consumers as follows:
(1) Therapeutic diets shall be prescribed by the practitioner responsible for the care of the consumer.
(2) Nutritional needs shall be met in accordance with recognized dietary standards of practice and in accordance with the orders of the responsible practitioner.
(3) A current therapeutic diet manual approved by the dietitian and medical or professional staff shall be readily available to all medical, nursing, and food service personnel.
(4) Menus shall be followed and posted in the food preparation and serving area.
(5) Menus served shall be maintained on file for at least thirty (30) days.
(Division of Mental Health and Addiction; 440 IAC 1.5-3-4; filed Oct 11, 2002, 11:26 a.m.: 26 IR 739)

440 IAC 1.5-3-5 Infection control
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 5. (a) The facility shall provide a safe and healthful environment that minimizes infection exposure and risk to consumer, health care workers, and visitors. This is completed in a coordinated process that recognizes the risk of the endemic and epidemic nosocomial infections.

(b) There shall be an active, effective written facility-wide infection control program. Included in the program shall be a system designed for the identification, surveillance, investigation, control, reporting of information (internally and to health agencies), and prevention of infection and communicable diseases in the consumer and health care worker.

(c) The infection control program shall have a method for identifying and evaluating trends or clusters of nosocomial infections or communicable diseases. The infection control process involves universal precautions and other activities aimed at preventing the transmission of communicable diseases significant between consumer and health care workers.

(d) The facility shall have as part of the infection control program a needlestick prevention and exposure plan.

(e) A person, who has the support of facility management and is qualified by training or experience, shall be designated as responsible for the ongoing infection control activities and the development and implementation of the policies governing the control of infection and the communicable diseases.

(f) The facility shall have a functioning infection control committee that includes the individual responsible for the infection control program, a member of the medical or professional staff, a representative from nursing staff, and other appropriate individuals as needed. The committee will meet quarterly and minutes of meeting will be taken.

(g) The duties of the committee include the following:
(1) Writing policies and procedures in regard to sanitation, universal precautions, cleaning, disinfection, aseptic technique, linen management, employee health, personal hygiene, and attire.
(2) Assuring the system complies with state and federal laws to monitor the immune status of consumers and staff exposed to communicable diseases.

(h) Facility management shall be responsible to assure implementation and corrective actions as necessary to ensure that infection control policies are followed.

(i) Management shall provide appropriate infection control input into plans during any renovation or construction. *(Division of Mental Health and Addiction; 440 IAC 1.5-3-5; filed Oct 11, 2002, 11:26 a.m.: 26 IR 739)*

440 IAC 1.5-3-6 Medical record services
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 6. (a) The facility shall maintain a written clinical record on every consumer and shall have policies and procedures for clinical record organization and content.

(b) The services must be directed by a registered health information administrator (RHIA) or an accredited health information technician (RHIT). If a full-time or part-time RHIA or RHIT is not employed, then a consultant RHIA or RHIT must be provided to assist the person in charge. Documentation of the findings and recommendations of the consultant must be maintained.

(c) The unit record system shall be used to assure that the maximum possible information about a consumer is available. The consumer's record shall contain pertinent information, which, at a minimum, shall consist of the following:
(1) Face sheet (identification data).
(2) Referral information.
(3) Data base (assessment information).
(4) Individual treatment plan.
(5) History and physical exams.
(6) Physician's or licensed mental health professional's orders.
(7) Medication and treatment record.
(8) Progress notes.
(9) Treatment plan reviews.
(10) Special dietetic information.
(11) Consultation reports.
(12) Correspondence.
(13) Legal/commitment papers.
(14) Discharge/separation summary.
(15) Release/aftercare plans.

(d) The record shall contain identifying data in accordance with the policy of the facility.

(e) The consumer record shall contain information of any unusual occurrences, such as the following:
(1) Treatment complications.
(2) Accidents or injuries to the consumer.
(3) Morbidity.
(4) Death of a consumer.
(5) Procedures that place a consumer at risk or cause unusual pain.

(f) All entries in the consumer record shall be signed and dated.

(g) Symbols and abbreviations shall be used only if they have been approved by the medical or professional staff and only when there is an explanatory legend and shall not be used in the recording of a diagnosis.

(h) The facility shall be responsible to:
(1) maintain, control, and supervise consumer records; and
(2) maintain quality.

(i) The consumer record service shall establish, maintain, and control record completeness systems and mechanisms to ensure the quality and appropriateness of all documentation.

(j) Written policies and procedures shall govern the compilation, storage, dissemination, and accessibility of consumer records and be so designed as to assure that the facility fulfills its responsibility to protect the records against loss, unauthorized alteration, or disclosure of information.

(k) The consumer record shall be considered both a medical and legal document with careful consideration given to each entry in advance; therefore, the record may not be changed unless an error has been made or omission discovered with the correction process identified by policy and procedure.

(l) The facility shall maintain an indexing or referencing system that can be used to locate a consumer record that has been removed from the central file area.

(m) The facility shall have written policies and procedures that protect the confidentiality of consumer records and govern the disclosure of information in the records. The record shall comply with all applicable federal, state, and local laws, rules, and regulations.

(n) All original medical records or legally reproduced medical records must be maintained by the facility for a period of seven (7) years, must be readily accessible, in accordance with the facility policy, and must be kept in a fire resistive structure. *(Division of Mental Health and Addiction; 440 IAC 1.5-3-6; filed Oct 11, 2002, 11:26 a.m.: 26 IR 740)*

440 IAC 1.5-3-7 Nursing service

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 7. (a) The private mental health institution shall have an organized nursing service led by a nurse executive, who has the authority and responsibility to ensure that the nursing standards of consumer care, and standards of nursing practice are consistent with professional standards. The nursing executive or designee shall approve all nursing policies, procedures, nursing standards of consumer care and standards of nursing practice. The nurse executive is also responsible for determining number and type of nursing personnel needed as well as maintaining a nursing organizational chart and job description for all positions. The nurse executive participates with leaders of the governing body, management and medical or professional staff, and other clinical areas in planning and promoting and conducting organizational wide performance improvement activities.

(b) The private mental health institution shall have an organized nursing service that provides twenty-four (24) hour nursing services furnished or supervised by a registered nurse.

(c) The service shall have an organized plan that delineates the responsibilities for consumer care, which includes monitoring of each consumer's status and coordinates the provision of nursing care while assisting other professional implementing their plans of care.

(d) The nursing service shall have the following:
(1) Adequate numbers of licensed registered nurses and licensed practical nurses for the provision of appropriate care to all consumers which may include assessing consumer nursing needs, planning, and providing nursing care interventions, preventing complications, providing and improving on consumer comfort and wellness.
(2) The service shall have a procedure to ensure that private mental health institution nursing personnel, including nurse registry personnel for whom licensure is required, have valid and current licensure.

(e) All nursing personnel shall demonstrate and document competency in fulfilling their assigned responsibilities. *(Division of Mental Health and Addiction; 440 IAC 1.5-3-7; filed Oct 11, 2002, 11:26 a.m.: 26 IR 741)*

440 IAC 1.5-3-8 Physical plant; maintenance and environmental services

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 8. (a) The private mental health institution shall be constructed, arranged, and maintained to ensure the safety of the consumer and to provide facilities for services authorized under the private mental health institution license as follows:
(1) The plant operations and maintenance service, equipment maintenance, and environmental service shall be:
(A) staffed to meet the scope of the services provided; and
(B) under the direction of a person or persons qualified by education, training, or experience.
(2) There shall be a safety officer designated to assume responsibility for the safety program.
(3) The facility shall provide a physical plant and equipment that meets the statutory requirements and regulatory provisions of the rules of the fire prevention and building safety commission, including 675 IAC 22, Indiana fire codes, and 675 IAC 13, Indiana building codes.

(b) The condition of the physical plant and the overall environment shall be developed and maintained in such a manner that the safety and well being of consumers are assured as follows:

(1) No condition in the facility or on the grounds shall be maintained that may be conducive to the harborage or breeding of insects, rodents, or other vermin.
(2) No condition shall be created or maintained which may result in a hazard to consumers, public, or employees.
(3) There shall be a plan for emergency fuel and water supply.
(4) Provision shall be made for the periodic inspection, preventive maintenance, and repair of the physical plant and equipment by qualified personnel as follows:
(A) Operation, maintenance, and spare parts manuals shall be available, along with training or instruction of the appropriate personnel, in the maintenance and operation of the fixed and movable equipment.
(B) Operational and maintenance control records shall be established and analyzed periodically. These records shall be readily available on the premises.
(C) Maintenance and repairs shall be carried out in accordance with applicable codes, rules, standards, and requirements of local jurisdictions, the administrative building council, the state fire marshal, and the Indiana state department of health.
(5) The food service of the private mental health institution shall comply with 410 IAC 7-20.

(c) In new construction, renovations, and additions, the facilities shall meet the following:
(1) The 2001 edition of the national "Guideline for Construction and Equipment of Private Mental Health Institution and Medical Facilities" (Guidelines).
(2) All building, fire safety, and handicapped accessibility codes and rules adopted by the fire prevention and building safety commission shall apply to all facilities covered by this rule and take precedence over any building, fire safety, or handicapped accessibility requirements of the Guidelines.
(3) When renovation or replacement work is done within an existing facility, all new work or addition, or both, shall comply, insofar as practical, with applicable sections of the Guidelines and for certification with appropriate parts of National Fire Protection Association (NFPA) 101 and the applicable rules of the fire prevention and building safety commission.
(4) Proposed sites shall be located away from detrimental nuisances, well drained, and not subject to flooding. A site survey and recommendations shall be obtained from the department of health prior to site development.
(5) Water supply and sewage disposal services shall be obtained from municipal or community services. Outpatient facilities caring for consumers less than twenty-four (24) hours that do not provide surgery, laboratory, or renal dialysis services may be served by approved private on-site septic tank absorption field systems.
(6) Site utility installations for water, sprinkler, sanitary, and storm sewer systems, and wells for potable emergency water supplies shall comply with applicable sections of Bulletin S.E. 13, "On-Site Water Supply and Wastewater Disposal for Public and Commercial Establishments", 1988 edition.
(7) As early in the construction, addition, or renovation project as possible, the functional and operational description shall be submitted to the division. This submission shall consist of, but not be limited to, the following:
(A) Functional program narrative as established in the Guidelines.
(B) Schematics, based upon the functional program, consisting of drawings (as single-line plans), outline specifications, and other documents illustrating the scale and relationship of project components.
(8) Prior to the start of construction, addition, and/or renovation projects, detailed architectural and operational plans for construction shall be submitted to the plan review division of the department of fire and building services and to the division of sanitary engineering of the Indiana state department of health as follows:
(A) Working drawings, project manual, and specifications shall be included.
(B) Prior to submission of final plans and specifications, recognized standards, and codes, including infection control standards, shall be reviewed as required in section 2(f)(2) of this rule.
(C) All required construction design releases shall be obtained from the state building commissioner and final approval from the division of sanitary engineering of the Indiana state department of health prior to issuance of the occupancy letter by the division.
(9) All back flow prevention devices shall be installed as required by 327 IAC 8-10 and the current edition of the Indiana plumbing code. Such devices shall be listed as approved by the Indiana state department of health.
(10) Upon receipt of a construction design release from the state building commissioner and documentation of a completed plan review by the division of sanitary engineering of the Indiana state department of health, a licensure application shall be submitted to the division on the form approved and provided by the division.

(d) The equipment requirements are as follows:
(1) All equipment shall be in good working order and regularly serviced and maintained.
(2) There shall be sufficient equipment and space to assure the safe, effective, and timely provision of the available services to consumers as follows:
(A) All mechanical equipment (pneumatic, electric, or other) shall be on a documented maintenance schedule of appropriate frequency and with the manufacturer's recommended maintenance schedule.
(B) There shall be evidence of preventive maintenance on all equipment.

(C) Appropriate records shall be kept pertaining to equipment maintenance, repairs, and current leakage checks.

(3) Defibrillators shall be discharged at least in accordance with manufacturers recommendations and a discharge log with initialed entries shall be maintained.

(4) Electrical safety shall be practiced in all areas.

(e) The building or buildings, including fixtures, walls, floors, ceiling, and furnishings throughout, shall be kept clean and orderly in accordance with current standards of practice as follows:

(1) Environmental services shall be provided in such a way as to guard against transmission of disease to consumers, health care workers, the public, and visitors by using the current principles of:

(A) asepsis;

(B) cross-infection; and

(C) safe practice.

(2) Refuse and garbage shall be collected, transported, sorted, and disposed of by methods that will minimize nuisances or hazards.

(f) The safety management program shall include, but not be limited to, the following:

(1) An ongoing facility-wide process to evaluate and collect information about hazards and safety practices to be reviewed by the safety committee.

(2) A safety committee appointed by the chief executive officer that includes representatives from administration, consumer services, and support services.

(3) The safety program that includes, but is not limited to, the following:

(A) Consumer safety.

(B) Health care worker safety.

(C) Public and visitor safety.

(D) Hazardous materials and wastes management in accordance with federal and state rules.

(E) A written fire control plan that contains provisions for the following:

(i) Prompt reporting of fires, as required under the provisions of the Indiana Fire Code.

(ii) Extinguishing of fires.

(iii) Protection of consumers, personnel, and guests.

(iv) Evacuation.

(v) Cooperation with firefighting authorities.

(F) Maintenance of written evidence of regular inspection and approval by state or local fire control agencies.

(G) Emergency and disaster preparedness coordinated with appropriate community, state, and federal agencies.

(Division of Mental Health and Addiction; 440 IAC 1.5-3-8; filed Oct 11, 2002, 11:26 a.m.: 26 IR 741)

440 IAC 1.5-3-9 Intake and treatment

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 9. (a) The facility shall have policies and procedures that govern the intake and assessment process to determine eligibility for services.

(b) Treatment required by the consumer shall be appropriate to the facility and the professional expertise of the staff.

(c) Alternatives for less intensive and restrictive treatment are not available in the community.

(d) A physical examination shall be completed by a licensed physician, an advanced practice nurse, or physician's assistant within twenty-four (24) hours after admission.

(e) An initial emotional, behavioral, social, and legal assessment of each consumer shall be completed upon admission.

(f) When the admitted consumer is a child or adolescent under eighteen (18) years of age, then the initial assessment shall also include an evaluation of school progress, a report of involvement with other social/legal services agencies, and an assessment of family functioning and relationships. Family input and advice shall be considered in the diagnosis, treatment planning, and discharge planning process.

(g) A child (fourteen (14) years of age and under) may be admitted to a nonsegregated unit (adult unit) only under an emergency situation. The criteria for such an emergency admission must be specified in advance and must include plans for an evaluation by a child psychiatrist within sixty (60) hours of admission.

(h) An admission under subsection (g) shall be verbally reported to the division within twenty-four (24) hours of the admission. A written report shall be submitted to the division within ten (10) working days.

(i) A preliminary treatment plan shall be formulated within sixty (60) hours of admission on the basis of the intake assessment done at the time of admission.

(j) Consumers shall participate in the development and review of their own treatment plans. If the consumer agrees to family participation and signs a release of information, the facility shall consider input from and participate with the family in the diagnosis and treatment process.

(k) If a consumer chooses not to participate in the treatment planning process, it shall be documented in the clinical record.

(l) The treatment plan shall specify the services necessary to meet the consumer's needs and shall contain discharge or release criteria and the discharge plan.

(m) Progress notes shall be entered daily in the consumer's record by staff having knowledge of the consumer and responsibility for implementing the treatment plan. The notes from all sources shall be entered in an integrated chronological order in the record, signed, and dated.

(n) At a minimum of every seven (7) days, the treatment plan shall be reviewed and revised as necessary. *(Division of Mental Health and Addiction; 440 IAC 1.5-3-9; filed Oct 11, 2002, 11:26 a.m.: 26 IR 743)*

440 IAC 1.5-3-10 Discharge planning services
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 10. To facilitate discharge as soon as an inpatient level of care is no longer required, the private mental health institution shall have effective, ongoing discharge planning initiated at admission that does the following:

(1) Facilitates the provision of follow-up care.

(2) Transfers or refers consumers, along with necessary medical information and records, to appropriate facilities, agencies, or outpatient services, as needed, for follow-up or ancillary care. The information shall include, but not be limited to, the following:

(A) Medical history.

(B) Current medications.

(C) Available social, psychological, and educational services to meet the needs of the consumer.

(D) Nutritional needs.

(E) Outpatient service needs.

(F) Follow-up care needs.

(3) Utilizes available community and private mental health institution resources to provide appropriate referrals or make available social, psychological, and educational services to meet the needs of the consumer.

(Division of Mental Health and Addiction; 440 IAC 1.5-3-10; filed Oct 11, 2002, 11:26 a.m.: 26 IR 744)

440 IAC 1.5-3-11 Pharmacy services
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 11. The private mental health institution shall have a pharmacy service that ensures that medication use processes are organized and systematic throughout the private mental health institution. The following requirements apply:

(1) The organization shall identify an appropriate selection or formulary of medications available for prescribing or ordering.

(2) The private mental health institution shall address prescribing or ordering and procuring of medications not available within the formulary.

(3) Policies and procedures shall be in place to support safe medication prescription ordering and storage, and address such issues as pain management medication and PRN medications.

(4) The preparation and dispensing of medication(s) shall adhere to law, regulation, licensure, and professional standards of practice.

(5) The preparation and dispensing of medication(s) is appropriately controlled.

(A) There shall be an individual patient dose system in place.

(B) A pharmacist shall review all medication prescriptions or orders, including reviewing for interactions and adverse effects.

(C) There shall be a system in place for considering important consumer medication information when a medication(s) is prepared and dispensed for a consumer.

(D) There shall be a procedure in place for pharmacy service availability at any times when the pharmacy is closed or otherwise unavailable.

(E) Emergency medications shall be consistently available, controlled, and secure in the pharmacy and consumer care areas.

(F) There shall be a medication recall system providing for the retrieval and safe disposal of discontinued and recalled medications.

(6) There shall be a system in place to insure that prescriptions or orders are verified and consumers are properly identified before any medication is administered or dispensed.

(7) Any investigational medication(s) shall be safely controlled and administered during experimental trials, and safely destroyed at the conclusion of any such investigational trial.

(8) There shall be a written policy in place that assures the routine inspection of the storage of all medications.

(9) There shall be a written system in place to address appropriate storage and dispensing of sample medications.

(Division of Mental Health and Addiction; 440 IAC 1.5-3-11; filed Oct 11, 2002, 11:26 a.m.: 26 IR 744)

440 IAC 1.5-3-12 Plan for special procedures
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2
Affected: IC 12-25

Sec. 12. (a) The facility shall have policies and a written plan in place that shall include clinical justification for any of the following special procedures:

(1) The use of restraint or seclusion, or both.

(2) The use electro-convulsive therapy.

(3) The use of investigational and experimental drugs.

(b) If any procedure in this section is utilized, the rationale for the use shall be clearly stated in the consumer record.

(c) The use of restraint or seclusion shall be limited through plans, priorities, human resource planning, staff orientation and education, assessment process that identify and prevent behavioral risk factors. The process shall involve the consumer and, with the consent of the consumer, the family.

(d) Restraint or seclusion use within the facility is limited to incidents and those situations, with adequate appropriate clinical justification, that are required due to dangerousness to the consumer or others.

(e) The use of restraint or seclusion shall be utilized using the least restrictive alternative.

(f) A licensed independent practitioner shall conduct a clinical assessment of the consumer prior to writing an order for seclusion or restraint or within one (1) hour of the initiation of the seclusion or restraint.

(g) The licensed independent practitioner's orders should be limited to four (4) hours for individuals eighteen (18) years of age and older, two (2) hours for individuals nine (9) years of age through seventeen (17) years of age and one (1) hour for individuals under the nine (9) years of age. The orders shall contain behavioral criteria for release.

(h) In an emergency, restraint or seclusion, or both, may only be utilized by trained, clinically privileged staff, and shall be documented in the consumer's record and an order obtained. The licensed independent practitioner must complete a face-to-face evaluation within one (1) hour.

(i) PRN orders shall not be used to authorize seclusion or restraint.

(j) A consumer in restraint or seclusion shall be assessed and monitored continuously through face-to-face observation by an assigned staff member who is trained in correct procedures and competent.

(k) After the first hour, an individual in seclusion only may be monitored by video and audio equipment.

(l) If the individual is put in a physical hold a second staff member shall be assigned to observe.

(m) Documentation shall occur every fifteen (15) minutes in the consumer's record, consistent with the organizational policies.

(n) The use of restraint and seclusion shall be discontinued when the individual meets the behavior criteria set forth in the orders.

(o) Staff and the consumer will participate in debriefing about the restraint and seclusion episode.

(p) The organization shall collect data on the use of restraint and seclusion in order to monitor and improve its performance.

(q) When electro-convulsive therapy or investigational or experimental drugs are used, the written informed consent of the consumer or legal guardian shall be obtained. The consumer or legal guardian may withdraw consent at any time.

(r) The facility shall comply with all federal regulations regarding any of the following special procedures:
(1) The use of restraint or seclusion, or both.
(2) The use electro-convulsive therapy.
(3) The use of investigational and experimental drugs.
(Division of Mental Health and Addiction; 440 IAC 1.5-3-12; filed Oct 11, 2002, 11:26 a.m.: 26 IR 744)

SECTION 2. 440 IAC 1-1.5 IS REPEALED.

LSA Document #02-42(F)
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Incorporated Documents Filed with Secretary of State: None

TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

LSA Document #02-105(F)

DIGEST

Amends 440 IAC 5-1-1, 440 IAC 5-1-2, and 440 IAC 5-1-3.5 concerning community care for individuals who are discharged or transferred from state institutions administered by the division of mental health and addiction, to clarify the gatekeeper's role regarding an individual's entry into and discharge from a state institution. Effective 30 days after filing with the secretary of state.

440 IAC 5-1-1
440 IAC 5-1-2
440 IAC 5-1-3.5

SECTION 1. 440 IAC 5-1-1 IS AMENDED TO READ AS FOLLOWS:

440 IAC 5-1-1 Applicability

Authority: IC 12-8-8-4
Affected: IC 11-10-4; IC 12-7-2-61; IC 12-23-7; IC 12-23-8; IC 12-24-19; IC 12-26; IC 35-36-2-4; IC 35-36-3; IC 35-41-1

Sec. 1. (a) This rule applies only to a patient who is transferred or discharged from a state institution administered by the division of mental health after the effective date of this rule.

(b) This rule does not apply to any of the following:

(1) An individual who is admitted to a state institution only for evaluation purposes.

(2) An individual who is incompetent to stand trial ~~and who is not civilly committed.~~ **under IC 35-36-3.**

(3) An individual who is found to be not guilty by reason of insanity under IC 35-36-2-4 and is subject to a civil commitment under IC 12-26.

(4) An individual who is immediately subject to a civil commitment upon the individual's release from incarceration in a facility administered by the department of correction or the Federal Bureau of Prisons, or upon being charged with or convicted of a forcible felony under IC 35-41-1.

(5) An individual placed under the supervision of the division for addictions treatment under IC 12-23-7 and IC 12-23-8.

(6) An individual transferred from the department of correction under IC 11-10-4.

~~(3)~~ **(7)** An individual who has a developmental disability as defined in IC 12-7-2-61.

~~(4)~~ **(8)** An individual in an alcohol and drug services program who is not concurrently diagnosed as mentally ill.

~~(5)~~ **(9)** An individual who has escaped from the facility to which the individual was involuntarily committed.

~~(6)~~ **(10)** An individual who was admitted to a state institution for voluntary treatment and who has left the state institution against the advice of the attending physician.

(Division of Mental Health and Addiction; 440 IAC 5-1-1; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2777; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Nov 4, 2002, 12:09 p.m.: 26 IR 745)

SECTION 2. 440 IAC 5-1-2 IS AMENDED TO READ AS FOLLOWS:

440 IAC 5-1-2 Definitions

Authority: IC 12-8-8-4
Affected: IC 12-21-2-3; IC 12-21-2-7; IC 12-24-19; IC 12-26-6; IC 12-26-7; IC 23-17

Sec. 2. The following definitions apply throughout this rule:

(1) "Consumer" means ~~a patient~~ **an adult** or ~~an individual~~ **child** who has been discharged or transferred from a state institution administered by the division of mental health **and addiction to which the individual was admitted for voluntary treatment or was involuntarily committed.**

(2) "Discharged from a state institution" means the final and complete release of an individual with mental illness from the care, treatment, training, or detention at a state facility operated by the division of mental health **and addiction** to which the individual was admitted for voluntary treatment or was involuntarily committed. The term does not include an individual whose commitment is transferred to another state institution.

(3) "Discharged from commitment" means that the court has entered an order terminating a commitment on an individual.

(4) "Gatekeeper" means the following:

(A) The community mental health center which facilitated the consumer's entry into the state institution after July 1, 1994.

(B) For consumers who entered the state institution before July 1, 1994, the community mental health center which would have been designated to facilitate the consumer's entry into the state institution if the consumer had entered the institution after July 1, 1994.

(C) The community mental health center or managed care provider that agrees to accept the gatekeeper function for a particular patient when the original gatekeeper agrees to transfer that function and, when doing so, it is in the best interest of the consumer.

(5) "Managed care provider" means an organization:

(A) that:

(i) for mental health services, is defined under 42 U.S.C. 300x-2c; ~~or~~

(ii) provides addiction services; **or**

(iii) provides children's mental health services;

(B) that has entered into a provider agreement with the division of mental health **and addiction** under IC 12-21-2-7 to provide a continuum of care in the least restrictive, most appropriate setting; and

(C) that is operated by at least one (1) of the following:

(i) A city, town, county, or other political subdivision of Indiana.

(ii) An agency of Indiana or of the United States.

(iii) A political subdivision of another state.

(iv) A hospital owned or operated by:

(AA) a unit of government; or

(BB) a building authority that is organized for the purpose of constructing facilities to be leased to units of government.

(v) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.

(vi) ~~A nonprofit corporation incorporated in another state.~~ **An organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.**

(vii) A university or college.

(6) "State institution" means a state facility operated by the division of mental health **and addiction.**

(7) "Transferred from a state institution" means the transfer of the commitment of an individual committed under IC 12-26-6 or IC 12-26-7 to a community mental health center or a health facility.

(Division of Mental Health and Addiction; 440 IAC 5-1-2; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2777; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Nov 4, 2002, 12:09 p.m.: 26 IR 746)

SECTION 3. 440 IAC 5-1-3.5 IS ADDED TO READ AS FOLLOWS:

440 IAC 5-1-3.5 Gatekeeper's role during the time the individual is in the state-operated facility

Authority: IC 12-8-8-4
Affected: IC 12-24-12; IC 12-24-19

Sec. 3.5. After an adult or child is admitted to a state-operated facility, the gatekeeper shall do the following:

(1) Have a face-to-face meeting with the individual within thirty (30) days of admission and at least every ninety (90) days thereafter, to evaluate treatment progress, and discuss discharge planning.

(2) Communicate with the family or guardian of a child within thirty (30) days of admission and at least every ninety (90) days thereafter, to discuss the treatment plan, evaluate treatment progress, and discuss discharge planning.

(3) Communicate with the treatment team at the state-operated facility within thirty (30) days of admission and at least every ninety (90) days thereafter, to discuss the treatment plan, evaluate treatment progress, and discuss discharge planning.

(4) Provide notice of the date for the planned community placement to the treatment team and the individual at least two (2) weeks prior to the anticipated community placement.

(5) Document face-to-face visits with the individual and contact with the treatment team at the state-operated facility and in the gatekeeper's record.

(Division of Mental Health and Addiction; 440 IAC 5-1-3.5; filed Nov 4, 2002, 12:09 p.m.: 26 IR 747)

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TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

LSA Document #02-9(F)

DIGEST

Amends 460 IAC 2-3-1, 460 IAC 2-3-2, and 460 IAC 2-3-3 to offer additional criteria that may be fulfilled to receive state interpreter certification, extends the deadline by which certain criteria must be met to become certified, and adds relevant definitions. Effective 30 days after filing with the secretary of state.

460 IAC 2-3-1
460 IAC 2-3-2
460 IAC 2-3-3

SECTION 1. 460 IAC 2-3-1 IS AMENDED TO READ AS FOLLOWS:

460 IAC 2-3-1 Purpose; exclusion

Authority: IC 12-12-7-5
Affected: IC 12-12-7

Sec. 1. (a) The purpose of this rule is to establish standards pursuant to IC 12-12-7-5 that determine the necessary standards of behavior, competency, and proficiency in sign language and oral interpreting and ensure quality, professional interpreting services in order to protect the public and persons who are deaf or hard of hearing from misrepresentation.

(b) The provisions of this rule will not apply to interpreters while they are interpreting in a public or private primary or secondary school setting. ~~This exception will expire at the earlier of:~~

~~(1) the promulgation of educational interpreter standards; or~~

~~(2) July 1, 2002.~~

Rules applying specifically to such interpreters are at 460 IAC 4. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 2-3-1; filed Jul 21, 2000, 10:01 a.m.: 23 IR 3084; filed Nov 4, 2002, 12:11 p.m.: 26 IR 747)*

SECTION 2. 460 IAC 2-3-2 IS AMENDED TO READ AS FOLLOWS:

460 IAC 2-3-2 Definitions and acronyms

Authority: IC 12-12-7-5
Affected: IC 12-12-7; IC 20-10.1-7-17; IC 20-12-72

Sec. 2. (a) The definitions and acronyms in this section apply throughout this rule unless specifically noted.

(b) "ASL" means American Sign Language.

(c) "BIS" means board of interpreter standards.

(d) "CDI" means certified deaf interpreter.

(e) "CDIP" means certified deaf interpreter provisional.

~~(d)~~ **(f)** "CEU" means continuing education unit.

~~(e)~~ **(g)** "Consumer" means the persons for and between whom the interpreter is facilitating communication, and includes both hearing and deaf consumers.

~~(f)~~ **(h)** "DDARS" means the division of disability, aging, and rehabilitative services.

(i) "Deaf/blind interpreting" means using the special skills required to interpret for a person who uses ASL and is both deaf and blind.

~~(g)~~ **(j)** "DHHS" means deaf and hard of hearing services.

(k) "Identified interpreting agency" means an agency whose business is providing interpreting services, has been in business prior to July 1, 1999, and is found on a list of identified interpreting agencies with DHHS.

~~(h)~~ **(l)** "Interpreter" refers to both interpreters and transliterators.

~~(i)~~ **(m)** "ITP" means interpreter training program.

(n) "Minimal language skilled interpreting" means using the special skills required to interpret for a person who has no first language and minimal skills in any other language.

~~(j)~~ **(o)** "NAD" means National Association of the Deaf.

~~(k)~~ **(p)** "Payee" means a person who contracts with a freelance interpreter on behalf of a public or private agency, organization, or business for a particular assignment involving one (1) or more deaf clients and one (1) or more hearing consumers.

(q) "Proof of employment" means a letter from approved agency, or copy of pay stub, or 1099 Form, or W-2.

~~(l)~~ **(r)** "RID" means Registry of Interpreters for the Deaf.

~~(m)~~ **(s)** "Setting" means the context within which an interpreting assignment takes place.

(t) "Team stage interpreting" means using the special skills required to interpret on stage or at a large event in tandem with a team of interpreters.

~~(n)~~ **(u)** "TECUnit" means Testing, Evaluation, and Certification Unit, Inc. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 2-3-2; filed Jul 21, 2000, 10:01 a.m.: 23 IR 3085; filed Nov 4, 2002, 12:11 p.m.: 26 IR 747)*

SECTION 3. 460 IAC 2-3-3 IS AMENDED TO READ AS FOLLOWS:

460 IAC 2-3-3 Certification requirements
Authority: IC 12-12-7-5
Affected: IC 12-12-7

Sec. 3. (a) In order to receive certification as an interpreter under this rule by the state, an individual must register with DHHS in the manner prescribed by DHHS and fulfill at least one (1) of the following criteria:

(1) Pass the RID written generalist test, hold NAD Level III, and obtain two (2) **DHHS-approved** CEUs per year for up to five (5) years.

(2) Pass the RID written generalist test, be a graduate of an accredited ITP, and obtain two (2) **DHHS-approved** CEUs per year for up to five (5) years.

(3) Hold NAD Level IV or above.

(4) Hold RID certification.

(5) Hold RID oral certification for situations requiring an oral interpreter only.

(6) Hold certification from TECUnit and have passed the RID written generalist test for situations requiring a cued speech transliterator.

(7) Hold RID, CDI, or CDIP.

(8) Be a deaf or hard of hearing person, produce one (1) letter of recommendation to be filed with DHHS from an identified interpreting agency which has previously hired the applicant for deaf/blind interpreting, minimal language skilled interpreting, or team stage interpreting, and obtain two (2) DHHS-approved CEUs per year for up to five (5) years.

(9) Provide documentation of proof of employment as an interpreter prior to July 1, 1999, to be placed on file with DHHS, produce one (1) letter of recommendation from an identified interpreting agency which hired the applicant prior to July 1, 1999, and obtain two (2) DHHS-approved CEUs per year. (This includes deaf, hard of hearing, and hearing interpreters.)

(b) Commencing July 1, ~~2007,~~ **2010,** in order to receive certification by the state, an individual must fulfill the requirements in subsection (a) and also hold a bachelor's degree from an accredited college or university. An interpreter who has met the requirements of subsection (a) prior to July 1, ~~2007,~~ **2010,** shall be exempt from the additional requirement of this subsection.

(c) Interpreters holding NAD or RID certifications must maintain these certifications in good standing in order to maintain their certification by the state, including fulfilling the continuing education requirements of NAD or RID.

(d) Fulfillment of the requirements of subsection (a)(1), or (a)(2), **or (a)(8)** shall allow an interpreter to be certified by the state for a maximum period of five (5) years from the date originally certified. At or before the conclusion of this period, an interpreter must fulfill the requirements of at least one (1) of ~~subsections~~ **subsection** (a)(3) through ~~(a)(6)~~ **(a)(7)** to continue certification by the state.

(e) An interpreter certified by the state shall renew such certification at least every two (2) years in the manner prescribed by DHHS. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 2-3-3; filed Jul 21, 2000, 10:01 a.m.: 23 IR 3085; filed Nov 4, 2002, 12:11 p.m.: 26 IR 748)*

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TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

LSA Document #02-46(F)

DIGEST

Adds 460 IAC 6 concerning supported living services and supports for individuals with a developmental disability. The proposed rule includes qualifications for approved providers of supported living services and supports; the process by which the bureau of developmental disabilities services (bureau) approves providers; the bureau's process for monitoring and ensuring compliance with provider standards and requirements; the rights of individuals receiving services; protection of individuals receiving services; and standards and requirements for approved providers of supported living services and supports. Effective 30 days after filing with the secretary of state.

460 IAC 6

SECTION 1. 460 IAC 6 IS ADDED TO READ AS FOLLOWS:

ARTICLE 6. SUPPORTED LIVING SERVICES AND SUPPORTS

Rule 1. Purpose

460 IAC 6-1-1 Purpose
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. The purpose of this article is to establish standards and requirements for the approval and monitoring of providers of supported living services and supports to individuals with a developmental disability. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-1-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 749)*

Rule 2. Applicability

460 IAC 6-2-1 Providers of services
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. This article applies to the approval and monitoring of providers of supported living services or supported living supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-2-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 749)*

460 IAC 6-2-2 Rules applicable to all providers
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. This rule and 460 IAC 6-3 through 460 IAC 6-17 apply to all providers of supported living services and supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-2-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 749)*

460 IAC 6-2-3 Rules applicable to specific providers
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. 460 IAC 6-18 through 460 IAC 6-35 apply to the providers of supported living services and supports specified in the respective rule. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-2-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 749)*

460 IAC 6-2-4 Conflict with Medicaid provisions
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. If any provision of this article is deemed to be in conflict with any federal or state statute, regulation, or rule that is specifically applicable to the Medicaid program, then such other statute, regulation, or rule shall supersede that part of this article in which the conflict is found. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-2-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 749)*

Rule 3. Definitions

460 IAC 6-3-1 Applicability of definitions
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. The definitions in this rule apply throughout this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 749)*

460 IAC 6-3-2 "Abuse" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. "Abuse" means the following:
(1) Intentional or willful infliction of physical injury.
(2) Unnecessary physical or chemical restraints or isolation.
(3) Punishment with resulting physical harm or pain.
(4) Sexual molestation, rape, sexual misconduct, sexual coercion, and sexual exploitation.
(5) Verbal or demonstrative harm caused by oral or written language, or gestures with disparaging or derogatory implications.

(6) Psychological, mental, or emotional harm caused by unreasonable confinement, intimidation, humiliation, harassment, threats of punishment, or deprivation.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 749)

460 IAC 6-3-3 "Adult protective services" or "APS" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-10-3; IC 12-11-1.1; IC 12-11-2.1

Sec. 3. "Adult protective services" or "APS" means the program established under IC 12-10-3. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 750)*

460 IAC 6-3-4 "Advocate" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. (a) "Advocate" means a person who:

(1) assists an individual with decision making and self-determination; and

(2) is chosen by the individual or the individual's legal representative, if applicable.

(b) An advocate is not a legal representative unless legally appointed. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 750)*

460 IAC 6-3-5 "Applicant" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5. "Applicant" means a natural person or entity who applies to the BDDS for approval to provide one (1) or more supported living services or supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-5; filed Nov 4, 2002, 12:04 p.m.: 26 IR 750)*

460 IAC 6-3-6 "BDDS" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1-1; IC 12-11-2.1

Sec. 6. "BDDS" means bureau of developmental disabilities services as created under IC 12-11-1.1-1. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-6; filed Nov 4, 2002, 12:04 p.m.: 26 IR 750)*

460 IAC 6-3-7 "Behavioral support plan" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 7. "Behavioral support plan" means a plan that addresses the behavioral support needs of an individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-7; filed Nov 4, 2002, 12:04 p.m.: 26 IR 750)*

460 IAC 6-3-8 "Behavioral support services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 8. "Behavioral support services" means training, supervision, or assistance in appropriate expression of emotions and desires, compliance, assertiveness, acquisition of socially appropriate behaviors, and the reduction of inappropriate behaviors. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-8; filed Nov 4, 2002, 12:04 p.m.: 26 IR 750)*

460 IAC 6-3-9 "Case management services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 9. "Case management services" means services that enable an individual to receive a full range of appropriate services in a planned, coordinated, efficient, and effective manner. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-9; filed Nov 4, 2002, 12:04 p.m.: 26 IR 750)*

460 IAC 6-3-10 "Child protection services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 31-33

Sec. 10. "Child protection services" refers to child protection services established under IC 31-33. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-10; filed Nov 4, 2002, 12:04 p.m.: 26 IR 750)*

460 IAC 6-3-11 "Community-based sheltered employment services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 11. "Community-based sheltered employment services" means an agency-operated, work-oriented service consisting of ongoing supervision of an individual while the individual is working. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-11; filed Nov 4, 2002, 12:04 p.m.: 26 IR 750)*

460 IAC 6-3-12 "Community education and therapeutic activities services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 12. "Community education and therapeutic activities services" means services in the community, such as the following:

(1) Vocational classes.

(2) Therapeutic horseback riding.

(3) Camps.

(4) Other public events for which there is a separate charge.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-12; filed Nov 4, 2002, 12:04 p.m.: 26 IR 750)

460 IAC 6-3-13 "Community habilitation and participation services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 13. "Community habilitation and participation services" means services outside of an individual's home that support learning and assistance in any of the following areas:

(1) Self-care.
(2) Sensory-motor development.
(3) Socialization.
(4) Daily living skills.
(5) Communication.
(6) Community living.
(7) Social skills.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-13; filed Nov 4, 2002, 12:04 p.m.: 26 IR 751)

460 IAC 6-3-14 "Community mental health center" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-7-2-38; IC 12-11-1.1; IC 12-11-2.1

Sec. 14. "Community mental health center" has the meaning set forth in IC 12-7-2-38. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-14; filed Nov 4, 2002, 12:04 p.m.: 26 IR 751)*

460 IAC 6-3-15 "Community mental retardation and other developmental disabilities centers" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-7-2-39; IC 12-11-1.1; IC 12-11-2.1

Sec. 15. "Community mental retardation and other developmental disabilities centers" has the meaning set forth in IC 12-7-2-39. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-15; filed Nov 4, 2002, 12:04 p.m.: 26 IR 751)*

460 IAC 6-3-16 "Crisis assistance services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 16. "Crisis assistance services" means services designed to provide immediate access to short term, intensive services that are needed due to a behavioral or psychiatric emergency. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-16; filed Nov 4, 2002, 12:04 p.m.: 26 IR 751)*

460 IAC 6-3-17 "Developmental disabilities waiver ombudsman" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 12-11-13

Sec. 17. "Developmental disabilities waiver ombudsman" means the statewide waiver ombudsman described in IC 12-11-13. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-17; filed Nov 4, 2002, 12:04 p.m.: 26 IR 751)*

460 IAC 6-3-18 "Direct care staff" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 18. "Direct care staff" means a person, or an agent or employee of a provider entity, who provides hands-on services to an individual while providing any of the following services:

(1) Adult day services.
(2) Adult foster care services.
(3) Community-based sheltered employment services.
(4) Community education and therapeutic activities services.
(5) Community habilitation and participation services.
(6) Facility-based sheltered employment services.
(7) Prevocational services.
(8) Residential habilitation and support services.
(9) Respite care services.
(10) Supported employment services.
(11) Transportation services.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-18; filed Nov 4, 2002, 12:04 p.m.: 26 IR 751)

460 IAC 6-3-19 "Division" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-9-1-1; IC 12-11-1.1; IC 12-11-2.1

Sec. 19. (a) Except for purposes of 460 IAC 6-5-12, "division" means the division of disability, aging, and rehabilitative services created under IC 12-9-1-1.

(b) For purposes of 460 IAC 6-5-12, "division" means the wage and hour division of the United States Department of Labor. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-19; filed Nov 4, 2002, 12:04 p.m.: 26 IR 751)*

460 IAC 6-3-20 "Elopement" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 20. "Elopement" means that an individual leaves, without the authorization or consent of the appropriate provider, the level of supervision identified as appropriate for the individual in the individual's ISP. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-20; filed Nov 4, 2002, 12:04 p.m.: 26 IR 751)*

460 IAC 6-3-21 "Enhanced dental services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 21. "Enhanced dental services" means services provided to an individual with dental problems, which, if left untreated, would require the individual to be institutionalized. *(Division of*

Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-21; filed Nov 4, 2002, 12:04 p.m.: 26 IR 751)

460 IAC 6-3-22 "Entity" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 22. "Entity" means any of the following:
(1) An association.
(2) A corporation.
(3) A limited liability company.
(4) A governmental entity.
(5) A partnership.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-22; filed Nov 4, 2002, 12:04 p.m.: 26 IR 752)

460 IAC 6-3-23 "Environmental modification supports" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 23. "Environmental modification supports" means a physical adaptation to an individual's home to:
(1) ensure the health, welfare, and safety of the individual; or
(2) enable the individual to function with greater independence in the individual's home;
and without which, the individual would require institutionalization. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-23; filed Nov 4, 2002, 12:04 p.m.: 26 IR 752)*

460 IAC 6-3-24 "Exploitation" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 35-46-1-1

Sec. 24. "Exploitation" means:
(1) unauthorized use of the personal services, the property, or the identity of an individual; or
(2) any other type of criminal exploitation, including exploitation under IC 35-46-1-1;
for one's own profit or advantage or for the profit or advantage of another. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-24; filed Nov 4, 2002, 12:04 p.m.: 26 IR 752)*

460 IAC 6-3-25 "Facility-based sheltered employment services" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 25. "Facility-based sheltered employment services" means employment services provided to an individual that implement the individual's training goals and in which the individual is provided remuneration or other occupational activity. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-25; filed Nov 4, 2002, 12:04 p.m.: 26 IR 752)*

460 IAC 6-3-26 "Family and caregiver training services" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 26. "Family and caregiver training services" means:
(1) training and education to instruct a parent, family member, or primary caregiver in the treatment regimens and use of equipment specified in an individual's ISP; and
(2) training to improve the ability of the parent, family member or primary caregiver to provide care to or for the individual.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-26; filed Nov 4, 2002, 12:04 p.m.: 26 IR 752)

460 IAC 6-3-27 "Health care coordination services" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 27. "Health care coordination services" means medical coordination services to manage the health care needs of an individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-27; filed Nov 4, 2002, 12:04 p.m.: 26 IR 752)*

460 IAC 6-3-28 "Home health agency" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 16-27

Sec. 28. "Home health agency " means an agency licensed under IC 16-27. *(Division of Disability; Aging, and Rehabilitative Services; 460 IAC 6-3-28; filed Nov 4, 2002, 12:04 p.m.: 26 IR 752)*

460 IAC 6-3-29 "Hospital" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 16-27-1-2

Sec. 29. "Hospital" means a hospital licensed under IC 16-27-1-2. *(Division of Disability; Aging, and Rehabilitative Services; 460 IAC 6-3-29; filed Nov 4, 2002, 12:04 p.m.: 26 IR 752)*

460 IAC 6-3-30 "Individual" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1-1

Sec. 30. "Individual" means an individual with a developmental disability who has been determined eligible for services by a service coordinator pursuant to IC 12-11-2.1-1. If the term is used in the context indicating that the individual is to receive information, the term also includes the individual's legal representative. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-30; filed Nov 4, 2002, 12:04 p.m.: 26 IR 752)*

460 IAC 6-3-31 "Individual community living budget" or "ICLB" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 31. "Individual community living budget" or "ICLB" means the format used by the BDDS to:

(1) uniformly account for all:

(A) service and living costs;

(B) sources and amounts of income and benefits; and

(C) other financial issues;

of an individual; and

(2) approve the allocation of state funding for specified services for the individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-31; filed Nov 4, 2002, 12:04 p.m.: 26 IR 752)

460 IAC 6-3-32 "Individualized support plan" or "ISP" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 32. "Individualized support plan" or "ISP" means a plan that establishes supports and strategies intended to accomplish the individual's long term and short term goals by accommodating the financial and human resources offered to the individual through paid provider services or volunteer services, or both, as designed and agreed upon by the individual's support team. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-32; filed Nov 4, 2002, 12:04 p.m.: 26 IR 753)*

460 IAC 6-3-33 "Integrated setting" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 33. "Integrated setting" means a setting in which at least fifty-one percent (51%) of the persons working in the setting are not disabled, except for the persons providing services under this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-33; filed Nov 4, 2002, 12:04 p.m.: 26 IR 753)*

460 IAC 6-3-34 "Legal representative" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-10-13-3.3; IC 12-11-1.1; IC 12-11-2.1

Sec. 34. "Legal representative" has the meaning set forth in IC 12-10-13-3.3. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-34; filed Nov 4, 2002, 12:04 p.m.: 26 IR 753)*

460 IAC 6-3-35 "Music therapy services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 35. "Music therapy services" means services provided under this article for the systematic application of music in the treatment of the physiological and psychosocial aspects of an individual's disability and focusing on the acquisition of nonmusical skills and behaviors. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-35; filed Nov 4, 2002, 12:04 p.m.: 26 IR 753)*

460 IAC 6-3-36 "Neglect" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 36. "Neglect" means failure to provide supervision, training, appropriate care, food, medical care, or medical supervision to an individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-36; filed Nov 4, 2002, 12:04 p.m.: 26 IR 753)*

460 IAC 6-3-37 "Nutritional counseling services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 37. "Nutritional counseling services" means services provided under this article by a licensed dietician. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-37; filed Nov 4, 2002, 12:04 p.m.: 26 IR 753)*

460 IAC 6-3-38 "Occupational therapy services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 38. "Occupational therapy services" means services provided under this article by a licensed occupational therapist. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-38; filed Nov 4, 2002, 12:04 p.m.: 26 IR 753)*

460 IAC 6-3-39 "Personal emergency response system supports" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 39. "Personal emergency response system supports" means an electronic communication device that allows an individual to communicate the need for immediate assistance in case of an emergency. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-39; filed Nov 4, 2002, 12:04 p.m.: 26 IR 753)*

460 IAC 6-3-40 "Physical therapy services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 40. "Physical therapy services" means services provided under this article by a licensed physical therapist. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-40; filed Nov 4, 2002, 12:04 p.m.: 26 IR 753)*

460 IAC 6-3-41 "Prevocational services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 41. "Prevocational services" means services aimed at preparing an individual for paid or unpaid employment, by teaching such concepts as compliance, attendance, task completion, problem solving, and safety. *(Division of*

Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-41; filed Nov 4, 2002, 12:04 p.m.: 26 IR 753)

460 IAC 6-3-42 "Provider" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 42. "Provider" means a person or entity approved by the BDDS to provide the individual with agreed upon services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-42; filed Nov 4, 2002, 12:04 p.m.: 26 IR 754)*

460 IAC 6-3-43 "Recreational therapy services" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 43. "Recreational therapy services" means services provided under this article and consisting of a medically approved recreational program to restore, remediate, or rehabilitate an individual in order to:

(1) improve the individual's functioning and independence; and

(2) reduce or eliminate the effects of an individual's disability.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-43; filed Nov 4, 2002, 12:04 p.m.: 26 IR 754)

460 IAC 6-3-44 "Rent and food for an unrelated live-in caregiver supports" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 44. "Rent and food for an unrelated live-in caregiver supports" means the additional cost an individual incurs for the room and board of an unrelated, live-in caregiver as provided for in the individual's ICLB. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-44; filed Nov 4, 2002, 12:04 p.m.: 26 IR 754)*

460 IAC 6-3-45 "Reportable incident" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 45. "Reportable incident" refers to incidents described in 460 IAC 6-9-5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-45; filed Nov 4, 2002, 12:04 p.m.: 26 IR 754)*

460 IAC 6-3-46 "Residential-based habilitation and support services" defined
Authority: IC 12-8-8-4; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 46. "Residential-based habilitation and support services" means services that are designed to ensure the health, safety, and welfare of an individual, and assist in the acquisition, improvement, and retention of skills necessary for the individual to live successfully in the individual's own home. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-46; filed Nov 4, 2002, 12:04 p.m.: 26 IR 754)*

460 IAC 6-3-47 "Residential living allowance" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1-2; IC 12-11-2.1

Sec. 47. "Residential living allowance" means funds authorized by the BDDS services under IC 12-11-1.1-2(c) to cover the actual costs of room and board expenses as authorized in the individual's ICLB. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-47; filed Nov 4, 2002, 12:04 p.m.: 26 IR 754)*

460 IAC 6-3-48 "Residential living allowance management services" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 48. "Residential living allowance management services" means services that assist an individual in managing the individual's residential living allowance supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-48; filed Nov 4, 2002, 12:04 p.m.: 26 IR 754)*

460 IAC 6-3-49 "Respite care services" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 49. "Respite care services" means services provided to individuals unable to care for themselves that are furnished on a short term basis because of the absence or need for relief of those persons normally providing care. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-49; filed Nov 4, 2002, 12:04 p.m.: 26 IR 754)*

460 IAC 6-3-50 "Secretary" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-8-1-2; IC 12-11-1.1; IC 12-11-2.1

Sec. 50. "Secretary" means the secretary of family and social services appointed under IC 12-8-1-2. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-50; filed Nov 4, 2002, 12:04 p.m.: 26 IR 754)*

460 IAC 6-3-51 "Service coordinator" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 51. "Service coordinator" means a service coordinator employed by the BDDS under IC 12-11-2.1. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-51; filed Nov 4, 2002, 12:04 p.m.: 26 IR 754)*

460 IAC 6-3-52 "Specialized medical equipment and supplies supports" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 52. (a) "Specialized medical equipment and supplies supports" means devices, controls, or appliances that:

(1) enable an individual to increase the individual's abilities to:

(A) perform activities of daily living; or

(B) perceive or control the environment; or

(2) enhance an individual's ability to communicate.

(b) The term includes the following:

(1) Communication devices.

(2) Interpreter services.

(3) Items necessary for life support.

(4) Ancillary supplies and equipment necessary for the proper functioning of such items.

(5) Durable and nondurable medical equipment.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-52; filed Nov 4, 2002, 12:04 p.m.: 26 IR 754)

460 IAC 6-3-53 "Speech and language therapy services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 53. "Speech and language therapy services" means services provided by a licensed speech pathologist under this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-53; filed Nov 4, 2002, 12:04 p.m.: 26 IR 755)*

460 IAC 6-3-54 "Support team" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 54. "Support team" means a team of persons, including an individual, the individual's legal representative, if applicable, the individual's providers, provider of case management services, and other persons who:

(1) are designated by the individual;

(2) know and work with the individual; and

(3) participate in the development and implementation of the individual's ISP.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-54; filed Nov 4, 2002, 12:04 p.m.: 26 IR 755)

460 IAC 6-3-55 "Supported employment services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 55. "Supported employment services" means services that support and enable an individual to secure and maintain paid employment if the individual is paid at or above the federal minimum wage. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-55; filed Nov 4, 2002, 12:04 p.m.: 26 IR 755)*

460 IAC 6-3-56 "Therapy services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-33-1-5.1; IC 25-33-1

Sec. 56. "Therapy services" means services provided under this article by a licensed psychologist with an endorsement as a health service provider in psychology pursuant to IC 23-33-1-1.5(c) *[sic., IC 25-33-1-5.1(c)]***, a licensed marriage and family therapist, a licensed clinical social worker, or a licensed mental health counselor.** *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-56; filed Nov 4, 2002, 12:04 p.m.: 26 IR 755)*

460 IAC 6-3-57 "Transportation services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 57. "Transportation services" means services for the transportation of an individual in a vehicle by a provider approved under this article to provide transportation services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-57; filed Nov 4, 2002, 12:04 p.m.: 26 IR 755)*

460 IAC 6-3-58 "Transportation supports" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 58. "Transportation supports" means supports, such as tickets and passes to ride on public transportation systems, that enable an individual to have transportation for access to the community. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-58; filed Nov 4, 2002, 12:04 p.m.: 26 IR 755)*

Rule 4. Types of Supported Living Services and Supports

460 IAC 6-4-1 Types of supported living services and supports

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. Supported living services and supports include the following:

(1) Adult day services.

(2) Adult foster care services.

(3) Behavioral support services.

(4) Case management services.

(5) Community-based sheltered employment services.

(6) Community education and therapeutic activity services.

(7) Community habilitation and participation services.

(8) Crisis assistance services.

(9) Enhanced dental services.

(10) Environmental modification supports.

(11) Facility-based sheltered employment services.

(12) Family and caregiver training services.

(13) Health care coordination services.

(14) Music therapy services.

(15) Nutritional counseling services.

(16) Occupational therapy services.

(17) Personal emergency response system supports.

(18) Physical therapy services.
(19) Prevocational services.
(20) Psychological therapy services.
(21) Recreational therapy services.
(22) Rent and food for unrelated live-in caregiver supports.
(23) Residential habilitation and support services.
(24) Residential living allowance and management services.
(25) Respite care services.
(26) Specialized medical equipment and supplies supports.
(27) Speech-language therapy services.
(28) Supported employment services.
(29) Transportation services.
(30) Transportation supports.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-4-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 755)

Rule 5. Provider Qualifications

460 IAC 6-5-1 Applicability
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. This rule applies to all supported living services and supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 756)*

460 IAC 6-5-2 Adult day services provider qualifications
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. To be approved to provide adult day services, an applicant shall be an approved adult day service provider for Medicaid waiver in-home services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 756)*

460 IAC 6-5-3 Adult foster care services provider qualifications
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. To be approved to provide adult foster care services, an applicant shall:
(1) be an entity approved to provide supported living services under this article; and
(2) certify that, if approved, the entity will provide adult foster care services using only persons who meet the qualifications set out in 460 IAC 6-14-5.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 756)

460 IAC 6-5-4 Behavioral support services provider qualifications
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-33-1-5.1

Sec. 4. (a) Until January 1, 2003, to be approved to provide behavioral support services as a Level 1 clinician, an applicant shall meet the following requirements:
(1) Be a licensed psychologist under IC 25-33 and have an endorsement as a health service provider in psychology pursuant to IC 25-33-1-5.1(c); or
(2) Have:
(A) at least a master's degree in:
(i) a behavioral science;
(ii) special education; or
(iii) social work; and
(B) evidence of five (5) years of experience in:
(i) working directly with individuals with developmental disabilities, including the devising, implementing, and monitoring of behavioral support plans; and
(ii) the supervision and training of others in the implementation of behavioral support plans.

(b) Effective January 1, 2003, to be approved to provide behavioral support services as a licensed Level 1 clinician, a; applicant shall be a licensed psychologist under IC 25-33 and have an endorsement as a health service provider in psychology pursuant to IC 25-33-1-5.1(c).

(c) To be approved to provide behavioral support services as a Level 2 clinician, an applicant shall meet the following requirements:
(1) Either:
(A) have a master's degree in:
(i) psychology;
(ii) special education; or
(iii) social work; or
(B) meet all of the following requirements:
(i) Have a bachelor's degree.
(ii) Be employed as a behavioral consultant on or before September 30, 2001, by a provider of behavioral support services approved under this article.
(iii) Be working on a master's degree in psychology, special education, or social work.
(iv) By December 31, 2006, complete a master's degree in psychology, special education, or social work.
(2) Be supervised by a Level 1 clinician.

(d) To maintain approval as a behavioral support services provider, a behavioral support services provider shall:
(1) obtain annually at least ten (10) continuing education hours related to the practice of behavioral support:
(A) from a Category I sponsor as provided in 868 IAC 1.1-15; or
(B) as provided by the BDDS's behavioral support curriculum list; or
(2) be enrolled in:
(A) a master's level program in psychology, special education, or social work; or
(B) a doctoral program in psychology.

(e) For an entity to be approved to provide behavioral support services, the entity shall certify that, if approved, the entity shall provide Level 1 clinician behavioral support services or Level 2 clinician behavioral support services using only persons who meet the qualifications set out in this section.

(f) The provisions in subsection (c)(1)(B) expire on December 31, 2006. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 756)*

460 IAC 6-5-5 Case management services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-23-1

Sec. 5. (a) To be approved to provide case management services as a Level 1 case management services provider, an applicant shall meet the following requirements:

(1) Have a bachelor's degree, be a registered nurse licensed under IC 25-23-1, or be employed by the state in a PAT III position.

(2) Meet the experience requirements for a qualified mental retardation professional in 42 CFR 483.430(a).

(3) Complete a course of case management orientation that is approved by the BDDS.

(b) To be approved to provide case management services as a Level 2 case management services provider, an applicant shall meet the following requirements:

(1) Have at least a four (4) year college degree with no direct care experience; or

(2) Have a high school diploma, or equivalent, and have a least five (5) years experience working with persons with mental retardation or other developmental disabilities; and

(3) Be supervised by a Level 1 case management services provider who is supervising no more than four (4) other Level 2 case management services providers.

(4) Complete a course of case management orientation that is approved by the BDDS.

(c) For an entity to be approved to provide case management services, the entity shall certify that, if approved, the entity will provide case management services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-5; filed Nov 4, 2002, 12:04 p.m.: 26 IR 757)*

460 IAC 6-5-6 Community-based sheltered employment services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 6. To be approved to provide community-based sheltered employment services, an applicant shall meet the following requirements:

(1) Be an entity.

(2) Be accredited by one (1) of following organizations:

(A) The Commission on Accreditation of Rehabilitation Facilities (CARF) or its successor.

(B) The Council on Quality and Leadership in Supports for People with Disabilities or its successor.

(C) The Joint Commission on Accreditation of Healthcare Organizations (JACHO *[sic., JCAHO]***) or its successor.**

(D) The National Commission on Quality Assurance or its successor.

(E) An independent national accreditation organization approved by the secretary.

(3) Be a not-for-profit entity.

(4) Certify that, if approved, the entity will provide community-based sheltered employment services using only persons who meet the qualifications set out in 460 IAC 6-14-5.

(5) Not be a community mental health center.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-6; filed Nov 4, 2002, 12:04 p.m.: 26 IR 757)

460 IAC 6-5-7 Community education and therapeutic activity services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 7. To be approved to provide community education and therapeutic activities services, an applicant shall be approved under this article to provide either:

(1) residential habilitation and support services; or

(2) community habilitation and participation services.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-7; filed Nov 4, 2002, 12:04 p.m.: 26 IR 757)

460 IAC 6-5-8 Community habilitation and participation services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 8. (a) To be approved to provide community habilitation and participation services, an applicant shall meet the requirements for direct care staff set out in 460 IAC 6-14-5.

(b) For an entity to be approved to provide community habilitation and participation services, the entity shall certify that, if approved, the entity will provide community habilitation and support services using only persons who meet the qualifications set out in 460 IAC 6-14-5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-8; filed Nov 4, 2002, 12:04 p.m.: 26 IR 757)*

460 IAC 6-5-9 Crisis assistance services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 9. To be approved to provide crisis assistance services, an applicant shall be approved to provide behavioral support services under this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-9; filed Nov 4, 2002, 12:04 p.m.: 26 IR 757)*

460 IAC 6-5-10 Enhanced dental services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-14

Sec. 10. (a) To be approved to provide enhanced dental services, an applicant shall be a dentist licensed under IC 25-14.

(b) For an entity to be approved to provide enhanced dental services, the entity shall certify that, if approved, the entity will provide enhanced dental services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-10; filed Nov 4, 2002, 12:04 p.m.: 26 IR 758)*

460 IAC 6-5-11 Environmental modification supports provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 11. To be approved to provide environmental modification supports, an applicant shall:

(1) be licensed, certified, registered, or otherwise properly qualified under federal, state, or local laws applicable to the particular service that the applicant desires to perform; and

(2) certify that, if approved, the applicant will perform the services in compliance with federal, state, or local laws applicable to the type of modification being made.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-11; filed Nov 4, 2002, 12:04 p.m.: 26 IR 758)

460 IAC 6-5-12 Facility-based sheltered employment services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 12. To be approved to provide facility-based sheltered employment services, an applicant shall meet the following requirements:

(1) Be an entity.

(2) Be accredited, or provide proof of an application to seek accreditation, by one (1) of the following organizations:

(A) The Commission on Accreditation of Rehabilitation Facilities (CARF) or its successor.

(B) The Council on Quality and Leadership in Supports for People with Disabilities or its successor.

(C) The Joint Commission on Accreditation of Healthcare Organizations (JACHO *[sic., JCAHO]***) or its successor.**

(D) The National Commission on Quality Assurance or its successor.

(E) An independent national accreditation organization approved by the secretary.

(3) Be a not-for-profit entity.

(4) Have sheltered workshop certification from the wage and hour division of the United States Department of Labor.

(5) Certify that, if approved, the entity will provide services using only persons who meet the qualifications set out in 460 IAC 6-14-5.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-12; filed Nov 4, 2002, 12:04 p.m.: 26 IR 758)

460 IAC 6-5-13 Family and caregiver training services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 13. To be approved to provide family and caregiver training services, an applicant shall be approved to provide either:

(1) community habilitation and participation services; or

(2) residential habilitation and support services;

under this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-13; filed Nov 4, 2002, 12:04 p.m.: 26 IR 758)*

460 IAC 6-5-14 Heath care coordination services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-23-1

Sec. 14. (a) To be approved to provide health care coordination services, an applicant shall be either a registered nurse or licensed practical nurse under IC 25-23-1.

(b) For an entity to be approved to provide health care coordination services, the entity shall certify that, if approved, the entity will provide health care coordination services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-14; filed Nov 4, 2002, 12:04 p.m.: 26 IR 758)*

460 IAC 6-5-15 Music therapy services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 15. (a) To be approved to provide music therapy services, an applicant shall be certified by the National Association of Music Therapists.

(b) For an entity to be approved to provide music therapy services, the entity shall certify that, if approved, the entity will provide music therapy services using only persons who

meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-15; filed Nov 4, 2002, 12:04 p.m.: 26 IR 758)*

460 IAC 6-5-16 Nutritional counseling services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-14.5

Sec. 16. (a) To be approved to provide nutritional counseling services, an applicant shall be a dietitian certified under IC 25-14.5.

(b) For an entity to be approved to provide nutritional counseling services, the entity shall certify that, if approved, the entity will provide nutritional counseling services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-16; filed Nov 4, 2002, 12:04 p.m.: 26 IR 759)*

460 IAC 6-5-17 Occupational therapy services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-23.5-1-5.5; IC 25-23.5-5

Sec. 17. (a) To be approved to provide occupational therapy services as an occupational therapist, an applicant shall be an occupational therapist certified under IC 25-23.5.

(b) To be approved to provide occupational therapy services as an occupational therapy assistant, an applicant shall be certified under IC 25-23.5-5.

(c) To be approved to provide occupational therapy services as an occupational therapy aide, an applicant shall meet the requirements of IC 25-23.5-1-5.5 and 844 IAC 10-6.

(d) For an entity to be approved to provide occupational therapy services, the entity shall certify that, if approved, the entity will provide occupational therapy services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-17; filed Nov 4, 2002, 12:04 p.m.: 26 IR 759)*

460 IAC 6-5-18 Personal emergency response system supports provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 18. To be approved to provide personal emergency response system supports, an applicant shall:

(1) be licensed, certified, registered, or otherwise properly qualified under federal, state, or local laws applicable to the particular service that the applicant desires to perform; and

(2) certify that, if approved, the applicant will perform the services in compliance with federal, state, or local laws applicable to a personal emergency response system. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-18; filed Nov 4, 2002, 12:04 p.m.: 26 IR 759)*

460 IAC 6-5-19 Physical therapy services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-27-1

Sec. 19. (a) To be approved to provide physical therapy services as a physical therapist, an applicant shall be a physical therapist licensed under IC 25-27-1.

(b) To be approved to provide physical therapy services as a physical therapist's assistant, an applicant shall be certified under IC 25-27-1.

(c) For an entity to be approved to provide physical therapy services, the entity shall certify that, if approved, the entity will provide physical therapy services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-19; filed Nov 4, 2002, 12:04 p.m.: 26 IR 759)*

460 IAC 6-5-20 Prevocational services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 20. (a) To be approved to provide prevocational services, an applicant shall meet the requirements for direct care staff set out in 460 IAC 6-14-5.

(b) For an entity to be approved to provide prevocational services, the entity shall certify that, if approved, the entity will provide prevocational services using only persons who meet the qualification set out in 460 IAC 6-14-5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-20; filed Nov 4, 2002, 12:04 p.m.: 26 IR 759)*

460 IAC 6-5-21 Psychological therapy services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-22.5; IC 25-23.6; IC 25-33-1-5.1

Sec. 21. (a) To be approved to provide psychological therapy services, an applicant shall be:

(1) a psychologist licensed under IC 25-33-1 and have an endorsement as a health service provider in psychology pursuant to IC 25-33-1-5.1(c);

(2) a marriage and family therapist licensed under IC 25-23.6, IC 25-22.5;

(3) a clinical social worker licensed under IC 25-23.6; or

(4) a mental health counselor licensed under IC 25-23.6.

(b) For an entity to be approved to provide psychological therapy services, the entity shall certify that, if approved, the entity will provide psychological therapy services using

only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-21; filed Nov 4, 2002, 12:04 p.m.: 26 IR 759)*

460 IAC 6-5-22 Recreational therapy services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 22. (a) To be approved to provide recreational therapy services, an applicant shall be certified by the national council for therapeutic recreation certification.

(b) To be approved to provide recreational therapy services, an entity shall certify that, if approved, the entity will provide recreational therapy services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-22; filed Nov 4, 2002, 12:04 p.m.: 26 IR 760)*

460 IAC 6-5-23 Rent and food for unrelated live-in caregiver supports provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 23. To be approved to provide rent and food for unrelated live-in caregiver supports, an applicant shall be approved to provide:

(1) community habilitation and participation services; or

(2) residential habilitation and support services;

under this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-23; filed Nov 4, 2002, 12:04 p.m.: 26 IR 760)*

460 IAC 6-5-24 Residential habilitation and support services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 24. (a) To be approved to provide residential habilitation and support services, an applicant shall meet the requirements for direct care staff set out in 460 IAC 6-14-5.

(b) In order an entity to be approved to provide residential habilitation and support services, the entity shall certify that, if approved, the entity will provide residential habilitation and support services using only persons who meet the qualifications set out in 460 IAC 6-14-5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-24; filed Nov 4, 2002, 12:04 p.m.: 26 IR 760)*

460 IAC 6-5-25 Residential living allowance and management services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 25. To be approved to provide residential living allowance and management services, an applicant shall be approved to provide either:

(1) residential habilitation and support services; or

(2) community habilitation and participation services;

under this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-25; filed Nov 4, 2002, 12:04 p.m.: 26 IR 760)*

460 IAC 6-5-26 Respite care services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 26. (a) To be approved to provide respite care services, an applicant shall meet the requirements for direct care staff set out in 460 IAC 6-14-5.

(b) For an entity to be approved to provide respite care services, the entity shall meet both of the following requirements:

(1) Be one (1) of the following types of entities:

(A) A home health agency.

(B) An approved adult day service provider under this article.

(C) An entity providing residential services to unrelated individuals.

(2) Certify that, if approved, the entity will provide respite care services using only persons who meet the direct care staff qualifications set out in 460 IAC 6-14-5.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-26; filed Nov 4, 2002, 12:04 p.m.: 26 IR 760)

460 IAC 6-5-27 Specialized medical equipment and supplies supports provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 27. To be approved to provide specialized medical equipment and supplies supports, an applicant shall:

(1) be licensed, certified, registered, or otherwise properly qualified under federal, state, or local laws applicable to the particular service that the applicant desires to perform; and

(2) certify that, if approved, the applicant will perform the services in compliance with federal, state, or local laws applicable to the type of equipment and supplies being provided.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-27; filed Nov 4, 2002, 12:04 p.m.: 26 IR 760)

460 IAC 6-5-28 Speech-language therapy services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-35.6-1-2

Sec. 28. (a) To be approved to provide speech-language therapy services as a speech-language pathologist, an applicant shall be a speech-language pathologist licensed under IC 25-35.6.

(b) To be approved to provide speech language therapy services as a speech-language pathology aide, an applicant shall be:

(1) a speech-language pathology aide as defined in IC 25-35.6-1-2; and

(2) registered pursuant to 880 IAC 1-2.

(c) For an entity to be approved to provide speech-language therapy services, the entity shall certify that, if approved, the entity will provide speech-language therapy services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-28; filed Nov 4, 2002, 12:04 p.m.: 26 IR 760)*

460 IAC 6-5-29 Supported employment services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 29. To be approved to provide supported employment services, an applicant shall meet the following requirements:

(1) Be accredited by, or provide proof of an application to seek accreditation from, one (1) of the following organizations:

(A) The Commission on Accreditation of Rehabilitation Facilities (CARF) or its successor.

(B) The Council on Quality and Leadership in Supports for People with Disabilities or its successor.

(C) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or its successor.

(D) The National Commission on Quality Assurance or its successor.

(E) An independent national accreditation organization approved by the secretary.

(2) Certify that, if approved, the applicant will provide services using only persons who meet the qualifications set out in 460 IAC 6-14-5.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-29; filed Nov 4, 2002, 12:04 p.m.: 26 IR 761)

460 IAC 6-5-30 Transportation services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 12-17.2-2-4

Sec. 30. (a) To be approved to provide transportation services, an applicant shall be one (1) of the following:

(1) A community mental retardation and other developmental disabilities centers.

(2) A community mental health center.

(3) A child care center licensed pursuant to IC 12-17.2-2-4.

(4) Otherwise approved under this rule.

(b) To be approved to provide transportation services, an applicant shall certify that, if approved, transportation services will be provided using only persons having a valid Indiana:

(1) operator's license;

(2) chauffeur's license;

(3) public passenger chauffeur's license; or

(4) commercial driver's license;

issued to the person by the Indiana bureau of motor vehicles to drive the type of motor vehicle for which the license was issued. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-30; filed Nov 4, 2002, 12:04 p.m.: 26 IR 761)*

460 IAC 6-5-31 Transportation supports provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 31. To be approved to provide transportation supports, an applicant shall be otherwise approved to provide supported living services under this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-31; filed Nov 4, 2002, 12:04 p.m.: 26 IR 761)*

Rule 6. Application and Approval Process

460 IAC 6-6-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. This rule applies to all supported living services and supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-6-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 761)*

460 IAC 6-6-2 Initial application

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. To receive initial approval as a supported living services or supports provider, an applicant shall submit the following for each supported living service or support for which the applicant is seeking to be an approved provider:

(1) An application on a form prescribed by the BDDS.

(2) Evidence that the provider meets the qualifications for each supported living service or support that the provider is seeking to be approved to provide as specified in this article.

(3) Supporting documents specified on the application form to demonstrate the applicant's programmatic, financial and managerial ability to provide supported living services or supports as set out in this article.

(4) A written and signed statement that the applicant will comply with the provisions of this article.

(5) A written and signed statement that the applicant will provide services to an individual as set out in the individual's ISP.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-6-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 761)

460 IAC 6-6-3 Action on application

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 4-21.5; IC 12-11-1.1; IC 12-11-2.1

Sec. 3. (a) The BDDS shall determine whether an applicant meets the requirements under this article.

(b) Upon review of an initial application, the BDDS shall either:

(1) approve the applicant for a period not to exceed (3) years; or

(2) deny approval to an applicant that does not meet the approval requirements of this article.

(c) The BDDS shall notify an applicant in writing of the BDDS's determination within sixty (60) days of submission of a completed application.

(d) If an applicant is adversely affected or aggrieved by the BDDS's determination, the applicant may request administrative review of the determination. Such request shall be made in writing and filed with the director of the division within fifteen (15) days after the applicant receives written notice of the BDDS's determination. Administrative review shall be conducted pursuant to IC 4-21.5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-6-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 762)*

460 IAC 6-6-4 Additional approvals; community residential facilities council

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 12-28-5-11

Sec. 4. Before beginning to provide supported living services or supports under this article, a provider shall also be approved by the community residential facilities council pursuant to IC 12-28-5-11. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-6-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 762)*

460 IAC 6-6-5 Renewal of approval

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 4-21.5; IC 12-11-1.1; IC 12-11-2.1

Sec. 5. (a) A provider of supported living services or supports shall file a written request for renewal of the BDDS's approval at least ninety (90) days prior to expiration of the BDDS's previous approval.

(b) Upon receiving a request for renewal of approved status, the BDDS shall determine whether a provider continues to meet the requirements of this article.

(c) The BDDS's determination on renewal of approval shall be based on verification that:

(1) the provider's operations have been surveyed either:

(A) within the preceding twelve (12) months; or

(B) as part of the renewal process; and

(2) there are no outstanding issues that seriously endanger the health or safety of an individual receiving services from the provider.

(d) In considering a request for the renewal of approval, the BDDS shall either:

(1) approve the applicant for a period not to exceed three (3) years; or

(2) deny approval to an applicant that does not meet the approval requirements of this article.

(e) The BDDS shall notify a provider in writing of the BDDS's determination at least thirty (30) days prior to the expiration of the provider's approval under this section.

(f) If a provider has complied with subsection (a) and if the BDDS does not act upon a provider's request for renewal of approved status before the expiration of the provider's approved status, the provider's approved status shall continue until such time as the BDDS acts upon the provider's request for renewal of approved status.

(g) If a provider is adversely affected or aggrieved by the BDDS's determination, the provider may request administrative review of the determination. The request shall be made in writing and filed with the director of the division within fifteen (15) days after the provider receives written notice of the determination. Administrative review shall be conducted pursuant to IC 4-21.5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-6-5; filed Nov 4, 2002, 12:04 p.m.: 26 IR 762)*

460 IAC 6-6-6 Application to provide additional services

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 6. (a) A provider seeking approval to provide an additional supported living service or support shall comply with section 2 of this rule.

(b) Approval to provide additional supported living services or supports shall be granted by the BDDS only if:

(1) the provider's operations have been surveyed either:

(A) within the preceding twelve (12) months; or

(B) as part of the approval process to provide additional services; and

(2) there are no outstanding issues that seriously endanger the health or safety of an individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-6-6; filed Nov 4, 2002, 12:04 p.m.: 26 IR 762)

Rule 7. Monitoring; Sanctions; Administrative Review

460 IAC 6-7-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. This rule applies to all supported living services and supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-7-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 762)*

460 IAC 6-7-2 Monitoring; corrective action

Authority: IC 12-8-4-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. (a) The BDDS shall monitor compliance with the requirements of this article at the following times:

(1) At least annually.

(2) Upon receiving a complaint or report alleging a provider's noncompliance with the requirements of this article.

(b) The BDDS shall monitor compliance with the requirements of this article through any of the following means:

(1) Requesting and obtaining information from the provider.

(2) Site inspections.

(3) Meeting with an individual or the individual's legal representative as applicable.

(4) Review of provider records and the records of an individual.

(5) Follow-up inspection as is reasonably necessary to determine compliance after the BDDS has requested a corrective action plan.

(c) After any site inspection, the BDDS shall issue a written report. The report shall:

(1) be prepared by the BDDS or its designee;

(2) document the findings made during monitoring;

(3) identify necessary corrective action;

(4) identify the time period in which a corrective action plan shall be completed by the provider;

(5) identify any documentation needed from the provider to support the provider's completion of the corrective action plan; and

(6) be submitted to the provider.

(d) A provider shall:

(1) complete a corrective action plan to the reasonable satisfaction of the BDDS or its designee within the time period identified in the corrective action plan, or within such longer time period agreed to by the BDDS or its designee and the provider;

(2) notify the BDDS or its designee upon the completion of a corrective action plan; and

(3) provide the BDDS or its designee with any requested documentation.

(e) If a complaint is filed by a person other than an individual receiving services, BDDS or its designee shall notify the person filing the complaint of the following:

(1) The completion of the BDDS's monitoring as a result of the complaint.

(2) The completion of any corrective action by the provider as a result of the BDDS' monitoring of a provider.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-7-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 763)

460 IAC 6-7-3 Effect of noncompliance; notice

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 4-21.5; IC 12-11-1.1; IC 12-11-2.1

Sec. 3. (a) If a provider does not comply with the requirements of this article and does not complete a corrective action plan to the reasonable satisfaction of the BDDS or its designee within the time allowed, the BDDS shall not authorize:

(1) the continuation of services to an individual or individuals by the provider, if the services do not comply with this article; or

(2) the receipt of services by individuals not already receiving services from the provider at the time the determination is made that the provider did not implement a corrective action plan to the reasonable satisfaction of the BDDS or its designee.

(b) After an acceptable corrective plan of action has been submitted to the BDDS, the BDDS shall monitor the provider's compliance with the corrective action plan. If the BDDS determines that the provider has not implemented the corrective plan of action, the BDDS shall not authorize:

(1) the continuation of services to an individual or individuals by the provider, if the services do not comply with this article; or

(2) the receipt of services by individuals not already receiving services from the provider at the time the determination is made that the provider did not submit a corrective action plan to the reasonable satisfaction of the BDDS or its designee.

(c) The BDDS shall give written notice of the BDDS's action under subsection (a) or (b) to:

(1) the provider;

(2) the individual receiving service from the provider; and

(3) the individual's legal representative if applicable.

(d) The written notice under subsection (c) shall include the following:

(1) The requirements of this article with which the provider has not complied.

(2) The effective date, with at least thirty (30) days' notice, of the BDDS's action under subsection (a).

(3) The need for planning to obtain services that comply with this article for an individual or individuals.

(4) The provider's right to seek administrative review of the BDDS's action.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-7-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 763)

460 IAC 6-7-4 Serious endangerment of individual's health and safety

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 4-21.5; IC 12-11-1.1; IC 12-11-2.1

Sec. 4. (a) If a provider's noncompliance with this article seriously endangers the health or safety of an individual such that an emergency exists, as determined by the BDDS or its designee, the BDDS may enter an order for any of the following:

(1) Termination of continued authorization for the provider to serve any individual whose health or safety is being seriously endangered.

(2) Denial of authorization for the receipt of services by individuals not already receiving services from the provider at the time the BDDS determines that a provider's noncompliance with this article endangers the health or safety of an individual.

(3) Termination of continued authorization for the provider to provide any services under this article.

(b) Any action taken pursuant to subsection (a) shall remain in effect until such time as the BDDS or its designee determines that the provider's noncompliance with this article is no longer endangering the health and safety of an individual.

(c) The BDDS shall give written notice of an order under subsection (a) to:

(1) the provider;

(2) the individual receiving service from the provider; and

(3) the individual's legal representative as applicable.

(d) The written notice under subsection (a) shall include the following:

(1) The requirements of this article with which the provider has not complied.

(2) A brief statement of the facts and the law leading to the BDDS's determination that an emergency exists.

(3) The need to immediately obtain services that comply with this article for an individual or individuals.

(4) The provider's right to seek administrative review of the BDDS's action.

(e) The order issued under subsection (a) shall expire:

(1) on the date the BDDS determines that an emergency no longer exists; or

(2) in ninety (90) days;

whichever is less.

(f) During the pendency of any related proceedings under IC 4-21.5, the BDDS may renew an emergency order for successive ninety (90) day periods. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-7-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 764)*

460 IAC 6-7-5 Revocation of approval

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5. The BDDS shall revoke the approval of a provider under this rule for the following reasons:

(1) The provider's repeated noncompliance with this article.

(2) The provider's continued noncompliance with this article.

(3) The provider's noncompliance with this article that seriously endangers the health or safety of an individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-7-5; filed Nov 4, 2002, 12:04 p.m.: 26 IR 764)

460 IAC 6-7-6 Administrative review

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 4-21.5; IC 12-11-1.1; IC 12-11-2.1

Sec. 6. (a) To qualify for administrative review of an action or determination of the BDDS under this rule, a provider shall file a written petition for review that does the following:

(1) States facts demonstrating that the provider is:

(A) a provider to whom the action is specifically directed;

(B) aggrieved or adversely affected by the action; or

(C) entitled to review under any law.

(2) Is filed with the director of the division of disability, aging, and rehabilitative services within fifteen (15) days after the provider receives notice of the agency action or determination.

(b) Administrative review shall be conducted in accordance with IC 4-21.5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-7-6; filed Nov 4, 2002, 12:04 p.m.: 26 IR 764)*

Rule 8. Rights of Individuals

460 IAC 6-8-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. This rule applies to all supported living services and supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-8-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 764)*

460 IAC 6-8-2 Constitutional and statutory rights

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 12-27

Sec. 2. (a) A provider shall ensure that an individual's rights as guaranteed by the Constitution of the United States and the Constitution of Indiana are not infringed upon.

(b) A provider shall ensure that:

(1) an individual's rights as set out in IC 12-27 are not infringed upon; and

(2) an individual has the ability to exercise those rights as provided in IC 12-27.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-8-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 764)

460 IAC 6-8-3 Promoting the exercise of rights

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. To protect an individual's rights and enable an individual to exercise the individual's rights, a provider shall do the following:

(1) Provide an individual with humane care and protection from harm.

(2) Provide services that:

(A) are meaningful and appropriate; and

(B) comply with:

(i) standards of professional practice;

(ii) guidelines established by accredited professional organizations if applicable; and

(iii) budgetary constraints;

in a safe, secure, and supportive environment.

(3) Obtain written consent from an individual, or the individual's legal representative, if applicable, before releasing information from the individual's records unless the person requesting release of the records is authorized by law to receive the records without consent.

(4) Process and make decisions regarding complaints filed by an individual within two (2) weeks after the provider receives the complaint.

(5) Inform an individual, in writing and in the individual's usual mode of communication, of:

(A) the individual's constitutional and statutory rights using a form approved by the BDDS; and

(B) the complaint procedure established by the provider for processing complaints.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-8-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 765)

Rule 9. Protection of an Individual

460 IAC 6-9-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. This rule applies to all supported living services and supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-9-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 765)*

460 IAC 6-9-2 Adoption of policies and procedures to protect individuals

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1-1; IC 12-11-2.1

Sec. 2. (a) A provider shall adopt written policies and procedures regarding the requirements of sections 3 and 4 of this rule.

(b) A provider shall require the provider's employees or agents to be familiar with and comply with the policies and procedures required by subsection (a).

(c) Beginning on the date services for an individual commence and at least one (1) time a year thereafter, a provider shall inform:

(1) the individual, in writing and in the individual's usual mode of communication;

(2) the individual's parent, if the individual is less than eighteen (18) years of age, or if the individual's parent is the individual's legal representative; and

(3) the individual's legal representative if applicable;

of the policies and procedures adopted pursuant to this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-9-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 765)*

460 IAC 6-9-3 Prohibiting violations of individual rights

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. (a) A provider shall not:

(1) abuse, neglect, exploit, or mistreat an individual; or

(2) violate an individual's rights.

(b) A provider who delivers services through employees or agents shall adopt policies and procedures that prohibit:

(1) abuse, neglect, exploitation, or mistreatment of an individual; or

(2) violation of an individual's rights.

(c) Practices prohibited under this section include the following:

(1) Corporal punishment inflicted by the application of painful stimuli to the body, which includes:

(A) forced physical activity;

(B) hitting;

(C) pinching;

(D) the application of painful or noxious stimuli;

(E) the use of electric shock; or

(F) the infliction of physical pain.

(2) Seclusion by placing an individual alone in a room or other area from which exit is prevented.

(3) Verbal abuse, including screaming, swearing, name-calling, belittling, or other verbal activity that may cause damage to an individual's self-respect or dignity.

(4) A practice that denies an individual any of the following without a physician's order:

(A) Sleep.

(B) Shelter.

(C) Food.

(D) Drink.

(E) Physical movement for prolonged periods of time.
(F) Medical care or treatment.
(G) Use of bathroom facilities.

(5) Work or chores benefiting *[sic., benefitting]* **others without pay unless:**

(A) the provider has obtained a certificate from the United States Department of Labor authorizing the employment of workers with a disability at special minimum wage rates;

(B) the services are being performed by an individual in the individual's own residence as a normal and customary part of housekeeping and maintenance duties; or

(C) an individual desires to perform volunteer work in the community.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-9-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 765)

460 IAC 6-9-4 Systems for protecting individuals

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. (a) Except as specified in this section, this section applies to all providers of supported living services and supports.

(b) A provider shall require that at regular intervals, as specified by the individual's ISP, the individual be informed of the following:

(1) The individual's medical condition.
(2) The individual's developmental and behavioral status.
(3) The risks of treatment.
(4) The individual's right to refuse treatment.

(c) Except for providers of:
(1) occupational therapy services;
(2) physical therapy services;
(3) music therapy services; and
(4) speech-language therapy services;
a provider shall establish a protocol for ensuring that an individual is free from unnecessary medications and physical restraints.

(d) Except for providers of:
(1) occupational therapy services;
(2) physical therapy services;
(3) music therapy services; and
(4) speech-language therapy services;
a provider shall establish a system to reduce an individual's dependence on medications and physical restraints.

(e) A provider shall establish a system to ensure that an individual has the opportunity for personal privacy.

(f) A provider shall establish a system to:
(1) ensure that an individual is not compelled to perform services for a provider; and
(2) provide that, if an individual works voluntarily for a provider, the individual is compensated:
(A) at the prevailing wage for the job; and
(B) commensurate with the individual's abilities;
unless the provisions of section 3(c)(5) of this rule are met.

(g) A provider shall establish a system that ensures that an individual has:
(1) the opportunity to communicate, associate, and meet privately with persons of the individual's choosing;
(2) the means to send and receive unopened mail; and
(3) access to a telephone with privacy for incoming and outgoing local and long distance calls at the individual's expense.

(h) A provider shall establish a system for providing an individual with the opportunity to participate in social, religious, and community activities.

(i) A provider shall establish a system that ensures that an individual has the right to retain and use appropriate personal possessions and clothing.

(j) A provider shall establish a system for protecting an individual's funds and property from misuse or misappropriation.

(k) A provider shall establish a protocol specifying the responsibilities of the provider for:
(1) conducting an investigation; or
(2) participating in an investigation;
of an alleged violation of an individual's rights or a reportable incident. The system shall include taking all immediate necessary steps to protect an individual who has been the victim of abuse, neglect, exploitation, or mistreatment from further abuse, neglect, exploitation, or mistreatment.

(l) A provider shall establish a system providing for:
(1) administrative action against;
(2) disciplinary action against; and
(3) dismissal of;
an employee or agent of the provider, if the employee or agent is involved in the abuse, neglect, exploitation, or mistreatment of an individual or a violation of an individual's rights.

(m) A provider shall establish a written procedure for employees or agents of the provider to report violations of the provider's policies and procedures to the provider.

(n) A provider shall establish a written procedure for the provider or for an employee or agent of the provider for informing:
(1) adult protective services or child protection services, as applicable;
(2) an individual's legal representative, if applicable;

(3) any person designated by the individual; and

(4) the provider of case management services to the individual;

of a situation involving the abuse, neglect, exploitation, mistreatment of an individual, or the violation of an individual's rights.

(o) A provider shall establish a written protocol for reporting reportable incidents to the BDDS as required by section 5 of this rule. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-9-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 766)*

460 IAC 6-9-5 Incident reporting

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5. (a) An incident described as follows shall be reported to the BDDS on the incident report form prescribed by the BDDS:

(1) Alleged, suspected, or actual abuse, neglect, or exploitation of an individual. An incident in this category shall also be reported to adult protective services or child protection services as applicable. The provider shall suspend staff involved in an incident from duty pending investigation by the provider.

(2) Death of an individual. A death shall also be reported to adult protective services or child protection services as applicable.

(3) A service delivery site that compromises the health and safety of an individual while the individual is receiving services from the following causes:

(A) A significant interruption of a major utility, such as electricity, heat, water, air conditioning, plumbing, fire alarm, or sprinkler system.

(B) Environmental or structural problems associated with a habitable site that compromise the health and safety of an individual, including:

(i) inappropriate sanitation;

(ii) serious lack of cleanliness;

(iii) rodent or insect infestation;

(iv) structural damage; or

(v) damage caused by flooding, tornado, or other acts of nature.

(4) Fire resulting in relocation, personal injury, property loss, or other health and safety concerns to or for an individual receiving services.

(5) Elopement of an individual.

(6) Suspected or actual criminal activity by:

(A) a staff member, employee, or agent of a provider; or

(B) an individual receiving services.

(7) An event with the potential for causing significant harm or injury and requiring medical or psychiatric treatments or services to or for an individual receiving services.

(8) Admission of an individual to a nursing facility, including respite stays.

(9) Injury to an individual when the origin or cause of the injury is unknown.

(10) A significant injury to an individual, including:

(A) a fracture;

(B) a burn greater than first degree;

(C) choking that requires intervention; or

(D) contusions or lacerations.

(11) An injury that occurs while an individual is restrained.

(12) A medication error, except for refusal to take medications, that jeopardizes an individual's health and safety, including the following:

(A) Medication given that was not prescribed or ordered for the individual.

(B) Failure to administer medication as prescribed, including:

(i) incorrect dosage;

(ii) missed medication; and

(iii) failure to give medication at the appropriate time.

(13) Inadequate staff support for an individual, including inadequate supervision, with the potential for:

(A) significant harm or injury to an individual; or

(B) death of an individual.

(14) Inadequate medical support for an individual, including failure to obtain:

(A) necessary medical services;

(B) routine dental or physician services; or

(C) medication timely resulting in missed medications.

(b) An incident described in subsection (a) shall be reported by a provider or an employee or agent of a provider who:

(1) is providing services to the individual at the time of the incident; or

(2) becomes aware of or receives information about an alleged incident.

(c) An initial report regarding an incident shall be submitted within twenty-four (24) hours of:

(1) the occurrence of the incident; or

(2) the reporter becoming aware of or receiving information about an incident.

(d) The provider providing case management services to an individual shall submit a follow-up report concerning the incident on the BDDS's follow-up incident report form at the following times:

(1) Within seven (7) days of the date of the initial report.

(2) Every seven (7) days thereafter until the incident is resolved.

(e) All information required to be submitted to the BDDS shall also be submitted to the provider of case management services to the individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-9-5; filed Nov 4, 2002, 12:04 p.m.: 26 IR 767)

460 IAC 6-9-6 Transfer of individual's records upon change of provider

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 6. (a) If an individual changes providers for any supported living service or support, the new provider shall:

(1) discuss with the individual the new provider's need to obtain a copy of the previous provider's records and files concerning the individual;

(2) provide the individual with a written form used to authorize the previous provider's release of a copy of the records and files concerning the individual to the new provider; and

(3) request the individual to sign the release form.

(b) Upon receipt of a written release signed by the individual, a provider shall forward a copy of all of the individual's records and files to the new provider no later than seven (7) days after receipt of the written release signed by the individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-9-6; filed Nov 4, 2002, 12:04 p.m.: 26 IR 768)*

Rule 10. General Administrative Requirements for Providers

460 IAC 6-10-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. This rule applies to all supported living services and supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 768)*

460 IAC 6-10-2 Documentation of approvals

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. A provider shall maintain documentation that the BDDS has approved the provider for each service provided. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 768)*

460 IAC 6-10-3 Compliance with laws

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. A provider shall comply with all applicable state and federal statutes, rules, regulations, and requirements, including all applicable provisions of the federal Americans with Disabilities Act (ADA), 42 U.S.C. 12001 et seq. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 768)*

460 IAC 6-10-4 Compliance with state Medicaid plan; Medicaid waivers

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. A provider shall comply with the provisions of:

(1) the state Medicaid plan; and

(2) any Medicaid waiver applicable to the provider's services.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 768)

460 IAC 6-10-5 Documentation of criminal histories

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 16-27-2-5; IC 31-33-22-1; IC 35-42-1; IC 35-42-4; IC 35-43-4; IC 35-46-1-12; IC 35-46-1-13

Sec. 5. (a) A provider shall obtain a limited criminal history from the Indiana central repository for criminal history information from each employee, officer, or agent involved in the management, administration, or provision of services.

(b) The limited criminal history shall verify that the employee, officer, or agent has not been convicted of the following:

(1) A sex crime (IC 35-42-4).

(2) Exploitation of an endangered adult (IC 35-46-1-12).

(3) Failure to report:

(A) battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13); or

(B) abuse or neglect of a child (IC 31-33-22-1).

(4) Theft (IC 35-43-4), if the person's conviction for theft occurred less than ten (10) years before the person's employment application date, except as provided in IC 16-27-2-5(a)(5).

(5) Murder (IC 35-42-1-1).

(6) Voluntary manslaughter (IC 35-42-1-3).

(7) Involuntary manslaughter (IC 35-42-1-4).

(8) Felony battery.

(9) A felony offense relating to a controlled substance.

(c) A provider shall have a report from the state nurse aid registry of the Indiana state department of health verifying that each employee or agent involved in the management, administration, and provision of services has not had a finding entered into the state nurse aide registry. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-5; filed Nov 4, 2002, 12:04 p.m.: 26 IR 768)*

460 IAC 6-10-6 Provider organizational chart

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 6. (a) A provider shall maintain a current organizational chart, including parent organizations and subsidiary organizations.

(b) Upon request, a provider shall supply the BDDS with a copy of the chart described in subsection (a). *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-6; filed Nov 4, 2002, 12:04 p.m.: 26 IR 768)*

460 IAC 6-10-7 Collaboration and quality control
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 7. (a) A provider for an individual shall collaborate with the individual's other service providers to provide services to the individual consistent with the individual's ISP.

(b) A provider for an individual shall give the individual's provider of case management services access to the provider's quality assurance and quality improvement procedures.

(c) If a provider administers medication to an individual, the provider for the individual shall implement the medication administration system designed by the individual's provider responsible for medication administration.

(d) If applicable, a provider for an individual shall implement the seizure management system designed by the individual's provider responsible for seizure management.

(e) If applicable, a provider for an individual shall implement the health-related incident management system designed by the individual's provider responsible for health-related incident management.

(f) If applicable, a provider for an individual shall implement the behavioral support plan designed by the individual's provider of behavioral support services.

(g) If an individual dies, a provider shall cooperate with the provider responsible for conducting an investigation into the individual's death pursuant to 460 IAC 6-25-9. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-7; filed Nov 4, 2002, 12:04 p.m.: 26 IR 769)*

460 IAC 6-10-8 Resolution of disputes
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 4-21.5; IC 12-11-1.1; IC 12-11-2.1

Sec. 8. (a) If a dispute arises between or among providers, the dispute resolution process set out in this section shall be implemented.

(b) The resolution of a dispute shall be designed to address an individual's needs.

(c) The parties to the dispute shall attempt to resolve the dispute informally through an exchange of information and possible resolution.

(d) If the parties are not able to resolve the dispute:
(1) each party shall document:
(A) the issues in the dispute;
(B) their positions; and
(C) their efforts to resolve the dispute; and

(2) the parties shall refer the dispute to the individual's support team for resolution.

(e) The parties shall abide by the decision of the individual's support team.

(f) If an individual's support team cannot resolve the matter, then the parties shall refer the matter to the individual's service coordinator for resolution of the dispute.

(g) The service coordinator shall give the parties notice of the service coordinator's decision pursuant to IC 4-21.5.

(h) Any party adversely affected or aggrieved by the service coordinator's decision may request administrative review of the service coordinator's decision within fifteen (15) days after the party receives written notice of the service coordinator's decision.

(i) Administrative review shall be conducted pursuant to IC 4-21.5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-8; filed Nov 4, 2002, 12:04 p.m.: 26 IR 769)*

460 IAC 6-10-9 Automation standards
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 9. A provider shall comply with all automation standards and requirements prescribed by the applicable funding agency concerning documentation and processing of services provided under this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-9; filed Nov 4, 2002, 12:04 p.m.: 26 IR 769)*

460 IAC 6-10-10 Quality assurance and quality improvement system
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 10. (a) A provider shall have an internal quality assurance and quality improvement system that is:
(1) focused on the individual; and
(2) appropriate for the services being provided.

(b) The system described in subsection (a) shall include at least the following elements:
(1) An annual survey of individual satisfaction.
(2) Records of the findings of annual individual satisfaction surveys.
(3) Documentation of efforts to improve service delivery in response to the survey of individual satisfaction.
(4) An assessment of the appropriateness and effectiveness of each service provided to an individual.
(5) A process for:
(A) analyzing data concerning reportable incidents;
(B) developing recommendations to reduce the risk of future incidents; and

(C) reviewing recommendations to assess their effectiveness.

(6) If medication is administered to an individual by a provider, a process for:

(A) analyzing medication errors;

(B) developing recommendations to reduce the risk of future medication errors; and

(C) reviewing the recommendations to assess their effectiveness.

(7) If behavioral support services are provided by a provider, a process for:

(A) analyzing the appropriateness and effectiveness of behavioral support techniques used for an individual;

(B) developing recommendations concerning the behavioral support techniques used with an individual; and

(C) reviewing the recommendations to assess their effectiveness.

(8) If community habilitation and participation services or residential habilitation and support services are provided by the provider, a process for:

(A) analyzing the appropriateness and effectiveness of the instructional techniques used with an individual;

(B) developing recommendations concerning the instructional techniques used for an individual; and

(C) reviewing the recommendations to assess their effectiveness.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-10; filed Nov 4, 2002, 12:04 p.m.: 26 IR 769)

460 IAC 6-10-11 Prohibition against office in residence of individual

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 11. A provider shall not:

(1) maintain an office in an individual's residence from which the individual is excluded from entering or from using any or all equipment contained in the office; or

(2) conduct the provider's business operations not related to services to the individual in the individual's residence.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-11; filed Nov 4, 2002, 12:04 p.m.: 26 IR 770)

460 IAC 6-10-12 Human rights committee

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 12. Beginning July 1, 2004, a provider shall cooperate with the division's or the BDDS's regional human rights committee for the geographic area or areas in which the provider is providing services under this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-12; filed Nov 4, 2002, 12:04 p.m.: 26 IR 770)*

460 IAC 6-10-13 Emergency behavioral support

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 13. (a) In an emergency, physical restraint or removal of an individual from the individual's environment may be used:

(1) without the necessity of a behavioral support plan; and

(2) only to prevent significant harm to the individual or others.

(b) The individual's support team shall meet not later than five (5) working days after an emergency physical restraint or removal of an individual from the environment in order to:

(1) review the circumstances of the emergency physical restraint or removal of an individual;

(2) determine the need for a:

(A) functional analysis;

(B) behavioral support plan; or

(C) both; and

(3) document recommendations.

(c) If a provider of behavioral support services is not a member an individual's support team, a provider of behavioral support services must be added to the individual's support team.

(d) Based on the recommendation of the support team, a provider of behavioral support services shall:

(1) complete a functional analysis within thirty (30) days; and

(2) make appropriate recommendations to the support team.

(e) The individual's support team shall:

(1) document the recommendations of the behavioral support services provider; and

(2) design an accountability system to insure implementation of the recommendations.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-13; filed Nov 4, 2002, 12:04 p.m.: 26 IR 770)

Rule 11. Financial Status of Providers

460 IAC 6-11-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. This rule applies to all supported living services and supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-11-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 770)*

460 IAC 6-11-2 Disclosure of financial information

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. (a) A provider shall maintain and, upon the BDDS's request, shall make available to the BDDS the following information concerning the provider:

(1) Financial status.
(2) Current expenses and revenues.
(3) Projected budgets outlining future operations.
(4) Credit history and the ability to obtain credit.

(b) A provider shall maintain financial records in accordance with generally accepted accounting and bookkeeping practices.

(c) The financial status of a provider shall be audited according to state board of accounts requirements and procedures. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-11-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 770)*

460 IAC 6-11-3 Financial stability
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. A provider shall be financially stable, with the documented ability to deliver services without interruption for at least two (2) months without payment for services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-11-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 771)*

Rule 12. Insurance

460 IAC 6-12-1 Applicability
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. This rule applies to all supported living services and supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-12-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 771)*

460 IAC 6-12-2 Property and personal liability insurance
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. A provider shall secure insurance to cover:
(1) personal injury;
(2) loss of life; or
(3) property damage;
to an individual caused by fire, accident, or other casualty arising from the provision of services to the individual by the provider. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-12-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 771)*

Rule 13. Transportation of an Individual

460 IAC 6-13-1 Applicability
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. This rule applies to all supported living services and supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-13-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 771)*

460 IAC 6-13-2 Transportation of an individual
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. A provider that transports an individual receiving services in a motor vehicle shall:
(1) maintain the vehicle in good repair;
(2) properly register with the Indiana bureau of motor vehicles; and
(3) insure the vehicle as required under Indiana law.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-13-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 771)

Rule 14. Professional Qualifications and Requirements

460 IAC 6-14-1 Applicability
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. This rule applies to all supported living services and supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-14-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 771)*

460 IAC 6-14-2 Requirement for qualified personnel
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. A provider shall ensure that services provided to an individual:
(1) meet the needs of the individual;
(2) conform to the individual's ISP; and
(3) are provided by qualified personnel as required under this article.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-14-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 771)

460 IAC 6-14-3 Documentation of qualifications
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. A provider shall maintain documentation that:
(1) the provider meets the requirements for providing services under this article; and
(2) the provider's employees or agents meet the requirements for providing services under this article.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-14-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 771)

460 IAC 6-14-4 Training
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. (a) A provider shall train the provider's employees or agents in the protection of an individual's rights, including how to:
(1) respect the dignity of an individual;
(2) protect an individual from abuse, neglect, and exploitation;

(3) implement person-centered planning and an individual's ISP; and
(4) communicate successfully with an individual.

(b) A provider that develops training goals and objective for an individual shall train the provider's employees or agents in:
(1) selecting specific objectives;
(2) completing task analysis;
(3) appropriate locations for instruction; and
(4) appropriate documentation of an individual's progress on goals and objectives.

(c) A provider shall train direct care staff in providing a healthy and safe environment for an individual, including how to:
(1) administer medication, monitor side effects, and recognize and prevent dangerous medication interactions;
(2) administer first aid;
(3) administer cardiopulmonary resuscitation;
(4) practice infection control;
(5) practice universal precautions;
(6) manage individual-specific treatments and interventions, including management of an individual's:
(A) seizures;
(B) behavior;
(C) medication side effects;
(D) diet and nutrition;
(E) swallowing difficulties;
(F) emotional and physical crises; and
(G) significant health concerns; and
(7) conduct and participate in emergency drills and evacuations.

(d) Applicable training as required in this section shall be completed prior to any person working with an individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-14-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 771)*

460 IAC 6-14-5 Requirements for direct care staff
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5. All direct care staff working with individuals shall meet the following requirements:
(1) Be at least eighteen (18) years of age.
(2) Demonstrate the ability to communicate adequately in order to:
(A) complete required forms and reports of visits; and
(B) follow oral or written instructions.
(3) Demonstrate the ability to provide services according to the individual's ISP.
(4) Demonstrate willingness to accept supervision.
(5) Demonstrate an interest in and empathy for individuals. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-14-5; filed Nov 4, 2002, 12:04 p.m.: 26 IR 772)*

Rule 15. Personnel Records

460 IAC 6-15-1 Applicability
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. This rule applies to all supported living services and supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-15-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 772)*

460 IAC 6-15-2 Maintenance of personnel files
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. (a) A provider shall maintain in the provider's office files for each employee or agent of the provider.

(b) The provider's files for each employee or agent shall contain the following:
(1) A negative tuberculosis screening prior to providing services, and updated in accordance with recommendations of Centers for Disease Control.
(2) Cardiopulmonary resuscitation certification and recertification, updated annually.
(3) Auto insurance information, updated annually, if the employee or agent will be transporting an individual in the employee's or agent's personal vehicle.
(4) Limited criminal history information that meets the requirements of 460 IAC 6-10-5, with the information updated at least every three (3) years.
(5) Professional licensure, certification, or registration, including renewals, as applicable.
(6) A copy of the employee's or agent's driver's license, updated when the driver's license is due to expire.
(7) Copies of:
(A) the employee's time records; or
(B) the agent's invoices for services.
(8) Copies of the agenda for each training session attended by the employee or agent, including the following:
(A) Subject matter included in each training session.
(B) The date and time of each training session.
(C) The name of the person or persons conducting each training session.
(D) Documentation of the employee's or agent's attendance at each training session, signed by:
(i) the employee or agent; and
(ii) the trainer.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-15-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 772)

Rule 16. Personnel Policies and Manuals

460 IAC 6-16-1 Applicability
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. (a) This rule applies to a provider who uses employees or agents to provide services.

(b) This rule applies to all supported living services and supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-16-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 772)*

460 IAC 6-16-2 Adoption of personnel policies

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. (a) A provider shall:

(1) adopt and maintain a written personnel policy;

(2) review and update the personnel policy as appropriate; and

(3) distribute the personnel policy to each employee or agent.

(b) The written personnel policy required by subsection (a) shall include at least the following:

(1) A job description for each position, including the following:

(A) Minimum qualifications for the position.

(B) Major duties required of the position.

(C) Responsibilities of the employee in the position.

(D) The name and title of the supervisor to whom the employee in the position must report.

(2) A procedure for conducting reference, employment, and criminal background checks on each prospective employee or agent.

(3) A prohibition against employing or contracting with a person convicted of the offenses listed in 460 IAC 6-10-5.

(4) A process for evaluating the job performance of each employee or agent at the end of the training period and annually thereafter, including a process for feedback from individuals receiving services from the employee or agent.

(5) Disciplinary procedures.

(6) A description of grounds for disciplinary action against or dismissal of an employee or agent.

(7) A description of the rights and responsibilities of employees or agents, including the responsibilities of administrators and supervisors.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-16-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 772)

460 IAC 6-16-3 Policies and procedures documentation

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. (a) A provider shall:

(1) adopt and maintain a written training procedure;

(2) review and update the training procedure as appropriate; and

(3) distribute the training procedure to the provider's employees or agents.

(b) The written training procedure required by subsection (a) shall include at least the following:

(1) Mandatory orientation for each new employee or agent to assure the employee's or agent's understanding of, and compliance with:

(A) the mission, goals, organization, and practices of the provider; and

(B) the applicable requirements of this article.

(2) A system for documenting the training for each employee or agent, including:

(A) the type of training provided;

(B) the name and qualifications of the trainer;

(C) the duration of training;

(D) the date or dates of training;

(E) the signature of the trainer, verifying the satisfactory completion of training by the employee or agent; and

(F) the signature of the employee or agent.

(3) A system for ensuring that a trainer has sufficient education, expertise, and knowledge of the subject to achieve listed outcomes required under the system.

(4) A system for providing annual in-service training to improve the competence of employees or agents in the following areas:

(A) Protection of individual rights, including protection against abuse, neglect, or exploitation.

(B) Incident reporting.

(C) Medication administration if the provider administers medication to an individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-16-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 773)

460 IAC 6-16-4 Operations manual

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. (a) A provider shall compile the written policies and procedures required by sections 1 and 2 of this rule into a written operations manual.

(b) The operations manual shall be regularly updated and revised.

(c) Upon the request of the BDDS, the provider shall:

(1) supply a copy of the operations manual to the BDDS or other state agency, at no cost; and

(2) make the operations manual available to the BDDS or other state agency for inspection at the offices of the provider.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-16-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 773)

Rule 17. Maintenance of Records of Services Provided

460 IAC 6-17-1 Applicability

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. This rule applies to all supported living services and supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-17-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 773)*

460 IAC 6-17-2 Maintenance of records of services provided

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. (a) This section applies to all providers.

(b) A provider shall maintain in the provider's office documentation of all services provided to an individual.

(c) Documentation related to an individual required by this article shall be maintained by the provider for at least seven (7) consecutive years.

(d) A provider shall analyze and update the documentation required by:

(1) the standards under this article applicable to the services the provider is providing to an individual;

(2) the professional standards applicable to the provider's profession; and

(3) the individual's ISP.

(e) A provider shall analyze and update the documentation at least every ninety (90) days if:

(1) the standards under this article do not provide a standard for analyzing and updating documentation;

(2) the professional standards applicable to the provider's profession do not provide a standard; or

(3) a standard is not set out in the individual's ISP.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-17-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 774)

460 IAC 6-17-3 Individual's personal file: site of service delivery

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. (a) A provider specified in the individual's ISP as being responsible for maintaining the individual's personal file shall maintain a personal file for the individual at:

(1) the individual's residence; or

(2) the primary location where the individual receives services.

(b) The individual's personal file shall contain at least the following information:

(1) The individual's full name.

(2) Telephone numbers for emergency services that may be required by the individual.

(3) A current sheet with a brief summary regarding:

(A) the individual's diagnosis or diagnoses;

(B) the individual's treatment protocols, current medications, and other health information specified by the individual's ISP;

(C) behavioral information about the individual;

(D) likes and dislikes of the individual that have been identified in the individual's ISP; and

(E) other information relevant to working with the individual.

(4) The individual's history of allergies, if applicable.

(5) Consent by the individual or the individual's legal representative for emergency treatment for the individual.

(6) A photograph of the individual, if:

(A) a photograph is available; and

(B) inclusion of a photograph in the individual's file is specified by the individual's ISP.

(7) A copy of the individual's current ISP.

(8) A copy of the individual's behavioral support plan, if applicable.

(9) Documentation of:

(A) changes in the individual's physical condition or mental status during the last sixty (60) days;

(B) an unusual event such as vomiting, choking, falling, disorientation or confusion, behavioral problems, or seizures occurring during the last sixty (60) days; and

(C) the response of each provider to the observed change or unusual event.

(10) If an individual's goals include bill paying and other financial matters, the individual's file shall contain:

(A) the individual's checkbook with clear documentation that the checkbook has been balanced; and

(B) bank statements with clear documentation that the bank statements and the individual's checkbook have been reconciled.

(11) All environmental assessments conducted during the last sixty (60) days, with the signature of the person or persons conducting the assessment on the assessment.

(12) All medication administration documentation for the last sixty (60) days.

(13) All seizure management documentation for the last sixty (60) days.

(14) Health-related incident management documentation for the last sixty (60) days.

(15) All nutritional counseling services documentation for the last sixty (60) days.

(16) All behavioral support services documentation for the last sixty (60) days.

(17) All goal directed documentation for the last sixty (60) days.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-17-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 774)

460 IAC 6-17-4 Individual's personal file; provider's office

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. (a) A provider specified in the individual's ISP as being responsible for maintaining the individual's personal file shall maintain a personal file for an individual at the provider's office.

(b) The individual's personal file shall contain documentation of the following:

(1) A change in an individual's physical condition or mental status.

(2) An unusual event for the individual.
(3) All health and medical services provided to an individual.
(4) An individual's training goals.

(c) A change or unusual event referred to in subsection (b) shall include the following:
(1) Vomiting.
(2) Choking.
(3) Falling.
(4) Disorientation or confusion.
(5) Patterns of behavior.
(6) A seizure.

(d) The documentation of a change or an event referred to in subsections (b) and (c) shall include the following:
(1) The date, time, and duration of the change or event.
(2) A description of the response of the provider, or the provider's employees or agents to the change or event.
(3) The signature of the provider or the provider's employees or agents observing the change or event.

(e) The documentation of all health and medical services provided to the individual shall:
(1) be kept chronologically; and
(2) include the following:
(A) Date of services provided to the individual.
(B) A description of services provided.
(C) The signature of the health care professional providing the services.

(f) The individual's training file shall include documentation regarding the individual's training goals required by 460 IAC 6-24-1. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-17-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 774)*

Rule 18. Behavioral Support Services

460 IAC 6-18-1 Preparation of behavioral support plan
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. A behavioral support services provider shall prepare a behavioral support plan for an individual only after the provider has:
(1) directly observed the individual; and
(2) reviewed reports regarding the individual.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-18-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 775)

460 IAC 6-18-2 Behavioral support plan standards
Authority: IC 12-8-8-4; IC 12-9-2-2; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. (a) A behavioral support plan shall meet the standards set out in this section.

(b) A behavioral support plan shall operationally define the targeted behavior or behaviors.

(c) A behavioral support plan shall be based upon a functional analysis of the targeted behaviors.

(d) A behavioral support plan shall contain written guidelines for teaching the individual functional and useful behaviors to replace the individual's maladaptive behavior.

(e) A behavioral support plan shall use nonaversive methods for teaching functional and useful replacement behaviors.

(f) A behavioral support plan shall conform to the individual's ISP, including the needs and outcomes identified in the ISP and the ISP's specifications for behavioral support services.

(g) A behavioral support plan shall contain documentation that each person implementing the plan:
(1) has received specific training as provided in the plan in the techniques and procedures required for implementing the behavioral support plan; and
(2) understands how to use the techniques and procedures required to implement the behavioral support plan;
regardless of whether the person implementing the plan is an employee or agent of the behavioral support services provider.

(h) A behavioral support plan shall contain a documentation system for direct care staff working with the individual to record episodes of the targeted behavior or behaviors. The documentation system shall include a method to record the following information:
(1) Dates and times of occurrence of the targeted behavior.
(2) Length of time the targeted behavior lasted.
(3) Description of what precipitated the targeted behavior.
(4) Description of what activities helped alleviate the targeted behavior.
(5) Signature of staff observing and recording the targeted behavior.

(i) If the use of medication is included in a behavioral support plan, a behavioral support plan shall contain:
(1) a plan for assessing the use of the medication and the appropriateness of a medication reduction plan; or
(2) documentation that a medication use reduction plan for the individual was:
(A) implemented within the past five (5) years; and
(B) proved to be not effective.

(j) If a highly restrictive procedure is included in a behavioral support plan, a behavioral support plan shall contain the following:
(1) A functional analysis of the targeted behavior for which a highly restrictive procedure is designed.
(2) Documentation that the risks of the targeted behavior

have been weighed against the risk of the highly restrictive procedure.

(3) Documentation that systematic efforts to replace the targeted behavior with an adaptive skill were used and found to be not effective.

(4) Documentation that the individual, the individual's support team and the applicable human rights committee agree that the use of the highly restrictive method is required to prevent significant harm to the individual or others.

(5) Informed consent from the individual or the individual's legal representative.

(6) Documentation that the behavioral support plan is reviewed regularly by the individual's support team.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-18-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 775)

460 IAC 6-18-3 Written policy and procedure standards

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. A provider of behavioral support services shall have written policies and procedures that:

(1) limit the use of highly restrictive procedures, including physical restraint or medications to assist in the managing of behavior; and

(2) focus on behavioral supports that begin with less intrusive or restrictive methods before more intrusive or restrictive methods are used.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-18-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 776)

460 IAC 6-18-4 Documentation standards

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. (a) A provider of behavioral support services shall maintain documentation regarding the development of a behavioral support plan that:

(1) the least intrusive method was attempted and exhausted first; and

(2) if a highly restrictive procedure is deemed to be necessary and included in a behavioral support plan, the actions required by section 2(j) of this rule have been taken.

(b) A provider of behavioral support services shall maintain the following documentation for each individual served:

(1) A copy of the individual's behavioral support assessment.

(2) If applicable, the individual's behavioral support plan.

(3) Dates, times, and duration of each visit with the individual.

(4) A description of the behavioral support activities conducted.

(5) A description of behavioral support progress made.

(6) The signature of the person providing the behavioral support services on each date the behavioral support service is provided.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-18-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 776)

460 IAC 6-18-5 Level 2 clinician standards

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5. (a) If a behavioral support plan is developed by a Level 2 clinician, the Level 2 clinician shall be supervised by a Level 1 clinician.

(b) A Level 1 clinician shall give written approval of all behavioral support plans developed by a Level 2 clinician.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-18-5; filed Nov 4, 2002, 12:04 p.m.: 26 IR 776)

460 IAC 6-18-6 Implementation of behavioral support plan

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 6. All providers working with an individual shall implement the behavioral support plan designed by the individual's behavioral support services provider. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-18-6; filed Nov 4, 2002, 12:04 p.m.: 26 IR 776)*

460 IAC 6-18-7 Human rights committee

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 7. Beginning July 1, 2004, a provider of behavioral support services who:

(1) prepares a behavioral support plan; or

(2) implements a behavioral support plan;

shall cooperate with the division's or the BDDS's regional human rights committee for the geographic area in which the provider is providing services under this article.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-18-7; filed Nov 4, 2002, 12:04 p.m.: 26 IR 776)

Rule 19. Case Management

460 IAC 6-19-1 Information concerning an individual

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. A provider of case management services shall have the following information about an individual receiving case management services from the provider:

(1) The wants and needs of an individual, including the health, safety and behavioral needs of an individual.

(2) The array of services available to an individual whether the services are available under this article or are otherwise available.

(3) The availability of funding for an individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-19-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 776)

460 IAC 6-19-2 Training and orientation

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. (a) To maintain the BDDS's approval to provide case management services under this article, a provider shall complete twenty (20) hours of training regarding case management services in each calendar year.

(b) The training prescribed by subsection (a) shall include at least ten (10) hours of training approved by the BDDS.

(c) If the BDDS identifies a systemic problem with a provider's case management services, the provider of case management services shall obtain training on the topics recommended by the BDDS. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-19-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 777)*

460 IAC 6-19-3 Contact information

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. (a) A provider of case management services shall give the individual or the individual's legal representative, if applicable, clear instructions for contacting the provider.

(b) A provider of case management services shall give the individual or the individual's legal representative, if applicable, a summary of information and procedures if the individual needs assistance or has an emergency before or after business hours. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-19-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 777)*

460 IAC 6-19-4 Distribution of information

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. A provider of case management services shall ensure that:

(1) the individual;

(2) the individual's legal representative, if applicable; and

(3) all other providers of services to the individual, regardless of whether the services are provided pursuant to this article;

have copies of relevant documentation, including information on individual rights, an individual's individualized support plan, filing complaints, and requesting appeals concerning issues and disputes relating to the services provided to the individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-19-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 777)*

460 IAC 6-19-5 Evaluation of available providers

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5. (a) A provider of case management services shall provide the individual or the individual's legal representative, if applicable, with the following information:

(1) A current list of providers approved under this article, including a complete description of services offered by each provider.

(2) Information regarding services the individual may need that are not provided under this article.

(3) The current BDDS information guide for individuals on how to choose a provider.

(b) The provider of case management services shall assist the individual or the individual's legal representative, if applicable, in evaluating potential service providers. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-19-5; filed Nov 4, 2002, 12:04 p.m.: 26 IR 777)*

460 IAC 6-19-6 Monitoring of services

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 6. (a) A provider of case management shall monitor and document the quality, timeliness, and appropriateness of the care, services, and products delivered to an individual.

(b) The documentation required under this section shall include an assessment of the following:

(1) The appropriateness of the goals in the individual's ISP.

(2) An individual's progress toward the goals in the individual's ISP.

(c) The documentation required by this section shall include the following:

(1) Any medication administration system for the individual.

(2) An individual's behavioral support plan.

(3) Any health-related incident management system for the individual.

(4) Any side effect monitoring system for the individual.

(5) Any seizure management system for the individual.

(6) Any other system for the individual implemented by more than one (1) provider.

(d) A provider of case management services shall continuously monitor the services and outcomes established for the individual in the individual's ISP, including the following:

(1) A provider of case management services shall timely follow-up on identified problems.

(2) A provider of case management services shall act immediately to resolve critical issues and crises in accordance with this article.

(3) If concerns with services or outcomes are identified, a provider of case management services shall:

(A) address the concerns in a timely manner; and

(B) involve all necessary providers and the individual's support team if necessary.

(e) A provider of case management services who is

attempting to resolve a dispute shall follow the dispute resolution procedure described in 460 IAC 6-10-8.

(f) No later than thirty (30) days after the implementation of an individual's ISP, unless otherwise specified in the ISP, a provider of case management shall make the first monitoring contact with the individual.

(g) A provider of case management services shall have regular in-person contact with the individual as required by the ISP and this section. The provider of case management services shall make at least:

(1) one (1) in-person contact with the individual every ninety (90) days to assess the quality and effectiveness of the ISP;

(2) two (2) in-person contacts each year in the individual's residence; and

(3) one (1) in-person contact each year unannounced.

(h) If an individual's ISP requires more contact than required by subsection (g), the individual's ISP shall control the amount of contact a provider of case management services must make with an individual receiving case management services.

(i) A provider of case management services shall coordinate the provision of family and caregiver training services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-19-6; filed Nov 4, 2002, 12:04 p.m.: 26 IR 777)*

460 IAC 6-19-7 Documentation of services provided

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 7. (a) A provider of case management services shall maintain documentation of each contact with an:

(1) individual; and

(2) individual's providers.

(b) The documentation shall be updated and revised whenever case management services are provided for the individual.

(c) If a provider of case management services visits an individual at the individual's residence, the provider must sign in with the provider of environmental and living arrangement supports. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-19-7; filed Nov 4, 2002, 12:04 p.m.: 26 IR 778)*

460 IAC 6-19-8 Documentation; problem resolution

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 8. (a) A provider of case management services shall document the following:

(1) The provider's follow-up on problems.

(2) The resolution of problems.

(b) A provider of case management services shall keep the documentation required in this section in an individual's personal record maintained by the case manager. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-19-8; filed Nov 4, 2002, 12:04 p.m.: 26 IR 778)*

460 IAC 6-19-9 Conflict of interest

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 9. If a person provides case management services to an individual, then that person shall not provide any other service under this article to that particular individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-19-9; filed Nov 4, 2002, 12:04 p.m.: 26 IR 778)*

Rule 20. Community-Based Sheltered Employment Services

460 IAC 6-20-1 Staffing requirements

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. Community-based sheltered employment services shall be provided with a staff ratio that does not exceed eight (8) individuals to one (1) staff member. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-20-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 778)*

460 IAC 6-20-2 Integrated setting required

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. Community-based employment services shall be provided in an integrated setting. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-20-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 778)*

Rule 21. Environmental Modification Supports

460 IAC 6-21-1 Warranty required

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. All environmental modification supports provided to an individual under this rule shall be warranted for at least ninety (90) days. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-21-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 778)*

460 IAC 6-21-2 Documentation required

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. A provider of environmental modification supports shall maintain the following documentation regarding support provided to an individual:

(1) The installation date of any adaptive aid or device, assistive technology, or other equipment.

(2) The maintenance date of any adaptive aid or device, assistive technology, or other equipment.
(3) A change made to any adaptive aid or device, assistive technology, or other equipment, including any:
(A) alteration;
(B) correction; or
(C) replacement.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-21-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 778)

Rule 22. Facility-Based Sheltered Employment Services

460 IAC 6-22-1 Staffing requirement
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. All facility-based sheltered employment services shall be provided with a staff ratio that does not exceed twenty (20) individuals to one (1) staff member. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-22-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 779)*

Rule 23. Family and Caregiver Training Services

460 IAC 6-23-1 Requirements for provision of services
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. A person providing family and caregiver training services shall have:
(1) education;
(2) training; or
(3) experience;
directly related to the training the person will be providing. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-23-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 779)*

460 IAC 6-23-2 Supervision of providers
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. Any person providing family and caregiver training services shall be supervised by the:
(1) individual whose family members or caregiver is receiving training; and
(2) provider of case management services to the individual.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-23-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 779)

Rule 24. Training Services

460 IAC 6-24-1 Coordination of training services and training plan
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. (a) A provider designated in an individual's ISP as responsible for providing training to an individual shall create a training plan for the individual.

(b) A training plan shall:
(1) consist of a formal description of goals, objectives, and strategies, including:
(A) desired outcomes; and
(B) persons responsible for implementation; and
(2) be designed to enhance skill acquisition and increase independence.

(c) The provider shall assess the appropriateness of an individual's goals at least once every ninety (90) days.

(d) All providers responsible for providing training to an individual shall:
(1) coordinate the training services provided to an individual; and
(2) share documentation regarding the individual's training;
as required by the individual's ISP. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-24-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 779)*

460 IAC 6-24-2 Required documentation
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. (a) The provider identified in section 1 of this rule shall maintain a personal file for each individual served.

(b) The individual's file shall:
(1) be kept chronologically; and
(2) include the following information:
(A) Measurement of the individual's progress toward each training goal identified in the individual's ISP.
(B) Dates, times, and duration of training services provided to the individual.
(C) A description of training activities conducted on each date.
(D) The signature of the person providing the service each time training is provided.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-24-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 779)

460 IAC 6-24-3 Management of individual's financial resources
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. (a) This section applies to:
(1) an individual's residential living allowance management services provider; or
(2) the provider identified in an individual's individualized support plan as being responsible for an individual's property or financial resources.

(b) The provider shall assist an individual to:
(1) obtain, possess, and maintain financial assets, property, and economic resources; and

(2) obtain insurance at the individual's expense to protect the individual's assets and property.

(c) If the provider is responsible for management of an individual's funds, the provider shall do the following:

(1) Maintain separate accounts for each individual.

(2) Provide monthly account balances and records of transactions to the individual and, if applicable, the individual's legal representative.

(3) Inform the individual or the individual's legal representative, if applicable, that the payee is required by law to spend the individual's funds only for the needs of the individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-24-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 779)

Rule 25. Health Care Coordination Services

460 IAC 6-25-1 Provider of health care coordination services

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. Coordination of the health care for an individual shall be the responsibility of either of the following:

(1) A provider of health care coordination services.

(2) The provider identified in an individual's ISP as responsible for the health care of the individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-25-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 780)

460 IAC 6-25-2 Coordination of health care

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. The provider identified in section 1 of this rule shall coordinate the health care received by the individual, including:

(1) annual physical, dental, and vision examinations as ordered by the individual's physician;

(2) routine examinations as ordered by the individual's physician;

(3) routine screenings as ordered by the individual's physician;

(4) identification and treatment of allergies as ordered by the individual's physician; and

(5) referrals to specialists.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-25-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 780)

460 IAC 6-25-3 Documentation of health care services received by an individual

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. (a) The provider identified in section 1 of this rule shall maintain a personal file for each individual served.

(b) The individual's personal file shall contain the following information:

(1) The date of health and medical services provided to the individual.

(2) A description of the health care or medical services provided to the individual.

(3) The signature of the person providing the health care or medical service for each date a service is provided.

(4) Additional information and documentation required in this rule, including documentation of the following:

(A) An organized system for medication administration.

(B) An individual's refusal to take medication.

(C) Monitoring of medication side effects.

(D) Seizure tracking.

(E) Changes in an individual's status.

(F) An organized system of health-related incident management.

(G) If applicable to this provider, an investigation of the death of an individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-25-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 780)

460 IAC 6-25-4 Organized system for medication administration required

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. (a) The provider identified in section 1 of this rule shall design an organized system of medication administration for the individual.

(b) The provider shall:

(1) document the system in writing; and

(2) distribute the document to all providers administering medication to the individual.

(c) The document shall be placed in the individual's file maintained by all providers administering medication to the individual.

(d) The system required in subsection (a) shall contain at least the following elements:

(1) Identification and description of each medication required for the individual.

(2) Documentation that the individual's medication is administered only by trained and authorized personnel unless the individual is capable of self-administration of medication as provided for in the individual's ISP.

(3) Documentation of the administration of medication, including the following:

(A) Administration of medication from original labeled prescription containers.

(B) Name of medication administered.

(C) Amount of medication administered.

(D) The date and time of administration.

(E) The initials of the person administering the medication.

(4) Procedures for the destruction of unused medication.
(5) Documentation of medication administration errors.
(6) A system for the prevention or minimization of medication administration errors.
(7) When indicated as necessary by an individual's ISP, procedures for the storage of medication:
(A) in the original labeled prescription container;
(B) in a locked area when stored at room temperature;
(C) in a locked container in the refrigerator if refrigeration is required;
(D) separately from nonmedical items; and
(E) under prescribed conditions of temperature, light, humidity, and ventilation.
(8) Documentation of an individual's refusal to take medication as required in section 5 of this rule.
(9) A system for communication among all providers that administer medication to an individual.
(10) All providers administering medication to the individual shall:
(A) implement; and
(B) comply with;
the organized system of medication administration designed by the provider designated in section 1 of this rule.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-25-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 780)

460 IAC 6-25-5 Individual's refusal to take medication
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5. (a) If an individual refuses to take medication, the provider attempting to administer the medication shall do the following:
(1) Document the following information:
(A) The name of the medication refused by the individual.
(B) The date, time, and duration of the refusal.
(C) A description of the provider's response to the refusal.
(D) The signature of the person or persons observing the refusal.
(2) Supply the documentation to the provider identified in section 1 of this rule.

(b) The provider identified in section 1 of this rule shall review the individual's refusal to take medication with:
(1) the individual's physician; and
(2) the individual's support team;
to ensure the health and safety of the individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-25-5; filed Nov 4, 2002, 12:04 p.m.: 26 IR 781)*

460 IAC 6-25-6 Monitoring of medication side effects
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 6. (a) The provider designated in section 1 of this rule shall design a system to monitor side effects an individual may experience as a result of medication the individual takes.

(b) The provider shall:
(1) document the system in writing; and
(2) distribute the document to all providers working with the individual.

(c) The system required in subsection (a) shall contain at least the following elements:
(1) Training of direct care staff, employees, and agents concerning:
(A) the identification of:
(i) side effects; and
(ii) interactions;
of all medication administered to an individual; and
(B) instruction on medication side effects and interactions.
(2) A side effect tracking record that includes:
(A) how often the individual should be monitored for side effects of each medication administered to the individual;
(B) who shall perform the monitoring; and
(C) when monitoring shall be performed.
(3) A system for communication among all providers working with an individual regarding the monitoring of medication side effects.

(d) All providers working with an individual shall:
(1) implement; and
(2) comply with;
the medication side effect monitoring system designed by the provider designated in section 1 of this rule. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-25-6; filed Nov 4, 2002, 12:04 p.m.: 26 IR 781)*

460 IAC 6-25-7 Seizure management
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 7. (a) The provider designated in section 1 of this rule shall design a system of seizure management for the individual.

(b) The provider shall communicate the system in writing to all providers working with the individual.

(c) The system of seizure management prescribed by subsection (a) shall include at least the following elements:
(1) Training of direct care staff, employees, or agents concerning the administration of medication.
(2) A seizure tracking record for documenting events:
(A) immediately preceding a seizure;
(B) during a seizure; and
(C) following a seizure.
(3) Documentation of any necessary physician follow-up and follow along services.

(4) A system for checking the individual's levels of seizure medication:

(A) at least annually; or

(B) as ordered by the individual's physician.

(5) A system for communication among all providers working with the individual concerning the individual's seizures.

(d) All providers working with the individual shall:

(1) implement; and

(2) comply with;

the seizure management system developed by the provider designated in section 1 of this rule. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-25-7; filed Nov 4, 2002, 12:04 p.m.: 26 IR 781)*

460 IAC 6-25-8 Changes in an individual's status

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 8. (a) The provider identified in section 1 of this rule shall maintain a personal file for an individual at the provider's office. The file shall contain documentation of any change in an individual's physical condition, mental status, or any unusual event, including the following:

(1) Vomiting.

(2) Choking.

(3) Falling.

(4) Disorientation or confusion.

(5) Patterns of behavior.

(6) Seizures.

(b) The documentation of a change or event required by subsection (a) shall include:

(1) dates, times, and duration of the change or event;

(2) a description of the response of the provider, or the provider's employees or agents to the change or event; and

(3) the signature of the person or persons observing the change or event.

(c) A provider or providers working with an individual shall supply to the provider identified in section 1 of this rule any information regarding any change or event listed in subsection (a) that is observed while the provider is providing services to the individual.

(d) Except as provided in subsection (e), a provider observing a change in an individual's physical condition or mental status, or any unusual event, shall supply the information required in subsection (c) to the provider identified in section 1 of this rule as follows:

(1) within twenty-four (24) hours of the change or event; or

(2) by noon on the next business day;

whichever is later.

(e) If the change in an individual's physical condition or mental status or the unusual event is also a reportable incident under 460 IAC 6-9-5, the information shall be provided within twenty-four (24) hours. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-25-8; filed Nov 4, 2002, 12:04 p.m.: 26 IR 782)*

460 IAC 6-25-9 Health-related incident management

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 9. (a) The provider identified in section 1 of this rule shall design a system of management for health-related incidents involving an individual.

(b) The health-related incident management system prescribed by subsection (a) shall provide an internal review process for any health-related reportable incident. The provider's internal review process shall include at least the following:

(1) A trend analysis of incidents for an individual.

(2) Documentation:

(A) that summarizes the findings of the analysis conducted under subdivision (1); and

(B) of the steps taken to prevent or minimize the occurrence of incidents in the future.

(3) A system for communication among all providers working with an individual regarding health-related incidents involving the individual.

(c) All providers working with an individual shall implement the health-related incident management system designed by the provider identified in section 1 of this rule. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-25-9; filed Nov 4, 2002, 12:04 p.m.: 26 IR 782)*

460 IAC 6-25-10 Investigation of death

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 10. (a) If an individual dies, an investigation into the death shall be conducted by the provider identified in section 1 of this rule, except as provided in subsection (b).

(b) If the provider identified in section 1 of this rule is a family member of the individual, then the provider of case management services to an individual shall conduct an investigation into the death of the individual.

(c) A provider conducting an investigation into the death of an individual shall meet the following requirements:

(1) Notify by telephone the BDDS's central office in Indianapolis not later than twenty-four (24) hours after the death.

(2) Notify adult protective services or child protection services, as applicable, not later than twenty-four (24) hours after the death.

(3) Collect and review documentation of all events, incidents, and occurrences in the individual's life for at least the thirty (30) day period immediately before:

(A) the death of the individual;

(B) the hospitalization in which the individual's death occurred; or

(C) the individual's transfer to a nursing home in which death occurred within ninety (90) days of that transfer.

(4) In conjunction with all providers of services to the deceased individual, review and document all the actions of all employees or agents of all providers for the thirty (30) day period immediately before:

(A) the individual's death;

(B) the hospitalization in which the individual's death occurred; or

(C) the individual's transfer to a nursing home in which death occurred within ninety (90) days of that transfer.

(5) Document conclusions and make recommendations arising from the investigation.

(6) Document implementation of any recommendations made under subdivision (5).

(7) No later than fifteen (15) days after the individual's death, send to the BDDS:

(A) a completed notice of an individual's death on a form prescribed by the BDDS; and

(B) a final report that includes all documentation required by subdivisions (1) through (6) for review by the division's mortality review committee.

(d) A provider shall respond to any additional requests for information made by the mortality review committee within seven (7) days of the provider's receipt of a request.

(e) A provider shall submit the documentation to the BDDS to support the provider's implementation of specific recommendations made by the mortality review committee. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-25-10; filed Nov 4, 2002, 12:04 p.m.: 26 IR 782)*

Rule 26. Nutritional Counseling Services

460 IAC 6-26-1 Specialized diet program

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. (a) A provider of nutritional counseling services shall design and document a dining plan for an individual in accordance with the individual's ISP.

(b) An individual's dining plan shall include the following:

(1) Any special dining needs of an individual.

(2) Identification of swallowing difficulties.

(3) Identification of risk of aspiration.

(4) The need for adaptive equipment.

(c) A provider who has designed a dining plan for an individual shall provide assessment and oversight of:

(1) the dining plan; and

(2) the person or persons implementing the dining plan.

(d) A provider shall follow any specialized diet program designed by the provider of nutritional counseling services to an individual, including any documentation requirements contained in the individual's dining plan. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-26-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 783)*

Rule 27. Occupational Therapy Services

460 IAC 6-27-1 Supervision

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. Any occupational therapy assistant or occupational therapy aide assisting in the delivery of occupational therapy services to an individual shall do so under the direct supervision of an occupational therapist approved under this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-27-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 783)*

Rule 28. Personal Emergency Response System Supports

460 IAC 6-28-1 Warranty required

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. All personal emergency response system supports provided to an individual under this rule shall be warranted for at least ninety (90) days. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-28-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 783)*

460 IAC 6-28-2 Documentation

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. A provider of personal emergency response system supports shall maintain the following documentation regarding support provided to an individual:

(1) The installation date of any device.

(2) The maintenance date of any device.

(3) Any change made to any device, including an alteration, correction or replacement.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-28-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 783)

Rule 29. Physical Environment

460 IAC 6-29-1 Environment shall conform to ISP

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. A provider designated in the individual's ISP as responsible for providing environmental and living arrangement support for the individual shall ensure that an individual's physical environment conforms to the requirements of:

(1) the individual's ISP; and
(2) this rule.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-29-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 783)

460 IAC 6-29-2 Safety of individual's environment
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. (a) A provider designated in the individual's ISP as responsible for providing environmental and living arrangement support shall provide services in a safe environment that is:
(1) maintained in good repair, inside and out; and
(2) free from:
(A) combustible debris;
(B) accumulated waste material;
(C) offensive odors; and
(D) rodent or insect infestation.

(b) The provider shall ensure that:
(1) an assessment of the individual's environment is conducted every ninety (90) days; and
(2) the results of the assessment are documented.

(c) If an environmental assessment determines that an environment is unsafe for an individual, the provider shall take the appropriate steps to ensure that the individual is safe, including the following, when appropriate:
(1) Filing an incident report.
(2) Working with the individual and the support team to resolve physical environmental issues.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-29-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 784)

460 IAC 6-29-3 Monitoring an individual's environment
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. The provider designated in an individual's ISP as responsible for providing environmental and living arrangement support shall ensure that appropriate devices or home modifications, or both:
(1) are provided to the individual in accordance with the individual's ISP; and
(2) satisfy the federal Americans with Disabilities Act requirements and guidelines.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-29-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 784)

460 IAC 6-29-4 Compliance of environment with building and fire codes
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. (a) A provider designated in an individual's ISP as responsible for providing environmental and living arrangement support shall ensure that an individual's living areas comply with the requirements of this section.

(b) An individual's living areas shall meet Indiana Code and local building requirements for single family dwellings or multiple family dwellings as applicable.

(c) An individual's living areas shall contain a working smoke detector or smoke detectors that are:
(1) tested at least once a month; and
(2) located in areas considered appropriate by the local fire marshal.

(d) An individual's living areas shall contain a working fire extinguisher or extinguishers that are inspected annually.

(e) An individual's living areas shall:
(1) contain operable antiscald devices; or
(2) have hot water temperature no higher than one hundred ten (110) degrees Fahrenheit;
if required by an individual's ISP. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-29-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 784)*

460 IAC 6-29-5 Safety and security policies and procedures
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5. (a) A provider designated in an individual's ISP as responsible for providing environmental and living arrangement support for the individual shall:
(1) maintain specific written safety and security policies and procedures for an individual; and
(2) train all employees or agents in implementing the policies and procedures.

(b) The policies and procedures prescribed by subsection (a) shall include at least the following:
(1) When and how to notify law enforcement agencies in an emergency or crisis.
(2) Scheduling and completion of evacuation drills.
(3) Adopting procedures that shall be followed in an emergency or crisis, such as a tornado, fire, behavioral incident, elopement, or snow.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-29-5; filed Nov 4, 2002, 12:04 p.m.: 26 IR 784)

460 IAC 6-29-6 Safety and security training
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 6. (a) A provider designated in an individual's ISP as responsible for providing environmental and living arrangement support shall provide training to:
(1) the provider's employees or agents; and
(2) the individual, in the individual's mode of communication;

concerning procedures to be followed in an emergency or crisis.

(b) The training prescribed by subsection (a) shall include the following:

(1) Evacuation procedures.

(2) Responsibilities during drills.

(3) The designated meeting place outside the site of service delivery in an emergency.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-29-6; filed Nov 4, 2002, 12:04 p.m.: 26 IR 784)

460 IAC 6-29-7 Individual's inability to follow safety and security procedures

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 7. If an individual is medically or functionally unable to follow procedures for dealing with an emergency or crisis, the provider of environmental and living arrangement support shall document in writing:

(1) that the individual is unable to follow emergency or crisis procedures; and

(2) the provider's plan for support of the individual in an emergency or crisis.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-29-7; filed Nov 4, 2002, 12:04 p.m.: 26 IR 785)

460 IAC 6-29-8 Emergency telephone numbers

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 8. (a) A provider designated in an individual's ISP as responsible for providing environmental and living arrangement support shall ensure that an emergency telephone number list is located:

(1) in an area visible from the telephone used by an individual; or

(2) as indicated in the individual's ISP.

(b) The emergency telephone list shall include the following:

(1) Information given to the individual by the individual's provider of case management services.

(2) The local emergency number, for example, 911.

(3) The telephone number of the individual's legal representative or advocate, if applicable.

(4) Any telephone numbers specified in the individual's ISP, including telephone numbers for the following:

(A) The local BDDS office.

(B) The provider of case management services to the individual.

(C) Adult protective services or child protection services as applicable.

(D) The developmental disabilities waiver ombudsman.

(E) Any other service provider identified in the individual's ISP.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-29-8; filed Nov 4, 2002, 12:04 p.m.: 26 IR 785)

Rule 30. Residential Living Allowance and Management Services

460 IAC 6-30-1 Documentation required

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. A provider of residential living allowance and management services shall maintain the following documentation:

(1) Documentation that an individual's residential living allowance was deposited in the individual's personal account.

(2) Receipts for all expenditures made from the individual's financial resources and food stamps, including receipts for rent, utilities, groceries, clothing, household goods, and other expenditures.

(3) If applicable, an individual's ICLB.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-30-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 785)

Rule 31. Respite Care Services

460 IAC 6-31-1 Documentation required

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. (a) A provider of respite care services shall maintain chronological documentation of the services provided for an individual.

(b) The documentation shall include the following:

(1) The date and duration of respite care services provided.

(2) The signature of the person providing respite care services.

(3) The location and setting where the respite care service was provided.

(c) Documentation shall be updated, reviewed and analyzed whenever respite care services are provided. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-31-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 785)*

Rule 32. Specialized Medical Equipment and Supplies Supports

460 IAC 6-32-1 Warranty required

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. All specialized medical equipment and supplies supports provided to an individual under this rule shall be warranted for at least ninety (90) days. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-32-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 785)*

460 IAC 6-32-2 Documentation required

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. A provider of specialized medical equipment and supplies supports shall maintain the following documentation regarding support provided to an individual:

(1) The installation date of any adaptive aid or device, assistive technology, or other equipment.

(2) The maintenance date of any adaptive aid or device, assistive technology, or other equipment.

(3) Any change made to any adaptive aid or device, assistive technology, or other equipment, including an alteration, correction, or replacement.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-32-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 785)

Rule 33. Speech-Language Therapy Services

460 IAC 6-33-1 Supervision required

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. Any speech-language pathology aide providing speech-language services under this article shall provide services under the direct supervision of a speech pathologist approved under this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-33-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 786)*

Rule 34. Transportation Services

460 IAC 6-34-1 Valid driver's license required

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. A provider of transportation services shall ensure that an individual is transported only by a person who has a valid Indiana:

(1) operator's license;

(2) chauffeur's license;

(3) public passenger chauffeur's license; or

(4) commercial driver's license;

issued to the person by the Indiana bureau of motor vehicles to drive the type of motor vehicle for which the license was issued. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-34-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 786)*

460 IAC 6-34-2 Vehicle requirements

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. A provider of transportation services shall ensure that an individual is transported only in a vehicle:

(1) maintained in good repair;

(2) properly registered with the Indiana bureau of motor vehicles; and

(3) insured as required under Indiana law.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-34-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 786)

460 IAC 6-34-3 Vehicle liability insurance

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. (a) A provider of transportation services shall secure liability insurance for all vehicles:

(1) owned or leased by the provider; and

(2) used for the transportation of an individual receiving services.

(b) The liability insurance required by subsection (a) shall cover:

(1) personal injury;

(2) loss of life; or

(3) property damage;

to an individual, if the loss, injury, or damage occurs during the provision of transportation services to the individual by the provider. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-34-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 786)*

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TITLE 511 INDIANA STATE BOARD OF EDUCATION

LSA Document #02-67(F)

DIGEST

Amends 511 IAC 5-1 to conform to passing standards set by the General Educational Testing Service of the American Council on Education for the 2002 Series GED tests. Effective 30 days after filing with the secretary of state.

511 IAC 5-1-2 **511 IAC 5-1-5**
511 IAC 5-1-3.5 **511 IAC 5-1-6**

SECTION 1. 511 IAC 5-1-2 IS AMENDED TO READ AS FOLLOWS:

511 IAC 5-1-2 Minimum standards

Authority: IC 20-10.1-12.1-3
Affected: IC 20-10.1-12.1

Sec. 2. (a) An applicant for a state of Indiana general educational development (GED) diploma must meet the requirements of this section and qualify within one (1) of the following categories:

(1) Be at least eighteen (18) years of age.
(2) Be at least seventeen (17) years of age and:
(A) not be subject to compulsory attendance;
(B) provide documentation of completing the exit interview process; and
(C) provide documentation of receiving a passing score on the GED practice test.

(b) An applicant for a state of Indiana general educational development (GED) diploma must have resided in Indiana a minimum of thirty (30) days immediately preceding the date of testing.

(c) An applicant for a state of Indiana general educational development (GED) diploma must provide the testing center with identification that includes the applicant's photograph.

(d) An applicant for a state of Indiana general educational development (GED) diploma must provide the testing center with proof of age.

(e) An applicant for a state of Indiana general educational development (GED) diploma must obtain:
(1) a minimum standard score of ~~forty (40)~~ **four hundred ten (410)** on each of the five (5) tests included in the GED test battery;
(2) a minimum average standard score of ~~forty-five (45)~~ **four hundred fifty (450)** on all five (5) tests; and
(3) a minimum of ~~two hundred twenty-five (225)~~ **two thousand two hundred fifty (2,250)** standard score points.
(Indiana State Board of Education; 511 IAC 5-1-2; filed Feb 13, 1980, 11:30 a.m.: 3 IR 329; filed Oct 26, 1983, 9:11 a.m.: 7 IR 46; filed Oct 10, 1997, 10:20 a.m.: 21 IR 382; filed Oct 24, 2002, 2:40 p.m.: 26 IR 786) NOTE: Transferred from the commission on general education (510 IAC 10-1.1-2) to the Indiana state board of education (511 IAC 5-1-2) by P.L.20-1984, SECTION 206, effective July 1, 1984.

SECTION 2. 511 IAC 5-1-3.5 IS AMENDED TO READ AS FOLLOWS:

511 IAC 5-1-3.5 Honors diploma
Authority: IC 20-10.1-12.1-3
Affected: IC 20-10.1-12.1

Sec. 3.5. The department of education will grant the state of Indiana general educational development (GED) honors diploma to an applicant whose overall average standard score is ~~sixty-two (62)~~ **six hundred twenty (620)** or higher, provided the requirements of section 2 of this rule are met. A school corporation or accredited nonpublic school has the option of issuing a GED honors diploma. *(Indiana State Board of Education; 511 IAC 5-1-3.5; filed Oct 10, 1997, 10:20 a.m.: 21 IR 383; filed Oct 24, 2002, 2:40 p.m.: 26 IR 787)*

SECTION 3. 511 IAC 5-1-5 IS AMENDED TO READ AS FOLLOWS:

511 IAC 5-1-5 Report of test results
Authority: IC 20-10.1-12.1-3
Affected: IC 20-10.1-12.1

Sec. 5. (a) The department of education shall provide an official report of test results (GEDTS Form 30) to the local chief examiner who shall distribute reports to applicants and to a reasonable number of other persons, institutions, or agencies designated by applicants.

(b) Each official report of test results must state:
(1) the applicant's standard score for each test;
(2) the applicant's average standard score for all five (5) tests; and
(3) the following statement: "Satisfactory achievement on the high school level of the Tests of General Educational Development shall be a standard score of ~~forty (40)~~ **four hundred ten (410)** or more on each of the five (5) tests in the battery and an average standard score of ~~forty-five (45)~~ **four hundred fifty (450)** or more on all five (5) tests of the battery.".
(Indiana State Board of Education; 511 IAC 5-1-5; filed Feb 13, 1980, 11:30 a.m.: 3 IR 329; filed Oct 10, 1997, 10:20 a.m.: 21 IR 384; filed Oct 24, 2002, 2:40 p.m.: 26 IR 787) NOTE: Transferred from the commission on general education (510 IAC 10-1.1-5) to the Indiana state board of education (511 IAC 5-1-5) by P.L.20-1984, SECTION 206, effective July 1, 1984.

SECTION 4. 511 IAC 5-1-6 IS AMENDED TO READ AS FOLLOWS:

511 IAC 5-1-6 Retesting
Authority: IC 20-10.1-12.1-3
Affected: IC 20-10.1-12.1

Sec. 6. (a) An applicant who achieves a total standard score of at least ~~two hundred fifteen (215)~~ **two thousand one hundred fifty (2,150)** points but less than ~~two hundred twenty-five (225)~~ **two thousand two hundred fifty (2,250)** points must wait at least thirty (30) days after completion of the last test in the original battery to be eligible for retesting.

(b) An applicant who achieves a total standard score of ~~two hundred fourteen (214)~~ **two thousand one hundred forty (2,140)** points or below must wait at least ninety (90) days after completion of the last test in the original battery to be eligible for retesting.

(c) An applicant who does not achieve the minimum standard score of ~~two hundred twenty-five (225)~~ **two thousand two hundred fifty (2,250)** points as a result of the first retesting must wait at least one hundred eighty (180) days to be eligible for all subsequent retesting.

(d) An applicant whose scores are determined to be incomplete must wait at least thirty (30) days to be eligible for retesting. *(Indiana State Board of Education; 511 IAC 5-1-6; filed Feb 13, 1980, 11:30 a.m.: 3 IR 330; filed Oct 10, 1997,*

10:20 a.m.: 21 IR 384; filed Oct 24, 2002, 2:40 p.m.: 26 IR 787) NOTE: Transferred from the commission on general education (510 IAC 10-1.1-6) to the Indiana state board of education (511 IAC 5-1-6) by P.L.20-1984, SECTION 206, effective July 1, 1984.

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TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #01-369(F)

DIGEST

Amends 876 IAC 4-2-2 to modify the curricula for salesperson under IC 25-34.1-9-11(a)(1). Amends 876 IAC 4-2-3 to modify the curricula for broker under IC 25-34.1-9-11(a)(1). Amends 876 IAC 4-2-9 to require licensees to obtain six hours of continuing education to reactivate an inactive license during a two year licensure period and to require a licensee who has reactivated their license to obtain 10 hours of continuing education in order to renew the license at the end of the two year licensure period. Effective 30 days after filing with the secretary of state.

876 IAC 4-2-2
876 IAC 4-2-3
876 IAC 4-2-9

SECTION 1. 876 IAC 4-2-2 IS AMENDED TO READ AS FOLLOWS:

876 IAC 4-2-2 Curricula for salesperson under IC 25-34.1-9-11(a)(1)

Authority: IC 25-34.1-9-21
Affected: IC 25-34.1-9-11

Sec. 2. (a) This section establishes the six (6) hour continuing education requirement under ~~IC 25-34.1-9-11(1)~~ **IC 25-34.1-9-11(a)(1)** for salespersons.

(b) To qualify for license renewal, salespersons must have two (2) hours of continuing education **instruction** in ~~each of any~~ three (3) of the following:

(1) **Indiana** licensure and escrow law.
(2) **Indiana** agency law.
(3) **Fair housing and** civil rights law.
(4) Listing contracts and purchase agreements.
(5) Settlement procedures.
(6) Antitrust.
(7) Environmental issues.
(8) Ethics and standards.

(Indiana Real Estate Commission; 876 IAC 4-2-2; filed Dec 1, 1993, 10:30 a.m.: 17 IR 768; filed Jun 21, 1996, 10:00 a.m.: 19 IR 3112; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Nov 4, 2002, 11:42 a.m.: 26 IR 788)

SECTION 2. 876 IAC 4-2-3 IS AMENDED TO READ AS FOLLOWS:

876 IAC 4-2-3 Curricula for brokers under IC 25-34.1-9-11(a)(1)

Authority: IC 25-34.1-9-21
Affected: IC 25-34.1-9-11

Sec. 3. (a) This section establishes the six (6) hour continuing education requirement under ~~IC 25-34.1-9-11(1)~~ **IC 25-34.1-9-11(a)(1)** for brokers.

(b) To qualify for license renewal, brokers must have two (2) hours **of continuing education instruction** in ~~each of any~~ three (3) of the following:

(1) **Indiana** licensure and escrow law.
(2) **Indiana** agency law.
(3) **Fair housing and** civil rights law.
(4) Listing contracts and purchase agreements.
(5) Settlement procedures.
(6) Antitrust.
(7) Environmental issues.
(8) Ethics and standards.

(Indiana Real Estate Commission; 876 IAC 4-2-3; filed Dec 1, 1993, 10:30 a.m.: 17 IR 768; filed Jun 21, 1996, 10:00 a.m.: 19 IR 3112, eff Jan 1, 1997; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Nov 4, 2002, 11:42 a.m.: 26 IR 788)

SECTION 3. 876 IAC 4-2-9, AS AMENDED AT 25 IR 104, SECTION 10, IS AMENDED TO READ AS FOLLOWS:

876 IAC 4-2-9 License activation

Authority: IC 25-34.1-9-21
Affected: IC 25-34.1-9-11

Sec. 9. (a) In order to reactivate an inactive license at the time of license renewal, the licensee must have obtained all sixteen (16) hours of continuing education which would have been required for renewal had the license been active.

(b) In order to reactivate an inactive license during a two (2) year licensure period, the licensee must obtain the ~~sixteen (16)~~ **six (6)** hours of continuing education required by ~~IC 25-34.1-9-11(1) and IC 25-34.1-9-11(2)~~ **IC 25-34.1-9-11(a)(1)** for that two (2) year licensure period and pay a ten dollar ($10) fee.

(c) A licensee who has reactivated the licensee's license

during a two (2) year licensure period under subsection (b) must obtain the ten (10) hours of continuing education required by IC 25-34.1-9-11(a)(2) in order to renew the license at the end of the two (2) year licensure period. *(Indiana Real Estate Commission; 876 IAC 4-2-9; filed Dec 1, 1993, 10:30 a.m.: 17 IR 769; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:05 a.m.: 25 IR 104; filed Nov 4, 2002, 11:42 a.m.: 26 IR 788)*

LSA Document #01-369(F)
Notice of Intent Published: 25 IR 409
Proposed Rule Published: October 1, 2002; 26 IR 179
Hearing Held: October 24, 2002
Approved by Attorney General: October 29, 2002
Approved by Governor: October 31, 2002
Filed with Secretary of State: November 4, 2002, 11:42 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #01-427(F)

DIGEST

Amends 876 IAC 1-1-23 to establish the requirements and procedures for the listing and selling principal broker to release earnest monies when one or more parties to a contract intend to perform. Amends 876 IAC 1-4-2 to revise the seller's residential real estate sales disclosure form. Amends 876 IAC 4-1-3 to allow continuing education courses once approved through continuing education sponsors to be used by other sponsors without further approval. Effective 30 days after filing with the secretary of state.

876 IAC 1-1-23
876 IAC 1-4-2
876 IAC 4-1-3

SECTION 1. 876 IAC 1-1-23, AS AMENDED AT 25 IR 102, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

876 IAC 1-1-23 Written offers to purchase; disposition of money received

Authority: IC 25-34.1-2-5; IC 25-34.1-2-5.1
Affected: IC 25-34.1-2-5

Sec. 23. **(a)** Any and all written offers to purchase or authorization to purchase shall be communicated to the seller for his or her formal acceptance or rejection immediately upon receipt of such offer, and such offers or authorizations shall be made in quadruplicate, one (1) copy to the prospective purchasers at the time of signing, one (1) copy for the principal broker's files, one (1) copy to the sellers, and one (1) copy to be returned to the purchasers after acceptance or rejection. The listing principal broker shall, on or before the next two (2) banking days after acceptance of the offer to purchase by the seller, do one (1) of the following:

(1) Deposit all money received in connection with a transaction in his or her escrow/trust account.

(2) Delegate the responsibility to the selling principal broker to deposit the money in the selling broker's escrow/trust account.

In any event, the commission shall hold the listing principal broker responsible for the money. In the event the earnest money deposit is other than cash, this fact shall be communicated to the seller prior to his or her acceptance of the offer to purchase, and such fact shall be shown in the earnest money receipt. All money shall be retained in the escrow/trust account so designated until disbursement thereof is properly authorized. The listing ~~and~~ **or** selling principal brokers holding any earnest money are not required to make payment to the purchasers or sellers when a real estate transaction is not consummated unless the parties enter into a mutual release of the funds or a court issues an order for payment, **except as permitted in subsection (b).**

(b) Upon being notified that one (1) or more parties to an offer to purchase intends *[sic., intend]* **not to perform, the listing or selling principal broker, holding the earnest money, may release the earnest money deposit as provided in the offer to purchase or, if no provision is made in the offer to purchase, the selling or listing principal, holding the earnest money, may initiate the release process. The release process shall require the selling or listing principal broker to notify all parties at their last known address by certified mail that the earnest money deposit shall be distributed to the parties specified in the letter unless:**

(1) all parties enter into a mutual release; or

(2) one (1) or more of the parties initiate litigation;

within sixty (60) days of the mailing date of the certified letter. If neither buyer or seller initiates litigation or enters into a written release within sixty (60) days of the mailing date of the certified letter, the broker may release the earnest money deposit to the party identified in the certified letter. *(Indiana Real Estate Commission; Rule 24; filed Sep 28, 1977, 4:30 p.m.: Rules and Regs. 1978, p. 800; filed Dec 11, 1986, 10:40 a.m.: 10 IR 878; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:50 a.m.: 25 IR 102; filed Oct 28, 2002, 12:01 p.m.: 26 IR 789)*

SECTION 2. 876 IAC 1-4-2 IS AMENDED TO READ AS FOLLOWS:

876 IAC 1-4-2 Residential sales disclosure; form

Authority: IC 24-4.6-2-7
Affected: IC 24-4.6-2

Sec. 2. The following is the seller's residential real estate sales disclosure form:

SELLER'S RESIDENTIAL REAL ESTATE SALES DISCLOSURE
State Form 46234 (R/1293)

Date (*month, day, year*)

Seller states that the information contained in this Disclosure is correct to the best of Seller's CURRENT ACTUAL KNOWLEDGE as of the above date. The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property. The representations in this form are the representations of the owner and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and the owner. Indiana law (IC 24-4.6-2) generally requires sellers of 1-4 unit residential property to complete this form regarding the known physical condition of the property. An owner must complete and sign the disclosure form and submit the form to a prospective buyer before an offer is accepted for the sale of the real estate.

Property address (*number and street, city, state, ZIP code*)

1. The following are in the conditions indicated:

A. APPLIANCES	**None/Not Included**	**Defective**	**Not Defective**	**Do Not Know**
Built-in Vacuum System				
Clothes Dryer				
Clothes Washer				
Dishwasher				
Disposal				
Freezer				
Gas Grill				
Hood				
Microwave Oven				
Oven				
Range				
Refrigerator				
Room Air Conditioner(s)				
Trash Compactor				
TV Antenna/Dish				
Other:				

C. WATER & SEWER SYSTEM	**None/Not Included**	**Defective**	**Not Defective**	**Do Not Know**
Cistern				
Septic Field/Bed				
Hot Tub				
Plumbing				
Aerator System				
Sump Pump				
Irrigation Systems				
Water Heater/Electric				
Water Heater/Gas				
Water Heater/Solar				
Water Purifier				
Water Softener				
Well				
Other Sewer System (Explain)				

	Yes	No	Do Not Know
Are the improvements connected to a public water system?			
Are the improvements connected to a public sewer system?			
Are there any additions that may require improvements to the sewage disposal system?			
If yes, have the improvements been completed on the sewage disposal system?			
Are the improvements connected to a private/community water system?			
Are the improvements connected to a private/community sewer system?			

B. ELECTRICAL SYSTEM	**None/Not Included**	**Defective**	**Not Defective**	**Do Not Know**
Air Purifier				
Burglar Alarm				
Ceiling Fan(s)				
Garage Door Opener Controls				
Inside Telephone Wiring and Blocks/Jacks				
Intercom				
Light Fixtures				
Sauna				
Smoke/Fire Alarm(s)				
Switches and Outlets				
Vent Fan(s)				
60/100/200 Amp Service (Circle one)				

NOTE: "Defect" means a condition that would have a significant adverse effect on the value of the property that would significantly impair the health or safety of future occupants of the property, or that if not repaired, removed, or replaced would significantly shorten or adversely affect the expected normal life of the premises.

D. HEATING & COOLING SYSTEM	**None/Not Included**	**Defective**	**Not Defective**	**Do Not Know**
Attic Fan				
Central Air Conditioning				
Hot Water Heat				
Furnace Heat/Gas				
Furnace Heat/Electric				
Solar House-Heating				
Woodburning Stove				
Fireplace				
Fireplace Insert				
Air Cleaner				
Humidifier				
Propane Tank				
Other Heating Source				

2. ROOF	YES	NO	DO NOT KNOW
Age, if known: _____ Years			
Does the roof leak?			
Is there present damage to the roof?			
Is there more than one roof on the house? If so, how many ~~roofs?~~ **layers?** _____			

3. HAZARDOUS CONDITIONS	YES	NO	DO NOT KNOW
Have there been or are there any ~~existing~~ hazardous conditions on the property, such as methane gas, lead paint, radon gas in house or well, radioactive material, landfill, mineshaft, expansive soil, toxic materials, **mold, other biological contaminants,** asbestos insulation, or PCB's? **Explain:**			

4. OTHER DISCLOSURES	YES	NO	DO NOT KNOW
Do improvements have aluminum wiring?			
Are there any foundation problems with the improvements?			
Are there any encroachments?			
Are there any violations of zoning, building codes, or restrictive covenants?			
Is the present use a nonconforming use? Explain:			
Have you received any notices by any governmental or quasi-governmental agencies affecting this property? Are there any structural problems with the building?			
Have any substantial additions or alterations been made without a required building permit?			
Are there moisture and/or water problems in the basement, ~~or~~ crawl space area, **or any other area?**			
Is there any damage due to wind, flood, termites, or rodents?			
Have any improvements been treated for wood destroying insects?			
Are the furnace/woodstove/chimney/flue all in working order?			
Is the property in a flood plain?			
Do you currently pay flood insurance?			
Does the property contain underground storage tank(s)?			
Is the ~~seller~~ **homeowner** a licensed real estate salesperson or broker?			
Is there any threatened or existing litigation regarding the property?			
Is the property subject to covenants, conditions, and/or restrictions of a homeowner's association?			
Is the property located within one (1) mile of an airport?			

E. ADDITIONAL COMMENTS AND/OR EXPLANATIONS: (Use additional pages if necessary).

The information contained in this Disclosure has been furnished by the Seller, who certifies to the truth thereof, based on the Seller's CURRENT ACTUAL KNOWLEDGE. A disclosure form is not a warranty by the owner or the owner's agent, if any, and the disclosure form may not be used as a substitute for any inspections or warranties that the prospective buyer or owner may later obtain. At or before settlement, the owner is required to disclose any material change in the physical condition of the property or certify to the purchaser at settlement that the condition of the property is substantially the same as it was when the disclosure form was provided. Seller and Purchaser hereby acknowledge receipt of this Disclosure by signing below:

Signature of Seller	Date	Signature of Buyer	Date
Signature of Seller	Date	Signature of Buyer	Date

The seller hereby certifies that the condition of the property is substantially the same as it was when the Seller's Disclosure form was originally provided to the Buyer.

Signature of Seller	Date	Signature of Seller	Date

(Indiana Real Estate Commission; 876 IAC 1-4-2; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2352; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2787; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Oct 28, 2002, 12:01 p.m.: 26 IR 789)

SECTION 3. 876 IAC 4-1-3, AS AMENDED AT 25 IR 103, SECTION 6, IS AMENDED TO READ AS FOLLOWS:

876 IAC 4-1-3 Significant changes

Authority: IC 25-34.1-9-21
Affected: IC 25-34.1

Sec. 3. (a) Any significant changes in the operation of the approved sponsor must be approved by the commission prior to the effective date of the change. Any change in the course outline must be approved by the commission prior to the course being offered or given. The commission shall review the changes to determine whether or not the sponsor shall continue to be approved.

(b) Significant changes shall include the following:

(1) Change in ownership of the sponsor, including changes in the officers and directors of the corporation.
(2) A new school director.
(3) A new instructor.
(4) Any change in course outline.

(c) Once a continuing education instructor ~~has~~ **and course outline have** been approved through the continuing education sponsor, the instructor ~~is~~ **and the course outline are** approved ~~to teach~~ for all continuing education sponsors. **It shall be the responsibility of the continuing education sponsor to ensure that the commission has previously approved the course outline.**

(d) Notwithstanding subsection (b)(3), an instructor who has already been approved under this section or section 2 of this rule for another approved sponsor shall not be considered a new instructor. *(Indiana Real Estate Commission; 876 IAC 4-1-3; filed Dec 1, 1993, 10:30 a.m.: 17 IR 766; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2790; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:50 a.m.: 25 IR 103; filed Oct 28, 2002, 12:01 p.m.: 26 IR 791)*

LSA Document #01-427(F)
Notice of Intent Published: 25 IR 1199
Proposed Rule Published: August 1, 2002; 25 IR 3874
Hearing Held: August 22, 2002
Approved by Attorney General: October 10, 2002
Approved by Governor: October 21, 2002
Filed with Secretary of State: October 28, 2002, 12:01 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Under IC 4-22-8-4(c), corrects the following typographical, clerical, or spelling errors in the Indiana Administrative Code, 2001 edition.

(1) In 50 IAC 12-16-30, in the line designated 33, after "buyer or representative", insert "seller".

(2) In 50 IAC 12-16-30, in the line designated 33, third column, delete "12" and insert "35".

(3) In 50 IAC 12-16-30, delete all of line 34.

Retroactively effective to the same date and time as LSA Document #97-141(F).

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-290(AC)

Under IC 4-22-2-38, corrects the following typographical, clerical, or spelling errors in LSA Document #02-290(E), printed at 26 IR 390:

(1) On page 5, SECTION 6, of the original document, delete "2002" and insert "2003".

(2) On page 5, SECTION 7, of the original document, delete "2002" and insert "2003".

Filed with Secretary of State: October 17, 2002, 2:43 p.m.

Under IC 4-22-2-38(g)(2), this correction takes effect 45 days from the date and time filed with the Secretary of State.

TITLE 71 INDIANA HORSE RACING COMMISSION

LSA Document #02-282(PC)

Under IC 4-22-8-4(c), corrects the following typographical, clerical, or spelling errors in LSA Document #02-282(E), printed at 26 IR 393:

(1) In SECTION 2, in the section heading, on page 2 of the original document (26 IR 393), delete "71 IAC 1-1.5-37.5" and insert "71 IAC 1.5-1-37.5".

(2) In SECTION 2, in the history line, on page 2 of the original document (26 IR 393), delete "71 IAC 1-1.5-37.5" and insert "71 IAC 1.5-1-37.5".

Retroactively effective to the same date and time as LSA Document #02-282(E).

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

LSA Document #01-392(PC)

Under IC 4-22-8-4(c), corrects the following typographical, clerical, or spelling errors in LSA Document #01-392(F), printed at 26 IR 329:

(1) In SECTION 11, on page 16 of the original document (26 IR 341), delete references to "345 IAC 8-3-9" in the section heading, section, and history line, and insert "345 IAC 8-3-10".

(2) In SECTION 12, on page 17 of the original document (26 IR 342), delete all references to "345 IAC 8-3-10" in the section heading, section, and history line, and insert "345 IAC 8-3-11".

Retroactively effective to the same date and time as LSA Document #01-392(F).

TITLE 804 BOARD OF REGISTRATION FOR ARCHITECTS AND LANDSCAPE ARCHITECTS

LSA Document #02-20(PC)

Under IC 4-22-8-4(c), corrects the following clerical error in LSA Document #02-20(F), printed at 26 IR 370:

In 804 IAC 1.1-3-1(a)(8), on page 2 of the original document (26 IR 370), show as canceled text "(8) For issuance of a temporary certificate of registration to an out-of-state landscape architect, for a period not to exceed one (1) year or for the duration of a specific project for a specific site, a fee of seventy-five dollars ($75)."

Retroactively effective to the same date and time as LSA Document #02-20(F).

TITLE 45 DEPARTMENT OF STATE REVENUE

LSA Document #02-316(E)

DIGEST

Temporarily adds provisions to explain the contents of IC 6-2.3 concerning the utility receipts tax, which is effective January 1, 2003. Authority: HEA 1001ss SECTION 196(b). Effective July 1, 2002.

SECTION 1. **(a) In addition to the definitions in IC 6-2.3, the definitions in this SECTION apply throughout this document.**

(b) "Affiliated group" means an affiliated group of corporations described in IC 6-2.3-6-5.

(c) "Department" means the department of state revenue.

(d) "Gross receipts" refers to anything of value, including cash or other tangible or intangible property, that a taxpayer receives in consideration for the retail sale of utility services for consumption before deducting any costs incurred in providing the utility services.

(e) "Hazardous waste" has the meaning set forth in IC 13-11-2-99(a) and includes a waste determined to be a hazardous waste under IC 13-22-2-3(b).

(f) "Receives", as applied to a taxpayer, means:
(1) the actual coming into possession of, or the crediting to, the taxpayer, of gross receipts; or
(2) the payment of a taxpayer's expenses, debts, or other obligations by a third party for the taxpayer's direct benefit.

(g) "Resource recovery system" means tangible property directly used to dispose of solid waste or hazardous waste by converting it into energy or other useful products.

(h) "Solid waste" has the meaning set forth in IC 13-11-2-205(a). The term does not include dead animals or any animal solid or semisolid wastes.

(i) "Taxable gross receipts" means the remainder of:
(1) all gross receipts that are not exempt from tax under IC 6-2.3-4; less
(2) all deductions that are allowed under IC 6-2.3-5.

(j) "Taxable period" means a calendar year, a fiscal year, any of the quarterly periods of either a calendar or fiscal year, or any other period specified by the department under this document.

(k) "Taxable year" means the year that a taxpayer uses for purposes of filing the taxpayer's federal income tax return. If a taxpayer does not file a federal income tax return, the term means a calendar year.

(l) "Taxpayer" means any:
(1) assignee;
(2) receiver;
(3) commissioner;
(4) fiduciary;
(5) trustee;
(6) institution;
(7) consignee;
(8) firm;
(9) partnership;
(10) limited liability partnership;
(11) joint venture;
(12) pool;
(13) syndicate;
(14) bureau;
(15) association;
(16) cooperative association;
(17) corporation;
(18) political subdivision (as defined in IC 36-1-2-13) or the state of Indiana, to the extent engaged in private or proprietary activities or business. Proprietary activities include the furnishing of electrical energy, natural gas, water, steam, and telecommunication services;
(19) trust;
(20) limited liability company; or
(21) other group or combination acting as a unit; regardless of whether the entity is exempt for state adjusted gross income tax purposes under IC 6-3 or for federal income tax purposes under the Internal Revenue Code.

(m) "Telecommunication services" means the transmission of messages or information by or using wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. The term does not include any of the following:
(1) Value added services in which computer processing applications are used to act on the form, content, code, or protocol of the information for purposes other than transmission.
(2) Value added services providing text, graphic, video, or audio program content for a purpose other than transmission.
(3) The transmission of video programming or other programming:
(A) provided by; or
(B) generally considered comparable to programming provided by;
a television broadcast station or a radio broadcast station, including cable TV, direct broadcast satellite (DBS/DISH), and digital television (DTV).

(n) "Utility service" means furnishing any of the following:
(1) Electrical energy.
(2) Natural gas, either mixed with another substance or pure, used for heat, light, cooling, or power. Natural gas does not include propane gas or liquefied petroleum gas.

(3) Water.
(4) Steam.
(5) Sewage services (as defined in IC 13-11-2-200).
(6) Telecommunication services.

SECTION 2. **(a) An income tax, known as the utility receipts tax, is imposed upon the receipt of:**
(1) the entire taxable gross receipts of a taxpayer that is a resident or a domiciliary of Indiana; and
(2) the taxable gross receipts derived from activities or businesses or any other sources within Indiana by a taxpayer that is not a resident or a domiciliary of Indiana.

(b) The receipt of taxable gross receipts from transactions is subject to a tax rate of one and four-tenths percent (1.4%).

(c) A stockholder who receives a distribution of the assets of a corporation, a joint stock association, or other organization in which the stockholder holds stock is liable, to the extent of the assets the stockholder receives from the organization, for a certain percentage of the unpaid gross receipts taxes that the organization owes after dissolution. That percentage equals the percentage of the total outstanding stock of the organization held by the stockholder before dissolution.

(d) Any other owner of a utility receipts taxpayer who receives a distribution of the assets of a taxpayer in which the owner holds an ownership interest is liable, to the extent of the assets the owner receives from the taxpayer, for a certain percentage of the unpaid utility receipts taxes that the taxpayer owes after dissolution. That percentage equals the percentage of ownership interest the owner held in the taxpayer before dissolution.

(e) Every S corporation or other entity exempt from federal income taxation under Section 1361 of the Internal Revenue Code, partnership, limited liability company, and limited liability partnership, is liable for the utility receipts tax. No utility receipts tax liability is imposed under this document on a partner's, member's, beneficiary's, or shareholder's distributive share of the entity's gross income.

(f) Any election by a taxpayer under federal regulation 26 CFR 301.7701-3 (check-the-box) to change its entity classification for federal adjusted gross income tax purposes, therefore for state adjusted gross income tax purposes under IC 6-3, is not recognized for utility receipts tax purposes, i.e., a partnership that elects to be classified for federal adjusted gross income tax purposes as a corporation remains a partnership for utility receipts tax purposes.

(g) Any election by a taxpayer under Internal Revenue Code Section 1361(b)(3) for federal adjusted gross income tax purposes, therefore for state adjusted gross income tax purposes under IC 6-3, to participate in a Qualified Subchapter S Subsidiary (QSSS) filing is not recognized for utility receipts tax purposes with each taxpayer remaining a separate taxable entity.

SECTION 3. **(a) Determinations concerning whether the receipts of a taxpayer are taxable gross receipts shall be made in conformity with this document.**

(b) Notwithstanding any other provisions of this document, receipts that would otherwise not be taxable under this document are taxable gross receipts under this document to the extent that the amount of the nontaxable receipts are not separated from the taxable receipts on the records or returns of the taxpayer.

(c) Gross receipts include the amount of any legal settlement or judgment received to compensate the taxpayer for lost retail sales of utility services.

(d) Gross receipts do not include collections by a taxpayer of a tax, fee, or surcharge imposed by a state, a political subdivision, or the United States if:
(1) the tax, fee, or surcharge is imposed solely on the sale at retail of utility services;
(2) the tax, fee, or surcharge is remitted to the appropriate taxing authority; and
(3) the taxpayer collects the tax, fee, or surcharge separately as an addition to the price of the utility service sold.

(e) Gross receipts do not include collections by a taxpayer of a tax, fee, or surcharge that is:
(1) approved by the Federal Communications Commission or the utility regulatory commission; and
(2) stated separately as an addition to the price of telecommunication services sold at retail.

(f) Gross receipts do not include a wholesale sale to another generator or reseller of utility services.

(g) A sale is a retail sale if the taxpayer sells utility services to a buyer that subsequently makes a sale described in IC 6-2.3-4-5.

(h) A sale shall be treated as a retail sale if the taxpayer sells water or gas to another individual or entity that bottles and resells the water or gas.

(i) Gross receipts do not include amounts received by a corporation or a division of a corporation owned, operated, or controlled by its member electric cooperatives as payment from the electric cooperatives for electrical energy to be resold to their member-owner consumers.

(j) Gross receipts do not include amounts received by a joint agency established under IC 8-1-2.2 that constitutes a

payment by a municipality that is a member of the joint agency for electrical energy that will be sold by the municipality to retail customers.

(k) Gross receipts do not include a deposit of cash made with a taxpayer to the extent that the deposit is refundable.

(l) Gross receipts include receipts received for installation, maintenance, repair, equipment, or leasing services provided to a commercial or domestic consumer that are directly related to the delivery of utility services to the commercial or domestic consumer or the removal of equipment from a commercial or domestic consumer upon the termination of service. "Directly related to the delivery of utility services" means any services or equipment that is provided to a consumer that permits the consumer to receive and use utility services.

SECTION 4. **(a) Gross receipts derived from sales to the United States government are exempt from the utility receipts tax to the extent the state is prohibited by the Constitution of the United States from taxing the gross receipts.**

(b) Gross receipts derived from business conducted in commerce between Indiana and either another state or territory or a foreign country are exempt from utility receipts tax to the extent the state is prohibited from taxing the gross receipts by the Constitution of the United States.

(c) Gross receipts received by:
(1) a conservancy district established under IC 14-33-20 or IC 13-3-4 (before its repeal);
(2) a regional water, sewage, or solid waste district established under IC 13-26 or IC 13-3-2 (before its repeal);
(3) a nonprofit corporation formed solely for the purpose of supplying water to the public. For a political subdivision to qualify for this exemption, the political subdivision must be both a nonprofit corporation and have been formed solely for the purpose of supplying water to the public;
(4) a county solid waste management district or a joint solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal);
(5) a nonprofit corporation formed solely for the purpose of providing a combination of:
(A) water; and
(B) sewer and sewage service;
to the public. For a political subdivision to qualify for this exemption, the political subdivision must be both a nonprofit corporation and have been formed solely for the purpose of providing a combination of water, and sewer and sewage service to the public; or
(6) a county onsite waste management district established under IC 36-11;
are exempt from the utility receipts tax.

(d) An occasional sale of utility services by a taxpayer that is not regularly engaged in the trade or business of selling utility services is exempt from the utility receipts tax.

(e) This section applies to the sale of utility services by the owner or operator of any of the following facilities:
(1) A commercial hotel, motel, inn, or campground.
(2) A park for mobile homes, manufactured homes, trailers, or recreational vehicles.
(3) Marinas.

(f) Gross receipts derived from the sale of utility services by an owner or operator described in subsection (a) to a user of a facility described in subsection (a) are exempt from the utility receipts tax.

SECTION 5. **(a) Each taxable year a taxpayer is entitled to deduct from the taxpayer's gross receipts an amount equal to the product of:**
(1) one thousand dollars ($1,000); multiplied by
(2) a fraction.
The numerator of the fraction is the number of days in the taxpayer's taxable year for which the taxpayer is subject to the utility receipts tax, and the denominator of the fraction is the number of days in the taxpayer's taxable year.

(b) If a taxpayer files quarterly gross receipts tax returns the taxpayer may use a proportionate part of the deduction provided by subsection (a) for each return filed.

(c) A taxpayer is entitled to only one (1) deduction under this SECTION each taxable year, regardless of the number of partners or participants in the organization.

(d) An affiliated group that files a consolidated return under IC 6-2.3-6-5 is entitled to only one (1) deduction under this SECTION on that consolidated return.

(e) Each taxable year, a taxpayer that reports the taxpayer's gross receipts on an accrual basis is entitled to deduct bad debts from the taxpayer's gross receipts in the same manner provided in IC 6-2.5-6-9.

(f) Except as provided in subsection (g), if:
(1) for federal income tax purposes a taxpayer is allowed a depreciation deduction for a particular taxable year with respect to a resource recovery system; and
(2) the resource recovery system processes solid waste or hazardous waste;
the taxpayer is entitled to a deduction from the taxpayer's gross receipts for that same taxable year. The amount of the deduction equals the total depreciation deductions that the taxpayer is allowed, with respect to an Indiana resource recovery system, for that taxable year under Sections 167 and 179 of the Internal Revenue Code.

(g) A taxpayer is not entitled to the deduction provided by

subsection (f) for a particular taxable year with respect to a resource recovery system that is directly used to dispose of hazardous waste if during that taxable year the taxpayer:

(1) is convicted of any violation under IC 13-7-13-3 (before its repeal), IC 13-7-13-4 (before its repeal), or IC 13-30-6; or

(2) is subject to an order or consent decree based upon a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

(h) As used in subsection (g)(2), "major or moderate potential for harm" means a violation that was injurious or threatened to:

(1) be injurious to:

(A) human health;

(B) plant or animal life; or

(C) property; or

(2) interfere unreasonable with the enjoyment of life or property.

(i) Each taxable year a taxpayer is entitled to deduct from the taxpayer's gross receipts the amount paid by the taxpayer during that taxable year for the return of an empty container of the type customarily returned by the buyer of the contents for reuse as a container if the taxpayer originally included such deposits in its gross receipts.

(j) If a taxpayer is required to file quarterly gross receipts tax returns, the taxpayer may claim the deduction provided by subsection (i) on those returns.

(k) A taxpayer is entitled to a deduction for gross receipts exempt from taxation under IC 6-8.1-15 and the Mobile Telecommunications Sourcing Act (4 U.S.C. 116 et seq.).

(l) A taxpayer is entitled to a deduction for retail sales of bottled water or gas to the extent that the purchase of the water or gas was treated as a retail transaction under IC 6-2.3-3-6.

SECTION 6. **(a) Expect as provided in subsections (d) through (f), a taxpayer shall file utility receipts tax returns with, and pay the taxpayer's utility receipts tax liability to, the department by the due date of the estimated return. A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated utility receipts tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year which does not end on December 31, the due dates for filing estimated utility receipts tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year.**

(b) With each return filed, with each payment by cashier's check, certified check, or money order delivered in person or by overnight courier, and with each electronic funds transfer made, a taxpayer shall pay to the department twenty-five percent (25%) of the estimated or the exact amount of utility receipts tax that is due.

(c) The penalty prescribed by IC 6-8.1-10-2.1(b) shall be assessed by the department on taxpayers failing to make payments as required in subsection (a), (b), or (e) of this SECTION. However, no penalty shall be assessed as to any estimated payments of utility receipts tax which equal or exceed twenty percent (20%) of the final tax liability for such taxable year. In addition, the penalty as to any underpayment of tax on an estimated return shall only be assessed on the difference between the actual amount paid by the taxpayer on such estimated return and twenty-five percent (25%) of the taxpayer's final utility receipts tax liability for such taxable year.

(d) If a taxpayer's estimated annual utility receipts tax liability does not exceed one thousand dollars ($1,000), the taxpayer is not required to file an estimated utility receipts tax return.

(e) If the department determines that a taxpayer's:

(1) estimated quarterly utility receipts tax liability for the current year; or

(2) average estimated quarterly utility receipts tax liability for the preceding year;

exceeds ten thousand dollars ($10,000), the taxpayer shall pay the estimated utility receipts taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(f) If a taxpayer's utility receipts tax payment is made by electronic funds transfer, the taxpayer is not required to file an estimated utility receipts tax return.

(g) Every taxpayer who receives more than one thousand dollars ($1,000) in gross receipts during a particular taxable year shall file with the department an annual utility receipts tax return. At the time of filing an annual return, a taxpayer shall pay to the department an amount equal to the remainder of:

(1) the total utility receipts tax liability incurred by the taxpayer for that particular taxable year; minus

(2) the total amount of utility receipts taxes that was previously paid to the department for any quarter of that same taxable year.

(h) Except as provided in subsection (i), a taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's annual utility receipts tax return and pay the

tax, if any, for that taxable year on or before April 15 of the immediately succeeding tax year.

(i) If a taxpayer uses a taxable year that does not end on December 31, the taxpayer shall file its annual utility receipts tax return and pay the tax, if any, for that taxable year on or before the fifteenth day of the fourth month of the immediately succeeding tax year.

(j) Any taxpayer who does not file an annual utility receipts tax return for a taxable year may be required to execute and file with the department a sworn statement that the taxpayer did not receive more than one thousand dollars ($1,000) of taxable gross receipts during that taxable year.

(k) Any forms prescribed by the department under IC 6-8.1-3-4 that concern the collection of the utility receipts tax may not require a taxpayer to show the corporate name or title of any stock or the name of the obligor of any other security from which the taxpayer derives gross receipts.

(l) The department may require a taxpayer who receives gross receipts at two (2) or more business locations within the state to file with each quarterly and annual utility receipts tax return an information return that shows the allocation of gross receipts to each business location at which the gross receipts were received.

SECTION 7. **(a) Corporations are affiliated if at least eighty percent (80%) of the voting stock of one (1) corporation (exclusive of directors' qualifying shares) is owned by the other corporation. Every corporation affiliated with another corporation is affiliated with every corporation that is affiliated with such other corporation. All corporations so affiliated constitute an affiliated group. This definition does not include S corporations.**

(b) Corporate members of an affiliated group that are incorporated in Indiana or are authorized to do business in Indiana may file a consolidated utility receipts tax return on or before the due date of the annual return, including valid extensions.

(c) As used in subsection (b), "authorized to do business in Indiana" means:

(1) a foreign corporation has applied for and been granted a certificate of authority to transact business in Indiana under the appropriate statute; and

(2) the authority has not been withdrawn or revoked.

(d) An affiliated group may only eliminate intercompany wholesale sales. Sales may not be deducted as both wholesale sales and interstate sales.

(e) Each corporate member of an affiliated group that files a consolidated utility receipts tax return is jointly and severally liable for the utility receipts tax imposed on the affiliated group and on each member of that group.

(f) An affiliated group must elect at the time it files its first annual return whether or not it will file a consolidated utility receipts tax return or whether each corporate member of the group will file a separate utility receipts tax return. After the taxpayer's election is made, the group must file utility receipts tax returns in the same manner as the group's first annual return is filed, unless the department allows the group to change the manner in which it files utility receipts tax returns.

(g) The first consolidated utility receipts tax return filed by an affiliated group may be filed by any member of the group incorporated in Indiana or authorized to do business in Indiana. Subsequent consolidated returns shall be filed by the member who filed the first consolidated return for the group, unless the department allows another member to file the group's consolidated returns.

(h) An affiliated group filing a consolidated annual return shall file its quarterly returns on a consolidated basis by the same member required to file the annual return. If consolidated quarterly returns have not been filed by the affiliated group, the members of the group will be required to segregate their receipts and verify the proper credit to be taken on the annual return for quarterly payments made.

SECTION 8. **(a) A receiver, a trustee in dissolution, a trustee in bankruptcy, or an assignee operating the property or business of a taxpayer shall file a utility receipts tax return for that taxpayer and pay any tax due on gross receipts reported in the return in the same manner that the taxpayer would be required to file a return and pay the tax under this document if the taxpayer had control of the business or property.**

(b) Any fiduciary filing a return under subsection (a) shall report all previously unreported income derived from property or business controlled by the fiduciary.

(c) The utility receipts tax liability imposed upon any property held by a fiduciary described in subsection (a) is a lien upon the property from which the gross receipts were derived.

(d) If any utility receipts tax is due and unpaid after a fiduciary described in subsection (a) is discharged, each distributee is liable for the utility receipts tax due in an amount equal to the quotient of:

(1) the distributee's share of the business or property sold; divided by

(2) the total distribution made by the fiduciary.

(e) Any resident of Indiana who is a fiduciary described in subsection (a), and who receives gross receipts for a

distributee who is not an Indiana resident, must file a utility receipts tax return and pay the utility receipts tax due with that return before making a distribution to the distributee.

(f) Any taxpayer who is a resident of Indiana, and who receives gross receipts from a fiduciary described in subsection (a) who is not a resident of Indiana, shall file a return reporting the receipt of such gross receipts and shall pay any utility receipts tax due on such gross receipts, as though the gross receipts had been received directly by the taxpayer, unless the nonresident fiduciary has already paid the tax due on the gross receipts.

SECTION 9. **(a) A taxpayer shall use either the cash or accrual method of accounting for purposes of determining the taxpayer's utility receipts tax liability. If a taxpayer uses either the cash or accrual method of accounting for federal tax purposes, the taxpayer must also use that same method in determining the taxpayer's utility receipts tax liability. If a taxpayer does not use either the cash or accrual method of accounting for federal tax purposes, the taxpayer shall use the cash method in determining the taxpayer's utility receipts tax liability.**

(b) As used in subsection (a), "cash method of accounting" means that receipts are reported in the year that they are actually or constructively received and deductions are generally taken in the year actually paid unless they should be taken in a different period to clearly reflect income. Examples include depreciation allowances and prepaid expenses.

(c) As used in subsection (a), "accrual method of accounting" means that receipts are reported and expenses are deductible when all the events have occurred that determine the right to the receipts or that determine the amount of the expense and the liability of the taxpayer to pay it. The term does not include any method of accounting other than the standard accrual basis method of accounting.

SECTION 10. **(a) A taxpayer who fails to keep records of the taxpayer's gross receipts and any other records that may be necessary to determine the amount of utility receipts tax the taxpayer owes for a period of three (3) years, as required by IC 6-8.1-5-4, commits a Class C infraction.**

(b) A taxpayer who fails to permit records described in subsection (a) to be examined at any time by the department in accordance with IC 6-8.1-5-4 commits a Class C infraction.

(c) A taxpayer who knowingly fails to produce or permit the department to examine records described in subsection (a) or (b) commits a Class B misdemeanor.

(d) A taxpayer or any officer, employee, or partner of a taxpayer who makes a false entry in the taxpayer's records with the intent to defraud the state or evade payment of the utility receipts tax commits a Class D felony.

(e) A taxpayer or any officer, employee, or partner of a taxpayer who keeps more than one (1) set of records for the taxpayer with the intent to defraud the state or evade the payment of the utility receipts tax commits a Class D felony.

(f) A person who fails to file a return required by this article or who enters false information in such a return with the intent to defraud the state commits a Class B misdemeanor.

(g) A taxpayer who knowingly fails to permit the department to inspect or appraise any property, or who knowingly fails to offer testimony or to produce any record as required in this article, commits a Class B misdemeanor.

(h) A taxpayer is subject to all applicable provisions of IC 6-8.1, including penalty and interest imposed by IC 6-8.1-10.

SECTION 11. **(a) On or before the fifth day of each month, the total amount of utility receipts tax revenues received by the department in the immediately preceding month shall be deposited in the state general fund.**

(b) Except as otherwise specifically provided in this article, the tax imposed by this article is in addition to all other licenses and taxes imposed by law as a condition precedent to engaging in any business, privilege, occupation, or activity that is taxable under such other license or tax.

(c) No court may allow or approve any final report of account of a receiver, trustee in dissolution, trustee in bankruptcy, commissioner appointed for the sale of real estate, or any other officer acting under the authority and supervision of a court, unless the account or final report shows, and the court finds, that all utility receipts tax due has been paid, and that all utility receipts tax that may become due is secured by bond, deposit, or otherwise.

(d) A fiduciary described in subsection (c) shall provide proof to a court that all utility receipts tax has been paid, and that any required security has been provided. The fiduciary shall request the department to issue a certificate of clearance certifying that all utility receipts tax which is due and payable has been paid and that any required security has been provided. The certificate shall be issued by the department within thirty (30) days after request. When issued, the certificate is conclusive proof that no utility receipts tax is due and that any required security has been provided.

(e) If the department fails to issue a certificate of clearance under subsection (d) within thirty (30) days after request, a fiduciary may provide evidence to a court that

demonstrates that no utility receipts tax is due and that any required security has been provided. Upon approval by the court, such evidence is conclusive proof of payment of the tax imposed by this article *[document]***.**

(f) Any utility receipts tax liability owed by a fiduciary is a preferred claim and has priority over all other claims except claims for judicial costs and costs of administration.

SECTION 12. **SECTIONS 1 through 11 of this document expire July 1, 2004.**

LSA Document #02-316(E)
Filed with Secretary of State: November 8, 2002, 10:30 a.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-308(E)

DIGEST

Temporarily adds rules concerning instant game number 614. Effective November 1, 2002.

SECTION 1. **The name of this instant game is "Instant Game Number 614, $250 Christmas Club".**

SECTION 2. **Instant tickets in instant game number 614 shall sell for one dollar ($1) per ticket.**

SECTION 3. **(a) Each instant ticket in instant game number 614 shall contain fourteen (14) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. Two (2) play symbols and play symbol captions shall appear in the area labeled "WINNING NUMBERS". Twelve (12) play symbols and play symbol captions shall appear in the area labeled "YOUR NUMBERS" and be arranged in pairs representing numbers and prize amounts.**

(b) The play symbols and play symbol captions in instant game number 614, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

(1) 1
ONE
(2) 2
TWO
(3) 3
THR
(4) 4
FOR
(5) 5
FIV
(6) 6
SIX
(7) 7
SVN
(8) 8
EGT
(9) 9
NIN
(10) 10
TEN
(11) 11
ELV
(12) 12
TLV

(c) The play symbols and play symbol captions representing prize amounts in instant game number 614 shall consist of the following possible play symbols and play symbol captions:

(1) $1.00
ONE
(2) $2.00
TWO
(3) $3.00
THREE
(4) $5.00
FIVE
(5) $10.00
TEN
(6) $20.00
TWENTY
(7) $30.00
THIRTY
(8) $50.00
FIFTY
(9) $100
ONE HUN
(10) $250
TWO HUN FTY

SECTION 4. **The holder of a ticket in instant game number 614 shall remove the latex material covering the fourteen (14) play symbols and play symbol captions. If one (1) or more of "YOUR NUMBERS" match either of the "WINNING NUMBERS", the holder is entitled to the prize amount paired with the matched number. The matched prize play symbols, prize amounts, and number of winners in instant game number 614 are as follows:**

Matched Prize Symbol	Prize Amount	Approximate Number of Winners
1–$1.00	$1	571,200
2–$1.00	$2	108,800
1–$2.00	$2	95,200
3–$1.00 + 1–$2.00	$5	54,400

1–$1.00 + 2–$2.00	**$5**	**27,200**
1–$2.00 + 1–$3.00	**$5**	**13,600**
1–$5.00	**$5**	**13,600**
1–$1.00 + 2–$2.00 + 1–$5.00	**$10**	**6,800**
1–$2.00 + 1–$3.00 + 1–$5.00	**$10**	**6,800**
2–$5.00	**$10**	**6,800**
1–$10.00	**$10**	**6,800**
2–$5.00 + 2–$10.00	**$30**	**6,800**
1–$30.00	**$30**	**6,800**
3–$10.00 + 1–$20.00	**$50**	**680**
1–$10.00 + 2–$20.00	**$50**	**680**
1–$50.00	**$50**	**340**
3–$50.00 + 1–$100	**$250**	**170**
1–$50.00 + 2–$100	**$250**	**170**
1–$250	**$250**	**136**

SECTION 5. **(a) There shall be approximately four million (4,000,000) instant tickets initially available in instant game number 614.**

(b) The odds of winning a prize in instant game number 614 are approximately 1 in 4.40.

(c) All reorders of tickets for instant game number 614 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of two hundred forty thousand (240,000); and
(3) odds;
as contained in the initial order.

SECTION 6. **The last day to claim a prize in instant game number 614 is November 30, 2003.**

SECTION 7. **SECTIONS 1 through 6 of this document expire December 31, 2003.**

LSA Document #02-308(E)
Filed with Secretary of State: November 1, 2002, 12:13 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-309(E)

DIGEST

Temporarily adds rules concerning instant game number 615. Effective November 1, 2002.

SECTION 1. **The name of this instant game is "Instant Game Number 615, Winter Spectacular".**

SECTION 2. **Instant tickets in instant game number 615 shall sell for twenty dollars ($20) per ticket.**

SECTION 3. **(a) Each instant ticket in instant game number 615 shall contain sixty-five (65) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. Five (5) play symbols and play symbol captions shall appear in the area labeled "WINNING NUMBERS". Sixty (60) play symbols and play symbol captions shall appear in the area labeled "YOUR NUMBERS" and be arranged in pairs representing numbers or pictures and prize amounts.**

(b) The play symbols and play symbol captions in instant game number 615, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:
(1) 1
ONE
(2) 2
TWO
(3) 3
THR
(4) 4
FOR
(5) 5
FIV
(6) 6
SIX
(7) 7
SVN
(8) 8
EGT
(9) 9
NIN
(10) 10
TEN
(11) 11
ELV
(12) 12
TLV
(13) 13
TRN
(14) 14
FRN
(15) 15
FTN
(16) 16
SXT
(17) 17
SVT
(18) 18
ETN
(19) 19
NTN
(20) 20
TWY

(21) 21
TWN
(22) 22
TWT
(23) 23
TWR
(24) 24
TWF
(25) 25
TWV
(26) 26
TWS
(27) 27
TSN
(28) 28
TWE
(29) 29
TNI
(30) 30
TTY
(31) 31
THO
(32) 32
THT
(33) 33
TTH
(34) 34
TTF
(35) 35
THF
(36) 36
THS
(37) 37
TTS
(38) 38
THE
(39) 39
THN
(40) 40
FRY
(41) 41
FRO
(42) 42
FRT
(43) 43
FTH
(44) 44
FRF
(45) 45
FRV
(46) 46
FRS
(47) 47
FRN
(48) 48
FRE
(49) 49
FNI
(50) 50
FTY
(51) 51
FYO
(52) 52
FYT
(53) 53
FYH
(54) 54
FYF
(55) 55
FYV
(56) 56
FYS
(57) 57
FYN
(58) 58
FYE
(59) 59
FNN
(60) 60
SXY
(61) A play symbol of a picture of a snowman
WIN

(c) The play symbols and play symbol captions representing prize amounts in instant game number 615 shall consist of the following possible play symbols and play symbol captions:

(1) $2.00
TWO
(2) $5.00
FIVE
(3) $10.00
TEN
(4) $20.00
TWENTY
(5) $25.00
TWY FIVE
(6) $40.00
FORTY
(7) $60.00
SIXTY
(8) $100
ONE HUN
(9) $500
FIVE HUN
(10) $250,000
TWHNFY THOU

SECTION 4. **The holder of a valid instant ticket in instant game number 615 shall remove the latex material covering**

the sixty-five (65) play symbols and play symbol captions. If one (1) or more of the play symbols and play symbol captions exposed in the "YOUR NUMBERS" area match any of the play symbols and play symbol captions exposed in the "WINNING NUMBERS" area, the holder is entitled to the prize amount paired with the matched number. If the play symbol of a picture of a snowman is exposed in the "YOUR NUMBERS" area, the holder is automatically entitled to a prize equal to all of the prize amounts exposed on the instant ticket. The matched prize play symbols, prize amounts, and number of winners in instant game number 615 are as follows:

Number of Matches or Winning Play Symbols	Total Prize Amount	Approximate Number of Winners
1–$20.00	$20	96,000
4–$10.00	$40	96,000
1–$40.00	$40	96,000
30–$2.00	$60	8,000
12–$5.00	$60	8,000
6–$10.00	$60	8,000
1–$60.00	$60	8,000
10–$10.00	$100	2,000
4–$25.00	$100	2,000
1–$100	$100	2,000
10–$10.00 + 20–$20.00	$500	400
5–$100	$500	400
1–$500	$500	400
1–$250,000	$250,000	5

SECTION 5. **(a) There shall be approximately nine hundred sixty thousand (960,000) instant tickets initially available in instant game number 615.**

(b) The odds of winning a prize in instant game number 615 are approximately 1 in 2.93.

(c) All reorders of tickets for instant game number 615 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
(3) odds;
as contained in the initial order.

SECTION 6. **The last day to claim a prize in instant game number 615 is November 30, 2003.**

SECTION 7. **SECTIONS 1 through 6 of this document expire December 31, 2003.**

LSA Document #02-309(E)
Filed with Secretary of State: November 1, 2002, 12:11 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-310(E)

DIGEST

Temporarily adds rules concerning instant game number 616. Effective November 1, 2002.

SECTION 1. **The name of this instant game is "Instant Game Number 616, Winner Wonderland".**

SECTION 2. **Instant tickets in instant game number 616 shall sell for one dollar ($1) per ticket.**

SECTION 3. **Each instant ticket in instant game number 616 shall contain six (6) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. The play symbols and play symbol captions in instant game number 616 shall consist of the following possible play symbols and play symbol captions:**
(1) $1.00
ONE
(2) $2.00
TWO
(3) $3.00
THREE
(4) $5.00
FIVE
(5) $10.00
TEN
(6) $20.00
TWENTY
(7) $50.00
FIFTY
(8) $100
ONE HUN
(9) $500
FIVE HUN
(10) $1,000
ONE THOU
(11) $3,000
THR THOU
(12) The play symbol of a picture of a star
TRIPLE

SECTION 4. **The holder of a ticket in instant game number 616 shall remove the latex material covering the six (6) play symbols and play symbol captions. If three (3) matching play symbols and play symbol captions are exposed, the holder is entitled to a prize of the matched amount. If two (2) matching play symbols and play symbol captions and the play symbol of a star is exposed, the holder is entitled to a prize of triple the matched prize amount. The prize amounts and number of winners in instant game number 616 are as follows:**

Matched Play Symbols	Prize Amount	Approximate Number of Winners
3–$1.00	$1	499,200
3–$2.00	$2	31,200
3–$3.00	$3	20,800
2–$1.00 + star	$3	20,800
3–$5.00	$5	52,000
2–$2.00 + star	$6	20,800
3–$10.00	$10	10,400
2–$5.00 + star	$15	10,400
3–$20.00	$20	10,400
3–$50.00	$50	3,965
3–$100	$100	455
3–$500	$500	13
2–$1,000 + star	$3,000	6
3–$3,000	$3,000	6

SECTION 5. **(a) There shall be approximately three million (3,000,000) instant tickets initially available in instant game number 616.**

(b) The odds of winning a prize in instant game number 616 are approximately 1 in 4.59.

(c) All reorders of tickets for instant game number 616 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of two hundred forty thousand (240,000); and
(3) odds;
as contained in the initial order.

SECTION 6. **The last day to claim a prize in instant game number 616 is November 30, 2003.**

SECTION 7. **SECTIONS 1 through 6 of this document expire December 31, 2003.**

LSA Document #02-310(E)
Filed with Secretary of State: November 1, 2002, 12:10 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-311(E)

DIGEST

Temporarily adds rules concerning instant game number 617. Effective November 1, 2002.

SECTION 1. **The name of this instant game is "Instant Game Number 617, Mistle Dough Doubler".**

SECTION 2. **Instant tickets in instant game number 617 shall sell for one dollar ($1) per ticket.**

SECTION 3. **Each instant ticket in instant game number 617 shall contain six (6) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. The play symbols and play symbol captions in instant game number 617 shall consist of the following possible play symbols and play symbol captions:**
(1) $1.00
ONE
(2) $2.00
TWO
(3) $3.00
THREE
(4) $5.00
FIVE
(5) $10.00
TEN
(6) $20.00
TWENTY
(7) $50.00
FIFTY
(8) $100
ONE HUN
(9) $2,000
TWO THOU
(10) $$
DOUBLE

SECTION 4. **The holder of a ticket in instant game number 617 shall remove the latex material covering the six (6) play symbols and play symbol captions. If three (3) matching play symbols and play symbol captions are exposed, the holder is entitled to a prize of the matched amount. If two (2) matching play symbols and play symbol captions and the play symbol "$$" is exposed, the holder is entitled to a prize of double the matched prize amount. The prize amounts and number of winners in instant game number 617 are as follows:**

Matched Play Symbols	Prize Amount	Approximate Number of Winners
3–$1.00	$1	520,000
2–$1.00 + $$	$2	20,800
3–$2.00	$2	20,800
3–$3.00	$3	20,800
2–$2.00 + $$	$4	20,800
3–$5.00	$5	72,800
2–$5.00 + $$	$10	10,400
3–$10.00	$10	10,400
2–$10.00 + $$	$20	5,200
3–$20.00	$20	5,200

3–$50.00	**$50**	**3,900**
2–$50.00 + $$	**$100**	**156**
2–$100.00	**$100**	**156**
2–$100.00 + $$	**$200**	**117**
3–$2000	**$2,000**	**26**

SECTION 5. **(a) There shall be approximately three million (3,000,000) instant tickets initially available in instant game number 617.**

(b) The odds of winning a prize in instant game number 617 are approximately 1 in 4.38.

(c) All reorders of tickets for instant game number 617 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of two hundred forty thousand (240,000); and
(3) odds;
as contained in the initial order.

SECTION 6. **The last day to claim a prize in instant game number 617 is November 30, 2003.**

SECTION 7. **SECTIONS 1 through 6 of this document expire December 31, 2003.**

LSA Document #02-311(E)
Filed with Secretary of State: November 1, 2002, 12:14 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-312(E)

DIGEST

Temporarily adds rules concerning instant game number 618. Effective November 1, 2002.

SECTION 1. **The name of this instant game is "Instant Game Number 618, Holiday Package".**

SECTION 2. **Instant tickets in instant game number 618 shall sell for two dollars ($2) per ticket.**

SECTION 3. **(a) Each instant ticket in instant game number 618 shall contain twenty-three (23) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. Three (3) play symbols and play symbol captions shall appear in the area labeled "WINNING NUMBERS". Twenty (20) play symbols and play symbol captions shall appear in the area labeled "YOUR NUMBERS" and be arranged in pairs representing numbers and prize amounts.**

(b) The play symbols and play symbol captions in instant game number 618, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:
(1) 1
ONE
(2) 2
TWO
(3) 3
THR
(4) 4
FOR
(5) 5
FIV
(6) 6
SIX
(7) 7
SVN
(8) 8
EGT
(9) 9
NIN
(10) 10
TEN
(11) 11
ELV
(12) 12
TLV
(13) 13
TRN
(14) 14
FRN
(15) 15
FTN
(16) 16
SXT
(17) 17
SVT
(18) 18
ETN
(19) 19
NTN
(20) 20
TWY
(21) 21
TTO
(22) 22
TTT
(23) 23
TTR
(24) 24
TWF
(25) 25
TWV

(26) 26
TWS
(27) 27
TSN
(28) 28
TWE
(29) 29
TWN
(30) The play symbol of a picture of a dollar bill
WIN
(31) The play symbol of a picture of a candy cane
DOUBLE

SECTION 4. **The play symbols and play symbol captions representing prize amounts in instant game number 618 shall consist of the following possible play symbols and play symbol captions:**

(1) $2.00
TWO
(2) $3.00
THREE
(3) $4.00
FOUR
(4) $5.00
FIVE
(5) $10.00
TEN
(6) $15.00
FIFTEEN
(7) $20.00
TWENTY
(8) $25.00
TWY FIVE
(9) $50.00
FIFTY
(10) $100
ONE HUN
(11) $1,000
ONE THOU
(12) $20,000
TWY THOU

SECTION 5. **The holder of a ticket in instant game number 618 shall remove the latex material covering the twenty-three (23) play symbols and play symbol captions. If any of the "WINNING NUMBERS" match one (1) or more of the "YOUR NUMBERS", the holder is entitled to the prize amounts paired with the matched symbols. If the play symbol of a picture of a dollar bill is exposed, the holder is entitled to fifty dollars ($50) instantly. If the play symbol of a picture of a candy cane is exposed the holder is entitled to double the paired prize. The matched prize play symbols, prize amounts, and number of winners in instant game number 618 are as follows:**

Matched Prize Symbols	Prize Amount	Approximate Number of Winners
1–$2.00	$2	165,000
1–$3.00	$3	120,000
1–$2.00 + candy cane	$4	135,000
1–$4.00	$4	75,000
1–$2.00 + 1–$3.00	$5	45,000
1–$5.00	$5	45,000
5–$2.00	$10	30,000
2–$5.00	$10	7,500
1–$5.00 + candy cane	$10	7,500
1–$10.00	$10	15,000
2–$5.00 + candy cane	$15	15,000
1–$15.00	$15	15,000
10–$2.00	$20	15,000
4–$5.00	$20	7,500
1–$20.00	$20	7,500
10–$5.00	$50	375
5–$10.00	$50	375
1–bill symbol	$50	375
5–$10.00 + bill symbol	$100	250
10–$10.00	$100	250
1–$100	$100	250
2–$25.00 + bill symbol +4–$100	$500	10
10–$100	$1,000	5
1–$1,000	$1,000	5
1–$20,000	$20,000	4

SECTION 6. **(a) There shall be approximately three million (3,000,000) instant tickets initially available in instant game number 618.**

(b) The odds of winning a prize in instant game number 618 are approximately 1 in 4.24.

(c) All reorders of tickets for instant game number 618 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
(3) odds;
as contained in the initial order.

SECTION 7. **The last day to claim a prize in instant game number 618 is November 30, 2003.**

SECTION 8. **SECTIONS 1 through 7 of this document expire December 31, 2003.**

LSA Document #02-312(E)
Filed with Secretary of State: November 1, 2002, 12:15 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #02-313(E)

DIGEST

Temporarily adds rules concerning instant game number 621. Effective November 1, 2002 .

SECTION 1. **The name of this instant game is "Instant Game Number 621, Black Jack".**

SECTION 2. **Instant tickets in instant game number 621 shall sell for two dollars ($2) per ticket.**

SECTION 3. **(a) Each instant ticket in instant game number 621 shall contain twenty-two (22) play symbols and play symbol captions arranged among two (2) separate and independent games each concealed under a large spot of latex material.**

(b) The game on the upper right side of each instant ticket shall contain eleven (11) play symbols and play symbol captions. Two (2) play symbols and play symbol captions representing playing cards and shall be in the area labeled "DEALER'S HAND". Nine (9) play symbols and play symbol captions representing playing cards shall be in the area labeled "YOUR HAND" and arranged in pairs of playing cards labeled "HAND 1", "HAND 2", and "HAND 3".

(c) The game on the lower left side of each instant ticket shall contain eleven (11) play symbols and play symbol captions. Two (2) play symbols and play symbol captions representing playing cards and shall be labeled "DEALER'S HAND". Nine (9) play symbols and play symbol captions representing playing cards shall be in the area labeled "YOUR HAND" and arranged in pairs of playing cards labeled "HAND 1", "HAND 2", and "HAND 3".

(d) The play symbols and play symbol captions, other that those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

(1)	**2 TWO**
(2)	**3 THR**
(3)	**4 FOR**
(4)	**5 FIV**
(5)	**6 SIX**
(6)	**7 SVN**
(7)	**8 EGT**
(8)	**9 NIN**
(9)	**10 TEN**
(10)	**J JCK**
(11)	**Q QUN**
(12)	**K KNG**
(13)	**A ACE**

(e) The play symbols and play symbol captions of prize amounts shall consist of the following possible play symbols and play symbol captions:

(1) $2.00
TWO
(2) $3.00
THREE
(3) $4.00
FOUR
(4) $5.00
FIVE
(5) $10.00
TEN
(6) $20.00
TWENTY
(7) $50.00
FIFTY
(8) $100
ONE HUN
(9) $500
FIVE HUN
(10) $12,000
TWLV THOU

SECTION 4. **(a) The holder of an instant ticket in instant game number 621 shall remove the latex material covering the twenty-two (22) play symbols and play symbol captions. If "HAND 1," "HAND 2", or "HAND 3" contain** *[sic., contains]* **play symbols and play symbol captions with a face value higher than the face value of the play symbols and play symbol captions exposed in the "DEALER'S HAND", the holder is entitled to the corresponding prize amount for that hand. Play symbols and play symbol captions representing playing cards are valued in descending order with aces valued at eleven (11) and face cards valued at ten (10). A holder may win up to six (6) times on a ticket.**

(b) The number of winning plays and the associated prize amount play symbols, total prize amounts, and approximate number of winners in instant game number 621 are as follows:

Number of Winning Hands and Play Symbols	Total Prize Amount	Approximate Number of Winners
1–$2.00	**$2**	**360,000**
1–$3.00	**$3**	**216,000**

2–$2.00	**$4**	**144,000**
1–$2.00 + 1–$3.00	**$5**	**108,000**
1–$5.00	**$5**	**72,000**
3–$2.00 + 1–$4.00	**$10**	**36,000**
5–$2.00	**$10**	**36,000**
2–$5.00	**$10**	**9,000**
1–$10.00	**$10**	**9,000**
4–$5.00	**$20**	**9,000**
2–$2.00 + 4–$4.00	**$20**	**9,000**
1–$20.00	**$20**	**4,500**
2–$5.00 + 4–$10.00	**$50**	**1,500**
5–$10.00	**$50**	**1,500**
1–$50.00	**$50**	**1,500**
2–$10.00 + 4–$20.00	**$100**	**210**
2–$50.00	**$100**	**210**
1–$100	**$100**	**210**
2–$50 + 4–$100	**$500**	**30**
1–$500	**$500**	**30**
1–$12,000	**$12,000**	**11**

SECTION 5. **(a) There shall be approximately three million six hundred thousand (3,600,000) instant tickets initially available in instant game number 621.**

(b) The odds of winning a prize in instant game number 621 are approximately 1 in 3.54.

(c) All reorders of tickets for instant game number 621 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
(3) odds;
as contained in the initial order.

SECTION 6. **The last day to claim a prize in instant game number 621 is November 30, 2003.**

SECTION 7. **SECTIONS 1 through 6 of this document expire on December 31, 2003.**

LSA Document #02-313(E)
Filed with Secretary of State: November 1, 2002, 12:16 p.m.

TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY

LSA Document #02-307(E)

DIGEST

Temporarily amends 540 IAC 1-7-2, 540 IAC 1-8-2, 540 IAC 1-9-2.6, and 540 IAC 1-10-1 to clarify how the fee paid to the administrator of the Indiana CollegeChoice 529 Program is calculated, to clarify the initial and subsequent minimum contribution requirements of the Indiana CollegeChoice 529 Program, to eliminate any notice and cancellation of account requirements due to interruption of attendance, and to eliminate the once a month limitation on distributions from an account. Authority: IC 21-9-4-7. The original emergency document, LSA Document #02-256(E), as printed at 26 IR 59, effective August 29, 2002, expires November 27, 2002. Effective November 28, 2002.

SECTION 1. **Notwithstanding 540 IAC 1-7-2, the program administrator shall charge an annual administrator fee, which shall be based on the value of the assets of the portfolio. The term "portfolio" means the investment selected by the account owner to which account contributions are allocated.**

SECTION 2. **An account owner or contributor must specify an amount to be contributed according to the contribution option chosen by the account owner in the adoption agreement. All contributions, other than initial contributions defined in 540 IAC 1-7-1, must be in an amount not less than twenty-five dollars ($25).**

SECTION 3. **Notwithstanding 540 IAC 1-9-2.6, if the beneficiary interrupts his or her attendance at an institution of higher education, a beneficiary and/or account owner is not required to notify the administrator, and such interruption of attendance shall not cause the cancellation of such beneficiary's account except as provided in 540 IAC 1-9-2.5, if applicable. Interruption of attendance shall mean failure to enroll for the next academic period, excluding summer sessions.**

SECTION 4. **Notwithstanding 540 IAC 1-10-1, for payment benefits from the trust to begin, the account owner shall submit a notice to use program benefits. The payment of benefits shall be made only for qualified higher education expenses, or shall be subject to applicable penalties for nonqualified distributions. All qualified higher education expenses shall be paid:**
(1) directly to the eligible educational institution;
(2) to the beneficiary as directed by the account owner; or
(3) to the account owner.
Payment shall be subject to a minimum distribution amount of fifty dollars ($50).

SECTION 5. **SECTIONS 1 through 4 of this document expire February 28, 2003.**

LSA Document #02-307(E)
Filed with Secretary of State: October 18, 2002, 2:20 p.m.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #01-301

Under IC 12-8-3-4.4, LSA Document #01-301, printed at 25 IR 3811, which amends 405 IAC 5-19-1 to clarify the definition of medical and surgical supplies was adopted on November 8, 2002. The amendments provide restrictions and limitations for coverage, and provide that reimbursement shall be equal to the lower of the provider's submitted charges or the Medicaid allowable amount for each item. The amendments require that all medical supplies be billed using health care financing administration common procedure coding system in accordance with the instructions set forth in the Indiana health coverage programs manual or update bulletins. The rule that was adopted is a different version than the proposed rule that was published in the Indiana Register on August 1, 2002.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-140

Under IC 12-8-3-4.4, LSA Document #02-140, printed at 25 IR 3822, which amends 405 IAC 5-14-2, 405 IAC 5-14-3, 405 IAC 5-14-4, and 405 IAC 5-14-6 to limit the comprehensive and extensive visits for recipients to two per year, and updates the rule to reflect current operating procedures. Adds 405 IAC 5-14-2.5 to add copayments for dental services, was adopted by the Office of the Secretary of Family and Social Services on October 11, 2002. The rule that was adopted is a different version than the proposed rule that was published in the Indiana Register on August 1, 2002.

Change in Notice of Public Hearing

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #01-407(APCB)

The Air Pollution Control Board hereby gives notice that the public hearing for consideration of preliminary adoption of Document #01-407(APCB) concerning U.S. Steel-Gary Works particulate matter emission limits, printed at 25 IR 4129, was opened on November 6, 2002, and has been continued. The new Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on ***December 4, 2002*** *at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana the Air Pollution Control Board will continue the public hearing on proposed amendments to 326 IAC 6-1-10.1 and 326 IAC 6-1-10.2.*

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their view concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed in this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Chris Pedersen, Rules Development Section, Office of Air Quality, 317-233-6868 or (800) 451-6027, press 0, and ask for extension 3-6868 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. TDD: (317) 232-6565. Speech and hearing impaired callers may also contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file with the Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for inspection.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #02-54(APCB)

The Air Pollution Control Board hereby gives notice that the public hearing for consideration of preliminary adoption of Document #02-54(APCB) concerning nitrogen oxides, printed at 25 IR 3905, was opened on November 6, 2002, and has been continued. The new Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on ***December 4, 2002*** *at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana the Air Pollution Control Board will continue the public hearing on proposed amendments to 326 IAC 10-3-1, 326 IAC 10-4-1, 326 IAC 10-4-2, 326 IAC 10-4-9, 326 IAC 10-4-10, 326 IAC 10-4-13, 326 IAC 10-4-14, 326 IAC 10-4-15.*

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their view concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed in this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Suzanne Whitmer, Rules Development Section, Office of Air Quality, 317-232-8229 or (800) 451-6027, press 0, and ask for extension 2-8229 (in Indiana). Technical information may be obtained from Roger Letterman, Compliance Branch, Office of Air Quality, (317) 232-8342 or (800) 451,6027, press 0, and ask for extension 2-8342 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. TDD: (317) 232-6565. Speech and hearing impaired callers may also contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file with the Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for inspection.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

Change in Notice of Public Hearing

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #02-55

The Air Pollution Control Board hereby gives notice that the public hearing for consideration of final adoption of LSA Document #02-55 concerning emissions from reinforced plastics composites fabricating emission units, printed at 26 IR 91, was opened on November 6, 2002, and has been continued. The new Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on ***December 4, 2002*** *at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on proposed amendments to 326 IAC 20-25 and new rule 326 IAC 20-48.*

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their view concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed in this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Jean Beauchamp, Rules Development Section, Office of Air Quality, 317-232-8424 or (800) 451-6027, press 0, and ask for extension 2-8424 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. TDD: (317) 232-6565. Speech and hearing impaired callers may also contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file with the Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for inspection.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #02-122

The Air Pollution Control Board hereby gives notice that the public hearing for consideration of final adoption of LSA Document #02-122 concerning particulate rules, nonattainment area limitations in Wayne County, printed at 26 IR 99, was opened on November 6, 2002, and has been continued. The new Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on ***December 4, 2002*** *at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana the Air Pollution Control Board will continue the public hearing on proposed amendments to 326 IAC 6-1-14.*

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their view concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed in this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Jean Beauchamp, Rules Development Section, Office of Air Quality, 317-232-8424 or (800) 451-6027, press 0, and ask for extension 2-8424 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. TDD: (317) 232-6565. Speech and hearing impaired callers may also contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file with the Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for inspection.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality

Change in Notice of Public Hearing

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #01-95(WPCB)

The Water Pollution Control Board hereby gives notice that the date and location of the public hearing for consideration of preliminary adoption of LSA Document #01-95(WPCB), printed at 24 IR 4242, has been changed. The changed Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-1, IC 13-14-8-2, and IC 13-14-9, notice is hereby given that on ***December 11, 2002*** *at 1:30 p.m. at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Water Pollution Control Board will hold a public hearing on proposed amendments to 327 IAC 15, NPDES General Permit Program related to storm water. Procedures to be followed in this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).*

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their view concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Technical information regarding this action may be obtained from Lori Gates, Office of Water Quality, Wet Weather Section, (317) 233-6725 or (800) 451-6027 (in Indiana). Additional information regarding this action may be obtained from Kiran Verma, Office of Water Quality, Rules Section, (317) 234-0986 or (800) 451-6027 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 234-1208 (V) or (317) 232-6565 (TTD). Speech and hearing impaired callers may contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file with the Office of Water Management, Indiana Government Center-North, 100 North Senate Avenue, Twelfth Floor West and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana.

Mary Ellen Gray
Deputy Assistant Commissioner
Office of Water Quality

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #01-348

The Water Pollution Control Board hereby gives notice that the date of the public hearing for consideration of final adoption of LSA Document #01-348, printed at 26 IR 99, has been changed. The changed Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-1, IC 13-14-8-2, and IC 13-14-9, notice is hereby given that on ***December 11, 2002*** *at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Water Pollution Control Board will hold a public hearing on amendments to the drinking water standards rules under 327 IAC 8-2 and 327 IAC 8-2.1 and new rules 327 IAC 8-2.5 and 327 IAC 8-2.6 specifically concerning interim enhanced surface water treatment, disinfectants and disinfection byproducts, and filter back wash. Procedures to be followed in this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).*

Additional information regarding this action can be obtained from Megan Wallace, Rules Section, Office of Water Quality, (317) 233-8669 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. TTD: (317) 232-6565. Speech and hearing impaired callers may contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file with the Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Twelfth Floor West and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Tim Method
Deputy Commissioner
Indiana Department of Environmental Management

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #02-142

The Indiana State Department of Health hereby gives notice that the date of the public hearing for LSA Document #02-142,

printed at 25 IR 3684, has been changed. The changed Notice of Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on ***December 23, 2002*** *at 10:00 a.m., at the Indiana State Department of Health, 2 North Meridian Street, Rice Auditorium, Indianapolis, Indiana, the Indiana State Department of Health will hold a public hearing on proposed amendments to clarify and update the requirements for the health, safety, and operation of public and semipublic swimming pools, spas, and wading pools. This rule repeals 410 IAC 6-2. Copies of these rules are now on file with the Health Care Regulatory Services Commission, Indiana State Department of Health, 2 North Meridian Street, Fifth Floor, and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Gregory A. Wilson, M.D.
State Health Commissioner
Indiana State Department of Health

TITLE 11 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL

LSA Document #02-324

Under IC 4-22-2-23, the Consumer Protection Division of The Office of the Attorney General intends to adopt a rule concerning the following:

OVERVIEW: This rule will establish requirements concerning the obtaining of changed, disconnected, or transferred telephone numbers to update the telephone privacy list. Public comments are invited and may be directed to the Office of the Attorney General, Attention Marguerite M. Sweeney, Indiana Government Center-South, 302 West Washington Street, Fifth Floor, Indianapolis, Indiana 46204, or by electronic mail to msweeney@atg.state.in.us. Statutory authority: IC 24-4.7-3-1; IC 24-4.7-3-7; IC 4-6-9-8.

TITLE 305 INDIANA BOARD OF LICENSURE FOR PROFESSIONAL GEOLOGISTS

LSA Document #02-328

Under IC 4-22-2-23, the Indiana Board of Licensure for Professional Geologists intends to adopt a rule concerning the following:

OVERVIEW: Amends 305 IAC 1 by adding rule 5 to establish a code of ethics for licensed professional geologists. Also includes amendments to provide that fees are set by board resolution not directly by rule. Clarifies that certificates are reinstated by the board not the Indiana geological survey. Provides for annual rather than semi-annual publication of a roster of licensed geologists. Makes other technical changes. Effective 30 days after filing with the secretary of state. Questions or comments may be addressed to mailto:hill6@indiana.edu or to State Geologist, Indiana Geological Survey, Indiana University, 611 North Walnut Grove, Bloomington, Indiana 47405. Statutory authority: IC 25-17.6-3-12.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #02-318

Under IC 4-22-2-23, the Natural Resources Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 312 IAC 9-6 that governs fish and fishing activities. Modifications are made to 312 IAC 9-6-1 to include additional definitions of fish species. 312 IAC 9-6-7 is amended by adding fish species that are illegal to import, possess, or release into public or private waters without a license issued by the department. Included are exotic nuisance species black carp, bighead carp, silver carp, white perch, all species of snakeheads in the family Channidae, and any hybrid of these fish. Questions concerning the proposed rule amendments may be directed to the following telephone number: (317) 232-4093 or e-mail gwhite@dnr.state.in.us. Statutory authority: IC 14-10-2-4; IC 14-22-2-6.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #02-322

Under IC 4-22-2-23, the Natural Resources Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends the provision within 312 IAC 9-11-4 that governs wild animal possession permits to allow an alligator snapping turtle, lawfully acquired prior to January 1, 1998, to be used for commercial purposes or for public display. Questions concerning the proposed rule amendments may be directed to the following telephone number: (317) 232-4080 or e-mail lpetercheff@dnr.state.in.us. Statutory authority: IC 14-10-2-4; IC 14-22-26-3.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #02-329

Under IC 4-22-2-23, the Natural Resources Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 312 IAC 20 by adding rule 5 to assist the State Historic Preservation Review Board in the administration of the Register of Indiana Historic Sites and Historic Structures. Effective 30 days after filing with the secretary of state. Questions concerning the proposed rule amendments may be directed to the following telephone number: (317) 233-3322 or e-mail: slucas@dnr.state.in.us/. Statutory authority: IC 14-21-1-31.

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

LSA Document #02-323

Under IC 4-22-2-23, the Indiana State Board of Animal Health intends to adopt a rule concerning the following:

OVERVIEW: The rule will address the detection, control, and eradication of chronic wasting disease in animals. The rule may include limiting or prohibiting movement of animals and animal parts, requiring registration of sites housing certain species of animals, measures to control contact with wild cervidae, identification of animals, record keeping, testing, herd certification, and chronic wasting disease surveillance in herds. Questions or comments on the subject may be directed by mail to the Indiana State Board of Animal Health, ATTENTION: Legal Affairs, 805 Beachway Drive, Suite 50, Indianapolis, Indiana 46224, or by electronic mail to ghaynes@boah.state.in.us. Statutory authority: IC 15-2.1-3-19.

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #02-317

Under IC 4-22-2-23, the Indiana State Department of Health intends to adopt a rule concerning the following:

OVERVIEW: The rules will establish a schedule of civil penalties for retail and manufactured food production and processing. Written comments may be submitted to the Indiana State Department of Health, ATTENTION: Office of Legal Affairs and Policy, 2 North Meridian Street, Indianapolis, Indiana 46204. Statutory authority: IC 16-19-3-4; IC 16-42-5-28.

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #02-321

Under IC 4-22-2-23, the Indiana State Department of Health intends to adopt a rule concerning the following:

OVERVIEW: This rule will update and clarify the requirements pertaining to the design, construction, installation, maintenance, and operation of commercial and residential on-site sewage disposal systems. Written comments may be submitted to the Indiana State Department of Health, ATTENTION: Sanitary Engineering, 2 North Meridian Street, Indianapolis, Indiana 46204. Statutory authority: IC 16-19-3-5.

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

LSA Document #02-319

Under IC 4-22-2-23, the Division of Disability, Aging, and Rehabilitative Services intends to adopt a rule concerning the following:

OVERVIEW: Adds 460 IAC 1-3.3 to provide new procedures and criteria for reimbursement of providers of the residential care assistance program in Indiana. This rule will replace the prior reimbursement rule found at 460 IAC 1-3. It will become effective thirty (30) days after filing with the secretary of state. Statutory authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-6-3.

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

LSA Document #02-326

Under IC 4-22-2-23, the Division of Disability, Aging, and Rehabilitative Services intends to adopt a rule concerning the following:

OVERVIEW: Amends 460 IAC concerning types of supported living services and supports, provider qualifications and supervision, and reporting requirements. Statutory authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12.

TITLE 515 PROFESSIONAL STANDARDS BOARD

LSA Document #02-314

Under IC 4-22-2-23, the Professional Standards Board intends to adopt a rule concerning the following:

OVERVIEW: Adds 515 IAC 1-7 to provide certain requirements for the renewal of various licenses issued by the Indiana Professional Standards Board. Public comments are invited and may be directed to Marie Theobald, Executive Director, Indiana Professional Standards Board, 101 West Ohio Street, Indianapolis, Indiana 46204. Statutory authority: IC 20-1-1.4-7.

TITLE 550 BOARD OF TRUSTEES OF THE INDIANA STATE TEACHERS' RETIREMENT FUND

LSA Document #02-325

Under IC 4-22-2-23, the Board of Trustees of the Indiana State Teachers' Retirement Fund intends to adopt a rule concerning the following:

OVERVIEW: Amends 550 IAC 3 to conform to changes made to the Internal Revenue Code by the Economic Growth and Tax Relief Reconciliation Act of 2001. Adds 550 IAC 5 to

conform to changes made to the Internal Revenue Code by the Economic Growth and Tax Relief Reconciliation Act of 2001. Adds 550 IAC 6 concerning rollovers, service purchases, and enhanced retirement savings opportunities for fund members (Senate Enrolled Act 59). Question or comments on the adoption may be directed by mail to the Indiana State Teachers' Retirement Fund, 150 West Market Street, Suite 300, Indianapolis, Indiana 46204 or by electronic mail to tdavidson@trf.state.in.us. Statutory authority: IC 21-6.1-3-6.

TITLE 575 STATE SCHOOL BUS COMMITTEE

LSA Document #02-315

Under IC 4-22-2-23, the State School Bus Committee intends to adopt a rule concerning the following:

OVERVIEW: Adds 575 IAC 1-1-4.6 regarding the display of the United States flag on school buses. Statutory authority: IC 20-9.1-4-4; IC 20-9.1-4-4.7.

TITLE 816 BOARD OF BARBER EXAMINERS

LSA Document #02-320

Under IC 4-22-2-23, the Board of Barber Examiners intends to adopt a rule concerning the following:

OVERVIEW: The Board of Barber Examiners intends to revise the fees collected for the examination of an applicant to practice as a barber and to revise the fee for the issuance of an initial four year license to practice barbering by an applicant applying on the basis of reciprocity. Questions or comments concerning the proposed rules may be directed to: Indiana Professional Licensing Agency, ATTENTION: Staff Counsel, 302 West Washington Street, Room E034, Indianapolis, Indiana 46204-2700. Statutory authority: IC 25-1-8-2; IC 25-7-5-14; IC 25-7-5-15; IC 25-7-11-5.

TITLE 45 DEPARTMENT OF STATE REVENUE

Proposed Rule
LSA Document #02-305

DIGEST

Adds 45 IAC 3.1-1-99.1 to provide employers with withholding instructions for employees electing to claim the advance earned income credit payments. Effective 30 days after filing with the secretary of state.

45 IAC 3.1-1-99.1

SECTION 1. 45 IAC 3.1-1-99.1 IS ADDED TO READ AS FOLLOWS:

45 IAC 3.1-1-99.1 Advance earned income credit payments

Authority: IC 6-3-4-8
Affected: IC 6-3-4

Sec. 99.1. (a) An employee subject to withholding of Indiana adjusted gross income tax may request his or her employer to reduce the amount of adjusted gross income tax withheld, based on the procedures contained in this section as an advance payment of the Indiana earned income credit.

(b) To qualify for the advance earned income credit payment, the employee must comply with all of the following requirements:
(1) Be an Indiana resident.
(2) Have a federal Form W-5 on file with the employer.
(3) Receive federal advance earned income credit payments from the employer.

(c) The employer shall make available to the employee Form WH-5 for the employee to complete and sign.

(d) An employer required to withhold federal advance earned income credit payments for an employee is only required to withhold if the employee has properly completed Form WH-5.

(e) The employer is required to maintain the Form WH-5 for three (3) years after the year that the form is completed by the employee.

(f) The amount that the employer shall advance to the employee shall be computed at six percent (6%) of the federal advance earned income credit payment, but shall not be less than one dollar ($1) per pay period.

(g) The total amount that the employer advances to all employees shall be reported when the employer remits the Indiana adjusted gross income tax withheld. The advance shall be deducted from the total tax withheld for all employees when calculating the net remittance that the employer is required to remit to the department.

(h) The total annual amount that the employer advances for the earned income credit payments will be reported on the Form WH-3, Annual Withholding Tax Reconciliation Return. *(Department of State Revenue; 45 IAC 3.1-1-99.1)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 3, 2003 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 2, Indianapolis, Indiana the Department of State Revenue will hold a public hearing on a proposed new rule to provide employers with withholding instructions for employees electing to claim the advance earned income credit. Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 248 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Kenneth L. Miller
Commissioner
Department of State Revenue

TITLE 210 DEPARTMENT OF CORRECTION

Proposed Rule
LSA Document #02-259

DIGEST

Amends 210 IAC 1-6 concerning the collection, maintenance, and release of offender and juvenile records. Adds 210 IAC 1-10 to establish the offender tort claim process. Amends 210 IAC 5 concerning release authority for juveniles. Effective 30 days after filing with the secretary of state.

210 IAC 1-6-1	**210 IAC 1-6-7**
210 IAC 1-6-2	**210 IAC 1-10**
210 IAC 1-6-3	**210 IAC 5-1-1**
210 IAC 1-6-4	**210 IAC 5-1-2**
210 IAC 1-6-5	**210 IAC 5-1-3**
210 IAC 1-6-6	**210 IAC 5-1-4**

SECTION 1. 210 IAC 1-6-1 IS AMENDED TO READ AS FOLLOWS:

Rule 6. Collection, Maintenance, and Release of Offender and Juvenile Records

210 IAC 1-6-1 Definitions
Authority: IC 11-8-5-2
Affected: IC 4-1-6; IC 11-8-5-1

Sec. 1. **The following** definitions ~~Data Subject shall mean an individual about whom personal information is indexed or may be located under his name, personal number, or other identifiable particulars in a personal information system. For record keeping purposes of the Department of Correction the data subject shall be referred to as an "offender".~~ **apply throughout this article:**

(1) "Department" ~~shall mean~~ **means** the department of correction.

(2) "Juvenile" means a person who is adjudged delinquent by a juvenile court and committed to and under the legal control of the department.

(3) "Offender" ~~shall mean a person~~ **means an adult** committed to and under the legal control of the department ~~This shall include probationers whose records are handled through the interstate compact administrator in the department. (See Data Subject)~~ **for committing a criminal offense.**

(4) "Official record" ~~shall mean~~ **means** the record prepared and maintained by the department for each offender **and juvenile** received into the ~~actual~~ **physical** care and custody of the department. ~~and which provides the source of all~~ **The record shall include, but is not limited to,** written, printed, or ~~mimeographic~~ **electronic** materials, **documents, or data** pertaining to services, ~~program,~~ **programs,** and all other official actions performed on behalf of that offender **or juvenile.** These records are identified by the same offender **or juvenile** name as received on the commitment order, ~~and are~~ assigned a department number as an identifier, **and compiled and maintained as part of an offender/juvenile packet.**

(Department of Correction; Offender Records, Art I; filed Jul 30, 1979, 2:25 p.m.: 2 IR 1199; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

SECTION 2. 210 IAC 1-6-2 IS AMENDED TO READ AS FOLLOWS:

210 IAC 1-6-2 Classification of information

Authority: IC 11-8-5-2
Affected: IC 11-8-5-2

Sec. 2. ~~Classification.~~ The department shall collect, maintain, and use only that offender **or juvenile** personal information that is relevant and necessary to accomplish the statutory ~~purpose~~ **purposes** of the agency. All offender **or juvenile** information collected and retained by the department shall be ~~identified according to~~ **classified in** the following ~~classifications:~~ **manner:**

~~(A)~~ **(1)** Unrestricted information shall include only information pertaining to ~~the~~ **an** offender ~~which~~ **that** is considered by law ~~or court order as~~ **to be** public information. Certain information normally considered **restricted or** confidential may be considered unrestricted ~~or public~~ information if there is a compelling public interest ~~consistent with the conditions set forth in IC 4-1-6-1.~~ **in disclosure. Unrestricted information is accessible by any person upon specific request, with the exception of offenders to whom the information does not pertain or any juvenile.**

(2) Restricted information shall include, but is not limited to, the following:

(A) Education, medical, sex offender, substance abuse, disciplinary, criminal, and employment records.

(B) Finger and voice prints.

(C) Photographs.

(D) Institutional summaries.

(E) Psychiatric and psychological reports.

(F) Social history reports.

(G) Progress reports.

(H) Educational and vocational reports.

~~(B)~~ **(3)** Confidential information shall include, ~~personal or private information concerning the offender including,~~ but **is** not limited to, ~~his education, medical history, criminal or employment records, finger and voice prints, photographs of his presence, institutional summaries, social history reports, progress reports, educational, vocational and diagnostic~~ **the following:**

(A) Offender diagnostic/classification reports. ~~Confidential information shall, also, include medical, psychiatric and psychological reports,~~

(B) Criminal intelligence information. ~~and information of clinical reports emanating from an approved drug or substance abuse program consistent with prevailing law or promulgated regulations.~~

(C) Information that, if disclosed, might result in physical harm to that person or other persons.

(D) Information obtained upon promise of confidentiality.

(E) Internal investigation information.

(F) All juvenile records.

(G) Any other information required by law or promulgated rule to be maintained as confidential.

(4) All offender information obtained from other agencies, organizations, or sources shall be held to the same degree of confidentiality as that designated by the generating source.

(Department of Correction; Offender Records, Art II; filed Jul 30, 1979, 2:25 p.m.: 2 IR 1199; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

SECTION 3. 210 IAC 1-6-4 IS AMENDED TO READ AS FOLLOWS:

210 IAC 1-6-4 Inspection rights of offenders and juveniles

Authority: IC 11-8-5-2
Affected: IC 4-1-6-3; IC 4-1-6-8

Sec. 4. ~~Right of Inspection by an Offender.~~ (a) An offender or a person designated **in writing** by an offender as his **or her** agent may inspect those portions of the **offender's own** official record classified as ~~confidential with the following exceptions:~~

~~(1) Medical, psychological, psychiatric data, or clinical data~~

~~produced as a consequence of the offender's involvement in a substance abuse program, may not be released to the offender or his agent. These records may be released to a physician, psychologist or psychiatrist designated in writing by the offender.~~

~~(2) Criminal intelligence information including reports or statements of witnesses concerning institutional conduct or conduct while on parole wherein appear names of or identifying information concerning witnesses may be withheld consistent with provisions in law. Information so classified shall be subject to periodic review by the official responsible for the maintenance of these records to determine if grounds still exist for their retention.~~

unrestricted and restricted

~~(b) An offender or a person designated by an offender as his agent may inspect his official record~~ consistent with the following:

(1) The requestor shall provide ~~proper~~ **a valid picture** identification ~~upon request to the person authorizing the release.~~

~~(2) If the requestor is other than the offender, the request shall be accompanied by~~ **and** a ~~notarized statement by~~ **signed authorization from** the **appropriate** offender identifying the person acting as his **or her** agent **and specifying the documents to be released to the agent.**

~~(3) An offender~~ **(2) A person** committed to or under the legal control of the department or on probation to a court may not act as an offender's agent. If doubt exists as to the identity of the offender's agent or the validity of the release, the offender shall be contacted for verification when possible.

(3) The cost of copying records under this section shall be assessed to the requestor and shall be consistent with approved schedules.

(4) If the offender's ~~notarized letter of release~~ **signed authorization** is not on file with the ~~institution or~~ facility or is not presented upon making the request, the requestor shall be advised that he **or she** may obtain such consent from the offender or file a formal request for access **to records** with the department.

(5) The requestor shall be advised in the event the request is denied to direct ~~the~~ **his or her** appeal to the ~~executive director as appropriate,~~ **deputy commissioner** of ~~the~~ adult ~~or Youth Authority,~~ **operations,** who shall notify the requestor of his **or her** decision within thirty (30) days. If the ~~executive director~~ **deputy commissioner** disapproves the request, an appeal may be taken within thirty (30) days to the commissioner of ~~Corrections,~~ **the department** who shall review the request and notify the requestor of his **or her** decision within thirty (30) days.

~~(c) The above restrictions do not preclude access by authorized department personnel who have an official interest in an offender's records as a consequence of statutory functions or responsibilities of the department.~~

(b) A juvenile may not access his or her own records or the records of other juveniles or offenders.

(1) Juvenile records may be released to a parent or legal guardian upon specific written request unless the release of such record or records is contrary to the health, welfare, or safety of the juvenile or others.

(2) A parent or legal guardian committed to or under the legal control of the department or on probation to a court may not access a juvenile's record. If doubt exists as to the identity of the juvenile's parent or legal guardian or the validity of the request, the juvenile and his or her parent or legal guardian shall be contacted for verification.

(3) The cost of copying records under this section shall be assessed to the requestor and shall be consistent with approved schedules.

(4) In the event a request for access to records is denied, the requestor shall be advised to direct his or her appeal to the deputy commissioner of juvenile services, who shall notify the requestor of his or her decision within thirty (30) days. If the deputy commissioner disapproves the request, an appeal may be taken within thirty (30) days to the commissioner of the department, who shall review the request and notify the requestor of his or her decision within thirty (30) days.

(Department of Correction; Offender Records, Art IV; filed Jul 30, 1979, 2:25 p.m.: 2 IR 1200; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

SECTION 4. 210 IAC 1-6-5 IS AMENDED TO READ AS FOLLOWS:

210 IAC 1-6-5 Challenge of information by offender; investigation; change of record

Authority: IC 11-8-5-2
Affected: IC 4-1-6-5

Sec. 5. ~~Challenge of Information by the Offender. (A) The~~ **An** offender ~~must give a notice to the department that he wishes to~~ **may** challenge, correct, or explain information contained within his **or her** record **in accordance with IC 4-1-6-5.**

~~(B) The challenge must pertain to specific documents and/or issues within that record.~~

~~(C) An investigation shall be made under the authorization of the facility or division head to determine the status or content of such reports as alleged by the challenger. The investigator shall determine if the reports challenged are properly a part of the record and in fact do contain the elements that are challenged and ascertain the source of the challenged information.~~

~~(D) If the challenged data was generated or received by other sources than the department, the offender should then be advised to direct his request to change or delete such information to the contributing agency, and the offender in turn should be advised of the last known address of the contributing agency or person.~~

(E) If after such an investigation, such information is found to be incomplete, inaccurate, not pertinent, not timely or not necessary to be retained for statutory responsibilities or related services, it shall be promptly corrected or deleted from the offender's record.

(F) When such a change in the record does occur each division or facility holding or retaining a duplicate record of such information shall be advised to correct those copies or duplicates accordingly.

(G) If a dispute concerning information in an offender record is not resolved by the investigation the offender shall be so notified and must be advised that he may file a statement of not more than two hundred (200) words setting forth his position.

(H) If there is an addition, deletion or statement of offender's position, the department official responsible for maintaining that record shall then advise the offender of any previous recipient and supply the previous recipient a copy of the addition, deletion or offender's statement of position, in accordance with provisions of IC 4-1-6-5.

The department official notifying any previous recipient shall require an acknowledgement that the additions, deletions or offender's statement of position has been received. *(Department of Correction; Offender Records, Art V; filed Jul 30, 1979, 2:25 p.m.: 2 IR 1200; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)*

SECTION 5. 210 IAC 1-6-6 IS AMENDED TO READ AS FOLLOWS:

210 IAC 1-6-6 Access to information

Authority: IC 11-8-5-2
Affected: IC 4-1-6-8; IC 4-1-6-8.6

Sec. 6. Access to or Release of Confidential Information to Persons Other than the Offender or His Agent. (a) Courts and personnel authorized by a court shall have access to the department's offender **and juvenile** records consistent with the following:

(1) All specific court orders pertaining to individual documents or the entire offender record **and juvenile records** shall cause the record, in whole or part, as appropriate, **such records** to be copied or released by the record **records** supervisor immediately pursuant to those orders. **the terms of the court order and the following:**

(A) The record repository shall reflect in a manner prescribed by the department the whereabouts of records so removed and when they were removed and the name of the employee authorizing the transfer of the record from the department to the court.

(B) No offender **or juvenile** record or documents contained therein shall be altered or omitted prior to or during the transmittal of the official record to the court.

(2) Probation officers preparing pre-sentence reports shall have access to an offender's record but may not remove the record from the immediate record storage area. Copies of the record may be made available consistent with price schedules approved by the Department of Administration. Probation officers may have access to "confidential" sections of the offender's record excluding medical, psychological, or psychiatric data, or clinical data produced as a consequence of the offender's involvement in a substance abuse program, and criminal intelligence information in the absence of a specific court order.

(3) **(2)** If access to an offender's **or juvenile's** record was granted under compulsory legal process other than that initiated by the offender himself, **or juvenile**, reasonable effort shall be made to notify the offender **or juvenile** prior to release of the information.

(b) Attorneys **An attorney** representing offenders **an offender, juvenile, or a juvenile's parent or legal guardian** may have access to an offender's file **a client's records** consistent with the following procedures:

(1) If the attorney is requesting a review and copies of the official record as the offender's agent then the attorney is to **shall** be charged for the cost of reproductions consistent with approved schedules.

(2) The attorney may have access to all confidential material **unrestricted and restricted information** in the offender's record except medical, psychological or psychiatric data, or clinical data produced as a consequence of the offender's involvement in a substance abuse program. These records may be released to a physician, psychologist or psychiatrist designated in writing by **to the same extent as** the offender. **An attorney representing a juvenile or the parent or legal guardian of a juvenile shall have access to any information in the juvenile's official record unless release of such information is contrary to the health, welfare, or safety of the juvenile.**

(3) Access by an attorney to the confidential section of **records in** the packet **offender's official record** shall occur if **be** accompanied by a court order to that effect. **specifying the documents to be released.**

(4) An attorney representing an offender may designate in writing a physician, psychologist, or psychiatrist to whom confidential medical, psychological, or psychiatric information may be released.

(5) In the absence of a specific court order to the contrary a charge shall be made for reproductions of records requested by an attorney consistent with approved schedules. In the event the request is made by the Public Defender's Office at the State level such charges may be "I.D." (Inter-Departmental) billed consistent with established procedures for such billing.

(c) Release to a person or agency providing a lawful service **on behalf of the department, or** related to or on behalf of the

an offender **or juvenile in response to a written request** shall be limited to those documents related to the service performed and shall include confidential **and restricted** information consistent with ~~these rules~~ **this rule** or ~~unless~~ **as** otherwise ~~prohibited~~ **permitted** by law, **including the following:**

(1) Upon release of such information or the providing of duplicate copies, the material shall be clearly marked as to how the information is classified.

(2) A record shall be made by the ~~record~~ **records** supervisor of all such inspections noting the **following:**

(A) The requestor's name, agency, or function represented.

(B) The purpose of the request.

(C) The date access was granted. ~~and~~

(D) The name of the person granting access.

This record shall be then made a part of the offender's record.

(3) Such access shall be limited to law enforcement agencies performing a criminal investigation or agencies providing a lawful service to the ~~agency~~ **department** or offender **or juvenile** wherein the direct benefit to the offender **or juvenile** is clearly indicated.

(d) ~~Release to persons other than the offender, his agent or attorney of information~~ **Unless otherwise previously specified in this rule, release of offender records** shall be restricted to information classified as ~~"Public Information"~~ **unrestricted** unless there is a compelling public interest in releasing specific portions of the material classified **restricted or** confidential. Such a request shall be immediately forwarded to the division ~~head~~ or facility **head** responsible for ~~the~~ keeping ~~of~~ these records for the final decision to release information so classified. A written notice of such a release shall be incorporated into the offender's **or juvenile's** record in the same manner prescribed in the prior section.

(e) All authorized department personnel or contract personnel who have an official interest in an offender's or juvenile's records as a consequence of statutory functions or department responsibilities, delegated or otherwise, shall have appropriate access to offender and juvenile records. *(Department of Correction; Offender Records, Art VI; filed Jul 30, 1979, 2:25 p.m.: 2 IR 1201; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)*

SECTION 6. 210 IAC 1-6-7 IS AMENDED TO READ AS FOLLOWS:

210 IAC 1-6-7 Research purposes; request for access to information

Authority: IC 11-8-5-2
Affected: IC 4-1-6-8.6

Sec. 7. ~~Disclosures of Offender Information for Research Purposes.~~ All requests for access to offender **or juvenile** records ~~to provide~~ for research **purposes** shall be made ~~known~~ to the ~~appropriate Executive Director of the Department of Correction~~ **director of planning services** in written form. Such requests shall include the name of the agency or organization performing the research, the names of the ~~staff~~ persons directly responsible for **the following:**

(1) Conducting such research.

(2) The purpose of such research.

(3) How the research is to be performed. ~~and~~

(4) What measures will be taken to assure the proper protection of classified information.

Approval of such requests will then be granted or denied consistent with provisions of IC 4-1-6-8.6 **and department procedures.** *(Department of Correction; Offender Records, Art VII; filed Jul 30, 1979, 2:25 p.m.: 2 IR 1202; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)*

SECTION 7. 210 IAC 1-10 IS ADDED TO READ AS FOLLOWS:

Rule 10. Offender Tort Claim Process

210 IAC 1-10-1 Personal property tort claims

Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 1. (a) This rule applies only to tort claims filed by offenders either currently committed to the department and confined in a department facility or who were committed to and confined in a department facility and who have alleged a loss of personal property due to actions or omissions by the department.

(b) Only those claims where an offender is attempting to recover compensation, either monetary compensation or replacement of property, for the loss of personal property are subject to this rule. This loss must be alleged to have occurred during the offender's confinement as a result of an act or omission of the department or any of its agents, officers, employees, or contractors. For the purpose of this rule, "personal property" means any property that offenders are allowed to possess, excluding state-issued property and contraband, in accordance with the department's administrative procedures for Policy 02-01-101, "offender personal property". *(Department of Correction; 210 IAC 1-10-1)*

210 IAC 1-10-2 Time limit for filing a claim

Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 2. An offender must file a claim pursuant to this rule no later than one hundred eighty (180) days after the date of the alleged loss. Claims filed after this time frame has elapsed shall not be considered and shall be returned to the offender. *(Department of Correction; 210 IAC 1-10-2)*

210 IAC 1-10-3 Claim filing

Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 3. (a) In those cases where an offender alleges that the department or its agents have lost, damaged, or destroyed personal property belonging to the offender, the offender may file a claim for compensation. The offender shall complete the NOTICE OF LOSS OF PROPERTY–TORT CLAIM form. Each facility shall ensure that copies of this form are made available in the offender law library, offender housing units, or other suitable location. The offender also may obtain this form from his or her counselor.

(b) The offender will be required to complete this form by providing as much information as possible when describing the item lost and the manner in which it was lost. The offender shall attach any supporting documents or information to this form. When the form is completed, the offender shall submit the form to the facility head. The offender shall also send a copy of the claim, including all supporting documents, to the department's Tort Claim Administrator, Division of Legal Services, Indiana Government Center-South, 302 West Washington Street, E334, Indianapolis, Indiana 46204. *(Department of Correction; 210 IAC 1-10-3)*

210 IAC 1-10-4 Claim investigation
Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 4. (a) The facility head shall designate a staff person to act as the facility's tort claims investigator. The tort claims investigator shall have access to all areas of the facility in order to investigate claims and make recommendations for settlement if applicable.

(b) The duties of the facility tort claims investigator shall include the following:

(1) Receiving the NOTICE OF LOSS OF PROPERTY–TORT CLAIM form from the facility head.

(2) Reviewing this form and any accompanying documentation.

(3) Investigating the claim made by the offender, including the following:

(A) Interviewing staff and the offender as necessary.

(B) Reviewing all pertinent documents, including personal property inventories, and commissary requests.

(C) Completing any other actions necessary to make a recommendation on the claim.

(4) Making a recommendation concerning the settlement of the claim and complete the tort claims investigator's section of the RECOMMENDATION ON TORT CLAIM form.

(5) Submitting the RECOMMENDATION ON TORT CLAIM form to the department's tort claims administrator.

(6) Maintaining files of all property loss tort claims filed by offenders at the facility.

(Department of Correction; 210 IAC 1-10-4)

210 IAC 1-10-5 Claim administration
Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 5. (a) The commissioner of the department shall appoint a staff person within the division of legal services to act as the tort claims administrator for all claims regarding loss of property by offenders. This staff person shall report to the director of the division of legal services.

(b) The duties of the tort claims administrator shall include the following:

(1) Receiving copies of the NOTICE OF LOSS OF PROPERTY–TORT CLAIM form submitted by offenders.

(2) Assigning a sequential case number to each notice received.

(3) Advising the facility tort claims investigator and the offender as to the case number assigned to the claim.

(4) Receiving copies of the RECOMMENDATION ON TORT CLAIM form from the facility tort claims investigator.

(5) Reviewing all documents and forms received from the offender and the facility tort claims investigator.

(6) Requesting additional information from the facility or the offender, as necessary.

(7) Making a recommendation to the office of the attorney general concerning settlement of the claims, including the following:

(A) Completing the AMENDMENT TO TORT CLAIM form in cases where the claim appears appropriate but the amount requested is not correct.

(B) Forwarding the AMENDMENT TO TORT CLAIM form to the facility tort claims investigator as necessary.

(C) Receiving the completed AMENDMENT TO TORT CLAIM form from the facility tort claims investigator.

(D) Completing the tort claims administrator section of the RECOMMENDATION ON TORT CLAIM form.

(8) Submitting all documentation to the office of the attorney general.

(9) Maintaining a file on all property loss tort claims filed in the department.

(10) Serving as the department liaison with the office of the attorney general for property loss tort claims.

(Department of Correction; 210 IAC 1-10-5)

210 IAC 1-10-6 Claim settlement
Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 6. (a) All checks for payment of property loss claims shall be sent to the offender at his or her housing facility.

(b) In those cases where the offender has been released from the department prior to the settlement of the claim, the tort claims administrator shall provide the attorney general with the offender's last known address. *(Department of Correction; 210 IAC 1-10-6)*

SECTION 8. 210 IAC 5-1-1 IS AMENDED TO READ AS FOLLOWS:

ARTICLE 5. RELEASE AUTHORITY FOR JUVENILES

Rule 1. Release Procedure

210 IAC 5-1-1 Definitions; administrative procedures
Authority: IC 11-13-6-2
Affected: IC 11-8-2-5; IC 11-13-6

Sec. 1. (a) The following definitions and administrative procedures shall be applicable in the operation of the ~~paroling~~ **releasing** authority for juveniles:

~~"Commissioner" means the chief executive of the department.~~

(1) "Administrative review committee" shall make all decisions relating to the release of juveniles to community supervision.

(2) "Chairperson" means the chairperson of the ~~juvenile parole~~ **administrative review** committee **or the community supervision revocation committee.**

(3) "Commissioner" means the chief executive of the department.

(4) "Commitment" means an order of a juvenile court placing a juvenile ~~offender~~ in the care, custody, and wardship of the department. ~~of correction.~~

(5) "Community supervision" means the conditional release of a juvenile before the time of a mandatory and unconditional discharge from a commitment.

(6) "Community supervision revocation committee" ~~means the juvenile parole committee~~ **shall conduct all community supervision revocation hearings.**

(7) "Community supervision revocation hearing" means a formal hearing afforded by the department to determine if a violation of the conditions of community supervision has occurred.

(8) "Community supervision violation" means noncompliance with a condition of community supervision by the juvenile.

(9) "Community supervision violator" means a juvenile who has violated a condition of community supervision.

(10) "Department" means the department of correction.

(11) "Director, juvenile transition program" means the person responsible for the day-to-day casework monitoring of all juveniles in the community, approving all special conditions of the community supervision release agreement and the commissioner's designee to release all juveniles from contract facilities.

(12) "Discharge" means an unconditional release of ~~an offender~~ **a juvenile** from a commitment.

(13) "Field staff" means department employees who supervise juveniles in the community.

(14) "Hearing officer" means the administrative officer who conducts a preliminary hearing.

~~"Offender"~~ **(15) "Juvenile"** means a delinquent ~~offender,~~ **child,** which is a person who is adjudged delinquent by a juvenile court and committed to the department of correction. This definition shall be deemed to include status ~~offenders.~~ **juveniles.**

~~"Parole" means the conditional release of an offender to community supervision before the time of a mandatory and unconditional discharge from a commitment.~~

~~"Parole revocation hearing" means a formal hearing afforded an offender by the department to determine if a violation of the conditions of parole has occurred.~~

~~"Parole violation" means non-compliance to a condition of parole by an offender.~~

~~"Parole violator" means an offender who has violated a condition of parole.~~

(16) "Placement" means the place of residence of the juvenile upon release.

(17) "Preliminary hearing" means a hearing to determine whether probable cause exists to believe that a violation of a ~~parole~~ **community supervision** condition has occurred.

~~"Regular parole applicant" means an offender who has completed all institutional requirements as approved by the commissioner.~~

(18) "Review" means a hearing granted by the ~~parole committee to an offender~~ **administrative review committee for a juvenile** who has not met institutional criteria for release recommendation.

~~"Special parole applicant" means an offender who has completed all institutional requirements as approved by the commissioner, but who was committed to the department for an offense against a person.~~

(b) ~~(1)~~ The **requirements for the administrative review** committee shall be **as follows:**

(1) The administrative review committee shall be comprised of ~~three (3)~~ **four (4)** members. The chairperson shall be ~~from~~ the ~~parole services section~~ **facility superintendent or designee** and the other ~~two (2)~~ **three (3)** members shall be from the ~~institution where the committee is meeting.~~ **education department, treatment department, and custody department as designated by the commissioner.**

~~(2) The commissioner shall appoint the chairperson; and the superintendent of the institution shall appoint the institutional members.~~

~~(3) The committee shall make all decisions relating to:~~

~~(A) parole release;~~

~~(B) parole revocation;~~

~~(C) discharge from parole;~~

~~(D) discharge from commitment.~~

~~(4)~~ **(2)** All decisions of the ~~parole~~ **administrative review** committee shall be ~~by majority vote.~~ **unanimous.**

~~(5)~~ **(3)** The **administrative review** committee shall meet in accordance with a schedule approved by the chairperson.

(Department of Correction; 210 IAC 5-1-1; filed Apr 17, 1985,

9:45 a.m.: 8 IR 1125; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

SECTION 9. 210 IAC 5-1-2 IS AMENDED TO READ AS FOLLOWS:

210 IAC 5-1-2 Release recommendation by the facility; committee criteria for granting release

Authority: IC 11-13-6-2
Affected: IC 11-8-2-5; IC 11-8-5; IC 11-13-6

Sec. 2. (a) ~~Institutional criteria. (1) General requirements:~~ Criteria for ~~parole selection~~ **community supervision** shall be based on the following:

(1) The committing offense. ~~institutional~~

(2) Facility adjustment. ~~and~~

(3) Achievement of treatment goals established according to the ~~offender's~~ **juvenile's** individual **risk and** needs.

The treatment staff shall ~~assist the offender in setting goals and shall~~ review the ~~offender's~~ **juvenile's** progress at regular intervals. Upon completion of ~~institution/facility~~ **facility** requirements as approved by the ~~institution/facility~~ **facility** head, the ~~offender~~ **juvenile** shall be recommended for ~~parole~~ **community supervision** consideration to the ~~department of correction parole committee for juveniles.~~ **facility administrative review committee.**

~~(2) Early release recommendations: The institution/facility head, as guardian of the offender, may, upon the recommendation of the treatment staff, or at his own discretion, recommend an offender for release prior to the offender completing the general requirements.~~

~~(3) Special parole applicants (offenses against person): The same criteria for release shall be utilized for all offenders. However, offenders who have committed an offense against a person shall be interviewed by the juvenile parole committee, which will make a decision regarding the offender's release.~~

~~(4)~~ **(b) Requirements for** discharge from commitment ~~A recommendation for discharge from commitment shall not be made to the parole committee unless the offender has attained the age of eighteen (18) at the time of recommendation. However, an offender may be recommended for discharge from commitment prior to attaining the age of eighteen (18), if special circumstances exist.~~ **shall be as follows:**

(1) Determinate sentence juveniles shall be discharged by the administrative review committee in accordance with the commitment order.

(2) Juveniles who are at least eighteen (18) years of age may be considered for community supervision or discharge by the administrative review committee.

~~(b) Parole committee criteria. (1) Institutional adjustment: The parole applicant's overall adjustment in the institution including, but not limited to, academic progress, completion of treatment goals, work/study performance, and adherence to rules and regulations governing offenders.~~

~~(2) Past offense record: The parole committee shall review the applicant's past offense record as to the offender's potential for successful parole.~~

~~(3) Nature of offense: Circumstances surrounding the offense for which two (2) juveniles are currently committed.~~

(c) The commissioner, pursuant to authority vested in him or her under IC 11-8-2-5(b)(2), may designate the authority to release or discharge juveniles from commitment. When a release from commitment is by discharge, the commissioner, or his or her designee, shall certify the discharge to the clerk of the committing court.

(d) The commissioner shall designate a person or persons to:

(1) release juveniles from a contract facility via community supervision or discharge; and

(2) discharge all juveniles from community supervision.

(Department of Correction; 210 IAC 5-1-2; filed Apr 17, 1985, 9:45 a.m.: 8 IR 1125; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

SECTION 10. 210 IAC 5-1-3 IS AMENDED TO READ AS FOLLOWS:

210 IAC 5-1-3 Community supervision or discharge; consideration, reviews, denials, conditions statement

Authority: IC 11-13-6-2
Affected: IC 11-8-2-5; IC 11-8-5; IC 11-13-6

Sec. 3. (a) ~~Procedure for considering parole or discharge of regular parole applicants: (1) The head of each juvenile institution or facility shall prepare a list of all offenders eligible for release consideration and shall transmit such list to the chairperson.~~

~~(A) The list shall be prepared weekly.~~

~~(B) The list shall contain a recommendation concerning parole or discharge.~~

~~(2) The chairperson shall review such list and consider each offender's attainment of release criteria. The chairperson shall then make a determination as to each offender's parole, discharge, or need to appear before the parole committee. The chairperson shall return to the institutional head the approved list with a signed parole release agreement, or a signed discharge certificate, on those offenders authorized for release.~~

~~(3) Those offenders whose release has not been approved by the chairperson shall be interviewed by the juvenile parole committee. The committee shall then make a decision regarding the offender's release.~~

The administrative review committee shall review the

treatment team's recommendations regarding the juvenile's progress in treatment and interview the juvenile to determine release to community supervision or discharge, whichever is appropriate. A juvenile who has not received a facility recommendation for community supervision shall be reviewed by the administrative review committee at least every twelve (12) months.

~~(b) Procedure for considering parole or discharge for special parole applicants: (1) Offenders who have completed institutional criteria for release but who were committed for an offense against a person, shall be interviewed by the juvenile parole committee. This includes, but is not limited to, offenses, the nature of which includes arson, robbery, rape, child-molesting, kidnapping, homicide, battery, and attempt or conspiracy to commit such an act.~~

~~(2) Based upon the interview and the parole committee criteria, the committee shall then make a decision regarding the offender's release.~~

~~(c) Mandatory review: (1) Offenders who have not received an institutional recommendation for parole or discharge shall have their cases reviewed and be interviewed by the juvenile parole committee at least every twelve (12) months.~~

~~(2) Based upon the mandatory interview and institution and parole committee criteria, the committee shall make a decision regarding the offender's release.~~

~~(d) Prior to the committee making a determination to grant or deny parole, the offender shall be provided by the housing institution or facility with the following: (1) At least seven (7) days (excluding Saturday, Sunday, or holidays) advance written notice that he is being considered for release.~~

~~(2) Access in accordance with IC 11-8-5 to records and reports to be considered by the committee in making the release determination.~~

~~(3) An opportunity to appear before the committee, speak in his own behalf and present documentary evidence.~~

~~(e) In all cases where parole is denied, the chairperson shall give the offender written notice of the denial and the reason for denial: (1) No offender may be denied parole solely on the basis that appropriate quarters are not available In the community to which he will return.~~

~~(2) No offender will be denied parole without an interview. The interview shall be conducted by the juvenile parole committee.~~

~~(f) The commissioner, by authority vested in him under IC 11-8-2-5(b)(2), may delegate the authority to discharge offenders from commitment to a member of a parole committee. When a release from commitment is by discharge, the commissioner, or his designee, shall certify the discharge to the clerk of the committing court.~~

~~(g) When an offender is released on parole he shall be given a written statement of the conditions imposed by the department. Signed copies of this statement shall be forwarded to any person charged with his supervision and retained by the department: (1) The conditions shall be signed by the chairperson of the committee.~~

~~(2) The housing institution shall explain the conditions of parole to the offender, the offender shall acknowledge receipt of the conditions by his signature, and the offender's signature shall be witnessed.~~

~~(3) The parole conditions for offenders released from juvenile institutions shall be as follows:~~

~~(A) I will report within twenty-four (24) hours after my arrival at my destination either by mail, telephone, or personal visit, as directed to my supervising parole agent.~~

~~(B) I will faithfully comply with any orders and conditions imposed by the department of correction.~~

~~(C) I will obey all laws (state, federal, and local ordinances).~~

~~(D) I agree not to associate with persons with a previous criminal record, or adjudicated delinquents, including both adults and juveniles currently on parole or probation, unless otherwise authorized by my supervising parole agent.~~

~~(E) I agree to be gainfully employed when work is available, if not in a full- time school program.~~

~~(F) I understand that I must consult with my supervising parole agent for permission to:~~

~~(i) open a bank checking account;~~

~~(ii) borrow money or go into debt;~~

~~(iii) purchase an automobile in my name;~~

~~(iv) obtain a driver's license;~~

~~(v) possess and/or use any firearms;~~

~~(vi) change my residence or school program;~~

~~(vii) marry or file for divorce;~~

~~(viii) travel outside counties adjacent to my county or residence or outside the state of Indiana.~~

~~(G) I understand that placement failure or the need for medical attention or psychiatric or psychological evaluation is cause for return temporarily to the institution.~~

~~(H) I agree to participate in any special treatment program established by the department of correction for juvenile parolees upon the recommendation and approval of the chairperson of the juvenile parole committee.~~

~~(4) The committee may impose special stipulations to parole. These conditions shall be made a part of the official record on each offender involved. The offender shall be given a copy of these conditions. The committee may also impose special stipulations to parole at any time during the parole period upon~~

~~recommendation of the parole agent. The offender shall be given notice and a copy of these conditions.~~

(b) A juvenile under consideration for community supervision or discharge shall be afforded the following:

(1) At least seven (7) days' (excluding Saturday, Sunday, or holidays) advance written notice that he or she is being considered for community supervision or discharge.

(2) Access to records and reports to be considered by the committee making the release determination in accordance with IC 11-8-5.

(3) An opportunity to appear before the committee, speak in his or her own behalf, and present documentary evidence.

(c) In all cases where community supervision is denied, the chairperson shall give the juvenile written notice of the denial and the reason or reasons for the denial, including the following:

(1) No juvenile may be denied community supervision solely on the basis that appropriate placement is not available in the community to which he or she will return.

(2) The committee shall provide written notice to the juvenile that he or she has the right to appeal the administrative review committee decision.

(d) When a juvenile is released to community supervision he or she shall be given a written statement of the community supervision conditions imposed by the department. Signed copies of this statement shall be forwarded to any person charged with his or her supervision and retained by the department, including the following:

(1) The conditions shall be signed by the chairperson of the administrative review committee or the director of the juvenile transition program.

(2) The administrative review committee shall explain the conditions of community supervision to the juvenile, the juvenile shall acknowledge receipt of the conditions by his or her signature, and the juvenile's signature shall be witnessed.

(3) The community supervision conditions for juveniles released from juvenile facilities shall be as follows:

(A) I will report to my supervising field staff by telephone within twenty-four (24) hours of arrival at my approved residence, unless I have received other written instructions.

(B) I understand it is my responsibility to maintain contact with my field staff by making myself available through home visits, office visits, school visits, work visits, telephone contacts, and/or written reports as directed. I understand that my field staff has the authority to search and/or inspect my person or personal property without a search warrant at any time.

(C) I will obey all federal, state, and local laws.

(D) I understand that I must immediately notify my field staff any time I am arrested, ticketed, or contacted by any law enforcement agent.

(E) I agree not to use or possess alcohol or any controlled substance. I agree not to remain at any place where alcohol or controlled substances are present and being illegally consumed.

(F) I understand that I may not, at any time, possess a firearm, loaded or unloaded, knife, weapon, or any other devise, equipment, chemical substance, or other material that could be used to cause harm or serious bodily injury to another person.

(G) I agree not to associate with persons adjudicated or convicted of a criminal offense, including any person currently on parole or probation, unless authorized by my field staff.

(H) I understand that I must obtain written permission from my field staff to purchase a motorized vehicle (automobile, truck, motorcycle, or moped) or obtain an identification card, beginner's driving permit, or driver's license.

(I) I will be at my approved residence during curfew hours and during the hours designated by my parent or guardian and field staff unless I have obtained permission in advance to be at another location.

(J) I understand that I must obtain written permission from my field staff before leaving Indiana for any reason, for example, day visit, holiday visit, family illness, funeral, or vacation. Verbal permission from field staff shall be obtained for travel within Indiana.

(K) I agree to:

(i) participate in an approved educational or vocational school program; or

(ii) be gainfully employed, when work is available or participate in an approved community service program.

(L) I understand that I must notify my field staff if I am unable to fulfill my obligations for employment, community service project assignment, or educational or vocational school program.

(M) I understand that "Placement Failure", the need for emergency medical, psychiatric or psychological evaluation, or any life-threatening situation may be cause for a temporary return to a facility.

(N) I will comply with all orders and special conditions imposed by the department. Additional terms and conditions of community supervision may be added at any time during the community supervision period upon recommendation of the field staff and approval of the director of the juvenile transition program.

(4) The administrative review committee may impose special conditions to community supervision. The juvenile shall be given notice of and a copy of these conditions. A copy of these conditions shall be placed in the official record of the applicable juvenile.

(5) The commissioner's designee shall be authorized to

impose special conditions on juveniles upon the request of the field staff supervising that juvenile. The juvenile shall be given notice of and a copy of these conditions. A copy of these conditions shall be placed in the official record of the applicable juvenile.

(6) The administrative review committee shall inform the juvenile that he or she has the right to appeal the decision of the administrative review committee to the commissioner's designee in writing within seven (7) calendar days.

(Department of Correction; 210 IAC 5-1-3; filed Apr 17, 1985, 9:45 a.m.: 8 IR 1126; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

SECTION 11. 210 IAC 5-1-4 IS AMENDED TO READ AS FOLLOWS:

210 IAC 5-1-4 Community supervision revocation

Authority: IC 11-13-6-2
Affected: IC 11-8-2-5; IC 11-13-6; IC 33-1-7-2

Sec. 4. (a) ~~Procedures~~ **Procedure** for conducting preliminary hearings **are as follows:**

(1) ~~A parole agent~~ **Field staff** shall submit a written report of **the** alleged ~~parole~~ **community supervision** violation **or violations** to the ~~assistant supervisor of parole, juvenile,~~ **commissioner's designee** when ~~reasonable suspicion exists to believe the parolee~~ **there is reasonable belief to believe the juvenile** has violated ~~the conditions~~ **a condition** of ~~parole.~~ **community supervision.**

(2) The ~~assistant supervisor of parole, juveniles,~~ **commissioner's designee** shall review the report of alleged violation **or violations** and determine whether or not a warrant should be issued. If a warrant ~~should be~~ **is** issued, a hearing officer shall ~~be assigned to~~ conduct ~~the~~ **a** preliminary hearing.

~~(A)~~ The commissioner, by **the** authority vested in him **or her** under IC 11-8-2-5(b), may delegate ~~this~~ **his or her** authority to issue warrants. ~~to the assistant supervisor of parole, juveniles.~~

~~(B) The hearing officer conducting the preliminary hearing shall be a person other than the one who reported, or investigated, the alleged violation.~~

(3) The hearing officer shall be impartial and have no involvement in the reporting or investigation of the alleged violation or violations.

~~(3)~~ **(4)** The hearing officer shall ~~upon receipt of notification to schedule a preliminary hearing,~~ provide the ~~offender~~ **juvenile** and his **or her** parents, guardians, or custodians written notice of **the following:**

(A) The date, time, and place of **the** hearing.

(B) The ~~parole~~ **community supervision condition or** conditions alleged to have been violated.

(C) The procedures and rights applicable to that hearing.

(D) If probable cause is found to exist, his **or her** right to a revocation hearing and the procedures and rights applicable to that hearing.

(E) The possible sanctions if a violation is found.

~~(4)~~ **(5)** In connection with the preliminary hearing, the ~~offender~~ **juvenile** is entitled to **the following:**

(A) Appear and speak in his **or her** own behalf.

(B) Call witnesses and present documentary evidence.

(C) Confront and cross examine witnesses, unless the hearing officer finds that to do so would subject the witness to a substantial risk of harm.

(D) ~~and have~~ A written statement of the findings of fact and the evidence relied upon.

~~(5)~~ **(6)** The ~~offender's~~ **juvenile's** parents, guardians, or custodians are entitled to be present at the hearing.

~~(6)~~ **(7)** If the hearing officer determines that ~~there is not~~ probable cause ~~to believe that~~ **does not exist to believe** the ~~offender~~ **juvenile** violated a condition of ~~his parole~~ **community supervision,** the charge shall be dismissed.

~~(7)~~ **(8)** If the hearing officer determines from the evidence presented that there is probable cause to believe that the ~~offender~~ **juvenile** violated a condition of ~~parole,~~ **community supervision,** but ~~in his or her judgment,~~ the hearing officer does not feel that ~~it~~ **there** is sufficient reason for return to the ~~institution,~~ **facility,** the hearing officer may continue the ~~offender~~ **juvenile** on ~~parole. However, if there is a special condition of the continuance, the condition must be discussed with, and approved by, the chairperson of the parole committee prior to its having effect.~~ **community supervision pending the community supervision revocation hearing. Any special condition imposed by the hearing officer as a result of continued placement on community supervision shall be discussed with, and approved by, the commissioner's designee, prior to its imposition.**

~~(8)~~ **(9)** If the hearing officer determines from the evidence presented that there is probable cause to believe that the ~~offender~~ **juvenile** violated a condition of his ~~parole~~ **or her community supervision** and the ~~offender should appear before the parole committee for~~ **juvenile should be confined pending** a revocation hearing, the ~~offender~~ **juvenile** shall be arrested on the department's warrant and returned to a juvenile ~~institution~~ **facility** pending a ~~parole~~ **community supervision** revocation hearing.

~~(9)~~ **(10)** In a case where the alleged violation of ~~parole~~ **community supervision** is based on a criminal conviction or a delinquency adjudication, the preliminary hearing need not be held.

~~(10)~~ **(11)** Unless good cause for the delay is established in the record of the preliminary hearing, the ~~parole~~ **community supervision** violation charge shall be dismissed if the preliminary hearing is not held within ten (10) days after the date of arrest on the department's warrant.

(b) Procedures for conducting ~~parole~~ **community supervision** revocation hearings **are as follows:**

(1) The community supervision revocation hearing shall be presided over by the commissioner's designee and two (2) members designated by the facility superintendent.

The commissioner's designee shall serve as chairperson. The committee shall meet in accordance with a schedule established by the chairperson.

~~(1) An offender~~ **(2) A juvenile** confined at a juvenile ~~institution~~ **facility** due to an alleged **community supervision** violation ~~of parole conditions~~ shall be afforded a ~~parole~~ **community supervision** revocation hearing by the ~~juvenile parole~~ **community supervision violation** committee within sixty (60) days of his or her arrest on the department's warrant.

(3) An alleged ~~parole~~ **community supervision** violator who is not confined prior to the ~~parole~~ **community supervision** revocation hearing shall be afforded ~~such~~ a hearing within **one hundred eighty** (180) days after the order was issued for his **or her** appearance **at the community supervision revocation hearing** or the date of his **or her** arrest on the ~~parole~~ **community supervision** violation warrant, whichever is earlier.

(4) Unless good cause for delay is established in the record of the revocation hearing, the revocation charge shall be dismissed if the revocation hearing is not held within the time limits established in subdivisions (2) and (3).

~~(2)~~ **(5)** Within ~~48~~ **seventy-two (72)** hours of ~~an offender's~~ **a juvenile's** return to a juvenile ~~institution,~~ **facility** (excluding Saturday, Sunday, or holidays) as an alleged ~~parole~~ **community supervision** violator, the ~~institution~~ **facility** shall notify the ~~offender~~ **juvenile** that he or she has the right to be represented by counsel at a revocation hearing and, if indigent, to have counsel appointed for him or her, **including the following:**

(A) The ~~offender~~ **juvenile** shall sign a statement indicating his or her understanding of **the** right to counsel and whether he or she desires to have counsel represent him or her at the revocation hearing.

(B) If the ~~offender~~ **juvenile** desires to be represented by counsel, but cannot afford such representation, the housing ~~institution~~ **facility** shall notify the public defender's office that the ~~parolee~~ **alleged community supervision violator** desires counsel at the revocation hearing.

~~(3)~~ **(6)** The housing ~~institution~~ **facility** shall provide the ~~offender~~ **juvenile** and his **or her** parents, guardian, or custodian written notice of the revocation hearing at least seven (7) days in advance of the hearing. The written notice shall include **the following:**

(A) The date, time, and place of the hearing.

(B) The ~~parole~~ **community supervision condition or** conditions alleged to have been violated.

(C) The procedures and rights applicable to such hearing.

(D) The possible sanctions if a violation is found.

~~(4)~~ **(7)** The ~~offender~~ **juvenile** shall be afforded those safeguards enumerated in ~~(a)(4) of this section~~ **subsection (a)(5)** and may offer evidence in mitigation of the alleged violation.

~~(5)~~ **(8)** The ~~offender's~~ **juvenile's** parents, guardians, or custodians are entitled to be present at the revocation hearing and shall be so advised by the housing ~~institution.~~ **facility.**

~~(6)~~ **(9)** If it is determined from the evidence presented that the ~~offender~~ **juvenile** did not commit a violation of ~~the conditions of parole,~~ **community supervision,** the charge **or charges** shall be dismissed.

~~(7)~~ **(10)** If the committee finds that the ~~offender~~ **juvenile** did violate a condition **or conditions** of ~~parole,~~ **community supervision,** it may continue the ~~offender~~ **juvenile** on ~~parole,~~ **community supervision,** with or without modifying the conditions, or revoke the ~~parole~~ **community supervision** and order the ~~offender~~ **juvenile** confined, **including the following:**

(A) If the ~~offender~~ **juvenile** is continued on ~~parole,~~ **community supervision** with modified conditions, he or she shall be given written notification of the **modification or** modifications.

(B) If ~~parole~~ **community supervision** is revoked, the committee shall inform the ~~offender~~ **juvenile** that he or she will be reconsidered for ~~parole~~ **community supervision** on a specific date or that he or she **will** be reconsidered when he or she again completes the ~~institutional~~ **facility** criteria for release.

~~(8)~~ **(11)** The chairperson shall provide the ~~parolee~~ **community supervision violator** with a written statement of the reasons for the committee's action if ~~parole~~ **community supervision** is revoked. **The juvenile has the right to appeal the decision of the community supervision revocation committee.**

~~(9) Unless good cause for the delay is established in the record of the revocation hearing, the revocation charge shall be dismissed if the revocation hearing is not held within the time limits established in (b)(1) of this section.~~

~~(10)~~ **(12)** The ~~parole~~ **community supervision revocation** committee shall consider the following: ~~at a revocation hearing:~~

(A) ~~Community adjustment:~~ The alleged violator's overall community adjustment ~~shall be considered,~~ including, but not limited to, **the following:**

(i) School or work.

(ii) Completion of ~~parole~~ **community supervision** goals. ~~and~~

(iii) Previous violations committed while on ~~parole.~~ **community supervision.**

(B) ~~Past offense record:~~ The alleged ~~parole~~ **community supervision** violator's past juvenile history ~~shall be considered along with~~ **and** the nature of his **or her** committing offense.

(C) ~~Nature of current violation:~~ The ~~exact~~ nature of the violation committed by the alleged ~~parole~~ **community supervision** violator and the events and circumstances surrounding the violation. ~~shall be considered.~~

~~(11) The procedures contained in (b) of this section shall be deemed to apply to parole revocation hearings when the alleged parole violator was not confined due to the alleged parole violation prior to the revocation hearing.~~

(13) The community supervision revocation committee

shall inform the juvenile that he or she has the right to appeal the decision of the community supervision revocation committee to the commissioner's designee in writing within seven (7) calendar days.

(Department of Correction; 210 IAC 5-1-4; filed Apr 17, 1985, 9:45 a.m.: 8 IR 1127; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269)

SECTION 12. 210 IAC 1-6-3 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 8, 2003 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Room 4, Indianapolis, Indiana the Department of Correction will hold a public hearing on proposed amendments to the collection, maintenance, and release of offender and juvenile records, the offender tort claims process, and release authority for juveniles. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E334 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Diane Mains
Staff Counsel
Department of Correction

TITLE 327 WATER POLLUTION CONTROL BOARD

Proposed Rule
LSA Document #01-96

DIGEST

Amends rules concerning storm water discharges under 327 IAC 5 NPDES and pretreatment programs. Adds new rules under 327 IAC 15 NPDES general permit rule program related to municipal separate storm sewer systems. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: April 1, 2001, Indiana Register (24 IR 2244).

Second Notice of Comment Period and Notice of First Hearing: January 1, 2002 (25 IR 1353).

Preliminary Adoption Hearing: May 8, 2002. Hearing opened and continued to June 12, 2002.

Preliminary Adoption Hearing: June 12, 2002. Hearing opened and continued to July 10, 2002.

July 10, 2002, Water Pollution Control Board meeting was cancelled.

Notice of Preliminary Adoption Hearing: August 1, 2002, Indiana Register (25 IR 3805).

Date of First Hearing: August 14, 2002.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4, until the board has conducted a third comment period that is at least twenty-one (21) days long.

REQUEST FOR PUBLIC COMMENTS

Portions of this proposed rule are substantively different from the draft rule published on January 1, 2002, at 25 IR 1353. The Indiana Department of Environmental Management (IDEM) is requesting comment on the following portions of the proposed (preliminarily adopted) rule that are substantively different from the language contained in the draft rule.

The following sections of the proposed rule are substantively different from the draft rule:

327 IAC 5-4-6
327 IAC 15-13-2
327 IAC 15-13-3
327 IAC 15-13-5
327 IAC 15-13-6
327 IAC 15-13-7
327 IAC 15-13-8
327 IAC 15-13-9
327 IAC 15-13-10
327 IAC 15-13-14
327 IAC 15-13-15
327 IAC 15-13-16
327 IAC 15-13-17
327 IAC 15-13-20

This notice requests the submission of comments on the sections of the rule listed above, including suggestions for specific amendments to those sections. These comments and the department's responses thereto will be presented to the board for its consideration at final adoption under IC 13-14-9-6. Comments on additional sections of the proposed rule that the commentor believes are substantively different from the draft rule may also be submitted for the consideration of the board. Mailed comments should be addressed to:

#01-96 General Permits–MS4 Storm Water Rules
Larry Wu
Rules Section Chief
Office of Water Quality
Indiana Department of Environmental Management
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the receptionist on duty at the twelfth floor reception desk, Office of Water Quality, 100 North Senate Avenue, Indianapolis, Indiana. Comments may also be submitted by facsimile to (317) 232-8406, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-8903.

COMMENT PERIOD DEADLINE

Comments in any form must be postmarked, hand delivered, or faxed by December 21, 2002.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from January 1, 2002, through January 31, 2002, on IDEM's draft rule language. IDEM received comments from the following parties:

American Consulting, Inc. (ACI)
Area Plan Commission Evansville-Vanderburgh County (APC)
City of Elkhart (COE)
City of Evansville (CE)
City of Fort Wayne (COFW)
City of Kendallville (COK)
City of Valparaiso (COV)
Commonwealth Engineers, Inc. (CEI)
Hamilton County Surveyor's Office (HC)
Hancock County Board of Commissioners (HBC)
Indiana Association of Cities and Towns (IACT)
Indiana Department of Natural Resources (DNR)
Indiana Department of Transportation (INDOT)
Indiana Manufacturers Association (IMA)
Monroe County Highway Department (MCHD)
Purdue University (PU)
Sanitary District of Michigan City (SDMC)
Save the Dunes Council (STDC)
Town of Brownsburg (TOB)
University MS4 Workgroup (UW)
Vanderburgh County Board of Commissioners (VBC)
Vanderburgh County Engineering Department (VCED)
Warrick County (WC)

Following is a summary of the comments received and IDEM's responses thereto. The summarized comments are being divided into categories so as to focus on issues.

327 IAC 5-4-6 Comments

Comment: In former subsections (a)(2), (a)(3), (a)(5), (a)(6), and (e), the applicability of this rule to regulated municipal separate storm sewer system (MS4) entities under 327 IAC 15-13 is unclear. Apparent confusion exists over the MS4 operator's authority in regulating industrial facilities, land disturbing activities outside of urbanized areas, and administering individual NPDES permits for industrial facilities. Since there is no definition in this rule, the definition of United States Census Bureau urbanized area map, in relation to a density stipulation of one thousand (1,000) or five hundred (500), is unclear. (MCHD)

Response: This rule sets the authority for IDEM to issue individual and general NPDES permits for regulating storm water discharges. The rule is not intended to contain the requirements for MS4 operators regulated under 327 IAC 15-13. As for defining urbanized area, subsection (g) of the rule references 327 IAC 15-13 for the meaning of the term.

Comment: In former subsection (a)(8), discharges associated with departments of transportation (DOTs) and county highway departments are subject to the NPDES program. The regulation is confusing as to county roads being regulated outside of urbanized areas. If the same requirements as 327 IAC 15-13 are applicable to Indiana DOT conveyances on a statewide basis, the cost incurred for compliance would be burdensome. If IDEM considers roadside drainage ditches to be waters of the state, Indiana DOT is requesting that points where storm water run-off enters a waterbody from these ditches be identified as the outfall for purposes of assessment and illicit detection. (MCHD, INDOT)

Response: Subsection (a) was revised to clarify that subdivision (3) applies only to the Indiana DOT. References to municipal street department and county highway department MS4 conveyances and operational areas were moved into subsection (b)(3), (4), and (5). Indiana DOT will not be regulated by 327 IAC 15-13, and the specific requirements, including the identification of outfall points, will be developed during the discussions for writing an individual NPDES permit under this referenced subsection.

Comment: In former subsection (g), the reference to 327 IAC 2-1-6(a)(1) should be expanded to include a reference to 327 IAC 2-1.5-8 for discharges to Indiana's Great Lakes Basin waters. Immediate compliance with this referenced requirement is unrealistic and some time period should be allowed to reach compliance. It is unclear if this reference imposes water quality-based effluent limitations (WQBELs) pursuant to 327 IAC 5-2-11.1 or 5-2-11.3 through 11.6 or some other permit condition. If WQBELs are not the intended reference, the rule language does not contain any ascertainable standards for imposed conditions, is mandatory and likely inconsistent with existing rule language, and should reference WQBELs in place of inadequate technology-based effluent limitations. Based on interpretation of Article 5, it is felt that standards should not apply until they are translated into effluent limitations. (STDC, IMA, ACI)

Response: Specific citation references to water quality standards have been removed. The narrative water quality standards are applicable to all NPDES-permitted discharges, and numeric effluent limitations are not necessary to have these standards become effective. Due to the high variability of pollutant concentrations in storm water discharges, setting numeric effluent limitations for all regulated MS4 areas is difficult and not appropriate at this time. If warranted in specific instances, individual NPDES storm water permits could be issued with numeric effluent limitations.

Comment: In former subsection (h), discharges of storm water run-off combined with municipal sewage are not subject to this section. Under Phase I federal storm water requirements, there was an allowance for municipalities that have a significant percentage of their total storm water conveyance system classified as combined to "drop out" of the storm water permitting requirements. Only the population served by the separated portion of the total conveyance system should be used in the threshold calculations for designation. This rule and the designation requirements in 327 IAC 15-13-3 should be revised to reflect the percentage of combined sewer system allowance. (IACT)

Response: Subsection (e) states that storm water discharged into combined sewer systems (CSS) are not subject to this section of the rule. CSS are not regulated by 327 IAC 5-4-6 or 327 IAC 15-13. For designation purposes in 327 IAC 15-13-3, the CSS percentage petition allowed in 40 CFR 122.26(f)(3) was deemed inappropriate for Indiana. The petition allowance is based, in part, on CSS municipalities having to implement nine (9) minimum control measures, which are similar to storm water measures, for their wastewater NPDES permit. However, two (2) of the storm water measures, control of construction site and postconstruction run-off, are not covered by the nine measures. Because of the difference, it was felt that CSS requirements were insufficient to adequately address all of the storm water program requirements.

327 IAC 15-13 Comments

General Comments

Comment: The public comment period should be extended, and examples should be provided on ways regulated MS4 entities can meet the compliance schedule deadlines, while developing intra-jurisdictional agreements. (TOB)

Response: The second public comment period ended on January 31, 2002. The public has opportunities to provide public comments during the hearings for preliminary and final adoption to the Water Pollution Control Board. In 2001, IDEM began notifying and informing potentially regulated MS4 entities of the rule requirements and the need to initiate discussions to develop intra-jurisdictional agreements. If new MS4 entities are subject to this rule, revised timetable language for compliance related to the department's notification date was added.

Comment: The Rule 13 program promises verifiable improvement in water quality from municipal separate storm sewers. However, it is unclear the amount of direct assistance (if any), and oversight IDEM or Indiana department of natural resources will provide based on the apparent state inadequacy of resources. (STDC)

Response: The desired outcome of this program is to improve the quality of municipal storm water discharges. Similar to all NPDES permits, IDEM is seeking to establish permitting fees for the storm water program. Collected fees will, in part, be used to adequately staff the program.

Comment: The new rule seems to be more of an oppression than a positive factor for cities and utilities. Cities are not aware of any environmental disasters due to storm water contamination that would warrant such sweeping and costly change. As an example of this cost, combined sewer system communities have spent monies to separate their systems to prevent noncompliance, only to have additional funding needs arise when storm water requirements take effect. Industries and builders/developers are also burdened by the new requirements. Existing storm water requirements are already known to the regulated community and generally complied with, and do not need added stipulations. (COK)

Response: Phase II of the federal storm water regulations, which affects municipalities, industries and builders/developers, was mandated by the United States Environmental Protection Agency. Revisions to Indiana's existing rules are necessary to comply with the mandated changes, and a new rule to regulate municipalities was required. According to the December 1999 NPDES Final Rule covering 40 CFR Parts 9, 122, 123, and 124 in the Federal Register, and the 1996 National Water Quality Inventory Report to Congress, storm water pollution has been documented as a significant cause of impact to various types of waters in the United States. Combining the mandate with the documented impact from storm water run-off, Indiana's storm water program is attempting to achieve federal compliance and improve overall water quality in the state.

Comment: County government has enough of a negative image without unnecessarily adding to it. There appears to be a disconnect between the people who are writing the rules and the people who will have to enforce them. The people writing the rules should be the same ones to face the public when they raise concerns or opposition. It is not good when programs, based on a good idea, are forced on the regulated community when the requirements are not agreed upon. There are financial issues (for example, cutbacks, recession, tax reassessment, ongoing war) throughout the country, and, if imposed measures require questionable expenses, there will be a backlash against storm water quality programs that will have long-term consequences. Rule 13 seems to say that municipalities should spend money to improve storm water quality, but the improvement expenditures are indefinite. Since the rule does not address all existing land uses, there is no ultimate water quality goal. Storm water quality is an important issue, but so are other issues that require resources. The rule should be implemented, but without the "bells and whistles." The relationship between IDEM and MS4 operators should be a partnership, and not a dictatorship. (MCHD)

Response: Rule 13 was developed by an external workgroup, comprised of many regulated entities, who reached a consensus regarding the draft rule language. The rule version published in the January 2002 Indiana Register was the output of this workgroup effort. The Indiana Register version, and the subsequent revised version based on public comments, reflect input and concerns of the public. One of the end results of this public input has been to write a flexible goal-oriented storm water program that requires programmatic indicators in place of mandatory biological or chemical water quality monitoring.

Comment: Standard state-wide water quality requirements need to be reviewed and changed. The triennial review of water quality standards is late, and there has been no justification for this delay. (HC)

Response: Triennial review may address the requirements of 327 IAC 2-1-6(a)(1) and 327 IAC 2-1.5-8 pertaining to all NPDES-permitted discharges. However, the timetable for this review is not under consideration as part of this rulemaking. External meetings with stakeholder groups on the triennial review rulemaking(s) have been initiated and key issues are being discussed.

Comment: The rule should add clear language to describe the differences between a general permit and an individual permit. (IACT)

Response: 327 IAC 15-13 establishes the requirements for a general MS4 permit. 327 IAC 5-4-6 provides the authority for IDEM to issue an individual MS4 permit. Unlike the "general" conditions required by Rule 13, individual MS4 permits will be written, with input from the permittee, to reflect the specific conditions of a permittee's MS4 area. As such, it is not feasible to describe the differences until an individual permit is actually written.

Comment: Many of the IDEM requirements far exceed federal requirements. This adherence to stronger, stricter regulations is overly burdensome, and without justification. Any requirements that are more stringent than federal regulations should be reconsidered, and possibly added at a later date to allow time for regulated entities to develop an appropriately funded and staffed program first. Also, prior to placing more stringent and costly regulations on citizens and government agencies, a review of the effectiveness of Phase I storm water regulations should be conducted. (WC, TOB)

Response: Indiana's version of the Phase II MS4 rule, seeks to clarify ambiguities with the federal requirement. The external Rule 13 development workgroup reached consensus that the rule should detail specific requirements, where possible, to maintain consistency for compliance and to portray state expectations for an adequate program. Many of the regulation requirements have been suggested to remove some of the subjectivity of the federal rule and to add specific requirements deemed important for Indiana by the external workgroup.

Comment: It is confusing that IDEM is willing to force a costly program into effect that will likely make a small difference in water quality, while storm water discharges from rural areas remain unregulated. There should be some regulatory consideration of other sources of storm water quality impact, such as nonpoint sources in rural areas. (TOB)

Response: Included in the December 1999 NPDES final rule covering 40 CFR Parts 9, 122, 123, and 124 in the federal register, the U.S. EPA justified the regulation of urbanized areas. In that document, storm water run-off from urbanized areas was documented as a significant contributor of pollutants to waters of the United States. IDEM's proposed rule is addressing the same urbanized areas as those in the federal regulations. The omission of rural areas from storm water requirements is consistent with federal language.

Comment: In relation to local associations and state-maintained roadways, MS4 entity responsibilities under the rule are unclear. The rule needs to clarify which entities are covered by the rule within a given designated MS4 area. (TOB)

Response: MS4 entities are only responsible for areas in which they have jurisdiction, unless an agreement between affected parties is created to legally allow the jurisdictional area to be extended. The Indiana department of transportation will have an individual MS4 permit covering their jurisdictional conveyances, and home owner association MS4 conveyances may be covered by a regulated MS4 entity with the appropriate agreement, or, if the discharge is impacting a regulated MS4 conveyance without an agreement, can be permitted separately. Any entity, as defined in the rule, within a regulated MS4 area can be potentially permitted by this rule.

Comment: Since the guidance document that accompanies this rule could have a significant impact on the scope of a storm water quality program, it is suggested to have draft versions of this document available for public comment as early as possible. (MCHD)

Response: A guidance document cannot affect the scope of the rule. The scope is established by the rule itself. The guidance document can, however, help all regulated parties understand the scope and effect of the rule. Draft versions of the guidance document created with input from an external workgroup are public documents, and will be available to interested individuals. The timetable for development of the guidance document will coincide with final adoption of the rule.

Comment: It is unclear what the fees are associated with Rule 13. (TOB)

Response: Fees associated with Rule 13 are not part of this rulemaking. Proposed fees have not been created, but will presented to either the Water Pollution Control Board during a separate rulemaking, or the Indiana legislature as part of a statutory revision.

Designation

Comment: In section 3(a) and (b), federal regulations seem to require designation consideration for communities with populations greater than one hundred thousand (100,000), and the state designation requirements should be consistent with this federal requirement. (COK)

Response: IDEM's designation criteria is consistent with federal requirements. Under 40 CFR 122.32, "small" MS4 entities (those entities with a population served by a MS4 less than one hundred thousand (100,000) people) are regulated if they are located within an urbanized area or designated by the NPDES permitting authority. Outside of mapped urbanized areas, IDEM, as the permitting authority, has chosen to potentially designate MS4 municipalities with populations seven thousand (7,000) and above.

Comment: In section 3(a), the designation requirement for smaller institutions should be revised to allow small MS4 entities comprised of one (1) to three (3) buildings to not be designated for permit coverage under this rule. This allowance is consistent with federal storm water language, as these entity types are not different from office buildings or commercial malls which are not designated by this rule. MS4 entities that are currently paying storm water utility fees to another MS4 entity should not be designated, as the maintenance and operation of the MS4 conveyance is assumed to be borne by the entity receiving the fee payment. Full-time equivalent enrollment is an equitable way to determine designation for colleges and universities. (PU, UW)

Response: Under 40 CFR 122.26(b)(16)(iii), the small MS4 definition does not include sewers in very discrete areas, such as individual buildings. Because the number of people is more reflective of considerations for potential storm water impacts than number of buildings, this allowance was not appropriate for colleges and universities meeting the full-time equivalent enrollment threshold. For designation purposes, the issue of MS4 entities paying another regulated MS4 entity for storm water fees is most appropriately handled by the two (2) affected MS4 entities. To seek this designation removal, both the entity paying and the entity receiving the fees must reach some agreement to ensure that the total area is being addressed under one MS4 permit. To be more reflective of on-site conditions, full-time equivalent enrollment is a more useful designation tool than total enrollment for colleges and universities.

Comment: In section 3(a)(1), the reference to 1990 United States Census Bureau urbanized area maps should be deleted, since 2000 maps should be available in 2002. (STDC)

Response: Because 2000 urbanized area maps were unavailable and IDEM wanted to notify as many potentially impacted MS4 entities as possible with sufficient time to start developing the framework for their storm water program, notifications, in part, have been based on 1990 maps. The designation criteria in the rule should be reflective of the data used for notification purposes, and the 1990 map reference will remain at this time. When additional information becomes available from the United States Census Bureau, Rule 13 will be modified accordingly.

Comment: In former section 3(a)(2)(A), the language should read, "county that has a designated UA; or..." to avoid the interpretation that every county is required to obtain a permit. (IACT)

Response: The rule already limits designated counties to those containing a mapped urbanized area. The language "a county...that contains a mapped UA" was revised to remove separate clauses (A) and (B) for clarification and the subsection was revised for clarity.

Comment: In section 3(b), the former term "sensitive water" may be confused with the term "sensitive areas" used in long term control plans. (STDC)

Response: To add consistency with other department programs, "sensitive water" was removed from rule language, and replaced with "sensitive area". The definition for sensitive area, as added to the rule definitions, is the same as the one used in combined sewer overflow policy.

Comment: In section 3(b), entities may be designated if other environmental or water quality programs are ineffective in protecting water quality concerns. The total maximum daily load process, which is implemented by IDEM, should address this issue, and the language should be deleted from this rule. If the language remains, the terms "ineffective" and "water quality concerns" are unclear and should be defined. (IACT)

Response: As developed and approved, total maximum daily loads (TMDLs) will likely be a principal process in the regulation of storm water discharges. However, most water bodies are several years away from having an approved TMDL, and the existing rule language will allow permit coverage during this transition period. The terms "ineffective" and "water quality concerns" have been deleted.

Comment: In former section 3(c), an entity remains designated unless the commissioner determines that the pollutant contribution from the entity is minimal. The term "minimal" is unclear and should be defined. The mandatory designation duration is unacceptable. If an entity loses population under the threshold designation criteria, the entity should be allowed to "drop out" of the storm water permit program. (IACT)

Response: In section 3(c), an entity remains designated until it's permit expires unless the termination requirements of section 20 are applicable. Section 20(a)(3) has been added to the rule language. It allows designated entities to request permit termination as threshold conditions change. The term "minimal" has been removed.

Definitions

Comment: In section 5(1), the definition should be changed to read, "improve the quality and/or reduce the quantity...." A best management practice may not always achieve both objectives. The term should include land-use planning and policy techniques. (COV, ACI)

Response: The definition has been revised to "and, as appropriate, reduce...." The terms "land-use planning" and "policy techniques" have been added.

Comment: In section 5(3), the definition should be clarified to address kennels and local laws that restrict canine access to public areas. (SDMC)

Response: The definition has been clarified to exclude kennels.

Comment: In section 5(4), the definition should include the listing of septic tanks as a type of Class V injection well. (STDC)

Response: The definition has been revised to include septic tank systems.

Comment: In section 5(6) and (37), the former reference to the May 1996 Indiana combined sewer overflow (CSO) strategy should be changed to the updated 2001 CSO strategy, which was required under Senate Enrolled Act 431. Since it is widely used and accepted, combined sanitary sewer operational plan or CSSOP should be added to the listing of definitions. (STDC, COV)

Response: All references in the rule to Indiana CSO policy were deleted, and the definitions were revised to reflect existing state regulatory language for consistency. In discussions with IDEM's CSO program staff, the term combined sanitary sewer operational plan, or CSSOP, is not used and it will not be added to the definitions.

Comment: In section 5(13), "Indiana department of environmental management" should be capitalized. (ACI)

Response: The term will remain as written as it conforms to Legislative Services Agency style.

Comment: In section 5(18) and (28), the definitions should exclude "naturally occurring" materials like leaves, grass clippings, or tree limbs. (VBC, WC, MCHD)

Response: The definitions have been revised to exclude naturally occurring floatables, such as leaves and tree limbs.

Comment: In section 5(38), the term may be confused with the nine (9) minimum control measures of the long term control plan. Because the implication of the current definition is unattainable for most urbanized areas, the former definition should be changed from ensuring "that storm water quality meets the minimum water quality standards", to "reducing the discharge of pollutants to the maximum extent practicable". (STDC, COFW, IACT)

Response: The definition states that the measures are required by this rule, and the six (6) applicable measures are listed. No further clarification is needed. The reference to water quality standards in this definition has been deleted.

Comment: In section 5(39), the definition should include reference to storm water utility territories. (ACI)

Response: The current definition is adequate to allow utility territories to be considered MS4 areas. The definition of MS4 in section 5(42) has been revised to include utilities.

Comment: In section 5(40), the definition should clarify the qualifications, if any, for being an MS4 operator, and the operator's intended role (that is, is the operator an individual or an entity?). (ACI)

Response: The MS4 operator is an individual who is responsible for an MS4 area. Because a qualified professional signs the application and parts of the storm water quality management plan, the MS4 operator does not need to have specific qualifications reflective of storm water management. The operator is a coordinator for implementing a storm water program, and ensuring that responsible individuals for each regulated MS4 entity within the operator's MS4 area are developing and implementing the appropriate control measures.

Comment: In section 5(42), the language "owned or operated" is unclear. Numerous drainage systems are owned and operated by homeowners associations or individual lot owners. Under this scenario, it appears that homeowners associations may be regulated. The term "operate" should be defined for clarity, so that the extent of regulated MS4 conveyance types (for example, private drains maintained by a regulated MS4 entity) can be determined. (CEI, VCED, WC)

Response: MS4 conveyances owned or operated by homeowners associations within a regulated MS4 area are potentially subject to this rule. MS4 conveyances owned or operated by individual lot owners are considered private drains and not regulated by this rule.

Comment: In section 5(56), the application of this definition appears to contradict situations where private drains (for example, swale and drainage way easements) are maintained by a regulated MS4 entity and should be clarified. Despite the easement, the regulated community regards backyard swales as being privately maintained. (WC, MCHD)

Response: Easement conveyances which are not maintained by a regulated MS4 entity are not required to be addressed under this rule unless the conveyance is an identified source of pollutants. Any conveyance that is actively maintained by a regulated MS4 entity would be regulated by this rule. The guidance document accompanying this rule will clarify issues related to operating MS4 conveyances.

Comment: In section 5(58), the definition should include demonstrated experience. Suggested revised text, "state registration, professional certification, completion of coursework, or experience that...." The term differs from the same term defined under 327 IAC 15-5 and 15-6, and should be consistent. The term is vague, and inappropriately could be interpreted that the rule requires a "professional engineer" or similar registration/certification. (ACI, CEI, IACT)

Response: The phrase, "or experience..." has been added to the definition. The definition for "qualified professional" was edited to have the terms be consistent in 327 IAC 15-13 and 15-6. The term is written to allow for a broad range of individuals, including, but not limited to, professional engineers, to potentially meet the qualification requirements.

Comment: In former section 5(70)(C), the term "relevant community value" is unclear. (STDC)

Response: The term "sensitive water" was deleted from rule language and replaced with "sensitive area." The definition for "sensitive area" does not reference "relevant community value."

Comment: In section 5(71), the definition should be changed to read, "means a public or private body or activity that contributes pollutants into an MS4...." A number of bodies could be considered significant contributors of pollutants, but, based on the definition for entity in the rule, would be unregulated. For designation clarification, the definition should be based on qualitative criteria, rather than an all-encompassing term. (COV, ACI)

Response: Because there has been no precedent in establishing qualitative criteria for defining a significant contributor of pollutants, none is being written. Criteria for this definition may be addressed in the guidance document accompanying this rule. MS4 entities, and not IDEM, are responsible for regulating individual businesses or homeowners. Therefore, changing the definition to reflect private bodies or activities is not appropriate. The definition was revised to include industrial facilities, which can be regulated at the state level.

Comment: In section 5(74), the term "objectionable substances" is unclear. (STDC)

Response: Language in this definition was taken from existing state regulations. Using the term "objectionable substances" is consistent with other rules.

Comment: In section 5(81), the word "daily" must be inserted before the word "individual" every time the definition of total maximum daily load is fully stated, and after the phrase "a water body" to reinforce the concept of setting a daily load. (STDC)

Response: Where appropriate, the word "daily" has been inserted for clarity.

Notice of Intent Letter and SWQMP–"Part A" Requirements

Comment: In section 6(b), concerns were raised over the type of qualifications needed to be an MS4 operator and the apparent need to develop a state-issued registration or certification training process. (WC)

Response: Because a qualified professional signs the application and portions of the storm water quality management plan, the MS4 operator does not need to have specific qualifications reflective of storm water management. The operator is a coordinator for implementing a storm water program and ensuring that responsible individuals for each regulated MS4 entity within the operator's MS4 area are developing

and implementing the appropriate control measures. IDEM does not foresee a registration or certification process.

Comment: In section 6(a)(2), the extent of "all known receiving waters" is unclear, related to streams and ditches. (MCHD)

Response: The intent of this requirement is to provide a listing of all known "named" waters that receive storm water discharges from an MS4 area. Receiving waters would include lakes, ponds, reservoirs, rivers, creeks, streams and ditches that are "named" and considered waters of the state.

Comment: In former section 6(a)(4), the appeal procedure should be rewritten and made a separate subsection. Suggestion to change language to read "an aggrieved person must appeal within fifteen (15) days of the second public notice date," and to state specific procedural requirements in the new subsection. To avoid unintended drainage issue conflicts, the rule language "wishes to discharge" should be changed to, "intends to discharge" The intent of the statement "should not be available to the discharger" in clause (F) needs to be clarified. (STDC, COV)

Response: Because it was deemed inappropriate for a general storm water permit, the rule language concerning appeals has been removed.

Comment: In section 6(b)(1), the differences between the MS4 operator, primary contact individual, and responsible individual are unclear. (MCHD)

Response: The MS4 operator is a coordinator for implementing a storm water program, and ensuring that responsible individuals for each regulated MS4 entity within the operator's MS4 area are developing and implementing the appropriate control measures. The primary contact individual is the person who will maintain the records pertaining to an MS4 permit for an MS4 area. This person will act as the primary contact for compliance information, and could be the same individual as the MS4 operator. The responsible individual is a person that is responsible for a regulated MS4 entity's storm water program. This third term would be applicable to co-permittee situations, when each regulated MS4 entity needs to designate a responsible individual.

Comment: In sections 6(c)(3) and 8(a)(9), the requirements for an itemized budget are inappropriate, unrealistic, burdensome, and should be deleted, partly because the budgetary information may not be available by the proposed March 2003 deadline. It is more appropriate to submit budgetary information with the SWQMP–"Part C." Multiple municipal departments and nonsegregated storm water activities make this estimate difficult to obtain. It appears that IDEM is requiring MS4 entities to provide cost estimates for developing and implementing a storm water program, but IDEM should be providing this information as part of the fiscal impact analyses. (HBC, MCHD, ACI, VCED, COE, WC, TOB)

Response: The required budget information is only an initial estimate of monies and sources, and not intended to reflect actual spending. Included in the December 1999 NPDES final rule covering 40 CFR Parts 9, 122, 123, and 124 in the federal register, U.S. EPA conducted a fiscal impact analysis for implementing Phase II storm water requirements. Submittal of budgets with permit applications is consistent with the individual permit requirements of 40 CFR 122.26(d)(1)(vi). Submittal of an annual fiscal analysis is consistent with the individual permit requirements of 40 CFR 122.26(d)(2)(vi). The purposes of providing an estimated budget with the application and annually are to ensure adequate funding is being allocated to development and implementation of a storm water program and to determine funding source alternatives for regulated entities. The various sources of funding information will be compiled by IDEM and accessible to regulated entities.

Comment: In section 6(k), the public should be informed that a notice of deficiency has been issued for an inadequate notice of intent letter or SWQMP–"Part A." This section should also describe the effect of a notice of deficiency on the appeal procedure. (STDC)

Response: The purpose of a general NPDES permit is to decrease the amount of time needed to write and process permit information. Public notification of every notice of deficiency letter could be a time-consuming process, and, depending on the severity of the deficiency, could be overly burdensome. When a permittee receives a notice of deficiency, notice of sufficiency, or notice of termination letter, the information will be stored in IDEM's storm water database, where data will be readily accessible for public inquiries. The appeal procedure language has been removed from the rule.

Comment: In section 6(l), the date on the notice of deficiency letter should be the same date it is mailed, not when it is written, or the thirty (30) day response time should start on the date the notice of deficiency letter was received by the MS4 entity. In some instances, the thirty (30) day response time may not be sufficient, and a provision for extending the time to forty-five (45) days should be added to the rule language. (ACI, SDMC)

Response: Because a notice of deficiency letter should be mailed on the same day it is written, the thirty (30) day response time should start from the date on the notice of deficiency letter. The thirty (30) day response time is sufficient, and extension language will not be added to the rule.

SWQMP–"Part B" Requirements

Comment: In section 7, the intent is unclear, and needs clarification. The section appeared to have two (2) intents, a one-time, baseline characterization to assist in the developing of the Part C of the SWQMP and an on-going monitoring program with submitted data in each annual report. More innovative and creative methodologies, such as using stream water quality stations, for indicating water quality improvements should be provided and encouraged. (CE, MCHD)

Response: Section 7 has been revised to clarify the intent. A baseline characterization is required by the Part B of the SWQMP. Through external workgroup discussions, it was determined that the most appropriate approach would be to allow flexibility in the characterization. The rule does not discourage innovative and creative means for characterizing water quality, but does not require them. There are minimum requirements for a sufficient the Part B to create more uniformity and consistency in the plan review process, but each regulated MS4 entity can assess the MS4 area water quality in any fashion most suitable to that area. The Part C of the SWQMP will address any on-going characterization planning.

Comment: In section 7(a), the subsection language referring to identification of pollutant problem areas should be deleted. If the language remains, the term "pollutant problems" is unclear and should be defined. The assessment requirement may be difficult, especially for parameters such as E.coli bacteria, without monitoring for segments on the receiving water that contains multiple storm water outfalls. Clarification is needed, as it appears that monitoring must take place in order to fulfill this requirement. The specific requirements and intent for investigating land usage and assessing best management practice locations are unclear. Depending on the types of conveyances regulated under this rule, monitoring, and eventually mapping, all outfalls would be virtually impossible. (IACT, SDMC, WC, MCHD)

Response: One of the primary purposes of the baseline characterization is to identify substantial pollutant sources impacting storm water run-off quality, so that appropriate best management practices can be developed and implemented. This characterization should identify obvious pollutant sources, or, if exact sources can not be determined, problem areas where best management practices should be targeted and utilized. If a regulated MS4 entity feels that E.coli bacteria, or some other specific parameter, is a concern for the MS4 area, then biological

or chemical monitoring would likely be necessary. However, unless it is identified as a means of assessment by the MS4 entity, specific parameter monitoring is not required by this rule. Rule language has been revised to clarify the minimum requirements and intent of specific items. By researching information required by this section, it is assumed that some acceptable assessment of the water quality can be performed without physical sampling of each receiving water and storm water outfall discharge. Under one (1) of the six (6) minimum control measures, all storm water outfalls under the jurisdiction of the MS4 operator will eventually be assessed for illicit discharges. The illicit discharge assessment is not part of the Part B submittal.

Comment: In section 7(c), the public should be informed that a notice of deficiency has been issued for an inadequate SWQMP–"Part B." It was suggested that a notice of deficiency response timetable consistent with section 6(l) be included in this section. (STDC, SDMC)

Response: Public notification of every notice of deficiency letter could be a time-consuming process, and, depending on the severity of the deficiency, could be overly burdensome. When a permittee receives a notice of deficiency, notice of sufficiency, or notice of termination letter, the information will be stored in IDEM's storm water database, where data will be readily accessible for public inquiries. A thirty (30) day response time to respond to a notice of deficiency letter was added to the rule.

SWQMP–"Part C" Requirements

Comment: In section 8(a)(2), "MCM" should be defined. (ACI)

Response: The rule language has been revised to state, "minimum control measure (MCM)...."

Comment: In section 8(a)(3), a schedule of implementation milestones is required. Yet, a compliance schedule is presented in section 11 of the rule. The difference is unclear. The overall implementation schedule should be more flexible than the one described in section 11 to allow sufficient time for local approval processes. (TOB)

Response: The timetable referenced in section 8 addresses implementation of specific controls identified by the MS4 entity and can be very flexible. Some of the compliance schedule deadlines in section 11, such as mapping, will need to be addressed in the Part C of the SWQMP, but the majority of the section 11 schedule must be implemented prior to the submittal of the Part C. The current rule language allows for one (1) year to develop programs for five (5) of the six (6) minimum control measures, and up to two (2) years to develop a program for the measure related to postconstruction run-off control. The rule language establishes the minimum control measure programs early in the five (5) year permit term, which is consistent with federal requirements, and also allows for program modification and improvement throughout the permit term.

Comment: In section 8(a)(5), the narrative and mapped description of the MS4 area boundaries must be submitted. Since IDEM is defining the regulated areas, it appears that IDEM should provide this description. (VCED, WC)

Response: IDEM has designated entities based on urbanized area maps, but the exact boundaries of the regulated areas are not necessarily known. Instances may occur where the regulated MS4 area boundary does not correspond to an urbanized area boundary, such as counties wishing permit coverage for the entire county or MS4 entities designated outside of mapped urbanized areas. The boundaries of smaller MS4 entities, such as colleges or correctional facilities, may not be listed on corresponding urbanized area maps, and need to be defined for distinguishing areas of permit coverage.

Comment: In section 8(a)(6), the estimated linear footage of MS4 conveyances will not be completely available until the storm water drainage system map is completed. Therefore, the accuracy requirements for data submitted with the Part C documentation is unclear. In reference to including curb and gutters, the extent of MS4 conveyance types is unclear. (VBC, WC, MCHD)

Response: IDEM acknowledges potential accuracy problems with the data, but the purpose of requesting an estimated footage is to obtain a general idea of the total conveyance system. For one of the control measures, twenty-five percent (25%) of the total system must be mapped each year after the first year. To estimate the twenty-five percent (25%) criteria, some estimate of the total conveyance system footage must be provided. For mapping purposes, the rule language has been revised to clarify conveyance types. Curbs and gutters would not be required, as the mapping should address the point from inlets to outfalls in piped conveyance systems.

Comment: In section 8(a)(7), allowed structural best management practice types must be provided. If a new technology is available and desired, the process for allowing the new practice, if any, is unclear. (MCHD)

Response: The allowance of specific best management practices is determined by the MS4 entity. If a new technology is allowed by the entity, the relevant Part C language must be revised and submitted to IDEM in accordance with section 8(f) of the rule.

Comment: In section 8(a)(8), the structural best management practice performance standard requirement is unclear, in reference to types of practices (for example, applying stone for construction site access, using mulched seed) that require a standard. Implementation of a practice is more important than a manufacturer's performance standard. (MCHD)

Response: Performance standards should only be established for long-term structural best management practices, and those practices that deal with temporary construction site run-off control do not need to be addressed.

Comment: In section 8(a)(10), it is unknown how certain minimum control measure implementation items (for example,. storm drain marking) will demonstrate an environmental benefit. The term "demonstrate results" needs more definition. To assign a specific degree of water quality improvement to a minimum control measure is difficult and may not be a wise expenditure of resources. (VCED, MCHD)

Response: Certain control measures, like storm drain marking, have implied environmental benefits when combined with an appropriate educational campaign. It is very important to correspond control measure implementation to a demonstrated environmental benefit. These benefits will be clarified in the guidance document accompanying this rule.

Comment: In section 8(a)(12) and 8(b), a good guidance document is needed to provide more programmatic indicator detail (for example, how to determine the percentage of citizens who have an awareness of storm water quality issues) and definition (for example, awareness of storm water quality issues, appropriately sized vegetated filter strip, acceptable stabilization of roadside shoulders or ditches). Indicators, such as the one related to constituent awareness, seem unrelated to water quality improvements, and, if necessary, should be related to something less difficult to obtain, like the number of citizens receiving information. Because of the burden to collect the mandatory indicator data, it was suggested to list these indicators as "may" be used to allow more public involvement and planning to determine which indicators are most useful and applicable to a specific MS4 entity. If the indicator list is optional, it would be better suited in the guidance document accompanying this rule. If certain indicator operations (for example, street sweeping) are not currently conducted and are mandatory, initial expenses could be overly burdensome. Since some of the indicators require data that will not be completely available until the storm water drainage system map is completed, the accuracy requirements for data

submitted with the Part C documentation is unclear. The proposed language specifies activities, and will limit future best management practice development, innovation, and flexibility. (STDC, VBC, COFW, COE, SDMC, WC, CE, MCHD, TOB)

Response: As necessary, the guidance document accompanying this rule will clarify requirements. As a compromise to requiring biological or chemical monitoring, IDEM, with extensive input from external workgroup members, feels that utilization of required programmatic indicators is necessary for program consistency. Rule language for this subsection was revised to clarify unclear terms and appropriateness of specific indicators. For the specific comment related to constituent awareness, the goal is to assess and change behavior, and not to count distribution numbers. As for submittal timing and accuracy of the data, rule language states that data do not need to be obtained for each indicator for the Part C submittal. The Part C submittal should include a listing of which indicators will be used, and, as appropriate, justification for unused ones. Based on local conditions, certain indicators may not be appropriate. These inappropriate indicators are not mandated.

Comment: In section 8(b)(5), clarification is needed on the types of MS4 conveyances used to estimate linear feet or percent mapped. (WC)

Response: Mapping should include open ditches and, for piping conveyances, point of inlets to the point of outlet into a receiving water. Mapping is not required for curbs, gutters, and roadways.

Comment: In section 8(b), the term "public information request" in subsection (b)(16) is unclear, as it relates to types or requests and storm water quality. The referenced terms "business" and "commercial" facilities need to be defined. The reference to a storm water run-off permit in subsection (b)(13) is unclear. In subsection (b)(26), the placement of a vegetated filter strip and the meaning of unvegetated swale is unclear. In subsection (b)(28), the application of stabilization requirements is unclear. (SDMC, MCHD, TOB)

Response: Public informational requests for construction sites can be any request related to the site, not just requests dealing with run-off pollution problems. The term "businesses" has been deleted from section 12(a) in rule language, and, based on this deletion, a definition for "commercial facility" is not necessary. The storm water run-off permit in subsection (b)(13) pertains to the permits issued for land disturbing activities associated with the construction site run-off control minimum control measure. The placement of a vegetated filter strip would be in an appropriate, feasible, and cost-effective location. The filter strip indicator deals with new construction and may not be an appropriate option for all locations. Unvegetated swales and ditches are swales and ditches that lack sufficient filtering of pollutants, and potentially increase downstream conveyance sedimentation. The roadside shoulder and ditch stabilization refers to municipal operations and maintenance, and does not relate directly to construction site storm water run-off controls.

Comment: In section 8(b)(10), reporting household hazardous waste collection data appears burdensome and unrelated to improving water quality, especially if the program is run privately and the data are not readily available to regulated MS4 entities. (TOB)

Response: Household hazardous waste programs are federally encouraged as a means to reduce illicit discharges into MS4 conveyances. By providing a collection and education program for used oil and toxic chemicals, potentially harmful materials can be diverted from improper disposal into an MS4 conveyance. If the program is implemented privately, those data should be available to a regulated MS4 entity. Recycling collection data are not an indicator requirement for this rule.

Comment: In section 8(b)(21), (22), (32) and (33), the open space acreage indicator is unclear (for example, space preserved by government agencies only, space that is not impervious, minimum requirement for the amount of open space preserved, mapping open spaces), and, if open space mapping is required, it should be clearly written into the rule. Since mapping the acreage of pervious and impervious surfaces in not required by this rule and gathering such data could be a very expensive and time-consuming task, it is suggested that the programmatic indicator dealing with pervious and impervious surfaces estimates be deleted. The indicators dealing with open space, pervious and impervious surface, and collected solid waste material amounts should be estimated and not actual calculations. Due to operational difficulties in tracking, the solid waste material amounts should not be segregated by structure type, and the references to unit type (that is, "by weight") should be deleted from rule language. (VBC, SDMC, WC, MCHD, TOB)

Response: Open space is any area that can improve storm water run-off quality by vegetative filtering and infiltration. The rule does not require mapping open space or pervious and impervious surfaces, but, if this information is gathered by a regulated MS4 entity for better planning and assessment, the information should be provided as indicator data. If this indicator data are not collected, the MS4 entity simply has to justify the omission. The amounts and other relevant indicator data are estimated, and the rule was revised to reflect this allowance. The reference to segregation by structure type has been deleted from rule language. The reference to unit type will remain in the rule to provide reporting consistency. The guidance document accompanying this rule will include a conversion equation from volume to weight.

Comment: In section 8(b)(25), clarification is needed on the types of operations (for example, municipal, commercial, or homeowner) to account for in the area determinations of pesticide and fertilizer applications. The indicator dealing with pesticide and fertilizer application areas should be estimated and not actual calculations. Due to its relative impact compared to unregulated agricultural operations, tracking pesticide and fertilizer applications should be deleted from the rule language. (SDMC, WC, TOB)

Response: Pesticide and fertilizer applications relate to municipal operations. Although educational outreach efforts should target them, commercial and homeowner application tracking is not required. Rule language has been changed to reflect estimates for acreage, square footage, and amount applied. Under the individual permit requirements of 40 CFR 122.26(d)(2)(iv)(A)(6), federal language requires MS4 entities to develop and implement a program dealing with the application of pesticides, herbicides and fertilizer. The application of these materials should be tracked under general permits.

Comment: In section 8(b)(34), the regulation of canine parks is not important, when compared to problems caused by geese on ponds. (TOB)

Response: Animal waste can be considered an illicit discharge source. The regulation of canine park locations is a starting point to address the animal waste contribution to a regulated MS4 conveyance. The listed indicators and rule requirements are minimum conditions, and MS4 entities are encouraged to go beyond these requirements to address any locally significant pollutant contributing sources.

Comment: In section 8(e), the thirty (30) day response time to a notice of deficiency is insufficient, and should be extended to forty-five (45) days. (SDMC)

Response: IDEM believes the thirty (30) day response time is sufficient, and extension language will not be added to the rule. The thirty (30) day response time has been utilized successfully in other areas of the storm water program, and is consistent with those program compliance requirements.

Comment: In section 8(g), the Part C of the SWQMP must be certified by a qualified professional. Concerns were raised over the

type of documentation needed to demonstrate experience in storm water control and water quality issues, and the apparent need to develop a state-issued registration or certification process. (VBC, WC, TOB)

Response: The term is written to allow for a broad range of individuals to potentially meet the qualification requirements. Demonstrated experience can consist of any combination of schooling and training, professional certifications, and relevant employment experience. It is assumed that this combination should total five or more years. There is no formal documentation submittal requirement for qualifications, and the state will not be developing a registration or certification process.

General Implementation Requirements

Comment: In section 9(c), it is unclear what effect an issued notice of deficiency or appeal under section 6 of this rule would have on the compliance schedule. (STDC)

Response: Based on the time frames for review and response and the type of submittal items in the compliance schedule, a notice of deficiency letter should not effect the stated deadlines. Language referring to appeals has been removed from this rule.

Comment: In former section 9(f), the term "punishment" should be changed to the more commonly used term "penalty". (STDC)

Response: The term "punishment" has been removed, and the subsection was revised to state, "subject to 327 IAC 15-4-3(i)."

Comment: In former section 10(d)(1), the statement should read, "storm water run-off from MS4 areas." The requirement is too vague, in reference to specific methodologies for conducting an adequate pollutant identification (for example, basing the identification on maintained designated and existing uses and requiring reasonable potential to exceed analysis for water quality criteria). (COV, SDMC)

Response: The former identification process required by this subsection referring back to the Parts B and C of the SWQMP was repetitive and has been deleted from this section. In the Part B document, there is a baseline characterization requirement to identify pollutant problem areas, and, in the Part C document, to develop appropriate implementation schedules for installing or initiating best management practices to improve storm water quality from the identified problem areas.

Comment: In former section 10(d)(2), the requirement is too vague, in reference to assessing the water quality without requiring monitoring, and for discharges outside of jurisdictional control. Some of the existing data are questionable and inapplicable. The assessment frequency and type of parameters are unclear. (SDMC, MCHD)

Response: The characterization process required by this subdivision is referring back to the Part B and, as appropriate for on-going characterization, the Part C of the SWQMP was repetitive and has been deleted from this section. In the Part B document, the specific means to conduct the water quality characterization is flexible and determined by the MS4 entity, based, in part, on local conditions and available information. Unless it is identified as a means of characterization by the MS4 entity, specific parameter monitoring is not required by this rule.

Comment: In former section 10(d)(3), compliance with the minimum water quality standards described in 327 IAC 2-1-6(a)(1) is referenced. The referenced language is too subjective and ambiguous, and needs to be rewritten to eliminate vague language like "objectionable," "unsightly," "extent of their authority," and "create a nuisance." The intent (that is, discharges total "free" of pollutants, or reduction in pollutants to a point where the pollutants no longer pose a concern) of this requirement is unclear, and it is suggested to place a timetable in the rule language to meet this requirement. Received comments stated that these standards are too restrictive and unattainable for storm water discharges, and this compliance condition does not provide the same degree of flexibility (that is, to the maximum extent practicable) as promoted by federal storm water regulations. Federal storm water language states that stringent, numeric water quality limitations should not be required for regulated MS4 entities. All MS4 entities will be out of compliance when the notice of intent letter is submitted. The referenced standard should be reviewed and changed to something more reasonable for Indiana's storm water discharges. (VBC, COV, COFW, ACI, HC, IACT, WC)

Response: The rule language referring to water quality standards was repetitive and has been deleted from this section.

Comment: In former section 10(d)(3), the regulation appears to address the quality of storm water discharges attributable to agricultural land use practices. Implied regulation of agricultural operations by storm water rules is not consistent with federal intent. Concerns were raised over the liabilities of an MS4 operator to ensure compliance with this rule when unregulated agricultural pollutant sources are identified as the primary receiving water impairment in a regulated MS4 conveyance. There are many other potential pollutant contribution examples that could prevent an MS4 operator from ensuring compliance to the "extent of their authority." An MS4 operator may never reach compliance with the referenced standards. Suggested language change to read "Make every reasonable effort to ensure compliance with...." (VBC, COV, HC)

Response: The rule language referring to water quality standards was repetitive and has been deleted from this section. In general, IDEM does not intend to have MS4 entities regulate agricultural land use practices within the MS4 area. When agricultural practices are identified as pollutant sources, IDEM is recommending that the source information be provided to appropriate staff at the local soil and water conservation district or natural resource conservation service office. Given their operational responsibilities, staff at these offices should provide technical assistance to the agricultural community on voluntary practices to reduce impacts on receiving water.

Comment: In former section 10(d)(3) and appropriate subsections, the reference to 327 IAC 2-1-6(a)(1) should be expanded to include a reference to 327 IAC 2-1.5-8 for discharges to Indiana's Great Lakes Basin waters. (STDC, SDMC)

Response: Subsection (d)(3) was deleted. Specific citation references to water quality standards have been removed.

Comment: In former section 10(e), a schedule and process for reviewing and modifying the SWQMP after an applicable total maximum daily load is approved should be included. Language should reflect instances when plan modification is not required, such as upstream water quality violations. This rule does not adequately explain the impact an approved total maximum daily load will potentially have on a regulated MS4 entity. (ACI, IACT, TOB)

Response: An approved total maximum daily load (TMDL) will identify sources of impairment. As applicable, the TMDL program will provide the requirements of an approved TMDL to a regulated MS4 entity. Upstream pollutant sources will be identified, and, if upstream sources are the only ones contributing to the impairment, a regulated MS4 entity's SWQMP will not need to be revised. If the Parts B or C of the SWQMP need to be revised, the changes must be described and submitted to IDEM in the corresponding annual report in accordance with 327 IAC 15-13-7(e) and 327 IAC 15-13-8(f).

Compliance Schedule

Comment: In section 11, a compliance deadline extension duration limit should be set. (STDC)

Response: The extension request should state a revised deadline date. Depending on the situation causing the extension request, the duration could be highly variable, and setting a limit on the extension

would reduce permittee flexibility. IDEM will retain the authority to deny the request, or reduce the extension duration.

Comment: In section 11 and other relevant sections of the rule, the compliance schedule related to submittal of the parts of the SWQMP should be revised to allow additional time for development of more comprehensive plans. The suggested timetable is to submit the Part A with the notice of intent (NOI) letter, the Part B within one hundred eighty (180) days of the NOI letter submittal, a baseline water quality characterization report based on the one hundred eighty (180) day protocol submittal within one (1) year of the NOI letter submittal, and the Part C within two (2) years of the NOI letter submittal. (CE)

Response: Based, in part, on the shorter federal submittal timetable, IDEM feels that the current rule submittal requirements are appropriate. IDEM feels that submittal of a total SWQMP within one (1) year is reasonable, and, based on similar proposed programs in other states that the U.S. EPA has reviewed, will be allowed by U.S. EPA.

Comment: In section 11 and other relevant sections of the rule, the compliance schedule is clearly more aggressive than the flexible implementation schedule envisioned by federal language. If, after implementing the six (6) minimum control measures, there is still water quality impairment associated with discharges from the MS4 conveyance, federal language allows for program refinement over a period of two (2) to three (3) five (5) year permit cycles. The proposed schedule should reflect federal language. (IACT)

Response: The compliance schedule is not overly burdensome, and actually allows more time than federal requirements. Under 40 CFR 122.33(a)(1), selection of best management practices and measurable goals are required with the submittal of a notice of intent. Indiana's compliance schedule allows more flexibility by phasing in various parts of the SWQMP. Indiana's rule, as stated in the compliance schedule and in various sections, also allows for continual program refinement. This refinement, as inferred in section 19(e), could continue indefinitely.

SWQMP Minimum Control Measures

Comment: In sections 12 through 17, structural and nonstructural best management practices are required. The guidance document that accompanies this rule should define acceptable best management practices. (VCED)

Response: Acceptable best management practices are site and condition dependent. Therefore, determining acceptable practices will likely be the responsibility of the MS4 entity. If a need is expressed, IDEM can provide a listing of known best management practices in the accompanying guidance document to this rule.

Comment: In sections 12 through 17, specific reduction percentage goals are identified. There is no current local data for some of the required goals, and it is very difficult to determine a reduction percentage based on limited information. Some of these goal reductions may be intentionally very minimal, so that unrealistically large goals are not draining limited resources to maintain compliance. The methodology for identifying specific goal reduction percentages should be provided. (COV)

Response: Based on differences in current storm water programs, goal reduction percentages are unique to a regulated MS4 entity. Prior to this rule, an MS4 entity may have already implemented some, or all, of the minimum control measures. Because of this implementation, the corresponding reduction percentages may be lower than percentages for an MS4 entity that is only beginning to implement the minimum control measures. The percentages should be estimated through an assessment of current practices, and revised as data are collected.

Comment: In sections 12 through 17, certification forms are required, and this requirement seems redundant. Because the SWQMP and annual reports are already certifying progress and compliance, the certification form requirements should be deleted. (CE)

Response: To determine when control measure programs are implemented, IDEM believes that some type of compliance documentation needs to be submitted for each of the minimum control measures. The certification forms serve this purpose, and ultimately require an MS4 operator, by signature, to ensure the proposed control measure programs are adequate for compliance with this rule.

Comment: In sections 12(d), 13(d), and 14(k), the requirements to review and modify, if necessary, the stream reach characterization and evaluation report (SRCER) and combined sewer overflow operational plan (CSOOP) are inappropriate, and these subsections should be deleted. Proposed rule 327 IAC 15-13-3(h) excludes discharges from combined sewer systems. There is no current requirement in the federal combined sewer overflow (CSO) control policy, Indiana's final CSO strategy, or Senate Enrolled Act 431 that requires public education and outreach. The long term control plan (LTCP) should be coordinated with MS4 activities. (SDMC)

Response: The SRCER and CSOOP do not have public education and outreach or public involvement and participation components. The rule language has been revised to delete references to these documents in sections 12 and 13. However, there is potential overlap for all three (3) documents in section 14. While the LTCP does not have a public education component, an LTCP will not be approved without appropriate public education, and the reference to LTCPs will remain in sections 12(d), 13(d), and 14(k).

Comment: In sections 14 through 16, ordinances or other regulatory means are required to satisfy permit requirements. To assist colleges and universities without ordinance authorities, IDEM should provide specific types of alternative policies that could be considered equivalent to an ordinance. (PU, UW)

Response: Due to the large number of possible forms such regulatory means could take, IDEM will not provide specific alternatives in the rule. However, IDEM is willing to assist in the development of such a document for inclusion in the guidance document accompanying this rule.

Comment: In section 12, IDEM should provide guidance and assistance in locating existing programs and already prepared outreach materials. As it pertains to former subsection (a), the difference between "business" and "commercial" facilities should be specified. (STDC, SDMC)

Response: IDEM, when possible, will provide guidance and assistance in locating existing programs and outreach materials. IDEM's outreach efforts will include the development of "template" outreach materials. The term "businesses" was deleted from this subsection. Based on this deletion, a definition for "commercial facility" is not necessary.

Comment: In section 12(c), language implies that the given examples are requirements. By requiring specific goals, IDEM is imposing strategies that may not fit the local strategy for educating the public. These examples should be options, and the language should be reflective of this flexibility. (IACT, CE)

Response: Specific goals were required to reduce subjectivity and improve consistency during review of an MS4 entity's program. These specific goals must be addressed, but are not mandatory.

Comment: In section 13(c), IDEM should provide supporting documentation that proves storm drain marking or Web site development results in measurable improvements to water quality. Programs, such as storm drain marking, may not be necessary. By requiring specific goals, IDEM is imposing strategies that may not fit the local strategy for involving the public. The goals should be options. (VBC, VCED, WC, CE)

Response: Improvements to water quality are implied for many of the public education and participation components. The implication for

storm drain marking and Web site development is that, when combined with a sufficient public educational campaign, some portion of the MS4 area constituency will be more aware of the impact they are having on water quality, and, as a result, they will be less likely to have illicit connections or improperly dump materials in identified storm drains. These specific goals must be addressed, but are not mandatory.

Comment: In section 14, IDEM should provide guidance and assistance in locating existing programs and already prepared outreach materials. The term "illicit" should be changed to "illegal" or "unpermitted" for clarification. In unsewered areas that are designated, septic system discharges may be a significant illicit discharge source. To correct these sources, expensive sanitary sewer construction may be the only available corrective action. It is recommended to change the rule language to state that the illicit discharge will be eliminated if it can be done within the budgetary constraints of the MS4 operator. Prohibiting illicit discharges is unrealistic, because anything other than pure rain water may be considered an illicit discharge. In cases of spot dumping, the requirement to have an ordinance that eliminates, via tracking and homeowner fines, illicit discharges is unrealistic. IDEM, and not the local MS4 entity, should have the primary role of eliminating and permitting discovered illicit discharges. (STDC, VBC, WC, MCHD)

Response: The term "illicit" is consistent with federal language and will remain. Since this rule is not intended to correct all septic system problems, rule language has been revised to allow for budgetary considerations in addressing septic system discharge sources. The prohibition of illicit discharges is consistent with federal language, and will remain in the rule. In addition to pure rain water, naturally-occurring materials and the items listed in 327 IAC 15-13-14(d) will not typically be considered illicit discharges. IDEM realizes that tracking all spot dumping is not easy, but, through appropriate ordinances, alternative disposal options (that is, household hazardous waste and "white goods" collections) and educational campaigns, spot dumping should be reduced. This rule, based on federal language, requires each regulated MS4 entity to develop, implement, and enforce an illicit discharge detection and elimination program. IDEM can assist in enforcement of this control measure, but the appropriate authorities must be obtained on a local MS4 entity level.

Comment: In section 14(b), the language should be amended to, "in the particular MS4 area under the operator's control" after the word "outfalls". The mapping requirements, in reference to map scales and format (for example, hand drawn or digital), need to be clarified in the guidance document accompanying this rule. There appears to be an inconsistency between the mapping requirements (that is, the entire conveyance system or only outfalls) of this section and the requirements of section 8(b)(5) of this rule. Because of the presence for potential illicit discharges, private drain mapping and monitoring should be required. (STDC, COV, VCED)

Response: The rule language has been revised to include the suggested language pertaining to an MS4 operator's control. The mapping format requirement is written to allow all MS4 entities to comply, regardless of technical capabilities. IDEM feels that the more accurate the mapping, the more beneficial the map will be to the regulated MS4 entity in determining potential or actual pollutant problem areas, identifying discharges near sensitive water areas, and tracing pollutant sources. The mapping requirement is applicable to the outfall conveyance system, not just the outfalls. For sewer pipe conveyances, the mapping should be from inlet structures to the point of outfall. In consultation with potentially affected entities, IDEM determined that private drain system mapping would not be required. For a regulated MS4 entity wishing to address private drains, IDEM would highly encourage efforts that exceed the minimum requirements of this rule.

Comment: In former section 14(c), clarification is needed on the intent and operator authority for "regulating the rate at which water flows through the drainage system." Federal storm water language does not address regulating flow rate, and this requirement should be deleted from rule language. There are local cases in which detention is not effective or feasible, so the regulation of flow rates should not be a requirement. If the intent is to reduce the volume of storm water, the rule should be revised and the recommended methods for retaining storm water should be described. The rule language needs to be strengthened to ensure that the appropriate authority is given to an MS4 operator to create and enforce the rule requirements. (STDC, MCHD, ACI, CEI, SDMC, CE)

Response: The flow rate requirement has been moved to section 16(c). By slowing the rate at which storm water flows, more infiltration and settling can occur, outfall scouring and stream bank erosion can be reduced, and the overall storm water quality should improve. This practice is not required in all situations, and should only be used where it is technically feasible, beneficial to water quality and cost-effective.

Comment: In former section 14(e), regulating swimming pool discharges are unrealistic and unjustified, and the referencing rule language should be deleted. This requirement is unenforceable, and will give Rule 13 a bad name. (HBC, WC, MCHD)

Response: In 327 IAC 15-13-14(d), dechlorinated swimming pool discharges are allowed unless they are deemed a pollutant contributor to the MS4 conveyance. In this rule language, there is no allowance for chlorinated pool discharges. A definition for "dechlorinated swimming pool discharge" was added in section 5(12), and the reference to swimming pool discharges in subsection (e) was deleted.

Comment: In section 14(e), the acceptable field screening protocol is unclear, in reference to the parameter and testing kit types, and testing "by other means". The MS4 operator should not be mandated to use a particular type of equipment for testing (for example, nitrate-nitrogen analysis may not be included in a test kit, but may be a cause of algae bloom) or analyze for unnecessary data (for example, analyzing for a parameter not listed as an impairment parameter for a receiving water). Language should be revised to address only suspected problem discharge parameters. Substantial costs could be incurred for tracing sources (for example, televising) and screening. In reference to potential contact with environmental and health hazards, the training requirements for a person conducting the screening are unclear. (STDC, VCED, SDMC, MCHD)

Response: The purpose of dry weather screening is to observe non-storm water flows, identify the presence and, where possible, the type of pollutant, trace, if possible, the source of the pollutant, and correct or eliminate, if feasible, the pollutant source. To accomplish this screening, a field test kit, or some similar testing equipment and procedures, will be required. IDEM is not mandating a particular type of test kit or specific parameters, but recommends, based on a U.S. EPA guidance document for investigating inappropriate pollutant entries into storm drain systems, that certain field screening parameters be addressed in the determination of pollutant type. This screening protocol (which includes standard operating procedures and an implementation schedule) is determined by the regulated MS4 entity, and must be submitted in the Part C of the SWQMP. A summary of screening implementation activities is expected with each corresponding annual report submitted to IDEM. In comparison to the alternative of sampling and laboratory analysis, the costs for screening are relatively minimal. IDEM does not anticipate any formal training requirements for people conducting the screening, but accessing locations and actual sampling of the outfalls should be done safely, and in a manner that minimizes exposure to outfall effluent.

Comment: In section 14(f), IDEM should provide an initial listing

of all categories of regulated industrial facilities under 327 IAC 15-6 to the MS4 entity. Because municipalities do not want to become an inspection or enforcement arm of IDEM and expend resources in areas where they have no authority, this subsection should be deleted. (CEI, COE, CE, MCHD)

Response: Under the individual permit requirements of 40 CFR 122.26(d)(2)(ii), federal language requires MS4 entities to provide an inventory of industrial facilities, with associated standard industrial classification codes, which may discharge to an MS4 conveyance. IDEM believes this informational request should also be applied to general permits. As a tool in identifying potential problem sources or areas, this listing is also a component of the land usage assessment required under the Part B of the SWQMP. IDEM does not expect an MS4 entity to take enforcement actions against an industrial source of pollutants to an MS4 conveyance without having the appropriate authority, but the identification and reporting of such facilities are important to the overall water quality improvement goal for the MS4 area.

Comment: In former section 14(k), the language should be changed to read, "(10,000) shall satisfy the MCM requirement...." (CE)

Response: The rule language was an example and has been deleted from this subsection.

Comment: In section 15, it appears that local governments will be delegated authority to issue permits for construction activities disturbing one acre or more of land under 327 IAC 15-5. If the cultural and natural resources review remains as part of the 327 IAC 15-5 requirements, projects could be delayed or halted, new environmental requirements could be imposed, and additional staffing burdens could be placed on limited state resources. Access to the applicable resource maps should be provided to local MS4 entities, but it would be preferred to delete the review requirement. (STDC, MCHD)

Response: To meet the requirements of section 15, a program, at a minimum, incorporating the requirements of 327 IAC 15-5 must be developed, implemented and enforced by a regulated MS4 entity. The cultural and natural resources review requirement in 327 IAC 15-5 was reevaluated, and has been removed from rule language.

Comment: In section 15(b), the rule language needs to be strengthened to ensure that the appropriate authority is given to an MS4 operator to create and enforce the rule requirements. The requirements for construction site permit duration and construction plan development for individual lots that are part of a bigger development project are unclear. (ACI, WC)

Response: It is the responsibility of the MS4 entity to obtain the appropriate authorities, via an ordinance or similar mechanism, to implement and regulate a construction site run-off control program. Regulated MS4 entities must adopt requirements at least as stringent as 327 IAC 15-5. In 327 IAC 15-5-12, the permit duration is five (5) years. If a project's duration is more than five (5) years, the permittee must reapply. In 327 IAC 15-5-2(f), an individual within a site permitted under this rule, where land disturbance is expected to be one (1) acre or more, must obtain their own permit and submit their own construction plan. Areas of land disturbance less than one (1) acre in a permitted site will be regulated under the original operator. However, the permitting authority, as referenced in 327 IAC 15-5-10(c), may enforce violations of the rule by identifying individuals responsible for the action.

Comment: In section 15(c), the language regarding soil and water conservation district involvement should be strengthened. The language should be changed to, "shall provide an opportunity to...." (DNR)

Response: The rule language has been revised using the suggested language.

Comment: In section 15(e) and former 15(f), it appears that IDEM needs to approve any projects in the MS4 area that disturbs one (1) or more acre of land prior to the land-disturbing activity. There is no stated amount of time given for this review. (COV)

Response: Because the intent of subsection (e) is only to compare notice of intent letter form submittals with the monthly construction site summary reports required by 327 IAC 15-18(b), language in subsection (f) referring to notice of intent letter review by the department has been removed from rule language.

Comment: In section 15(f), tracking individual lot development for permit compliance, due to time lapses, is virtually impossible, and this process issue needs to be clarified and coordinated with local zoning codes. In subdivision (6), the term "recorded" is unclear and should be defined. (WC, COE)

Response: Regulated MS4 entities must adopt requirements at least as stringent as 327 IAC 15-5. In 327 IAC 15-5-2(f), an individual within a site permitted under this rule, where land disturbance is expected to be one (1) acre or more, must obtain their own permit. Tracking individual lot development in regulated MS4 areas is the responsibility of the MS4 entity, but, to make this tracking easier, notification of remaining undeveloped lots should be provided, in the case of lots which are part of a larger development, by the overall development operator with the notice of termination letter. The undeveloped lot notification could be verified by a field inspection, and the resulting paperwork filed. When the lots are ready for development, a local permitting procedure, perhaps in conjunction with obtaining building permits, that includes a comparative review of the filed paperwork, should require the submittal of construction permits and plans addressing storm water quality. The word "recorded" has been changed to "documented" in the rule.

Comment: In sections 15(g) and 16(d), annual training session attendance is required. Concerns were raised over sufficient local notification for state-approved training sessions, and the determination of appropriate training sessions that would meet the requirement. (VBC, WC)

Response: The Indiana department of natural resources, division of soil conservation, and IDEM will coordinate training of MS4 personnel for the construction site and post construction run-off control programs. The division of soil conservation will offer training sessions, and provide one-on-one training to MS4 entities. In addition, information concerning relevant courses offered both within, and outside, Indiana will be provided to regulated MS4 entities.

Comment: In section 15(i), the current language appears to give the MS4 operator an unintended choice for submittals of construction plans. There is also concern over adequate and timely review of the plans (that is, if the reviewing authority does not do its job), and the general need for an external entity reviewing the plans. The language should be changed to, "the local SWCD, department of natural resources, division of soil conservation, or other entity designated by the department." There should be allowances in the rule language for emergency situations that are time-critical, such as collapsed piping or eroded levies. With the constant scrutiny of local contractors and the general public, it is unreasonable to assume that a regulated MS4 entity can not be trusted to review their own projects, and this subsection should be deleted. (DNR, HBC, COV, CE)

Response: The rule language was revised to reflect, "other entities designated by the department." The plans should be submitted to whichever entity is designated by IDEM. This submittal could be to the local county soil and water conservation district or the Indiana department of natural resources. IDEM, in consultation with Indiana department of natural resources staff, believes that the self-regulation of regulated MS4 entity construction projects is not appropriate until

procedures have been established and consistently adhered to, and the associated rule language will remain.

Comment: In section 15(i), the former language could allow soil and water conservation districts and the Indiana department of natural resources to make authorization determinations independent of one another. The language should be changed to list only the department of natural resources, division of soil conservation, as the review authority. With the constant scrutiny of local contractors and the general public, it is unreasonable to assume that a regulated MS4 entity can not be trusted to review their own projects, and this subsection and related subsections should be deleted. (DNR, CE)

Response: The rule language has been moved into subsection (i), and revised to delete reference to the local soil and water conservation district in this subsection. IDEM, in consultation with Indiana department of natural resources staff, believes that the self-regulation of regulated MS4 entity construction projects is not appropriate until procedures have been established and consistently adhered to, and the associated rule language will remain.

Comment: In section 15(j), the type of projects referenced in this section appears to conflict with the definition for traffic phasing plan found in 327 IAC 15-5(82) *[sic., 327 IAC 15-13-5(81)]*. As a case could be made for any project to alter vehicular traffic routes, this subsection needs more definition and clarification on intent and submittal requirements. (HBC, COV, CE)

Response: The intent of the traffic phasing plan is to address erosion and sedimentation concerns associated with rerouting traffic. For example, erosion and sediment control should be addressed for any temporary roads or bridges built to reroute traffic while construction takes place on the original structure. The definition in section 5(82) has been revised to read, "a written plan that addresses the installation of appropriate pollution prevention practices that is directly related to the land disturbance associated with infrastructure constructed to reroute vehicular traffic within an active construction zone."

Comment: In section 15(k), the permitting and plan implementation requirements for the five (5) private areas associated with a construction project are unclear. (COV)

Response: For construction projects with one (1) acre or more of land disturbance area that are operated by either the MS4 operator or MS4 municipalities within the regulated MS4 area, the storm water pollution prevention plan submitted to the department of natural resources, division of soil conservation, for review must address the areas in subsection (k). These off-site operational areas do not require additional NPDES storm water permits, but should be addressed in the construction plan developed for the associated construction site.

Comment: In former section 16(b), the terms "sensitive areas", "certain types of growth", and "sound planning procedures" should be defined, and examples of "other regulatory means" should be provided. Because of the ambiguous terms, the requirement is very subjective and will be difficult to enforce. Restricting and guiding growth are sensitive legal and political issue, and more discussion on this section's requirements is needed. Positive, economic development projects, like retaining wall "riverwalks", may be impacted by the buffer strip, or similar best management practice, requirement. To make the requirements more flexible, the language should be revised to leave the items as options. The guidance document to accompany this rule should include an example of an ordinance that would meet the requirements of this subsection. (STDC, VBC, APC, IACT, CE)

Response: The requirements of this subsection relate to local planning efforts. The language has been revised to clarify the requirements.

Comment: In section 16(b), the reference to "327 IAC 15-5-7(8)" is incorrect, and should be changed to "327 IAC 15-5-6.5(b)(8)". (DNR)

Response: The rule language has been corrected.

Comment: In section 16(c), the term "appropriate" should be clarified in subdivisions (5) and (6), in reference to filter strip width and installed practices at gasoline outlets and refueling areas. Filtering should be added to the listing of practices that an MS4 operator shall use. The phrase "where appropriate" should be added to the end of the first sentence. The term, "minimum vegetated filter strip..." is unclear, and some targeted width should be stated. In terms of potential added filter strip cost and liability, clarification is needed on jurisdictional issues from private drains that are maintained by a regulated MS4 entity. Since there are instances where shoulders would be difficult to install and infiltration is not possible, the filter strip requirement, if left in the rule, should only apply to new roads under specific circumstances. In subdivision (6), rule language is confusing, and language should be added to account for existing gasoline outlets and refueling areas that are upgrading their tank systems. In subdivision (2), the reference requirements to meet Indiana ground water quality standards is too vague. To uniformly prescribe the specific practices listed in this section is unnecessary, and contradicts the federal intent to allow for "a significant degree of flexibility." If the language remains, it should be revised to leave the items as options. (STDC, COV, HC, WC, CE, MCHD)

Response: This section, and the associated subsection requirements, apply to new development and redevelopment. The requirements listed in subsections (c)(1) through (6) are practices that IDEM feels are necessary to improve overall water quality. This subsection, as written, is highly flexible by allowing each MS4 entity to choose which storage, infiltration, or vegetative practices will be best suited for local conditions. The restrictions in subsection (c)(1) through (6) only address specific locations for placement of practices and types of situations where specific controls are needed. As used in this subsection, the term "appropriate" is written to allow the regulated MS4 entity to have more implementation flexibility. The rule language has been revised to include the words "filtering" and "where appropriate" in the first sentence of this subsection, address the issue of requiring controls when tank systems are upgraded, and clarify references to Indiana ground water quality standards.

Comment: In section 16(d) and former 16(e), requiring annual, approved training sessions and creating "safety" plans for all structural best management practices (for example, buffer strips) are unnecessary and burdensome (IACT).

Response: IDEM, in consultation with Indiana department of natural resources staff, believes that annual training sessions are needed. The intent of the training sessions is to inform appropriate regulated MS4 entity staff of the need to conduct periodic assessments of control structures to ensure proper long-term function and effectiveness, and to discuss the appropriateness of specific best management practices. Control technologies may change quickly, where previously used practices are no longer recommended. Annual training will allow MS4 entity staff to keep up with these changes. The requirement for safety plans for structural best management practices has been deleted from rule language.

Comment: In section 17(b), clarification of the rule language is needed. Municipalities have no authority to ensure that state or federal operations within the MS4 area are performed in ways that will reduce contamination of storm water discharges. (COE)

Response: Subsection (b) has been revised for clarity. The MS4 operator is only responsible for operations in which they have jurisdiction and authority.

Comment: In section 17(b)(1), the intent of the requirement for structure cleaning and street sweeping is unclear. If these items are mandatory, the necessary equipment purchases could be financial burdens. If these items are not mandatory, it is unclear who determines

the appropriateness of the activities listed in clauses (A) through (F). Some of the activities listed in clauses (A) through (F) do not significantly improve water quality, and the intent and benefit of such requirements are unclear. If the items are not mandatory, the programmatic indicator in section 8(b)(32) referencing amount of material removed during maintenance operations should be deleted. (VBC, VCED, MCHD)

Response: Activities listed in clauses (A) through (F), including structure cleaning and street sweeping, are not mandatory, but, if these practices are already being conducted, the activities should be documented both in section 17 and the programmatic indicator data. As an example, IDEM will not require MS4 entities to purchase street sweepers or to sweep roads without curbs. However, IDEM does recommend the sharing of resources, like street sweepers, if possible, with neighboring MS4 entities. If an MS4 entity can document in the Part C of the SWQMP their efforts to address, and, where applicable, justification for not conducting, each of the maintenance activities, the appropriateness of the activities will be determined. All of the activities could potentially have a positive impact on water quality, by removing debris and solid materials before they enter waterbodies, preventing erosion and subsequent waterbody sedimentation, and improving aquatic habitat. Section 8(b) has been revised to clarify the issue of data collection when appropriate.

Comment: In section 17(b)(2), covering of sand storage piles is unnecessary, and the requirement should be deleted. Under former clause (F), pesticide and canine park requirements should be placed in separate subsections. Since various types of equipment used for municipal operations may have the potential to contribute pollutants, a listing of the types of equipment should be provided to improve the overall operational assessment. (HBC, CEI, SDMC)

Response: Improperly stored sand piles (for example, uncontained and adjacent to a waterbody) have the potential to increase the solids loadings to a waterbody from storm water run-off and should be addressed in the rule. Covering is not the only means of properly storing sand, and, for clarity, clause (A) has been revised. Clause (F) has been divided into two other clauses, (H) and (I) for clarity. IDEM does not plan to develop a listing of various types of equipment at operational areas that may contribute to polluted storm water run-off. This assessment of potentially polluting equipment is the responsibility of the MS4 entity responsible for the operational area, and will likely be different for every operational area.

Comment: In section 17(b)(3), the former requirement to dispose of all removed solid wastes in accordance with 329 IAC 10 and 329 IAC 11 is burdensome, and should be deleted. (HBC, VBC)

Response: The intent of this rule requirement is to ensure that all collected solid waste materials are transported to appropriate facilities for proper disposal, and not to sample and analyze each solid waste material. The reference to 329 IAC 10 and 11 was deleted, and the rule language was revised to reference reuse or recycling, or disposal (in accordance with applicable solid waste disposal regulations) of collected materials.

Comment: In section 17(b)(4), IDEM appears to have a bias against flood management projects. There should not be a justification in writing every time a detention pond is constructed. (MCHD)

Response: Prior to storm water regulations, flood management projects typically addressed water quantity. The purpose of this rule requirement is to also address water quality for these projects. New flood management projects should be required to utilize practices, like detention basins, in the design process to improve water quality. Existing flood management projects should be assessed for possible retrofitting to include water quality improvement controls. This subsection refers to implementing appropriate policies and assessing existing projects. The justification for each practice, like a detention pond, is not required.

Comment: In section 17(c), it can be implied that pesticide applications, and salt and sand usage are currently excessive. It is unreasonable to require a reduction, when the current usage protocols are unknown. It is also unrealistic to require reductions, when there could be negative consequences related to public safety. (MCHD)

Response: Each MS4 entity has its own pesticide application, and salt and sand usage practices. Prior to this rule, some of these MS4 entities probably never tracked these practices, and, based on data evaluation, there is the potential for reductions to occur. In other cases where these practices have been tracked, optimal usage has already been reached. The goals, including reduction percentages, must be addressed, but, depending on the situation, reductions may not be necessary. In these instances, the MS4 entity should address the goal by providing rationale for not setting a reduction percentage.

Reporting and Future Permits

Comment: In section 18(a), annual reports must be submitted. This requirement exceeds the intent of federal requirements for annual report submittals after the first year, with subsequent submittals every three (3) to four (4) years. (WC)

Response: In 40 CFR 122.34(g)(3), federal language requires submittal of annual reports for the first permit term, and, for subsequent permit terms, submittal of reports in years two (2) and four (4). The rule language has been revised to reflect the federal requirement.

Comment: In section 18(b), limited local resources should be used on reviewing plans and inspecting sites, rather than on generating large amounts of paperwork for the State. Monthly construction site summary reports are burdensome, if not impossible. The recommendation is to submit either quarterly or semi-annual construction site summary reports. (VBC. WC, TOB)

Response: Based on expected work load requirements for review and comparison of the data, IDEM believes monthly submittals are the most effective frequency. Quarterly or semi-annual submittals would cause an unreasonable amount of paperwork to be delivered at the same time. The information required in the monthly submittals is something that should be tracked by the MS4 entity already in order to process construction site permit requests. IDEM will develop a form for these submittals, and, depending on the technology of the MS4 entity, electronic format submittals will be encouraged.

Comment: In section 19(e), the MS4 operator shall maintain and improve their minimum control measure implementation performance. It appears that no level of performance is sufficient, and that water quality resources are deemed more important than education, health care, employment, or crime reduction. (MCHD)

Response: The rule language has been revised to state, "maintain and, where possible, improve...." If water quality can be improved through additional cost-effective best management practices, the practices should be implemented.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On August 14, 2002, the water pollution control board (board) conducted the first public hearing/board meeting concerning the development of amendments to 327 IAC 5, and new rule 327 IAC 15-13. Comments were made by the following parties:

Bethlehem Steel Burns Harbor (BSBH)
GRW Engineers (GRWE)
Indiana Association of Cities and Towns (IACT)
Indiana Manufacturers Association (IMA)
Indiana Water Quality Coalition (IWQC)
Monroe County Highway Department (MCHD)
Save the Dunes Council (SDC)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: MCHD supports the rule and recommends that it be adopted. They agree that the emphasis on erosion control for construction sites is much needed. Yet, they have some concerns about lawn fertilizers, pesticides, herbicides, and discharge of water from swimming pools since the rule does not require them to adopt a local ordinance for them. They suggested that some of these things are unenforceable, therefore, not much time and effort should be spent on them. (MCHD)

Response: The regulation of dechlorinated swimming pool discharges is conditionally required by the rule. If an MS4 entity does not determine swimming pool discharges to be a significant impact on storm water quality, swimming pool discharges do not need to be regulated. As it relates to former clause (H), pesticide and fertilizer usage must be addressed for municipal operations. The application of pesticides and fertilizers by individual homeowners and commercial businesses is not regulated under this rule. The rule simply requires education of homeowners and commercial businesses on ways they can reduce their impact on storm water quality, which includes the proper usage and disposal of pesticides and fertilizers.

Comment: They felt that the rules seem to be ahead of science and since nonpoint source is a big problem, do not agree with having a rule stating that nonpoint source pollution will be removed without knowing how to do it. They stated that due to geographical features of Monroe County having a lot of sinkholes that they could not comply with the specific language in section 16(c)(2) and groundwater quality standards. They support adoption of the rule by the board but would request some additional review regarding the issue of sinkholes (MCHD)

Response: Ground water quality standards are applicable to any discharger with the potential to impact the ground water. The rule means that direct flows of storm water into a sinkhole or other subsurface pathway must meet the applicable standards.

Comment: They felt that IDEM should be a facilitating agency for this rule as more education was needed on storm water quality issues. They also felt that the local, state, and federal government should work together on this. They emphasized that they would like to have ownership of these programs and would like to view the program in more positive light. They suggested that since this was a new program, a periodic review with the MS4 operators, a written summary of the review, and information exchange would be beneficial. (MCHD)

Response: With most new rules, the agency will be a facilitator to interpret and guide compliance. The agency has an existing Rule 13 web page, and, as information is obtained during the program's implementation, relevant and useful information may be added to the web page. According to the federal "Economic Analysis of the Final Phase II Storm Water Rule" dated October 1999, many benefits will be realized by the new storm water rule, including reduced impacts to human health, aquatic life and wildlife, reduced sedimentation of receiving waters, reduced degradation and destruction of benthic habitat and organisms, increased photosynthetic activity, and increased attainment of designated uses for receiving waters.

Comment: BSBH was pleased with the new version of the rule which had been revised after taking their comments on section 5-4-6 into consideration. They credited the board and IDEM for working to improve the rule. BSBH still had some concerns with section 5-4-6 as they felt that it does not distinguish between general permits and individual permits. They believe that the new language would unintentionally force some facilities into a general permit by eliminating the current option of applying for an individual permit. They felt that IDEM would still have the authority to deny the application with justification so the option should be kept for the few who were able to take advantage of it. The other issue was that the current language appears to require a facility to obtain an individual permit as well as a general permit in some circumstances. They felt that this result was unintended, therefore, IDEM could easily change the language before final adoption, and they supported preliminary adoption of the rule. (BSBH)

IMA and IWQC thanked the agency for their hard work on the rule and indicated that they had sent in their comments and were hopeful that those changes could be realized before final adoption. They felt that the changes they had submitted on 5-4-6 had been looked upon with some favor and were hoping that after discussing with the larger group that they may be incorporated into the rule. On 5-4-6(b), they agree with BSBH, that general permit coverage could be required where all of them are subject to NPDES coverage. Another concern was that the agency might be limited to look at general permitting requirements for the issuance of general permits. Regarding Rule 13, they acknowledged that the rule was better than when it started out. They hope to get if further improved before it is brought back to the board. (IMA, IWQC)

Response: The rule language has been clarified to indicate differences between individual permits and general permits. The agency's process for obtaining NPDES permit coverage has always been to encourage the use of general permits. For storm water discharge permittees, a hierarchy of permitting has been established in 327 IAC 5-4-6. The simplest and most desired approach to permitting storm water discharges is via a general permit. If the general permit is not adequate to meet water quality standards or does not appropriately reflect a permittee's specific situations, an individual storm water permit is the next step. Because of the inadequacies of general permit conditions, an individual permit will be more specific, and typically more stringent, than a general permit. Because of additional agency workload considerations, the agency does not want permittees to apply for individual permits unless the agency has determined the need for such action.

Comment: IACT expressed their appreciation to IDEM staff for working with them on revisions to the rule language, and the board for delaying adoption of the rule. They stated that most of their concerns had been addressed, however, they still had a few concerns related to the urbanized area maps and the addition of new MS4 communities, when the census maps were released, which would not be until November. The definition of a UA would cause more municipalities to be added, therefore the rule should be further revised to give the additional municipalities a one-year extension from the availability of the 2000 census maps to submit their NOI. (IACT)

Response: In November 2002, the U.S. Census Bureau has updated maps available based on the 2000 data.. Once this U.S. Census Bureau data is converted at the agency to a GIS layer, the agency will mail notification letters to newly designated MS4 entities by the end of December 2002. Most of the potential new designees have been verbally notified by the agency when the preliminary urbanized area maps became available in August 2002. The rule language has been changed to reflect a three hundred sixty-five (365) day timetable for newly designated applications. This timetable allows sufficient time for a newly designated MS4 entity to discuss cooperative efforts with adjacent MS4 entities, obtain legally-binding agreements, and submit a complete Notice of Intent letter.

Comment: IACT stated that the rule states that all known receiving waters including all water bodies with discharge must be listed on the NOI, which could be very cumbersome for the initial application since the definition of "water body" includes ditches, swales, and ponds. They suggested that such facilities should be included in the five (5) year inventory requirement. (IACT)

Regarding the baseline characterization report, the broad definition of "receiving waters" causes the analysis to be very cumbersome. (IACT)

Response: The rule has been revised to include the gradual listing and characterization of all receiving waters. A requirement to provide updated receiving water information was added to the annual reporting section.

Comments: IACT feels that the rule should incorporate waivers for small municipalities which is allowed by the federal regulation. Since IDEM has chosen not to include the waiver provision in the rule, many small communities will be forced to comply with the rule requirements at a high cost to them, which they might not be able to absorb. They hope that their remaining concerns will be addressed before final adoption of the rule. (IACT)

GRWE stated for clarification that they are aware of several communities in the state that have populations as low as one thousand (1,000), that are on the list. There are several that are under five thousand (5,000), too. The comment was in reference to the previous comment on specific instances where people would apply for waivers. (GRWE)

On the subject of waivers, they support the position of IACT. (IMA, IWQC)

Response: The agency has added language to section 3(f) of the rule referencing the two situations where federal waivers are allowed: (1) MS4 entities with populations under one thousand (1,000) people within mapped urbanized areas; and (2) MS4 entities with populations under ten thousand (10,000) people.

Comment: They are concerned with all the three (3) storm water rules– 5, 6, and 13. They have concerns with Rule 13 which is a municipal rule, yet would impact the industrial community. They believe that going beyond the federal requirements is understandable, if appropriate. They believe that the reason for going beyond federal regulations needs to be covered. As an example they stated that 15-13-14 requires screening of outfalls. However, there is no definition of the term "outfall" in the rule, though IDEM indicated that the definition would be included in a guidance. There is no federal definition of "outfall", therefore they are concerned that administrative law is being developed on unfinished federal documents. (IMA, IWQC)

Response: The rule language includes a definition of "outfall" for the sake of clarity. Some means of investigating storm water outfalls within the MS4 area is necessary for determining illicit discharges and connections. The rule does not limit the investigation to outfall screening, but allows for other means. The screening, as referenced in 40 CFR 122.34(b)(3)(i), (ii), and (iv), is federally recommended: "visually screening outfalls during dry weather and conducting field tests of selected pollutants as part of the procedures for locating priority areas."

Comment: As another example, 15-13-16 requires MS4s to implement planning measures that include maximization of open space and the direction of physical growth. They believe that in Indiana, this provision would be a matter of local decision. (IMA, IWQC)

Response: The rule language regarding requirements in 327 IAC 15-13-16(b) has been changed from "must also include...." to "may also include.....". The rule requirements related to land use planning are important components of overall MS4 area storm water program planning. Federal language in 40 CFR 122.34(b)(5)(ii)(A) and (iii) references appropriate nonstructural BMPs and includes directing growth to identified areas, protecting sensitive areas, and maintaining and/or increasing open space. Appropriate land use planning should provide more natural (or manmade) filtration and settling areas, thus improving storm water quality while protecting areas that can not handle the added storm water pollutants.

Comment: They do not believe the requirements should extend to picking up litter and dog parks, as that is more prescriptive than the federal requirements, including promotion of recycling to reduce litter, minimization of pesticide and fertilizer use, and requiring all canine parks to be located at least one hundred fifty (150) feet from a surface water body. They hope to work with the agency on these observations. They do encourage preliminary adoption and hope for a positive conclusion at final adoption. (IMA, IWQC)

Response: Rule language has been revised to remove litter pick-up, and provide canine parks as an example of recommended animal waste control. Because it was not directly related to reducing the amount of litter in storm water run-off, the reference to recycling in clause (G) was deleted. However, the reference to a minimum setback distance for canine parks has a potential effect of improving storm water quality. This setback distance may not be applicable to every regulated MS4 entity, and, where not applicable, does not need to be implemented. In applicable situations, the setback distance should improve overall water quality by reducing bacteria colonies in receiving waters.

Comment: SDC credited the department on giving the regulated community numerous opportunities to comment, including holding at least two video conferences. They urge the board to preliminarily adopt the proposed amendments to the rule. Regarding the statement of purpose for Rule 13, they recommend adding a sentence stating that these rules are a necessary next step in efforts to preserve, protect and improve our water resources. (SDC)

Response: The current rule language addresses what the rule is intended to accomplish (i.e., establish requirements for MS4 conveyance discharges so that public health, existing water uses, and aquatic biota are protected), and not the rule's role as one step in a process.

Comment: They are concerned that IDEM will lack the resources to implement or assist in carrying out this rule. They urged the board to start a separate rulemaking for adoption of fees to carry out the rule in a timely fashion. (SDC)

Response: IDEM has identified resources to implement this program and continues to pursue a variety of options to ensure resources are available.

Comment: Regarding public comment and review of some general permits issued under 327 IAC 15, IDEM has removed the appeal procedure in order to decrease the processing time. IDEM's response stated that the information would be stored in IDEM's storm water database which will be readily accessible for public inquiries. They urged the board to make sure the department carries out this commitment. (SDC)

Response: The agency has existing Rule 5 and Rule 6 storm water databases, and a federal grant has been obtained to create an overall storm water database for the two existing storm water rules and Rule 13. The implementation of the new database will likely occur with the effective dates of the storm water rules.

Comment: Definitions (42), (49), (52), (70), (73), and (86), need minor revisions for clarity. (SDC)

Response: Appropriate changes have been made to the definitions to provide clarity.

Comment: Since 327 IAC 15-13-8(f) appears to be the first mention of an annual report, consider referencing 327 IAC 15-13-18 here. (SDC)

Response: The rule language was revised to provide reference to the annual report in section 18 of this rule.

Comment: 327 IAC 15-13-14(c), 327 IAC 15-13-15(b) and 327 IAC 15-13-16(b) still use the term "ordinance".

Response: The term "ordinance" already exists in sections 14, 15, and 16.

327 IAC 5-4-6
327 IAC 15-13

SECTION 1. 327 IAC 5-4-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 5-4-6 Storm water discharges

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1
Affected: IC 13-18-4

Sec. 6. (a) The following discharges consisting entirely of storm water are subject to ~~the~~ **an individual** NPDES ~~program:~~ **permit:**

~~(1) A discharge with respect to which a permit has been issued prior to February 4, 1987.~~

~~(2) A discharge which the commissioner determines contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state.~~

(1) A discharge which:

(A) the commissioner determines contributes to a violation of a water quality standard;

(B) is a significant contributor of pollutants to waters or to a regulated municipal separate storm sewer system (MS4) conveyance; or

(C) is subject to the requirements of 327 IAC 15 if one (1) of the six (6) cases listed in 327 IAC 15-2-9 occurs.

~~(b) Prior to October 1, 1992, a permit shall not be required for a discharge composed entirely of storm water, except the following:~~

~~(1) A discharge with respect to which a permit has been issued prior to February 4, 1987.~~

(2) A discharge ~~associated with~~ **exposed to categories of** industrial activity **specified in 327 IAC 15-6-2 that is subject to federal storm water effluent limitation guidelines.**

~~(3) A discharge from a large municipal separate storm sewer system serving a population of two hundred fifty thousand (250,000) or more.~~

~~(4) A discharge from a medium municipal separate storm sewer system serving a population of one hundred thousand (100,000) or more but less than two hundred fifty thousand (250,000).~~

~~(5) A discharge which the commissioner determines contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state.~~

(3) A discharge associated with the state department of transportation.

(4) A discharge from an MS4 conveyance subject to regulation under 40 CFR 122.26(a)(iii).

~~(c) The commissioner shall not, under this section, require a permit for discharges of storm water runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including, but not limited to, pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.~~

~~(d) The following are requirements for large and medium municipal separate storm sewer:~~

~~(1) Permits must be obtained for all discharges from large and medium municipal separate storm sewer systems.~~

~~(2) The commissioner may either issue one (1) system wide permit covering all discharges from municipal separate storm sewers within a large or medium municipal storm sewer system or issue distinct permits for appropriate categories of discharges within a large or medium municipal separate storm sewer system including, but not limited to:~~

~~(A) all discharges owned or operated by the same municipality;~~

~~(B) located within the same jurisdiction;~~

~~(C) all discharges within a system that discharges to the same watershed;~~

~~(D) discharges within a system that are similar in nature; or~~

~~(E) individual discharges from municipal separate storm sewers within the system.~~

~~(3) The operator of a discharge from a municipal separate storm sewer which is part of a large or medium municipal separate storm sewer system must do any of the following:~~

~~(A) Participate in a permit application (to be a permittee or a copermittee) with one (1) or more other operators of discharges from the large or medium municipal storm sewer system which covers all, or a portion of all, discharges from the municipal separate storm sewer system.~~

~~(B) Submit a distinct permit application which only covers discharges from the municipal separate storm sewers for which the operator is responsible.~~

~~(C) A regional authority may be responsible for submitting a permit application under the following guidelines:~~

~~(i) The regional authority together with coapplicants shall have authority over a storm water management program that is in existence, or shall be in existence at the time Part 1 of the application is due.~~

~~(ii) The permit applicant or coapplicants shall establish their ability to make a timely submission of Part 1 and Part 2 of the municipal application.~~

~~(iii) Each of the operators of large or medium municipal separate storm sewers shall comply with the application requirements of 40 CFR 122.26(d).~~

~~(4) One (1) permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems. The commissioner may issue one (1) system wide permit covering all or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems.~~

(5) Permits for all or a portion of all discharges from large or medium municipal separate storm sewer systems that are issued on a system wide, jurisdiction wide, watershed, or other basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas which contribute storm water to the system.

(6) Copermittees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are operators.

(e) (1) In addition to meeting the requirements of 40 CFR 122.26(c), an operator of a storm water discharge associated with industrial activity which discharges through a large or medium municipal separate storm sewer system shall submit, to the operator of the municipal separate storm sewer system receiving the discharge no later than May 15, 1991, or one hundred eighty (180) days prior to commencing such discharge, the following:

(A) The name of the facility.

(B) A contact person and phone number.

(C) The location of the discharge.

(D) A description, including Standard Industrial Classification, which best reflects the principal products or services provided by each facility.

(E) Any existing NPDES permit number.

(2) In cases where the industrial activity consists of construction activity which disturbs five (5) acres or more of ground, information equivalent to that required by subdivision (1) and 327 IAC 15-5-5 shall be submitted to the operator of the municipal separate storm sewer system receiving the discharge prior to the initiation of the land disturbing activities.

(f) The commissioner may issue permits for municipal separate storm sewers that are designated under subsection (b)(5) on a system wide basis, jurisdiction wide basis, watershed basis, or other appropriate basis, or may issue permits for individual discharges.

(g) For storm water discharges associated with industrial activity from point sources which discharge through a nonmunicipal or nonpublicly owned separate storm sewer system, the commissioner may issue a single NPDES permit, with each discharger a copermittee to a permit issued to the operator of the portion of the system that discharges into waters of the state, or individual permits to each discharger of storm water associated with industrial activity through the nonmunicipal conveyance system.

(1) All storm water discharges associated with industrial activity that discharge through a storm water discharge system that is not a municipal separate storm sewer must be covered by an individual permit, or a permit issued to the operator of the portion of the system that discharges to waters of the state, with each discharger to the nonmunicipal conveyance a copermittee to that permit.

(2) Where there is more than one (1) operator of a single system of such conveyances, all operators of storm water discharges associated with industrial activity must submit applications.

(3) Any permit covering more than one (1) operator shall identify the effluent limitations, or other permit conditions, if any, that apply to each operator.

(h) Conveyances that discharge storm water runoff combined with municipal sewage are point sources that must obtain NPDES permits in accordance with the procedures of 40 CFR 122.21 and are not subject to the provisions of this section.

(b) The following discharges consisting entirely of storm water are subject to a general NPDES permit:

(1) A discharge exposed to categories of industrial activity specified in 327 IAC 15-6-2.

(2) A discharge associated with construction activities, which disturb one (1) or more acres of land. Included in these activities are disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale as defined in 327 IAC 15-5-4(20) if the larger common plan will ultimately disturb one (1) or more acres of land.

(3) A discharge from an MS4 conveyance serving a municipal population of seven thousand (7,000) or more, and meeting the designation criteria listed in 327 IAC 15-13-3(a)(5) and 327 IAC 15-13-3(a)(6). Discharges from public and private storm water utilities and municipal street department conveyances and operational areas within the designated area are included.

(4) A discharge from an MS4 conveyance that has been designated for storm water permit coverage by its location within an urbanized area as determined by the 1990 or 2000 Decennial Census map by the United States Census Bureau. Discharges from public and private storm water utilities and municipal street department conveyances and operational areas within the designated area are included.

(5) A discharge from a county, or portion of a county, MS4 conveyance that has been designated for storm water permit coverage by its location within an urbanized area as determined by the 1990 or 2000 Decennial Census map by the United States Census Bureau. Discharges from county highway department conveyances and operational areas within the designated area are included.

(6) A discharge from an MS4 conveyance serving a university, college, military base, hospital, or correctional facility population of one thousand (1,000) or more, and located within a regulated municipality or county as determined by subdivision (4) or (5).

(c) The commissioner shall not, under this section, require a permit for discharges of storm water run-off from mining operations or oil and gas exploration, production, process-

ing, or treatment operations or transmission facilities, composed entirely of flows from conveyances or systems of conveyances (including, but not limited to, pipes, conduits, ditches, and channels) used for collecting and conveying precipitation run-off and which are not contaminated by contact with, or do not come into contact with any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.

(d) For an individual NPDES permit required under subsection (a), the department shall consider the following in determining the requirements to be contained in the permit:

(1) The provisions in 327 IAC 15-5, 327 IAC 15-6, and 327 IAC 15-13.

(2) The nature of the discharges and activities occurring at the site or facility.

(3) Other information relevant to the potential impact on water quality.

(e) Storm water run-off discharged into a combined sewer system is not subject to the provisions of this section.

~~(i)~~ **(f)** Whether a discharge from ~~a municipal separate storm sewer or~~ **an MS4 conveyance** is, ~~not,~~ subject to regulation under this section, shall have no bearing on whether the owner or operator of the discharge is eligible for funding under Title II, Title III, or Title VI of the CWA.

~~(j)~~ **(g)** Terms as used in this section have the same meaning as defined under 40 CFR 122.26(b), **327 IAC 15-5-4, 327 IAC 15-6-4, or 327 IAC 15-13-5.** *(Water Pollution Control Board; 327 IAC 5-4-6; filed Sep 24, 1987, 3:00 p.m.: 11 IR 644; filed Feb 26, 1993, 5:00 p.m.: 16 IR 1764)*

SECTION 2. 327 IAC 15-13 IS ADDED TO READ AS FOLLOWS:

Rule 13. Storm Water Run-Off Associated with Municipal Separate Storm Sewer System Conveyances

327 IAC 15-13-1 Purpose

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 1. The purpose of this rule is to establish requirements for storm water discharges from municipal separate storm sewer system (MS4) conveyances so that public health, existing water uses, and aquatic biota are protected. *(Water Pollution Control Board; 327 IAC 15-13-1)*

327 IAC 15-13-2 Applicability

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 2. This rule applies to an MS4 entity that:

(1) is not required to obtain an individual NPDES permit under 327 IAC 5-4-6(a)(4) or 327 IAC 15-2-9(b);

(2) meets the general permit rule applicability requirements under 327 IAC 15-2-3;

(3) does not have coverage under an individual MS4 permit; and

(4) operates, maintains, or otherwise has responsibility for an MS4 conveyance within a designated MS4 area.

(Water Pollution Control Board; 327 IAC 15-13-2)

327 IAC 15-13-3 MS4 area designation criteria

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 3. (a) An MS4 entity that meets one (1) of the following is designated for permit coverage under this rule:

(1) Located within, or contiguous to, a mapped 1990 or 2000 United States Census Bureau urbanized area (UA) and is:

(A) a municipality, regardless of its United States Census Bureau population; or

(B) a university, college, military base, hospital, or correctional facility with a full-time equivalent enrollment, daily user population, or bed count occupancy (based on the most recent enrollment count, or population data) greater than or equal to one thousand (1,000).

(2) A county that contains a mapped UA. Only the portion of the county that contains the mapped UA, as delineated by political township or section, township, and range boundaries, must be regulated. If only a portion of the county contains a mapped UA, the MS4 entity may elect to regulate, to the extent of its authority, any additional portion of the county, as delineated by political township or section, township, and range boundaries, under this rule.

(3) A documented significant contributor of pollutants to waters or a regulated MS4 area.

(4) A municipality with a population density, according to 2000 United States Census Bureau data, of five hundred (500) people per square mile or greater and United States Census Bureau population of ten thousand (10,000) or more.

(5) A municipality with a population density, according to 2000 United States Census Bureau data, of five hundred (500) people per square mile or greater, United States Census Bureau population greater than seven thousand (7,000) and less than ten thousand (10,000) and having a positive, ten (10) year population growth percentage greater than or equal to ten percent (10%).

(6) A municipality with a population density, according to 2000 United States Census Bureau data, of five hundred (500) people per square mile or greater, United States Census Bureau population greater than seven thousand (7,000) and less than ten thousand (10,000) and having a university or college full-time equivalent enroll-

ment, military base population, hospital bed count occupancy, or correctional facility daily user population (based on the most recent enrollment, count, or population data) that places the total population greater than or equal to ten thousand (10,000).
(7) A university, college, military base, hospital, or correctional facility with a full-time equivalent enrollment, daily user population, or bed count occupancy greater than or equal to one thousand (1,000), located within a designated municipality, and having responsibility for a storm water conveyance.
(8) A public or private storm water utility that serves one (1) or more of the MS4 entities designated under subdivisions (1) through (7).

(b) An MS4 entity outside of a mapped UA not already designated under subsection (a) may be designated for permit coverage if its discharge is to a sensitive area or if other environmental programs are not adequately protecting water quality.

(c) Once an MS4 entity is designated under this section, it remains designated until the expiration of its permit unless any of the conditions for termination in section 20 of this rule are applicable.

(d) The department shall notify MS4 entities meeting the designation criteria of this section in writing.

(e) A designated MS4 entity subject to this rule is also subject to the requirements of 327 IAC 15-2-9(b) and may be required to obtain an individual NPDES permit. *(Water Pollution Control Board; 327 IAC 15-13-3)*

327 IAC 15-13-4 General permit boundary

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 4. (a) This general permit covers Indiana.

(b) For each MS4 entity, the permit covers all storm water discharges from conveyance systems for which it has jurisdiction, or, in the case of designated counties, the portion of the county jurisdictional area depicted in a mapped UA, unless appropriate written, enforceable, legal documentation has been obtained to allow another entity to have permit responsibilities for systems and areas within another entity's jurisdiction. *(Water Pollution Control Board; 327 IAC 15-13-4)*

327 IAC 15-13-5 Definitions

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-11-2; IC 13-18-4; IC 13-20-10; IC 14-32

Sec. 5. For purposes of this rule, the following definitions apply:

(1) "Best management practice" or "BMP" means any structural or nonstructural control measure utilized to improve the quality and, as appropriate, reduce the quantity of storm water run-off. The term includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land-use planning, policy techniques, and other management practices.
(2) "Buffer strip" means an existing, variable width strip of vegetated land intended to protect water quality and terrestrial and aquatic habitat in an adjacent resource or area.
(3) "Canine park" means a designated public location where dogs are restricted and animal waste may accumulate. For the purposes of this rule, the term does not include kennels, municipal dog impoundments, or humane society buildings.
(4) "Class V injection well" means a type of well, which typically has a depth greater than its largest surface dimension, emplaces fluids into the subsurface, and does not meet the definitions of Class I through Class IV wells as defined under 40 CFR 146.5. While the term includes septic systems that serve more than one (1) single-family dwelling or provide service for nondomestic waste, dug wells, bored wells, improved sinkholes, french drains, infiltration sumps, and infiltration galleries, it does not include surface impoundments, trenches, or ditches that are wider than they are deep.
(5) "Combined sewer" means a sewer that is designed, constructed, and used to receive and transport combined sewage.
(6) "Combined sewer operational plan" or "CSOOP" means a plan that contains the minimum technology controls applicable to, and requirements for operation and maintenance of, a combined sewer system:
(A) before;
(B) during; and
(C) upon completion of;
the implementation of a long term control plan.
(7) "Commissioner" refers to the commissioner of the department of environmental management.
(8) "Constructed wetland" means a manmade shallow pool that creates growing conditions suitable for wetland vegetation and is designed to maximize pollutant removal.
(9) "Contiguity" means an entity's proximity to a designated MS4 area in such a way that it allows for direct discharges of storm water run-off into the regulated MS4 conveyance.
(10) "Conveyance" means any structural process for transferring storm water between at least two (2) points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.
(11) "Daily user population" means a population for an entity that is present at that location on a daily basis.
(12) "Dechlorinated swimming pool discharge" means chlorinated water that has either sat idle for seven (7)

days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations (less than five-hundredths (0.05) milligram per liter) of chlorinated residual.

(13) "Department" refers to the department of environmental management.

(14) "Detention basin" means a type of storage practice used to detain or slow storm water run-off and then release it through a positive outlet.

(15) "Disposal" means the:

(A) discharge;

(B) deposit;

(C) injection;

(D) spilling;

(E) leaking; or

(F) placing;

of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.

(16) "Dry well" means a type of infiltration practice that allows storm water run-off to flow directly into the ground via a bored or otherwise excavated opening in the ground surface.

(17) "Filter strip" means a type of vegetative practice used to filter storm water run-off through the use of planted, or existing vegetation near disturbed or impervious surfaces.

(18) "Floatable" means any solid waste that, due to its physical characteristics, will float on the surface of water. For the purposes of this rule, the term does not include naturally occurring floatables, such as leaves or tree limbs.

(19) "Flood plain" means the area adjoining a river, stream, or lake that is inundated by the base flood as determined by 312 IAC 10.

(20) "Floodway" means the channel of a river or stream and those portions of the flood plain adjoining the channel that are reasonably required to efficiently carry and discharge the peak flow from the base flood as determined by 312 IAC 10.

(21) "Full-time equivalent enrollment" means a college or university enrollment of undergraduate students currently taking fifteen (15) credit hours of course work and graduate or professional students currently taking twelve (12) credit hours of course work. Each respective fifteen (15) or twelve (12) credit hours of course work equals one (1) full-time equivalent.

(22) "Garbage" means all putrescible animal solid, vegetable solid, and semisolid wastes resulting from the:

(A) processing;

(B) handling;

(C) preparation;

(D) cooking;

(E) serving; or

(F) consumption of food or food materials.

(23) "General permit rule boundary" means an area based upon existing geographic or political boundaries indicating the area within which an MS4 conveyance affected by this rule is located.

(24) "Grass swale" means a type of vegetative practice used to filter storm water run-off via a vegetated, shallow-channel conveyance.

(25) "Ground water" means such accumulations of underground water, natural or artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this state. The term does not include manmade underground storage or conveyance structures.

(26) "Household hazardous waste" or "HHW" means solid waste generated by households that:

(A) is ignitable, as defined under 40 CFR 261.21;

(B) is toxic, as defined under 40 CFR 261.24;

(C) is reactive, as defined under 40 CFR 261.23;

(D) is corrosive, as defined under 40 CFR 261.22; or

(E) otherwise poses a threat to human health or the environment.

(27) "Hydrologic unit code" or "HUC" means a numeric United States Geological Survey code that corresponds to a watershed area. Each area also has a text description associated with the numeric code.

(28) "Illicit discharge" means any discharge to an MS4 conveyance that is not composed entirely of storm water, except naturally occurring floatables, such as leaves or tree limbs. Sources of illicit discharges include sanitary wastewater, septic tank effluent, car wash wastewater, oil disposal, radiator flushing disposal, laundry wastewater, roadway accident spillage, and household hazardous wastes.

(29) "Impervious surface" means any surface that prevents storm water to readily infiltrate into the soils.

(30) "Individual NPDES permit" means an NPDES permit issued to one (1) MS4 operator that contains requirements specific to that MS4 conveyance.

(31) "Infiltration basin or trench" means a type of infiltration practice used to filter storm water run-off into soils via the use of installed structures with porous material.

(32) "Infiltration gallery" means a type of infiltration practice used to filter storm water run-off into soils that utilizes one (1) or more vertical pipes leading to a horizontal, perforated pipe laid within a trench, often backfilled with gravel or some other permeable material.

(33) "Infiltration practices" means any structural BMP designed to facilitate the percolation of run-off through the soil to ground water. Examples include infiltration basins or trenches, dry wells, and porous pavement.

(34) "Initial receiving water" means a water that is the direct recipient of a discharge from an MS4 area after the discharge passes through another MS4 conveyance.

(35) "Legally binding agreement" means a written, enforceable legal document used to describe responsibilities between joint permittees or other entities.

(36) "Load allocation" means the portion of a receiving waterbody's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources.

(37) "Long term control plan" or "LTCP" means a plan that is:

(A) consistent with the federal Combined Sewer Overflow Control Policy (59 FR 18688); and

(B) developed in accordance with the recommendations set forth in Combined Sewer Overflows Guidance for Long-Term Control Plan (EPA 832B95002).

(38) "Minimum control measure" or "MCM" refers to the following minimum measures required by this rule:

(A) Public education and outreach.

(B) Public participation and involvement.

(C) Illicit discharge detection and elimination.

(D) Construction site run-off control.

(E) Postconstruction run-off control.

(F) Pollution prevention and good housekeeping.

(39) "MS4 area" means a land area comprising one (1) or more places that receives coverage under one (1) NPDES storm water permit regulated by this rule or 327 IAC 5-4-6(a)(3) and 327 IAC 5-4-6(a)(4).

(40) "MS4 entity" means a public or private body that owns, operates, or maintains a storm water conveyance system, including a transportation agency operated by that body. The term can also include federal, state, city, town, county, district, association, or township public bodies, and privately owned universities, colleges, or storm water utilities. For the purposes of this rule, the term does not include non-MS4 entity-owned shopping malls, office parks, apartment complexes, golf courses, churches, or hotels.

(41) "MS4 operator" means the person responsible for development, implementation, or enforcement of the MCMs for a designated MS4 area.

(42) "Municipal separate storm sewer system" or "MS4" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, that is:

(A) owned or operated by a:

(i) federal, state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over storm water, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Clean Water Act (33 U.S.C. 1288) that discharges into waters of the state; or

(ii) privately owned storm water utility, hospital, university or college having jurisdiction over storm water that discharges into waters of the state;

(B) designed or used for collecting or conveying storm water;

(C) not a combined sewer; and

(D) not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

(43) "Municipal, state, federal, or institutional refueling area" means an operating gasoline or diesel fueling area whose primary function is to provide fuel to either municipal, state, federal, or institutional equipment or vehicles.

(44) "Mutual drain" means a drainage system that:

(A) is located on two (2) or more tracts of land that are under different ownership;

(B) was established by the mutual consent of all the owners; and

(C) was not established under or made subject to any drainage statute.

(45) "Nonpoint source" means a source of water pollution that does not meet the definition of point source. The term includes in-place pollutants, direct wet and dry deposition, ground water inflow, and overland run-off.

(46) "Notice of deficiency letter" or "NOD letter" means a written notification from the department indicating an MS4 entity's deficiencies in their NOI letter or SWQMP submittals.

(47) "Notice of intent letter" or "NOI letter" means a written notification indicating an MS4 entity's intention to comply with the terms of this rule in lieu of applying for an individual NPDES permit and includes information as required under sections 6 and 9 of this rule. It is the application for obtaining permit coverage under this rule.

(48) "Notice of sufficiency letter" or "NOS letter" means a written notification from the department indicating that an MS4 entity has sufficiently provided the required information in their NOI letter or SWQMP submittals.

(49) "Notice of termination letter" or "NOT letter" means a written notification from the department indicating that an entity has met the conditions to terminate their permit coverage under this rule.

(50) "Open space" means any land area devoid of any disturbed or impervious surfaces created by industrial, commercial, residential, agricultural, or other manmade activities.

(51) "Outfall" means a point source discharge via a conveyance of storm water run-off into a water of the state.

(52) "Outfall scouring" means the deterioration of a streambed from an outfall discharge to an extent that the excessive settling of solid material results and suitable aquatic habitat is diminished.

(53) "Point source" means any discernible, confined, and discrete conveyance, including a pipe, ditch, channel, tunnel, conduit, well, or discrete fissure.

(54) "Pollutant of concern" means any pollutant that has been documented via analytical data as a cause of impairment in any waterbody, or to another MS4, to which the MS4 discharges.

(55) "Porous pavement" means a type of infiltration practice to improve the quality and reduce the quantity of storm water run-off via the use of manmade, pervious pavement which allows run-off to percolate through the pavement and into underlying soils.

(56) "Private drain" means a drainage system that:

(A) is located on land owned by one (1) person or by two (2) or more persons jointly; and

(B) was not established under or made subject to any drainage statute.

(57) "Programmatic indicator" means any data collected by an MS4 entity that is used to indicate implementation of one (1) or more minimum control measures.

(58) "Qualified professional" means an individual who is trained and experienced in storm water treatment techniques and related fields as may be demonstrated by state registration, professional certification, experience, or completion of coursework that enable the individual to make sound, professional judgments regarding storm water control or treatment and monitoring, pollutant fate and transport, and drainage planning.

(59) "Rain garden" means a vegetative practice used to alter impervious surfaces, such as roofs, into pervious surfaces for absorption and treatment of rainfall.

(60) "Receiving stream" or "receiving water" means a waterbody that receives a discharge from an outfall.

(61) "Redevelopment" means alterations of a property that change a site or building in such a way that there is disturbance of one (1) acre or more of land. The term does not include such activities as exterior remodeling.

(62) "Responsible individual" means the person responsible for development, implementation, or enforcement of the MCMs for a designated MS4 entity.

(63) "Retail gasoline outlet" means an operating gasoline or diesel fueling facility whose primary function is the resale of fuels. The term applies to facilities that create five thousand (5,000) or more square feet of impervious surfaces, or generate an average daily traffic count of one hundred (100) vehicles per one thousand (1,000) square feet of land area.

(64) "Retention basin" means a type of storage practice, that has no positive outlet, used to retain storm water run-off for an indefinite amount of time. Run-off from this type of basin is removed only by infiltration through a porous bottom or by evaporation.

(65) "Riparian habitat" means a land area adjacent to a waterbody that supports animal and plant life associated with that waterbody.

(66) "Riparian zone" means a land area adjacent to a waterbody that is directly associated with that waterbody.

(67) "Sand" means mineral material with a size range between two and one-sixteenth ($2^{1}/_{16}$) millimeter diameter.

(68) "Sedimentation" means the settling and accumulation of unconsolidated material carried by storm water run-off.

(69) "Sensitive area" means a water body identified as needing priority protection or remediation based on:

(A) having threatened or endangered species or their habitat;

(B) usage as a public surface water supply intake;

(C) usage for full body contact recreation, such as bathing beaches; or

(D) exceptional use classification as found in 327 IAC 2-1-11(b), outstanding state resource water classification as found in 327 IAC 2-1-2(3) and 327 IAC 2-1.5-19(b).

(70) "Significant contributor of pollutants" means an MS4 entity or industrial facility that contributes pollutants into an MS4 conveyance and negatively impacts the receiving MS4 operator's capability to be consistent with applicable state or federal law.

(71) "Soil and water conservation district" or "SWCD" means a political subdivision established under IC 14-32.

(72) "Solid waste" means any garbage, refuse, sludge for a waste treatment plant, sludge from a water supply treatment plant, sludge from an air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations or from community activities. The term does not include:

(A) solid or dissolved material in:

(i) domestic sewage; or

(ii) irrigation return flows or industrial discharges;

that are point sources subject to permits under section 402 of the Federal Water Pollution Control Act Amendments (33 U.S.C. 1342);

(B) source, special nuclear, or byproduct material (as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

(C) manures, or crop residues returned to the soil at the point of generation as fertilizers or soil conditioners as part of a total farm operation; or

(D) vegetative matter at composting facilities registered under IC 13-20-10.

(73) "Spill" means the unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge, or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impervious surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

(74) "Standard Industrial Classification code" or "SIC code" means the four (4) digit code applicable to a particular industrial activity in accordance with the Standard Industrial Classification Manual published by

the Office of Management and Budget of the Executive Office of the President of the United States.

(75) "Storage practices" means any structural BMP intended to store or detain storm water and slowly release it to receiving waters or drainage systems. The term includes detention and retention basins.

(76) "Storm drain marking" means any marking procedure that identifies a storm sewer inlet as draining directly to a receiving waterbody so as to avoid dumping pollutants. The procedures can include painted or cast messages and adhesive decals.

(77) "Storm water" means water resulting from rain, melting or melted snow, hail, or sleet.

(78) "Storm water quality management plan" or "SWQMP" means a comprehensive written document that addresses storm water run-off quality within an MS4 area. The SWQMP is divided into three (3) different submittal parts as follows:

(A) Part A–Initial Application.

(B) Part B–Baseline Characterization and Report.

(C) Part C–Program Implementation.

(79) "Stream reach characterization and evaluation report" or "SRCER" means a written report that characterizes and evaluates the pollutant sources on receiving waters from a combined sewer system discharge.

(80) "Total maximum daily load" or "TMDL" means the sum of the daily individual wasteload allocations for point sources and load allocations for nonpoint sources and natural background minus the sum of a specified margin of safety and any capacity reserved for growth. A TMDL sets and allocates the maximum daily amount of a pollutant that may be introduced into a waterbody and still assure attainment and maintenance of water quality standards.

(81) "Traffic phasing plan" means a written plan that addresses the installation of appropriate pollution prevention practices that is directly related to the land disturbance associated with infrastructure constructed to reroute vehicular traffic within an active construction zone. The term does not include detours that are directed away from the active construction area.

(82) "Urbanized area" or "UA" means a land area comprising one (1) or more places that together have a residential population of at least fifty thousand (50,000) and an overall population density of at least five hundred (500) people per square mile.

(83) "Vegetative practices" means any nonstructural or structural BMP that, with optimal design and good soil conditions, utilizes various forms of vegetation to enhance pollutant removal, maintain and improve natural site hydrology, promote healthier habitats, and increase aesthetic appeal. Examples include grass swales, filter strips, buffer strips, constructed wetlands, and rain gardens.

(84) "Waste transfer station" means a place where solid wastes are segregated for additional off-site processing or disposal.

(85) "Wasteload allocation" means the portion of a receiving stream's loading capacity that is allocated to one (1) of its existing or future point sources or pollution.

(86) "Waterbody" means any accumulation of water, surface or underground, natural or artificial, including rivers, streams, creeks, ditches, swales, lakes, ponds, marshes, wetlands, and ground water. The term does not include any storage or treatment structures.

(87) "Watercourse" means the path taken by flowing surface water.

(88) "Waters" means:

(A) the accumulations of water, surface and underground, natural and artificial, public and private; or

(B) a part of the accumulations of water;

that are wholly or partially within, flow through, or border upon Indiana. The term does not include a private pond or an off-stream pond, reservoir, or facility built for reduction or control of pollution or cooling of water before discharge unless the discharge from the pond, reservoir, or facility causes or threatens to cause water pollution.

(89) "Watershed" means an area of land from which water drains to a common point.

(90) "Wellhead protection area" has the meaning set forth at 327 IAC 8-4.1-1(27).

(Water Pollution Control Board; 327 IAC 15-13-5)

327 IAC 15-13-6 Notice of intent letter requirements

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 6. (a) Unless one (1) application is submitted for multiple MS4 entities, each MS4 entity shall submit an NOI letter with the following information, which will serve as the permit application:

(1) Contact information required under subsection (b).

(2) List of all known receiving waters or, if the discharge is to another MS4, the name of the MS4 entity and the initial receiving water.

(3) Copy of the completed SWQMP–Part A: Initial Application certification submittal and checklist form.

(4) Proof of publication in the newspaper with the greatest circulation in the affected MS4 area. The notice must provide a listing of all entities intended to be covered under the permit. This statement must be included in the public notice, "(MS4 entity name and address) intends to discharge storm water into the (text name and numeric code of all 14-digit Hydrologic Unit Code area) watershed(s), and is submitting a Notice of Intent letter to notify the Indiana Department of Environmental Management of our intent to comply with the requirements under 327 IAC 15-13 to discharge storm water run-off associated with municipal separate storm sewer systems.".

(5) Certification, by completing and signing Appendix A of the NOI letter, that any applicable, legally binding agreements between MS4 area entities have been obtained concerning individual responsibilities for implementation of this rule.

(b) The contact information required under subsections (a)(1) and (c)(1) must include the following:

(1) Name of MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual for each MS4 entity.

(2) Title of the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(3) MS4 entity represented by the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(4) Mailing (and, if different, the physical) address of the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(5) Telephone and facsimile number of the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(6) E-mail address (if available) of MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(c) The SWQMP–Part A: Initial Application required under subsection (a)(3) must contain the following:

(1) Written listing of the MS4 entities within an MS4 area covered by the NOI letter submittal. The listing must provide the name of each MS4 entity, a responsible individual for each MS4 entity, and contact information for each MS4 entity.

(2) Written schedule which, at a minimum, adheres to the compliance schedule in section 11 of this rule.

(3) Written proposed or estimated budget allocation for the MS4 area's storm water program, with a summary of identified funding sources. When multiple MS4 entities are applying under a single NOI letter, the budget allocation must be, at a minimum, separated by MS4 entity.

(d) Multiple MS4 entities within an MS4 area may submit a single NOI letter provided they comply with the submittal requirements of this section. Coverage under a single NOI letter will only be allowed if all the MS4 entities seeking coverage consolidate, and provide, the required information in sections 7, 8, and 18 of this rule as single submittals, and the information is submitted to the department by the MS4 operator designated in subsection (b). MS4 operators may utilize materials from existing local or state programs, or partner with an existing individual MS4 permittee, if all parties agree to coordinate responsibilities in accordance with subsection (a)(5).

(e) Multiple MS4 entities within an MS4 area may submit a separate NOI letter corresponding to each entity and still share responsibilities for implementation of one (1) or more of the requirements in this rule provided they comply with the submittal requirements of this section and coordinate responsibilities in accordance with subsection (a)(5).

(f) Where multiple MS4 entities submit one (1) or more NOI letters based on a watershed delineation and the created MS4 area contains undesignated MS4 entities, the undesignated MS4 entities shall not be subject to the provisions of this rule unless the applicability requirements of section 3 of this rule apply.

(g) Where the MS4 operator changes, or where a new operator is added after the submittal of an NOI letter, a new NOI letter must be completed and submitted in accordance with 327 IAC 15-2-8, and sections 6 and 9 of this rule. If no other conditions change except for the name of the MS4 operator, a written letter describing the name change and a statement that no other conditions, including those conditions in the SWQMP–Part A: Initial Application and legal agreements, have changed will be sufficient notification to the department.

(h) An MS4 entity within an MS4 area that does not have the legal authority or other regulatory mechanisms to implement one (1) or more of the six (6) minimum control measures required under this rule shall either obtain the legal authority or other regulatory mechanism, or work with a neighboring regulated MS4 entity, via legally binding agreements, to share responsibilities.

(i) All documents and information required by this section must meet the signatory requirements of 327 IAC 15-4-3(g).

(j) A qualified professional and the MS4 operator shall certify, with the stated paragraph found in 327 IAC 15-4-3(g)(3), a submitted SWQMP–Part A: Initial Application checklist form.

(k) The department shall review initially submitted NOI letters and SWQMP–Part A: Initial Applications for adequacy, and shall assign each NOI letter an NPDES permit number. Either a written NOD letter requesting additional information, or NOS letter containing the assigned NPDES permit number shall be returned to the MS4 operator within ninety (90) days of the NOI letter submittal. If the MS4 operator does not receive either a NOD letter or NOS letter within ninety (90) days of the NOI letter submittal, the NOI letter and SWQMP–Part A: Initial Application will be considered adequate.

(l) Responses to NOD letters shall be made by the recipient within thirty (30) days of the date on the NOD letter.

(m) Forms for the NOI letter, SWQMP, annual report, and required certifications shall be provided by the department. *(Water Pollution Control Board; 327 IAC 15-13-6)*

327 IAC 15-13-7 SWQMP–Part B: baseline characterization and report

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 7. (a) An MS4 operator shall characterize the water quality of all known waters that receive storm water outfall discharges within the MS4 area. The water quality characterization must utilize existing or new information that may describe the chemical, biological, or physical condition of the MS4 area water quality. If monitoring is conducted as part of the characterization, the monitoring of receiving waters shall be either at, or in proximity to, all known, or representative, storm water outfall discharges. After the baseline characterization data is collected, the MS4 operator shall evaluate the data in the baseline characterization to determine which identified areas or specific discharge points are in need of additional water quality measures. This baseline characterization must include the following:

(1) An investigation of land usage and assessment of structural and nonstructural storm water BMP locations and conclusions, such as key observation or monitoring locations in the MS4 conveyances, derived from the land usage investigation.

(2) The identification of known sensitive areas, such as public swimming areas, surface drinking water intakes, waters containing threatened or endangered species and their habitat, or state outstanding resource and exceptional use waters. The identified sensitive areas should be given the highest priority for the selection of BMPs and the prohibition of new or significantly increased MS4 discharges.

(3) A review of known existing and available monitoring data of the MS4 area receiving waters, including, as applicable, data that can be correlated from SRCERs.

(4) The identification of areas having a reasonable potential for, or actually, causing storm water quality problems based on the available and relevant chemical, biological, physical, land use, and complaint data.

(5) Assessment results of BMP locations and, as appropriate, the structural condition of the BMP, related to the BMP's effectiveness in improving storm water quality. As appropriate, this assessment should include recommendations for placement and implementation of additional BMPs within the MS4 area.

(b) An SWQMP–Part B: Baseline Characterization and Report addressing the requirements of subsection (a) must be developed and submitted to the department at the address specified in section 9(b) of this rule. The SWQMP–Part B: Baseline Characterization and Report and completed corresponding certification form must be submitted no later than one hundred eighty (180) days from the submission of the NOI letter.

(c) The department shall review the SWQMP–Part B: Baseline Characterization and Report for adequacy, and a written NOS letter or NOD letter shall be issued to the MS4 operator. If no letter is issued within ninety (90) days of submittal, the SWQMP–Part B: Baseline Characterization and Report is deemed sufficient.

(d) Responses to NOD letters shall be made by the recipient within thirty (30) days of the date on the NOD letter.

(e) Ongoing data collection related to the SWQMP–Part B: Baseline Characterization and Report must be submitted to the department with the corresponding annual report.

(f) A qualified professional and the MS4 operator shall certify, with the stated paragraph found in 327 IAC 15-4-3(g)(3), a submitted SWQMP–Part B: Baseline Characterization and Report checklist form. *(Water Pollution Control Board; 327 IAC 15-13-7)*

327 IAC 15-13-8 Submittal of an SWQMP–Part C: program implementation

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 8. (a) An MS4 operator shall develop and implement an SWQMP–Part C: Program Implementation. The SWQMP–Part C: Program Implementation must contain the following:

(1) An initial evaluation of the storm water program for the MS4 area. This evaluation should include information on all known structural and nonstructural storm water BMPs utilized.

(2) A detailed program description for each minimum control measure (MCM) referenced in sections 12 through 17 of this rule.

(3) A timetable for program implementation milestones, which includes milestones for each of the MCMs referenced in sections 12 through 17 of this rule, and applicable SWQMP–Part B: Baseline Characterization and Report conclusions (BMP recommendations, additional protective measures for sensitive areas, and correcting identified water quality problems).

(4) As appropriate, a schedule for ongoing characterization of the receiving waters either at, or in proximity to, outfall locations identified in the SWQMP–Part B: Baseline Characterization and Report to evaluate BMP effectiveness and receiving water quality.

(5) A narrative and mapped description of the MS4 area boundaries that indicate responsible MS4 entity areas for

each MCM. The narrative description must include the specific sectional or, as appropriate, the street name, boundaries of the MS4 area.

(6) An estimate of the linear feet of MS4 conveyances within the MS4 area, segregated by MS4 type, for example, by open ditch or pipe.

(7) A summary of which structural BMP types will be allowed in new development and redevelopment for the MS4 area.

(8) A summary on storm water structural BMP selection criteria and, where appropriate, associated performance standards that must be met after installation to indicate BMP effectiveness.

(9) A summary of the current storm water budget expected or actual funding source, and a projection of the budget for each year within the five (5) year permit term.

(10) A summary of measurable goals for, at a minimum, each MCM referenced in sections 12 through 17 of this rule. These measurable goals shall demonstrate results that relate to an environmental benefit.

(11) Completed certification forms, as appropriate, for each MCM.

(12) The identification of programmatic indicators. Programmatic indicators, grouped by corresponding MCM, must include those listed in subsection (b) that apply to the MS4 operator. Other relevant indicators may be used in place of those listed in subsection (b). If an indicator listed in subsection (b) is not applicable to the operator, or if an other relevant indicator is used, the operator shall provide rationale for the nonidentification or substitution. Programmatic indicators do not need to be fully implemented at the time of the SWQMP–Part C: Program Implementation submittal. Updated data for each of these indicators must be submitted in each annual report.

(b) The programmatic indicators must address the following:

(1) Number or percentage of citizens, segregated by type of constituent as referenced in section 12(a) of this rule, that have an awareness of storm water quality issues.

(2) Number and description of meetings, training sessions, and events conducted to involve citizen constituents in the storm water program.

(3) Number or percentage of citizen constituents that participate in storm water quality improvement programs.

(4) Number and location of storm drains marked or cast, segregated by marking method.

(5) Estimated or actual linear feet or percentage of MS4 mapped and indicated on an MS4 area map.

(6) Number and location of MS4 area outfalls mapped.

(7) Number and location of MS4 area outfalls screened for illicit discharges.

(8) Number and location of illicit discharges detected.

(9) Number and location of illicit discharges eliminated.

(10) Number of, and estimated or actual amount of material, segregated by type, collected from HHW collections in the MS4 area.

(11) Number and location of constituent drop-off centers for automotive fluid recycling.

(12) Number or percentage of constituents that participate in the HHW collections.

(13) Number of construction sites obtaining an MS4 entity-issued storm water run-off permit in the MS4 area.

(14) Number of construction sites inspected.

(15) Number and type of enforcement actions taken against construction site operators.

(16) Number of, and associated construction site name and location for, public informational requests received.

(17) Number, type, and location of structural BMPs installed.

(18) Number, type, and location of structural BMPs inspected.

(19) Number, type, and location of structural BMPs maintained or improved to function properly.

(20) Type and location of nonstructural BMPs utilized.

(21) Estimated or actual acreage or square footage of open space preserved and mapped in the MS4 area, if applicable.

(22) Estimated or actual acreage or square footage of pervious and impervious surfaces mapped in the MS4 area, if applicable.

(23) Number and location of new retail gasoline outlets or municipal, state, federal, or institutional refueling areas, or outlets or refueling areas that replaced existing tank systems that have installed storm water BMPs.

(24) Number and location of MS4 entity facilities that have containment for accidental releases of stored polluting materials.

(25) Estimated or actual acreage or square footage, amount, and location where pesticides and fertilizers are applied by a regulated MS4 entity to places where storm water can be exposed within the MS4 area.

(26) Estimated or actual linear feet or percentage and location of unvegetated swales and ditches that have an appropriately-sized vegetated filter strip.

(27) Estimated or actual linear feet or percentage and location of MS4 conveyances cleaned or repaired.

(28) Estimated or actual linear feet or percentage and location of roadside shoulders and ditches stabilized, if applicable.

(29) Number and location of storm water outfall areas remediated from scouring conditions, if applicable.

(30) Number and location of deicing salt and sand storage areas covered or otherwise improved to minimize storm water exposure.

(31) Estimated or actual amount, in tons, of salt and sand used for snow and ice control.

(32) Estimated or actual amount of material by weight

collected from catch basin, trash rack, or other structural BMP cleaning.
(33) Estimated or actual amount of material by weight collected from street sweeping, if utilized.
(34) If applicable, number or percentage and location of canine parks sited at least one hundred fifty (150) feet away from a surface waterbody.

(c) An SWQMP–Part C: Program Implementation and completed corresponding certification form must be submitted to the department within three hundred sixty-five (365) days from the date of NOI letter submittal.

(d) The department shall review submitted SWQMP–Part C: Program Implementations for adequacy. Either a written NOD letter requesting additional information, or NOS letter shall be sent to the MS4 operator within ninety (90) days of the SWQMP–Part C: Program Implementation submittal. If no letter is issued within ninety (90) days of submittal, the plan is deemed sufficient.

(e) Responses to NOD letters must be made by the recipient within thirty (30) days of the date on the NOD letter.

(f) As conditions or allowed technologies change, the SWQMP–Part C: Program Implementation must be updated. When updates are created, relevant sections of the SWQMP–Part C: Program Implementation containing the updates must be submitted to the commissioner as an attachment to the corresponding annual report.

(g) A qualified professional and the MS4 operator shall certify, with the stated paragraph found in 327 IAC 15-4-3(g)(3), a submitted SWQMP–Part C: Program Implementation checklist form. *(Water Pollution Control Board; 327 IAC 15-13-8)*

327 IAC 15-13-9 Submittal of an NOI letter and other documents

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4; IC 15-4-3

Sec. 9. (a) All information required under section 6 of this rule must be submitted to the commissioner. An MS4 entity that meets the designation criteria under section 3 of this rule shall submit the NOI letter, SWQMP–Part A: Initial Application, and other required documentation no later than ninety (90) days from the effective date of this rule, unless:
(1) written permission for a later date has been granted by the commissioner; or
(2) the MS4 entity was not notified in writing at least one hundred eighty (180) days prior to the effective date of this rule.

(b) A termination request, the NOI letter, Parts A, B, and C of the SWQMP, and any other required information must be submitted to:
Indiana Department of Environmental Management
Office of Water Quality, Urban Wet Weather Section
Rule 13 Storm Water Coordinator
100 North Senate Avenue, Room 1255
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

(c) The permit and the compliance schedules of this rule become effective upon receipt of the initial NOI letter by the department.

(d) The commissioner may deny coverage under this rule and require submittal of an application for an individual NPDES permit based on a review of the NOI letter or other information.

(e) An MS4 entity that either was not notified in writing at least one hundred eighty (180) days prior to the effective date of this rule, or meets the designation criteria of section 3 of this rule after the effective date of this rule due to changing conditions or new facility construction, shall submit the required information under section 6 of this rule, within one hundred eighty (180) days of either:
(1) the date on the written notification;
(2) becoming aware of the relevant changed conditions; or
(3) upon the initiation of facility operations;
unless written permission for a later date has been granted by the commissioner.

(f) Any person who knowingly makes any false statement, representation, or certification in any document submitted or required to be maintained under this rule is subject to 327 IAC 15-4-3(i). *(Water Pollution Control Board; 327 IAC 15-13-9)*

327 IAC 15-13-10 MS4 permit implementation; coordination with total maximum daily load allocations

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 10. If a total maximum daily load (TMDL) is approved for any waterbody into which an MS4 conveyance discharges, the MS4 operator must review and appropriately modify Parts B and C of their SWQMP if the TMDL includes requirements for control of storm water discharges under the jurisdiction of the MS4 operator. *(Water Pollution Control Board; 327 IAC 15-13-10)*

327 IAC 15-13-11 Compliance schedule

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 11. An MS4 operator shall comply with the following schedule for implementation of this rule:

Rule Requirement	Compliance Deadline (from NOI letter submittal date)
Storm Water Quality Management Plan:	Components throughout term of permit
Part A: Initial Application submitted	With NOI letter
Part B: Baseline Characterization and Report submitted	180 days
Part C: Program Implementation submitted	1 year
Public Education and Outreach MCM implementation:	Throughout term of permit
Public education and outreach program development certification submitted	1 year
Public Involvement/Participation MCM implementation:	Throughout term of permit
Public involvement and participation program development certification submitted	1 year
Illicit Discharge Detection/Elimination MCM implementation:	Throughout term of permit
Illicit discharge plan and regulatory mechanism certification submitted	1 year
25 % of storm water outfalls systems mapped	Each year after 1 year
All known storm water outfall systems, with pipe diameters 12 inches or greater or open ditches with 2 feet or larger bottom width, mapped	5 years
Construction Site Run-Off Control MCM implementation:	Throughout term of permit
Construction site program plan and regulatory mechanism certification submitted	1 year
Postconstruction Run-Off Control MCM implementation:	Throughout term of permit
Operational and maintenance plan certification submitted	2 years
Postconstruction program plan and regulatory mechanism certification submitted	2 years
Municipal operations pollution prevention and good housekeeping MCM implementation:	Throughout term of permit
Operations pollution prevention program development certification submitted	1 year

If an MS4 operator is unable to meet a compliance deadline under this section the operator shall submit a written request and justification for extending the deadline. The request must be submitted to the department no later than thirty (30) days prior to the due date. *(Water Pollution Control Board; 327 IAC 15-13-11)*

327 IAC 15-13-12 Storm water quality management plan public education and outreach MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 12. (a) An MS4 operator shall develop an SWQMP that includes methods and measurable goals that will be used to inform residents, visitors, public service employees, commercial and industrial facilities, and construction site personnel within the MS4 area about the impacts polluted storm water run-off can have on water quality and ways they can minimize their impact on storm water quality. The MS4 operator shall ensure, via documentation, that a reasonable attempt was made to reach all constituents within the MS4 area to meet this measure.

(b) MS4 operators are encouraged to utilize existing programs and outreach materials to meet this measure. MS4 operators shall identify and implement an informational program with educational materials for constituents. A certification form shall be completed and submitted to the department once the program has been developed and implemented, or three hundred sixty-five (365) days from the date of NOI letter submittal, whichever is earlier.

(c) MS4 operators shall develop measurable goals for this MCM. An initial assessment of the MS4 area constituents must be conducted to determine initial constituent knowledge and practices as they relate to storm water quality. To comply with this measure, specific target outreach or reduction goal percentages and timetables must be identified. As applicable or, if not applicable, then appropriately justified, goals must address relevant targeted audience improvement in disposal practices, cast storm drain cover installations, school curricula or Web site implementation, outreach to every population sector, and educational material distribution.

(d) In combined sewer system municipalities designated under this rule, the current LTCP shall be reviewed, and any necessary additions shall be included in the plan to ensure that this MCM requirement is met. *(Water Pollution Control Board; 327 IAC 15-13-12)*

327 IAC 15-13-13 Storm water quality management plan public participation and involvement MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 13. (a) The MS4 operator shall develop an SWQMP that includes provisions to allow opportunities for constituents within the MS4 area to participate in the storm water management program development and implementation. An MS4 operator shall ensure, via documented efforts, that sufficient opportunities were allotted to involve all constituents interested in participating in the program process to meet this measure. Correctional facilities will not be required to implement the public participation and involvement MCM.

(b) An MS4 entity shall comply with applicable public notice requirements. An MS4 operator shall identify and implement a public participation and involvement program. A certification form shall be completed and submitted to the department once the program has been developed and implemented, or three hundred sixty-five (365) days from the date of NOI letter submittal, whichever is earlier.

(c) An MS4 operator shall develop measurable goals for this MCM. An initial assessment of MS4 area constituents must be conducted to identify interested individuals for participation in the MS4 area storm water program. To comply with this measure, specific outreach and reduction goal percentages and timetables must be identified. As applicable or, if not applicable, then appropriately justified, goals must address relevant community participation in citizen panels, community clean-ups, citizen watch groups and drain marking projects, and public meeting notification.

(d) In combined sewer system municipalities designated under this rule, the current LTCP shall be reviewed, and any necessary additions shall be included in the plan to ensure that this MCM requirement is met. *(Water Pollution Control Board; 327 IAC 15-13-13)*

327 IAC 15-13-14 Storm water quality management plan illicit discharge detection and elimination MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 14. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop and implement a strategy to detect and eliminate illicit discharges to the MS4 conveyance.

(b) An MS4 operator shall develop a storm sewer system map showing the location of all outfalls and MS4 conveyances in the particular MS4 area under the MS4 operator's control and the names and locations of all waters that receive discharges from those outfalls. A map developed under this subsection must meet the following:

(1) At a minimum, longitude and latitude for mapped outfall locations must be done in decimal degrees, or, if a global positioning system is utilized, mapping-grade accuracy data shall be collected, where an accuracy discrepancy is less than five (5) meters.

(2) The mapping requirement must be developed as follows:

(A) All known outfall conveyance systems with a pipe diameter of twelve (12) inches or larger and open ditches with a two (2) foot or larger bottom width must be mapped within the first five (5) year permit term, according to the following:

(i) After the second year of permit coverage, mapping must depict the location of outfall conveyance systems for at least twenty-five percent (25%) of the MS4 conveyances within the MS4 area.

(ii) For each additional year of the initial permit term, mapping must depict at least an additional twenty-five percent (25%) of the MS4 conveyances.

(B) Subsequent permit terms will require that all remaining outfall conveyance systems are mapped.

(3) The mapping requirements in subdivision (2) do not include private or mutual drains, yard swales that are not maintained by a regulated MS4 entity, or curbs and gutters.

(c) Through an ordinance or other regulatory mechanism, an MS4 operator shall prohibit illicit discharges into MS4 conveyances and establish appropriate enforcement procedures and actions.

(d) An MS4 operator shall develop a plan to detect, address, and eliminate illicit discharges, including illegal dumping, into the MS4 conveyance. This plan need not address the following categories of nonstorm water discharges or flows, unless the MS4 operator identifies them as significant contributors of pollutants to its MS4 conveyance:

(1) Water line flushing.
(2) Landscape irrigation.
(3) Diverted stream flows.
(4) Rising ground waters.
(5) Uncontaminated ground water infiltration.
(6) Uncontaminated pumped ground water.
(7) Discharges from potable water sources.
(8) Foundation drains.
(9) Air conditioning condensation.
(10) Irrigation water.
(11) Springs.
(12) Water from crawl space pumps.
(13) Footing drains.
(14) Lawn watering.
(15) Individual residential car washing.
(16) Flows from riparian habitats and wetlands.
(17) Dechlorinated swimming pool discharges.
(18) Street wash water.
(19) Discharges from firefighting activities.

(e) The plan developed under subsection (d) must, at a minimum, locate problem areas via dry weather screening or other means, determine the source, remove or otherwise correct illicit connections, and document the actions taken. The dry weather screening or other means must utilize a field testing kit, or similar method, to analyze for pollutants of concern and other parameters, such as pH, conductivity, or nitrogen-ammonia, used to identify possible pollutant sources. All storm water outfalls in the regulated MS4 area under the MS4 operator's control must be screened for illicit discharges. The screening may be initiated gradually throughout successive five (5) year permit cycles. If the gradual approach is utilized, all storm water outfalls with a pipe diameter of twelve (12) inches or larger and open ditches with a two (2) foot or larger bottom width must be screened in the first five (5) year permit term. Subsequent permit terms will require that all remaining outfalls be screened.

(f) The plan developed under subsection (d) must identify all active industrial facilities within the MS4 area that discharge into an MS4 conveyance. This identification shall include the facility name, address, telephone number, and Standard Industrial Classification (SIC) code. Updated information regarding active industrial facilities must be submitted in each annual report.

(g) A certification form must be completed and submitted to the department once the plan has been developed and implemented, or three hundred sixty-five (365) days from the date of NOI letter submittal, whichever is earlier.

(h) An MS4 operator shall educate public employees, businesses, and the general public about the hazards associated with illicit discharges and improper disposal of waste. This educational effort shall include the following:

(1) Informational brochures and guidances for specific audiences and school curricula.

(2) Publicizing and facilitating public reporting of illicit discharges and spills.

(i) An MS4 operator shall initiate, or coordinate existing, recycling programs in the regulated MS4 area for commonly dumped wastes, such as motor oil, antifreeze, and pesticides.

(j) An MS4 operator shall develop measurable goals for this MCM. To comply with this measure, specific outreach and reduction percentages and timetables must be identified. At a minimum, goals must address relevant collection system mapping, regulatory mechanism implementation, employee training, household hazardous waste programs, illicit discharge detection, and illicit discharge elimination.

(k) In combined sewer system municipalities designated under this rule, the current CSOOP and LTCP must be reviewed, and any necessary additions must be included in the plans to ensure that this MCM requirement is met. *(Water Pollution Control Board; 327 IAC 15-13-14)*

327 IAC 15-13-15 Storm water quality management plan construction site storm water run-off control MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 15. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop, implement, manage, and enforce an erosion and sediment control program for construction activities that disturb one (1) or more acres of land within the MS4 area.

(b) Through an ordinance or other regulatory mechanism, the MS4 operator shall establish a construction program that controls polluted run-off from construction activities with a land disturbance greater than or equal to one (1) acre, or disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale as defined in 327 IAC 15-5-4(20) if the larger common plan will ultimately disturb one (1) or more acres of land. At a minimum, this ordinance or other regulatory mechanism must contain the requirements of 327 IAC 15-5. A certification form shall be completed and submitted to the department once the ordinance or other regulatory mechanism is developed and a program has been implemented, or three hundred sixty-five (365) days from the date of NOI letter submittal, whichever is earlier. Until the MS4 operator program is implemented, NOI letters and construction plans for construction activities within the MS4 area will be submitted in accordance with 327 IAC 15-5-5 and 15-5-6 to the department and the local SWCD or department of natural resources, division of soil conservation, respectively.

(c) If the MS4 operator has not entered into a written agreement with the local SWCD to review and approve construction site plans or conduct construction site inspections, the MS4 operator shall provide an opportunity to the local SWCD to provide comments and recommendations to the MS4 operator on individual projects. This process may be accomplished by the MS4 operator establishing a local plan review and comment procedure, a project technical review committee, or other mechanism to solicit the input of the local SWCD.

(d) Failure of the SWCD to respond within a predetermined time period should not delay final action of the MS4 operator to approve plans or projects.

(e) In addition to any procedural requirements for submittal to the MS4 operator or MS4 designated entity, an NOI letter required under 327 IAC 15-5 must be submitted to the department for any projects within the MS4 area.

(f) The MS4 operator, or a designated MS4 entity, shall meet the following:

(1) Develop requirements for the implementation of appropriate BMPs on construction sites to control sediment, erosion and other waste.

(2) Review and approve the construction plans submitted by the construction site operator before construction activities commence.

(3) Develop procedures for site inspection and enforcement to ensure that BMPs are properly installed.

(4) Establish written procedures to identify priority sites for inspection and enforcement based on, at a minimum, the nature and extent of the construction activity, topography, and the characteristics of soils and receiving water quality.

(5) Develop procedures for the receipt and consideration of public inquiries, concerns, and information submitted regarding local construction activities.

(6) Implement, at a minimum, a tracking process in which submitted public information, both written and verbal, is documented and then given to appropriate staff for follow-up.

(g) MS4 area personnel responsible for plan review, inspection, and enforcement of construction activities shall attend, at a minimum, an annual training session addressing appropriate control measures, which has been approved of by the department and the department of natural resources, division of soil conservation.

(h) An MS4 operator shall develop measurable goals for this MCM. To comply with this measure, specific outreach, compliance, and implementation goal percentages and timetables must be identified. At a minimum, goals must address relevant regulatory mechanism implementation, public informational request procedure implementation, site inspection procedure implementation, and construction site operator compliance improvement.

(i) For those construction activities operated by the MS4 operator or MS4 municipalities within the MS4 area, construction plans must be submitted to the local SWCD, the department of natural resources, division of soil conservation, or other entity designated by the department for review and approval. If the MS4 operator does not receive either a notice of deficiency or an approval within thirty-five (35) days of the submittal, the plan will be considered adequate. After a one (1) year period of compliance, the MS4 operator or the designated MS4 entity need not submit the plans and may review MS4-operated project construction plans internally with the written authorization of the department of natural resources, division of soil conservation.

(j) In addition to the requirements of 327 IAC 15-5-6.5, the MS4-operated project construction plans must include a traffic phasing plan for those projects that have the potential to alter vehicular traffic routes.

(k) In addition to the requirements of 327 IAC 15-5-6.5(b)(7), the MS4-operated project storm water pollution prevention plan must address the following areas outside of right-of-ways:

(1) Utility relocation areas.

(2) Material hauling and transportation routes/roads.

(3) Borrow pits.

(4) Temporary staging and material stockpile areas.

(5) Temporary disposal areas for waste materials.

(Water Pollution Control Board; 327 IAC 15-13-15)

327 IAC 15-13-16 Storm water quality management plan postconstruction storm water run-off control MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 16. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop, implement, manage, and enforce a program to address discharges of postconstruction storm water run-off from new development and redevelopment areas that disturb one (1), or more, acre of land, or disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale as defined in 327 IAC 15-5-4(20) if the larger common plan will ultimately disturb one (1) or more acres of land, within the MS4 area.

(b) Through the use of an ordinance or other regulatory means, an MS4 operator shall implement planning procedures to promote improved water quality. These planning procedures must include, at a minimum, the postconstruction requirements of 327 IAC 15-5-6.5(b)(8). Where appropriate, and to the extent of the MS4 operator's authority, the procedures must also include the following:

(1) Buffer strip and riparian zone preservation.

(2) Filter strip creation.

(3) Minimization of land disturbance and surface imperviousness.

(4) Minimization of directly connected impervious areas.

(5) Maximization of open space.

(6) Directing the community's physical growth away from sensitive areas and toward areas that can support it without compromising water quality.

A certification form that combines the completed requirements of this subsection and subsection (e) shall be completed and submitted to the department once the ordinance or other regulatory means has been developed and a program has been implemented, or seven hundred thirty (730) days from the date of NOI letter submittal, whichever is earlier.

(c) Where appropriate, an MS4 operator shall use any combination of storage, infiltration, filtering, or vegetative practices to reduce the impact of pollutants in storm water run-off on receiving waters. In addition to the combination of practices, the following requirements shall be utilized:

(1) Infiltration practices will not be allowed in wellhead protection areas.

(2) Discharges from an MS4 area will not be allowed directly into sinkholes or fractured bedrock without treatment that results in the discharge meeting Indiana ground water quality standards as referenced in 327 IAC 2-11.

(3) Any storm water practice that is a Class V injection well must ensure that the discharge from such practices meets Indiana ground water quality standards as referenced in 327 IAC 2-11.

(4) As site conditions allow, the rate at which water flows through the MS4 conveyances shall be regulated to reduce outfall scouring and stream bank erosion.

(5) As site conditions allow, a vegetated filter strip of appropriate width shall be maintained along unvegetated swales and ditches.

(6) New retail gasoline outlets, new municipal, state, federal, or institutional refueling areas, or outlets and refueling areas that replace their existing tank systems shall be required by MS4 ordinance or other regulatory means to design and install appropriate practices to reduce lead, copper, zinc, and polyaromatic hydrocarbons in storm water run-off.

(d) MS4 area personnel responsible for plan review, inspection, and enforcement of postconstruction BMPs shall attend, at a minimum, an annual training session addressing appropriate control measures, which has been approved of by the department and the department of natural resources, division of soil conservation.

(e) An MS4 operator shall develop and implement a written operational and maintenance plan for all storm water structural BMPs. A certification form that combines the completed requirements of this subsection and subsection (b) shall be completed and submitted to the department once the plan has been developed and implemented, or seven hundred thirty (730) days from the date of NOI letter submittal, whichever is earlier.

(f) An MS4 operator shall develop measurable goals for this measure. To comply with this measure, specific reduction percentages and timetables must be identified. At a minimum, goals must address relevant regulatory mechanism implementation, planning and structural BMP strategies, new impervious surface reduction, and discharge quality improvement. *(Water Pollution Control Board; 327 IAC 15-13-16)*

327 IAC 15-13-17 Storm water quality management plan municipal operations pollution prevention and good housekeeping MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 17. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop and implement a program to prevent or reduce pollutant run-off from municipal operations within the MS4 area.

(b) To the extent of their authority, an MS4 operator shall develop and implement a program to ensure that existing municipal, state, or federal operations are performed in ways that will reduce contamination of storm water discharges. A certification form must be completed and submitted to the department once the program has been developed and implemented or three hundred sixty-five (365) days from the date of NOI letter submittal, whichever is earlier. This program must include the following:

(1) Written documentation of maintenance activities, maintenance schedules, and long term inspection procedures for BMPs to reduce floatables and other pollutants discharged from the separate storm sewers. Maintenance activities shall include, as appropriate, the following:

(A) Periodic litter pick up as defined in the MS4 area SWQMP.

(B) Periodic BMP structure cleaning as defined in the MS4 area SWQMP.

(C) Periodic pavement sweeping as defined in the MS4 area SWQMP.

(D) Roadside shoulder and ditch stabilization.

(E) Planting and proper care of roadside vegetation.

(F) Remediation of outfall scouring conditions.

(2) Controls for reducing or eliminating the discharge of pollutants from operational areas, including roads, parking lots, maintenance and storage yards, and waste transfer stations. Appropriate controls shall include the following:

(A) Covering, or otherwise reducing the potential for polluted storm water run-off from, deicing salt or sand storage piles.

(B) Establishing designated snow disposal areas that have minimal potential for pollutant run-off impact on MS4 area receiving waters.

(C) Providing facilities for containment of any accidental losses of concentrated solutions, acids, alkalies, salts, oils, or other polluting materials.

(D) Standard operating procedures for spill prevention and clean up during fueling operations.

(E) BMPs for vehicular maintenance areas.

(F) Prohibition of equipment or vehicle wash waters and concrete or asphalt hydrodemolition waste waters

into storm water run-off, except under the allowance of an appropriate NPDES wastewater permit.

(G) Promotion of recycling (to reduce litter).

(H) Minimization of pesticide and fertilizer use. Pesticides shall be used, applied, handled, stored, mixed, loaded, transported, and disposed of via office of the Indiana state chemist's guidance requirements.

(I) Proper disposal of animal waste. Canine parks shall be sited at least one hundred fifty (150) feet away from a surface waterbody.

(3) Written procedures for the proper disposal of waste or materials removed from separate storm sewer systems and operational areas. All materials removed from separate storm sewer systems and operational areas, including dredge spoil, accumulated sediments, floatables, and debris, must be:

(A) reused or recycled; or

(B) disposed of in accordance with applicable solid waste disposal regulations.

(4) Written documentation that new flood management projects are assessed for their impacts on water quality and existing flood management projects are examined for incorporation of additional water quality protection devices or practices.

(5) Written documentation that appropriate MS4 entity employees have been properly trained, with periodic refresher sessions, on topics such as proper disposal of hazardous wastes, vegetative waste handling, fertilizer and pesticide application, and the function of implemented BMPs.

(c) An MS4 operator shall develop measurable goals for this MCM. To comply with this measure, specific reduction percentages and timetables must be identified. As applicable or, if not applicable, then appropriately justified, goals must address relevant catch basin cleaning and street sweeping procedures, employee training, recycling program implementation, pesticide, fertilizer and sand or salt usage reductions, floatables reduction, and maintenance schedule for BMPs.

(d) In combined sewer system municipalities designated under this rule, the current CSOOP and LTCP will need to be reviewed, and any necessary additions must be included in the plans to ensure that this MCM requirement is met. *(Water Pollution Control Board; 327 IAC 15-13-17)*

327 IAC 15-13-18 Reporting requirements

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 18. (a) An MS4 operator regulated under this rule shall submit an annual report to the department the following information:

(1) Progress towards development, implementation, and enforcement of all MCMs, including updated programmatic indicator data.

(2) Summary of complaints received and follow-up investigation results related to storm water quality issues.

(3) Updated measurable goals.

(4) Storm water BMPs installed or initiated.

(5) Follow-up water quality characterization.

(6) Updated active industrial facilities list.

(7) Implementation problems encountered, including BMP changes due to ineffectiveness or infeasibility.

(8) Funding sources and expenditures.

(9) Changes to MS4 area boundaries, including land areas added to the MS4 area via annexation or other similar means.

(10) Identified storm water quality improvement projects.

The initial annual report shall be postmarked no later than three hundred sixty-five (365) days from the date of SWQMP–Part C: Program Implementation submittal. Subsequent report submittals during the first five (5) year permit term shall be provided no later that three hundred sixty-five (365) days from the previous report in years three (3), four (4), and five (5). In subsequent permit terms, reports must be submitted in years two (2) and four (4).

(b) An MS4 operator shall submit a monthly construction site project summary to the department, containing a listing of all project names associated with section 15 of this rule, the project address, project duration, and an indication of enforcement actions undertaken. If no projects occur within a given month, a report does not need to be submitted. Reports must be postmarked no later than the last day of the following month. The commissioner may develop criteria for an alternative acceptable timetable for submission of this summary.

(c) The summary required under subsection (b) must address those projects for which there has been:

(1) an NOI letter submittal, or its equivalent, to the MS4 entity; or

(2) a Notice of Termination letter, or its equivalent, processed by the MS4 entity.

(d) An MS4 operator shall certify by signature on the annual report form that information provided is true and accurate. *(Water Pollution Control Board; 327 IAC 15-13-18)*

327 IAC 15-13-19 Permit duration

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 19. (a) The permits under this rule are valid for five (5) years, from the date the NOI letter was received by the department. Renewal application for the permit is required at least sixty (60) days prior to the expiration date.

(b) If MS4 entity conditions change within an MS4 area, written notification of the changes must be submitted to the commissioner.

(c) For a complete renewal application to be sufficient, a new NOI letter and SWQMP–Part A: Initial Application must be submitted in accordance with sections 6 and 9 of this rule.

(d) Permits may be reissued on a watershed basis, to take into account surface water quality monitoring strategies and sampling data analyses for individual drainage areas.

(e) Subsequent permits will require the MS4 operator to maintain and, where possible, improve their performance in implementing the six (6) MCMs. *(Water Pollution Control Board; 327 IAC 15-13-19)*

327 IAC 15-13-20 Permit termination

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 20. (a) An MS4 entity may request the department to terminate permit coverage under this rule if:

(1) based on physical changes in the MS4 area, the permit is no longer needed;

(2) based on a lack of cooperation between MS4 entities, a new general permit NOI letter is needed; or

(3) based on documented reductions in population, population density, occupancy, or enrollment that result in numbers below minimum designation criteria, and a request based on this subdivision will only be considered:

(A) for MS4 entities located outside of mapped UA areas; and

(B) once a permit under this rule has expired.

(b) The department may terminate permit coverage under this rule and require an MS4 entity to apply for an individual permit if:

(1) effluent standards and limitations are promulgated for discharges subject to this rule; or

(2) it is determined that a general permit is not adequate to protect water quality.

(Water Pollution Control Board; 327 IAC 15-13-20)

327 IAC 15-13-21 Standard conditions

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-14-10; IC 13-18-4; IC 13-30

Sec. 21. In addition to the conditions set forth in this rule, the standard conditions for the NPDES general permit rule under 327 IAC 15-4 shall apply also to this rule. *(Water Pollution Control Board; 327 IAC 15-13-21)*

327 IAC 15-13-22 Inspection and enforcement

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-14-10; IC 13-18-4; IC 13-30

Sec. 22. (a) The commissioner may inspect an MS4 entity regulated under this rule at any time. Any documentation required in sections 6 through 20 of this rule, or related to implementation of this rule must be available at the physical address corresponding to the MS4 operator for review by the commissioner during normal business hours.

(b) At a minimum, records shall be established and maintained at the address referenced in subsection (a) for the five (5) years of the permit term. The five (5) year period will be extended:

(1) automatically during the course of any unresolved litigation regarding the discharge of pollutants by the MS4 operator, or other MS4 entity regulated by the MS4 area permit, or regarding promulgated effluent guidelines applicable to the MS4 area; or

(2) as requested by the regional administrator of the United States Environmental Protection Agency or the commissioner.

(c) The commissioner may request data to facilitate the identification or quantification of pollutants that may be released to the environment from an MS4 conveyance or to determine effectiveness of the MCMs.

(d) As it pertains to sections 15 and 16 of this rule, the department of natural resources, division of soil conservation staff, or their designated representative, upon providing appropriate credentials, may inspect an MS4 entity regulated under this rule at any time. Record keeping and reporting requirements for sections 15 and 16 of this rule shall conform to 327 IAC 15-5.

(e) All persons or MS4 entities responsible for the MS4 conveyances shall be responsible for complying with the SWQMP for the MS4 area and the provisions of this rule. Any person or MS4 entity causing or contributing to a violation of any provisions of this rule shall be subject to IC 13-30 and IC 13-14-10.

(f) All projects within an MS4 area meeting the applicability requirements of 327 IAC 15-5 are subject to inspection and enforcement by the department or their designated representative for violations associated with 327 IAC 15-5. *(Water Pollution Control Board; 327 IAC 15-13-22)*

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on February 12, 2003 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington

Street, Conference Center Room A, Indianapolis, Indiana the Water Pollution Control Board will hold a public hearing on proposed amendments to rules concerning storm water discharges under 327 IAC 5 and on the development of a new rule under the 327 IAC 15 general permit rule program to add the federal requirements for municipal separate sewer systems.

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed new rules and amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Technical information regarding this action may be obtained from Lori Gates, Office of Water Quality, Wet Weather Section, (317) 233-6725 or (800) 451-6027 (in Indiana). Additional information regarding this action may be obtained from Kiran Verma, Rules Section, Office of Water Quality, (317) 234-0986 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. (TDD): (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Twelfth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Mary Ellen Gray
Deputy Assistant Commissioner
Office of Water Quality

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule
LSA Document #02-277

DIGEST

Amends 405 IAC 5-14-2, 405 IAC 5-14-3, 405 IAC 5-14-6, 405 IAC 5-14-11, 405 IAC 5-14-15, 405 IAC 5-14-16, 405 IAC 5-14-17, and 405 IAC 5-14-18 to limit covered services and update the Medicaid dental rule to reflect current operating procedures. Repeals 405 IAC 5-14-10. Effective 30 days after filing with the secretary of state.

405 IAC 5-14-2
405 IAC 5-14-3
405 IAC 5-14-6
405 IAC 5-14-10
405 IAC 5-14-11
405 IAC 5-14-15
405 IAC 5-14-16
405 IAC 5-14-17
405 IAC 5-14-18

SECTION 1. 405 IAC 5-14-2, PROPOSED TO BE AMENDED AT 25 IR 3823, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-14-2 Covered services

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 2. The following are covered dental services under the Indiana Medicaid program:

(1) Evaluations.
(2) Radiographs.
(3) Prophylaxis.
(4) Topical fluoride **for recipients twenty (20) years of age and younger.**
(5) Sealant **for permanent molars and premolars for recipients twenty (20) years of age and younger.**
(6) Amalgam.
(7) Unilateral and bilateral space maintainers **for recipients twenty (20) years of age and younger.**
(8) Resin anteriors and posteriors.
(9) Recement crowns.
(10) Steel crown primary.
(11) Stainless steel crown permanent.
~~(12) Pin retention.~~
~~(13) Pulpcap.~~
~~(14)~~ **(12)** Therapeutic pulpotomy.
~~(15)~~ **(13)** Extractions.
~~(16)~~ **(14)** Oral biopsies.
~~(17)~~ **(15)** Alveoplasty.
~~(18)~~ **(16)** Excision of lesions.
~~(19)~~ **(17)** Excision of benign tumor. ~~greater than one and twenty-five hundredths (1.25) centimeters.~~
~~(20)~~ **(18)** Odontogenic cyst removal.
~~(21)~~ **(19)** Nonodontogenic cyst removal.
~~(22)~~ **(20)** Incise and drain abscess.
~~(23) Sequestrectomy osteomyelitis.~~
~~(24)~~ **(21)** Fracture simple stabilize.
~~(25)~~ **(22)** Compound fracture of the mandible.
~~(26)~~ **(23)** Compound fracture of the maxilla.
~~(27)~~ **(24)** Repair of wounds.
~~(28)~~ **(25)** Suturing.
~~(29) Osteoplasty for orthognathic deformity.~~
~~(30)~~ **(26)** Emergency treatment dental pain.
~~(31)~~ **(27)** Analgesia **for recipients twenty (20) years of age and younger.**
~~(32) Therapeutic drug injection.~~
~~(33)~~ **(28)** Drugs and medicaments.

~~(34) Treatment of complications postsurgery.~~
~~(35)~~ **(29)** Periodontal surgery limited to drug-induced periodontal hyperplasia.
~~(36)~~ **(30)** Other dental services as medically necessary to treat recipients eligible for the EPSDT program.
~~(37) Confirmatory consultations.~~
~~(38)~~ **(31)** Periodontal root planing and scaling.
~~(39)~~ **(32)** General anesthesia.
~~(40)~~ **(33)** Intravenous (IV) sedation **covered only for oral surgical services.**
~~(41)~~ **(34)** Dentures and partials.
~~(42)~~ **(35)** Orthodontic services for recipients twenty (20) years of age and under only.

(Office of the Secretary of Family and Social Services; 405 IAC 5-14-2; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3319; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)

SECTION 2. 405 IAC 5-14-3, PROPOSED TO BE AMENDED AT 25 IR 3824, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-14-3 Diagnostic services

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 3. Medicaid reimbursement is available for diagnostic services, including initial and periodic evaluations, prophylaxis, radiographs, and emergency treatments with the following limitations:

(1) Either full mouth series radiographs or panorex is limited to one (1) set per recipient every three (3) years.

(2) Bitewing **and** intraoral ~~and extra-oral~~ radiographs are limited to one (1) set per recipient every twelve (12) months. One (1) set **of bitewings** is defined as a total of four (4) single films. **Intraoral radiographs are limited to one (1) first film and seven (7) additional films. Temporomandibular joint arthograms, other temporomandibular films, tomographic surveys, and cephalometric films are no longer covered in a dental office.**

(3) A comprehensive or detailed oral evaluation is limited to one (1) per lifetime, per recipient, per provider, with an annual limit of two (2) per recipient.

(4) A periodic or limited oral evaluation is limited to one (1) every six (6) months, per recipient, any provider.

(5) Mouth gum cultures and sensitivity tests are not covered.

(6) Oral hygiene instructions are reimbursed in the Medicaid payment allowance for diagnostic services and may not be billed separately to Medicaid.

(7) Payment for the writing of prescriptions is included in the reimbursement for diagnostic services and may not be billed separately to Medicaid.

(Office of the Secretary of Family and Social Services; 405 IAC 5-14-3; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3320; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)

SECTION 3. 405 IAC 5-14-6, PROPOSED TO BE AMENDED AT 25 IR 3824, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-14-6 Prophylaxis

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 6. Prophylaxis is a covered service in accordance with the following limitations:

(1) One (1) unit every six (6) months for noninstitutionalized recipients twelve (12) months of age up to their twenty-first birthday.

(2) One (1) unit every twelve (12) months for noninstitutionalized recipients twenty-one (21) years of age and older.

(3) Institutionalized recipients may receive up to ~~two (2) units~~ **one (1) unit** every six (6) months.

(4) Prophylaxis is not covered for recipients under twelve (12) months of age.

(Office of the Secretary of Family and Social Services; 405 IAC 5-14-6; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3320; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)

SECTION 4. 405 IAC 5-14-11 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-14-11 Analgesia

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 11. Nitrous oxide analgesia **is covered only for those twenty (20) years of age** and **younger.** Preanesthetic medication ~~are~~ **is a** covered ~~services.~~ **service for all ages.** *(Office of the Secretary of Family and Social Services; 405 IAC 5-14-11; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3321; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 5. 405 IAC 5-14-15 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-14-15 General anesthesia and intravenous sedation

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 15. (a) Medicaid reimbursement is available for general anesthesia. General anesthesia for recipients twenty-one (21) years of age and older may only be provided in a hospital (inpatient or outpatient) or ambulatory surgical center ~~Prior authorization is required~~ and ~~shall~~ **must** include ~~consideration~~ **documentation** of the following **in the patient's record to be eligible for reimbursement:**

(1) Specific reasons why such services are needed, including

specific justification if such services are to be provided on an outpatient basis.
(2) Documentation that the recipient cannot receive necessary dental services unless general anesthesia is administered. For example, a recipient may be unable to cooperate with the dentist due to physical or mental disability.

(b) Medicaid reimbursement is available for intravenous sedation **in a dental office** when ~~prior authorized. Prior authorization requests~~ **provided for oral surgical services only. Documentation in the patient's record** must include specific reasons why such services are needed, ~~including specific justification~~ if such services are to be provided on an outpatient basis. *(Office of the Secretary of Family and Social Services; 405 IAC 5-14-15; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3321; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 6. 405 IAC 5-14-16 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-14-16 Periodontics; surgical

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 16. Periodontic surgery is a covered service only for cases of drug-induced periodontal hyperplasia. ~~This service requires prior authorization. Requests for surgical periodontics will be evaluated and decided on an individual basis.~~ **Documentation in the patient's record must substantiate that the service was provided for drug-induced periodontal hyperplasia.** *(Office of the Secretary of Family and Social Services; 405 IAC 5-14-16; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3322; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 7. 405 IAC 5-14-17 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-14-17 Oral surgery

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 17. No oral surgical procedures shall be ~~approved,~~ **reimbursed** other than those listed in this rule ~~except in extreme cases of facial trauma, pathology, or deformity. All oral surgery in the categories described in this rule require prior authorization by the office.~~ **and as defined by provider bulletin.** Placement of sutures or tissue trim, or both, in a simple extraction does not constitute a surgical extraction. Multiple simple extractions with placement of sutures or tissue trim, or both, performed in either office or hospital shall not be reimbursed as surgical extractions. Payment of preoperative and postoperative care is included in the reimbursement for the operative procedure and may not be billed separately to Medicaid. *(Office of the Secretary of Family and Social Services; 405 IAC 5-14-17; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3322; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 8. 405 IAC 5-14-18 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-14-18 Hospital admissions for covered dental services or procedures

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15

Sec. 18. **The medical necessity for** admission of a recipient to a hospital for the purpose of performing any elective dental service, or any elective dental service performed on an inpatient basis, ~~requires prior authorization by the office. Authorization will be given only for those recipients with problems that require special or additional care to that care routinely provided in a dentist's office. In cases of life-threatening emergencies, retroactive prior authorization must be obtained within forty-eight (48) hours of the hospital admission.~~ **must be documented in the patient's record.** *(Office of the Secretary of Family and Social Services; 405 IAC 5-14-18; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3322; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)*

SECTION 9. 405 IAC 5-14-10 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 2, 2003 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed amendments to the Indiana Medicaid dental program. Written comments may be directed to the Indiana Government Center-South, 402 West Washington Street, Room W451, MS-27 Office of General Counsel, Attention: Maureen Bartolo, Indianapolis, Indiana 46204. Correspondence should be identified in the following manner: "COMMENTS RE: PROPOSED RULE LSA Document #02-277: DENTAL". Written comments received will be made available for public display at the above listed address of the Office of General Counsel. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

John Hamilton
Secretary
Office of the Secretary of Family and Social Services

TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

Proposed Rule
LSA Document #02-265

DIGEST

Adds 440 IAC 9-2-13 to establish standards and requirements for community mental health centers and certified managed care providers regarding family support services as part of the required continuum of care for persons needing addiction services, persons with serious mental illness, or children with serious emotional disorders. Effective 30 days after filing with the secretary of state.

440 IAC 9-2-13

SECTION 1. 440 IAC 9-2-13 IS ADDED TO READ AS FOLLOWS:

440 IAC 9-2-13 Family support
Authority: IC 12-21-2-8; IC 12-21-5-1.5
Affected: IC 12-7-2; IC 12-23-12-1; IC 12-24-12-10; IC 12-24-19-4

Sec. 13. (a) Managed care providers and community mental health centers shall provide family support services in accordance with the standards set out in this section.

(b) Opportunities for family involvement and support shall be identified during the initial assessment and reassessed during regular case review.

(c) Family members, legal representatives, or others identified by the consumer as a source of support shall be invited to be involved in treatment planning and other activities, with the consent of the adult consumer, or the consent of the addicted child, in accordance with IC 12-23-12-1 and 42 CFR 2.

(d) Input and information provided by the family, legal representative, or supportive others shall be given consideration and utilized when appropriate.

(e) Education regarding an individual's mental illness or addiction issues shall be provided for family members, legal representatives, and supportive others with the consumer's consent, including the following:
(1) Typical symptoms and crisis management.
(2) Medications and side effects of medications.
(3) Community resources.
(4) Applicable laws, legal issues, and rights of consumers.
(5) Family dynamics.

(f) Direct service staff shall receive training that addresses the following:
(1) Applicable laws, legal issues, and rights of consumers.
(2) Sensitivity in dealing with families and supportive others in crisis.
(3) Cultural diversity.
(4) Family dynamics.
(Division of Mental Health and Addiction; 440 IAC 9-2-13)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 7, 2003 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 6, Indianapolis, Indiana the Division of Mental Health and Addiction will hold a public hearing on a proposed new rule to establish standards and requirements for community mental health centers and certified managed care providers regarding family support services as part of the required continuum of care for persons needing addiction services, persons with serious mental illness, or children with serious emotional disorders. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Janet Corson
Director
Division of Mental Health and Addiction

TITLE 570 INDIANA COMMISSION ON PROPRIETARY EDUCATION

Proposed Rule
LSA Document #02-233

DIGEST

Adds 570 IAC 1-14 concerning career college student assurance fund. Effective 30 days after filing with the secretary of state.

570 IAC 1-14

SECTION 1. 570 IAC 1-14 IS ADDED TO READ AS FOLLOWS:

Rule 14. Career College Student Assurance Fund

570 IAC 1-14-1 Fund administration
Authority: IC 20-1-19-4
Affected: IC 20-1-19-8.2; IC 20-1-19-18

Sec. 1. (a) The career college student assurance fund shall be administered by the commission under this rule.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) As used in this rule, "fund" means the career college student assurance fund. *(Indiana Commission on Proprietary Education; 570 IAC 1-14-1)*

570 IAC 1-14-2 Claim criteria
Authority: IC 20-1-19-4
Affected: IC 20-1-19-8

Sec. 2. The fund is established to provide compensation to a student or enrollee of a postsecondary educational institution who suffers a loss or damage as a result of:

(1) the failure or neglect of the postsecondary proprietary educational institution to faithfully perform all agreements, express or otherwise, with the student, enrollee, one (1) or both of the parents of the student or enrollee, or a guardian of the student or enrollee as represented by the application for the accreditation and the materials submitted in support of that application;

(2) the failure or neglect of the postsecondary proprietary educational institution to maintain and operate a course or courses of instruction or study in compliance with the standards of IC 20-1-19; or

(3) an agent's misrepresentation in procuring the student's enrollment.

(Indiana Commission on Proprietary Education; 570 IAC 1-14-2)

570 IAC 1-14-3 Fund contributions
Authority: IC 20-1-19-4
Affected: IC 20-1-19-8.3

Sec. 3. (a) The proper amount of a postsecondary educational institution's fund contribution shall be calculated in accordance with IC 20-1-19-8.3.

(b) Upon receipt of a contribution from a school to the fund, the check shall be deposited into the fund within twenty-four (24) hours of receipt.

(c) Money in the fund not currently needed will be invested by the treasurer of the state.

(d) The treasurer of the state shall invest the money in a manner similar to the investment of other public funds.

(e) Any gains made from fund investments shall also be deposited into the fund.

(f) Fund proceeds do not revert into the general state fund. *(Indiana Commission on Proprietary Education; 570 IAC 1-14-3)*

570 IAC 1-14-4 Quarterly contributions
Authority: IC 20-1-19-4
Affected: IC 20-1-19-8.1; IC 20-1-19-8.3

Sec. 4. Each postsecondary proprietary institution shall make quarterly contributions to the fund in compliance with IC 20-1-19-8.3. As used in IC 20-1-19-8.3, "aggregate amount of tuition and fees" means gross income before depreciation, taxes, or amortization, less any student refunds required by this rule or by student contract. *(Indiana Commission on Proprietary Education; 570 IAC 1-14-4)*

570 IAC 1-14-5 Quarterly beginnings
Authority: IC 20-1-19-4
Affected: IC 20-1-19-8.1; IC 20-1-19-8.3

Sec. 5. A new quarter will begin on each of the following dates:

(1) January 1.
(2) April 1.
(3) July 1.
(4) October 1.

(Indiana Commission on Proprietary Education; 570 IAC 1-14-5)

570 IAC 1-14-6 Claims against bond and fund; procedures
Authority: IC 20-1-19-4
Affected: IC 20-1-19-20.6

Sec. 6. When a student of a postsecondary proprietary institution is protected by both a surety bond and the fund when making a claim, the allowed claim will first be collected from the surety bond and then any balance of the claim will be collected from the fund. *(Indiana Commission on Proprietary Education; 570 IAC 1-14-6)*

570 IAC 1-14-7 Claims against bond and fund; limitations; procedures
Authority: IC 20-1-19-4
Affected: IC 20-1-19-20.6

Sec. 7. (a) A claim as described in section 8 of this rule is limited to a refund of the student or enrollee's applicable tuition and fees.

(b) Upon a determination by the commission that a claimant shall be reimbursed, the commission shall prioritize the reimbursement in the following order:

(1) Tuition, fees, and other expenses paid directly by the student.

(2) A student or enrollee's educational loan balances, less interest.

(3) Federal grant repayment obligations of the student.

(c) Claims against the balance in the fund may not be made until the balance in the career college assurance fund is more than twenty-five thousand dollars ($25,000). *(Indiana Commission on Proprietary Education; 570 IAC 1-14-7)*

570 IAC 1-14-8 Claims against an institution
Authority: IC 20-1-19-4
Affected: IC 20-1-19-8.2

Sec. 8. (a) Any student or enrollee who alleges a loss or

damage due to the conditions described in section 2 of this rule may file a claim against the institution.

(b) Any claim submitted to the commission must include the following:

(1) A statement of the facts supporting the claim or outlining the problems experienced.

(2) A copy of the student or enrollee's enrollment agreement.

(3) Documentation of tuition payments in the form of canceled checks, credit card receipts, money orders, or financial aid documents.

(4) Any other supporting documentation which would be beneficial to a commission investigation.

(c) Upon receipt of such documentation, commission staff will then be responsible for conducting an investigation. *(Indiana Commission on Proprietary Education; 570 IAC 1-14-8)*

570 IAC 1-14-9 Multiple claims against the fund

Authority: IC 20-1-19-4
Affected: IC 20-1-19-8.2

Sec. 9. If more than one (1) claim needs to be paid, amounts of the claims will be prorated as such so that some portion of each claim is paid until all amounts are paid in full. *(Indiana Commission on Proprietary Education; 570 IAC 1-14-9)*

570 IAC 1-14-10 Investigation, hearing, and payment of allowed claims

Authority: IC 20-1-19-4
Affected: IC 4-21.5; IC 20-1-19-8; IC 20-1-19-8.2

Sec. 10. After the filing of a claim, the commission shall conduct an investigation. Commission staff will try to resolve the complaint to the satisfaction of all parties through an informal investigation. An investigation into a student or enrollee's claim will be made by commission staff through the following process:

(1) After reviewing a student or enrollee's complaint, commission staff shall then contact the postsecondary educational institution.

(2) The postsecondary educational institution shall respond in writing to the student or enrollee's complaint and commission staff inquiry within two (2) weeks of receipt of the complaint.

(3) If, after the postsecondary educational institution has responded to the inquiry, the claim cannot be resolved satisfactorily on an informal basis, either party may request a hearing.

(4) If a hearing is requested, the student or enrollee or the postsecondary educational institution shall be given not less than twenty (20) days' notice. Each party shall be permitted to appear and defend at a formal hearing set on the claim.

(5) If it is determined by the commission, either through an informal investigation or a formal requested hearing that a claim is valid, the commission shall determine the amount of the allowed claim and notify the institution of the fact of the claim allowance. If the claim is disallowed in whole or in part, the student shall be notified of the disallowance.

(6) If, after such formal hearing and adjudication of such claim by the commission, any party to the proceedings desires to appeal therefrom, such appeal shall be prosecuted under the provisions of the Indiana Administrative Adjudication Act (IC 4-21.5).

(7) A disbursement from the fund shall be paid to a student or enrollee within thirty (30) days from the date the determination is made.

(8) In the event the claim is not paid or satisfied within a reasonable time, the claim shall be paid by disbursement from the fund.

(Indiana Commission on Proprietary Education; 570 IAC 1-14-9)

570 IAC 1-14-10 Rights of commission to proceed against institution

Authority: IC 20-1-19-4
Affected: IC 20-1-19-8.1

Sec. 10. If a claim is paid out of the fund, the commission shall make all reasonable efforts to collect the amount of the paid claim from the institution against whom the claim was made. These efforts may include, where appropriate, commencing civil action on behalf of the state against the institution in the county of its principal place of business. Any amounts recovered as a result of these efforts shall be returned to the fund. *(Indiana Commission on Proprietary Education; 570 IAC 1-14-10)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 31, 2003 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 1, Indianapolis, Indiana the Indiana Commission on Proprietary Education will hold a public hearing on proposed new rules concerning the career college student assurance fund. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E201 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Phillip H. Roush
Commissioner
Indiana Commission on Proprietary Education

TITLE 832 STATE BOARD OF FUNERAL AND CEMETERY SERVICE

Proposed Rule
LSA Document #02-147

DIGEST

Amends 832 IAC 2-1-2 to revise the licensing and examination fees charged and collected by the board. Effective 30 days after filing with the secretary of state.

832 IAC 2-1-2

SECTION 1. 832 IAC 2-1-2 IS AMENDED TO READ AS FOLLOWS:

832 IAC 2-1-2 Fees
Authority: IC 25-1-8-2; IC 25-15-9-8; IC 25-15-9-9
Affected: IC 25-15-4; IC 25-15-6

Sec. 2. (a) The fee for issuance of a funeral home license under IC 25-15-4-1(3) shall be ~~thirty~~ **fifty** dollars ~~($30)~~ **($50)** if it is issued in an odd-numbered year and ~~fifteen~~ **twenty-five** dollars ~~($15)~~ **($25)** if it is issued in an even-numbered year.

(b) The fee for the issuance of a funeral director intern license under IC 25-15-4-2(a)(5) shall be ~~fifteen~~ **twenty-five** dollars ~~($15).~~ **($25).**

(c) The fee for the issuance of a funeral director license under IC 25-15-4-3(b)(7) shall be ~~thirty~~ **fifty** dollars ~~($30)~~ **($50)** if it is issued in an odd-numbered year and ~~fifteen~~ **twenty-five** dollars ~~($15)~~ **($25)** if it is issued in an even-numbered year.

(d) The fee for issuance of a funeral director license by reciprocity under IC 25-15-4-5 shall be ~~one~~ **two** hundred dollars ~~($100).~~ **($200).** This fee is payable regardless of whether the application is granted or denied.

(e) The fee to renew a funeral home license under IC 25-15-6-2 shall be ~~thirty~~ **fifty** dollars ~~($30).~~ **($50).**

(f) The fee to renew a funeral director license or embalmer license under IC 25-15-6-3 shall be ~~thirty~~ **fifty** dollars ~~($30).~~ **($50).**

(g) Five dollars ($5) of every fee collected under subsections (a) through (c) and subsections (e) through (f) shall be deposited in the state board of funeral service education fund.

(h) All applicants for any examination administered by the board shall pay a fee of ~~thirty~~ **fifty** dollars ~~($30).~~ **($50).** The same fee shall be paid for the second and all subsequent takings of an examination.

(i) The fee for restoration of a funeral director or embalmer license within four (4) years of its expiration is established by IC 25-15-6-4(3).

(j) The additional fee (in addition to the fee under subsection (c)) for restoration of a funeral director license more than four (4) years after its expiration under IC 25-15-6-6(3) shall be thirty dollars ($30).

(k) The additional fee (in addition to the fee under subsection (a)) for restoration of a funeral home license under IC 25-15-6-6(1) shall be ~~thirty~~ **fifty** dollars ~~($30)~~ **($50)** for each six (6) month period, or portion of a six (6) month period, that has elapsed from the date the license expired.

(l) The ~~additonal~~ **additional** fee (in addition to the fee under subsection (b)) for restoration of a funeral director intern license shall be ~~fifteen~~ **twenty-five** dollars ~~($15).~~ **($25).**

(m) The fee to be charged to a licensee for a duplicate pocket card shall be ~~five~~ **ten** dollars ~~($5).~~ **($10).**

(n) The fee to be charged to a licensee for a duplicate wall certificate shall be ~~five~~ **ten** dollars ~~($5).~~ **($10).** *(State Board of Funeral and Cemetery Service; 832 IAC 2-1-2; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1367; errata, 9 IR 1380; filed Aug 27, 1987, 2:30 p.m.: 11 IR 93; filed Jun 8, 1989, 4:45 p.m.: 12 IR 1900; errata filed Nov 28, 1989, 3:00 p.m.: 13 IR 677; filed May 20, 1993, 5:00 p.m.: 16 IR 2422; filed Jun 14, 1996, 3:00 p.m.: 19 IR 3100; errata filed Sep 23, 1996, 3:05 p.m.: 20 IR 333; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on February 6, 2003 at 10:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 12, Indianapolis, Indiana the State Board of Funeral and Cemetery Service will hold a public hearing on proposed amendments to revise the licensing and examination fees charged and collected by the board. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E012 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Gerald H. Quigley
Executive Director
Indiana Professional Licensing Agency

TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD

Proposed Rule
LSA Document #02-270

DIGEST

Amends 839 IAC 1-3-2 concerning licensure by examination for social workers and clinical social workers. Amends 839 IAC 1-4-5

concerning supervision for marriage and family therapist applicants. Amends 839 IAC 1-5-1 concerning educational requirements for mental health counselors. Adds 839 IAC 1-5-1.5 concerning experience requirements for mental health counselors. Effective 30 days after filing with the secretary of state.

839 IAC 1-3-2 **839 IAC 1-5-1**
839 IAC 1-4-5 **839 IAC 1-5-1.5**

SECTION 1. 839 IAC 1-3-2 IS AMENDED TO READ AS FOLLOWS:

839 IAC 1-3-2 Licensure by examination for social workers and clinical social workers

Authority: IC 25-23.6-2-8
Affected: IC 25-22.5; IC 25-23.6-5-1; IC 25-23.6-5-3.5; IC 25-33

Sec. 2. (a) An applicant for licensure as a social worker or clinical social worker shall pass an examination required by the board.

(b) As used in IC 25-23.6-5-1 and IC 25-23.6-5-3.5, "experience" means full-time paid experience of at least one thousand five hundred (1,500) hours per year. Part-time experience will be considered if the applicant can verify a total of four thousand five hundred (4,500) hours, three thousand (3,000) hours of which must take place after receiving the graduate degree.

(c) As used in IC 25-23.6-5-1 and IC 25-23.6-5-3.5, supervision must be face-to-face contact between the supervisor and supervisee for the purpose of assisting the supervisee in the process of learning the skills of social work or clinical social work practice for a minimum of four (4) hours per month.

(d) As used in IC 25-23.6-5-1, "equivalent supervisor" means ~~a psychologist licensed under IC 25-33 or a physician licensed under IC 25-22.5 who has training in psychiatric medicine~~ **an individual who is supervising within their scope of experience and training and is:**

(1) licensed as a psychologist;

(2) licensed as a physician who has training in psychiatric medicine; or

(3) a mental health professional of equivalent status to clinical social workers licensed under IC 25-23.6, if the supervision was provided in a state where no regulation exists.

(e) As used in IC 25-23.6-5-3.5, "equivalent supervisor" means ~~a psychologist licensed under IC 25-33, a physician licensed under IC 25-22.5 who has training in psychiatric medicine, a marriage and family therapist licensed under IC 25-23.6, or a mental health counselor licensed under IC 25-23.6~~ **an individual who is supervising within their scope of experience and training and is:**

(1) licensed as a psychologist;

(2) licensed as a physician who has training in psychiatric medicine;

(3) licensed as a marriage and family therapist;

(4) licensed as a mental health counselor; or

(5) a mental health professional of equivalent status if the supervision was provided in a state where no regulation exists.

(f) Experience, as that term is used in IC 25-23.6-5-1 and IC 25-23.6-5-3.5, shall be earned as an employee in one (1) of the following settings:

(1) Social service agencies.
(2) Schools.
(3) Institutions of higher education.
(4) Hospitals.
(5) Private practice.
(6) Mental health centers.
(7) Correctional institutions.
(8) Home health agencies.
(9) Long term health care facilities.
(10) Employee assistance programs.
(11) Occupational social services.
(12) Military facilities.

(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-3-2; filed Jul 1, 1992, 12:00 p.m.: 15 IR 2457; filed Nov 4, 1992, 5:00 p.m: 16 IR 871; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1505, eff Jul 1, 1999)

SECTION 2. 839 IAC 1-4-5 IS AMENDED TO READ AS FOLLOWS:

839 IAC 1-4-5 Supervision for marriage and family therapist licensure applicants

Authority: IC 25-23.6-2-8
Affected: IC 25-23.6-8-2.5; IC 25-23.6-8-2.7

Sec. 5. As used in IC 25-23.6-8-2.5, "qualified supervisor" and, as used in IC 25-23.6-8-2.7, "equivalent supervisor" means ~~an American Association for Marriage and Family Therapy approved supervisor, an American Association for Marriage and Family Therapy approved supervisor in training, or a supervisor who has demonstrated to the marriage and family therapy section of the board, possession of a master's degree or higher in the mental health field, training and supervision in marriage and family therapy which focused on family systems, and completion of at least thirty (30) clock hours in marriage and family therapy supervision training~~ **an individual who is licensed in a mental health field or, if the supervision was provided in a state where no regulation exists, by a mental health professional of equivalent status, and is:**

(1) an American Association for Marriage and Family Therapy approved supervisor;

(2) an American Association for Marriage and Family Therapy supervisor candidate; or

(3) a supervisor who:

(A) has possession of a master's degree or higher in a mental health field;

(B) has five (5) years of post-master's professional practice experience; and

(C) is supervising within their scope of experience and training.

(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-4-5; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1507, eff Jul 1, 1999)

SECTION 3. 839 IAC 1-5-1, AS READOPTED AND AMENDED AT 25 IR 1313, SECTION 12, IS AMENDED TO READ AS FOLLOWS:

839 IAC 1-5-1 Educational requirements for mental health counselors

Authority: IC 25-23.6-2-8
Affected: IC 25-23.6-8.5-1; IC 25-23.6-8.5-2; IC 25-23.6-8.5-3

Sec. 1. (a) As used in IC 25-23.6-8.5-1, "master's degree in an area related to mental health counseling" means a degree earned in one (1) of the following programs:

(1) Clinical social work.
(2) Psychology.
(3) Human services.
(4) Human development.
(5) Family relations.
(6) Counseling.
(7) Programs accredited by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or the Council on Rehabilitation Education (CORE).

(b) An applicant for licensure as a mental health counselor with a graduate degree not listed in subsection (a), or an applicant asserting that his or her program is equivalent to a program in counseling whose content areas are listed in IC 25-23.6-8.5-3, must provide the board with the following information:

(1) Evidence that their degree program and any additional course work are equivalent to the criteria for a graduate degree in counseling as set forth in this section.
(2) An official college transcript.
(3) Appropriate certifications or affidavits from university officials.
(4) Any additional supporting documentation as requested by the board.

(c) As used in IC 25-23.6-8.5-2, "regional accrediting body" means a college or university that was accredited prior to or within two (2) years of the time of the applicant's graduation by one (1) of the following:

(1) New England Association of Schools and Colleges.
(2) Middle States Association of Colleges and Schools.
(3) North Central Association of Colleges and Schools.
(4) Northwest Association of Schools and Colleges.
(5) Southern Association of Schools and Colleges.
(6) Western Association of Schools and Colleges.

(d) An applicant for licensure as a mental health counselor under IC 25-23.6-8.5 must show successful completion of a degree curriculum that shall encompass a minimum of forty-eight (48) semester hours or seventy-two (72) quarter hours of graduate study for the master's degree or a minimum of ninety-six (96) semester hours or one hundred forty-four (144) quarter hours of graduate study for the doctoral degree. If the course titles as stated on the transcript do not clearly reflect the course work content areas as listed in IC 25-23.6-8.5-3, the applicant must document the course or combination of courses in which the material was covered. Further, the applicant for licensure shall document a minimum of sixty (60) hours of graduate credit in mental health counseling or a related field. Only graduate level courses are acceptable for establishing equivalency. The board will not accept course work counted or credited toward an undergraduate degree.

(e) The following criteria shall be used to identify a master's or doctoral program in counseling or an area related to mental health counseling:

(1) The program, wherever it may be housed, shall be clearly identified as a counseling program in pertinent catalogs and brochures and shall specify the program's intent to educate and train counselors.
(2) There shall be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.
(3) The program shall have an identifiable mental health professional responsible for the program.
(4) The program shall have an integrated, organized sequence of study that follows the CACREP standards.
(5) The program shall have an identifiable body of students who are matriculated in that program for a degree.
(6) The program shall include a supervised practicum and internship.
(7) The degree program may or may not include an advanced internship. However, the advanced internship must be conducted in a setting focused on mental health counseling and/or mental health services, under the auspices of an approved graduate counseling program.

(f) As used in IC 25-23.6-8.5-3, "practicum" means a distinctly defined supervised curricular experience intended to enable the student to develop basic counseling skills and to integrate professional knowledge and skills appropriate to the student's program emphasis. The practicum shall be a minimum of one hundred (100) clock hours and include the following:

(1) A minimum of forty (40) hours of direct service with clients so that experience can be gained in individual and group interactions; at least one-fourth (¼) of these hours should be in group work.
(2) A minimum of one (1) hour per week of individual supervision, over a minimum of one (1) academic term by a program faculty member or a supervisor working under the supervision of a program faculty member, using audiotape, videotape, and/or direct observation.

(3) A minimum of one and one-half (1½) hours per week of group supervision with other students in similar practica over a minimum of one (1) academic term by a program faculty member or a supervisor working under the supervision of a program faculty member.
(4) An evaluation of the student's performance throughout the practicum, including a formal evaluation at the completion of the practicum.

(g) As used in IC 25-23.6-8.5-3, "internship" means a distinctly defined, supervised curricular experience intended to enable the student to refine and to enhance basic counseling skills, to develop more advanced counseling skills, and to integrate professional knowledge and skills appropriate to the student's initial postgraduation professional placement. A supervised internship of six hundred (600) clock hours, that is begun after successful completion of the student's practicum, includes the following:
(1) A minimum of two hundred forty (240) hours of direct service with clients appropriate to the program of study.
(2) A minimum of one (1) hour per week of individual supervision, throughout the internship, usually performed by the on-site supervisor.
(3) A minimum of one and one-half (1½) hours per week of group supervision, throughout the internship, usually performed by a program faculty member supervisor.
(4) The opportunity for the student to become familiar with a variety of professional activities other than direct service.
(5) The opportunity for the student to develop audiotapes and/or videotapes of the student's interactions with clients appropriate for use in supervision.
(6) The opportunity for the student to gain supervised experience in the use of a variety of professional resources, such as:
(A) assessment instruments;
(B) computers;
(C) print and nonprint media;
(D) professional literature;
(E) research; and
(F) information and referral to appropriate providers.
(7) A formal evaluation of the student's performance during the internship, by a program faculty supervisor, in consultation with the site supervisor.

(h) The practicum and internship experiences listed in this section are tutorial forms of instruction. Individual supervision is supervision rendered to one (1) person at a time, and group supervision is supervision rendered to at least two (2) and not more than twelve (12) individuals at one (1) time.

(i) As used in IC 25-23.6-8.5-3, "advanced internship" means a minimum of three hundred (300) clock hours of supervised experience that must be completed in a setting in which the individual is providing mental health services under the direct supervision of a professional as defined in subsection (l).

(j) The required practicum, internship, and advanced internship experiences listed in this section must have been primarily in the provision of direct counseling services. This includes knowledge, skill, or experience derived from direct observations of, and participation in, the practice of counseling. Academic credit for these must appear on the applicant's official graduate transcript. No course intended primarily for practice in the administration and grading of appraisal or assessment instruments shall count toward these clinical semester hour requirements.

(k) As used in IC 25-23.6-8.5-3, "one hundred (100) hours of face-to-face supervision" refers to the entire clinical experience requirement of one thousand (1,000) hours. This includes individual and group supervision. The applicant must document that at least one hundred (100) hours were spent face-to-face with a supervisor during the practicum, internship, and advanced internship. The graduate counseling student may work away from the premises of the educational institution but must be enrolled in a counseling practicum, internship, or advanced internship and must conduct counseling under the auspices of that graduate program.

(l) As used in IC 25-23.6-8.5-3, "supervised practice experience" means experience gained under supervision provided by:
(1) a counselor educator;
(2) a licensed and/or certified master's level or doctoral level:
(A) mental health counselor;
(B) clinical social worker;
(C) marriage and family therapist;
(D) a physician who has training in psychiatric medicine;
(E) psychologist; or
(F) clinical nurse specialist in psychiatric or mental health nursing; or
(3) another state-regulated mental health professional, or, if the experience was gained in a state where no regulation exists, by a mental health professional of equivalent status.

~~(m) As used in IC 25-23.6-8.5-4, "three thousand (3,000) hours of post-graduate clinical experience" means experience under approved supervision acquired subsequent to the date certified by the degree-granting institution as that on which all requirements for the master's degree have been completed. The doctoral student may continue to accrue hours for this clinical experience requirement once the doctoral internship has been completed.~~

~~(n) As used in IC 25-23.6-8.5-4, "equivalent supervisor" shall be supervision provided by:~~
~~(1) a licensed and/or certified master's level or doctoral level:~~
~~(A) clinical social worker;~~
~~(B) marriage and family therapist;~~
~~(C) a physician who has training in psychiatric medicine;~~
~~(D) psychologist; or~~

~~(E) clinical nurse specialist in psychiatric or mental health nursing; or~~

~~(2) another state-regulated mental health professional, or, if the experience was gained in a state where no regulation exists, by a mental health professional of equivalent status.~~

(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-5-1; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1507; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1311)

SECTION 4. 839 IAC 1-5-1.5 IS ADDED TO READ AS FOLLOWS:

839 IAC 1-5-1.5 Experience requirements for mental health counselors

Authority: IC 25-23.6-2-8
Affected: IC 25-23.6-8.5-4

Sec. 1.5. (a) As used in IC 25-23.6-8.5-4, "three thousand (3,000) hours of postgraduate clinical experience" means experience under approved supervision acquired subsequent to the date certified by the degree-granting institution as that on which all requirements for the master's degree have been completed. The doctoral student may continue to accrue hours for this clinical experience requirement once the doctoral internship has been completed.

(b) As used in IC 25-23.6-8.5-4, "equivalent supervisor" means an individual who is supervising within their scope of experience and training and is:

(1) licensed as a clinical social worker;

(2) licensed as a marriage and family therapist;

(3) licensed as a physician who has training in psychiatric medicine;

(4) licensed as a psychologist;

(5) licensed as a clinical nurse specialist in psychiatric or mental health nursing; or

(6) a mental health professional of equivalent status if the supervision was provided in a state where no regulation exists.

(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-5-1.5)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 27, 2003 at 9:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 1, Indianapolis, Indiana the Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board will hold a public hearing on proposed amendments concerning licensure by examination for social workers and clinical social workers, supervision for marriage and family therapist applicants, educational requirements for mental health counselors, and experience requirements for mental health counselors. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W041 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Lisa R. Hayes
Executive Director
Health Professions Bureau

TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD

Proposed Rule
LSA Document #02-271

DIGEST

Amends 839 IAC 1-2-2.1 concerning licensure retirement. Amends 839 IAC 1-2-5 concerning fees. Effective 30 days after filing with the secretary of state.

839 IAC 1-2-2.1
839 IAC 1-2-5

SECTION 1. 839 IAC 1-2-2.1, AS ADDED AT 25 IR 1633, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

839 IAC 1-2-2.1 Licensure retirement

Authority: IC 25-23.6-2-8
Affected: IC 25-23.6-8-9

Sec. 2.1. (a) An individual who is licensed to practice social work, clinical social work, marriage and family therapy, or mental health counseling, and who would like to retire the license, shall notify the board in writing, when the individual retires from practice. ~~Upon receipt of notice, the board shall release the individual from further payment of renewal fees and continuing education requirements while the license is in retirement.~~

(b) An individual who has placed their license in retirement may not practice as a social worker, clinical social worker, marriage and family therapist, or mental health counselor until the license has been reinstated by the board.

~~(b)~~ **(c) In order to reinstate a retired license,** an individual ~~who is licensed to practice social work, clinical social work, marriage and family therapy, or mental health counseling, and would like to reinstate the retired license~~ shall do the following:

(1) ~~Notify the board in writing.~~ **Complete a retirement reinstatement application, provided by the board, which must be approved by the board.**

(2) Pay a reinstatement fee established by the board.

~~(2)~~ **(3)** Submit proof of continuing education requirements, as outlined by the board, depending on the number of years the license has been in retirement as follows:

(A) Zero (0) to three (3) years, ~~no continuing education shall be required~~ **twenty (20) hours of continuing education shall be required and must be completed within twelve (12) months prior to the petition for reinstatement.**

(B) Three (3) to six (6) years, ~~one (1) year~~ **forty (40) hours** of continuing education shall be required and must be completed within ~~twelve (12)~~ **twenty-four (24)** months prior to the petition for reinstatement.

(C) Six (6) to ten (10) years, ~~two (2) years~~ **sixty (60) hours** of continuing education shall be required and must be completed within ~~twenty-four (24)~~ **thirty-six (36)** months prior to the petition for reinstatement.

(D) Ten **(10)** years or more shall require board determination of the continuing education needed and may require a personal appearance before the board, prior to reinstatement.

(E) Retirement years shall be calculated from the receipt of request **to retire the license** until reinstatement **of the license.**

(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-2-2.1; filed Dec 18, 2001, 9:11 a.m.: 25 IR 1633)

SECTION 2. 839 IAC 1-2-5, AS READOPTED AND AMENDED AT 25 IR 1307, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

839 IAC 1-2-5 Fees

Authority: IC 25-1-8-2; IC 25-23.6-2-8
Affected: IC 25-23.6

Sec. 5. (a) Candidates for examination shall pay the examination fee directly to the examination service.

(b) The application/issuance fee for licensure to practice as a social worker, clinical social worker, marriage and family therapist, or mental health counselor shall be fifty dollars ($50).

(c) The fee for issuance of a temporary permit shall be twenty-five dollars ($25).

(d) The fee for verification of licensure to another state or jurisdiction shall be ten dollars ($10).

(e) The fee for renewal of license to practice as a social worker, clinical social worker, marriage and family therapist, or mental health counselor shall be fifty dollars ($50) **biennially.**

(f) The fee for reinstatement of a retired license to practice as a social worker, clinical social worker, marriage and family therapist, or mental health counselor shall be fifty dollars ($50).

(g) The application fee for approval as a sponsor of continuing education shall be fifty dollars ($50).

(h) The renewal fee for approval to sponsor continuing education shall be fifty dollars ($50) biennially.

~~(f)~~ **(i)** The fee for a duplicate wall certificate shall be ten dollars ($10).

~~(g)~~ **(j)** The penalty fee for late renewal, and any additional health professions bureau administrative fees, shall be set in accordance with the health professions bureau fee schedule.

~~(h)~~ **(k)** All application fees are nonrefundable. *(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-2-5; filed Nov 4, 1992, 5:00 p.m.: 16 IR 870; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1505; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1307) NOTE: 839 IAC 1-2-6 was renumbered by Legislative Services Agency as 839 IAC 1-2-5.*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 27, 2003 at 9:15 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 1, Indianapolis, Indiana the Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board will hold a public hearing on proposed amendments concerning licensure retirement and fees. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W041 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Lisa R. Hayes
Executive Director
Health Professions Bureau

TITLE 880 SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD

Proposed Rule
LSA Document #02-269

DIGEST

Adds 880 IAC 1-2.1 concerning definitions; educational requirements for SLP aide I and II; application for registration as an SLP aide I or II; reporting changes in the supervision of an SLP Aide I or II; renewing a registration as an SLP aide I or II; prohibited professional activities; permitted professional activities; supervision of SLP aides I and II; and responsibilities of supervisors of SLP aides I and II. Repeals 880 IAC 1-2. Effective 30 days after filing with the secretary of state.

880 IAC 1-2
880 IAC 1-2.1

SECTION 1. 880 IAC 1-2.1 IS ADDED TO READ AS FOLLOWS:

Rule 2.1. Speech-Language Pathology Aide

880 IAC 1-2.1-1 Definitions
Authority: IC 25-25.6-2-2
Affected: IC 25-35.6-1-2

Sec. 1. The following definitions apply throughout this rule:

(1) "Aide" means a person employed as support personnel under the direction and authority of the supervising licensed speech-language pathologist. This rule applies to all support personnel when providing direct client services in the area of speech-language pathology intervention.

(2) "Board" means the speech-language pathology and audiology board.

(3) "Bureau" means the health professions bureau.

(4) "Direct supervision" of an SLP aide I and an SLP aide II means on-site, in-view observation and guidance by the supervising speech-language pathologist while an assigned therapeutic activity is being performed.

(5) "SLP aide I" means a speech-language pathology aide I.

(6) "SLP aide II" means a speech-language pathology aide II.

(7) "Supervisor", when referring to a speech-language pathology aide, means a person who holds a current Indiana license as a speech-language pathologist and has been approved by the board to supervise an aide as provided by IC 25-35.6-1-2(g).

(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-1)

880 IAC 1-2.1-2 Educational requirements for SLP aide I
Authority: IC 25-35.6-2-2
Affected: IC 25-35.6-1-2

Sec. 2. The minimum educational requirement for an SLP aide I shall be a high school degree or equivalent. *(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-2)*

880 IAC 1-2.1-3 Educational requirements for SLP aide II
Authority: IC 25-35.6-2-2
Affected: IC 25-35.6-1-2

Sec. 3. (a) The minimum educational requirement for an SLP aide II is an associate degree or its equivalent from an accredited institution in the area for which the applicant is requesting to be registered.

(b) As used in this section, "equivalent" means having completed the following:

(1) A minimum of a sixty (60) semester credit hours in a program of study that includes general education and the specific knowledge and skills for a speech-language pathology assistant.

(2) A minimum of twenty-four (24) credit hours of the sixty (60) semester hours required must be completed in general education. The general education curriculum shall include, but is not be limited to, the following:

(A) Oral and written communication.

(B) Mathematics.

(C) Computer applications.

(D) Social sciences.

(E) Natural sciences.

(3) A minimum of twenty-four (24) credit hours of the sixty (60) semester credit hours required must be completed in technical content areas. Technical content course work provides students with knowledge and skills to assume the job responsibilities and core technical skills for the speech-language pathology assistant, and must include the following:

(A) Instruction about normal processes of communication.

(B) Instruction targeting a speech-language pathology assistant-specific service delivery practices and methods.

(C) Instruction regarding the treatment of communication disorders.

(D) Instruction targeting the following workplace behavior and skills:

(i) working with clients or patients in a supportive manner;

(ii) following supervisor's instructions;

(iii) maintaining confidentiality;

(iv) communicating with oral and written forms; and

(v) following established health and safety precautions.

(E) Clinical observation.

(F) A minimum of one hundred (100) clock hours of supervised field experience that provides the applicant with appropriate experience for learning speech-language pathology assistant-specific job responsibilities and speech-language pathology assistant-specific workplace behaviors of the speech-language pathology assistant.

(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-3)

880 IAC 1-2.1-4 Application for registration
Authority: IC 25-35.6-2-2
Affected: IC 25-35.6-1-2

Sec. 4. (a) The application for approval of an SLP aide I and SLP aide II must be made on a form provided by the bureau and submitted to the board by the supervisor, under whose direct supervision the SLP aide I or SLP aide II will work, with all documentation as requested.

(b) The application must contain the following information:

(1) The supervisor's name, address, phone number, and current Indiana license number.

(2) The name and location of where services will be performed.

(3) A detailed description of the responsibilities assigned to the SLP aide I or SLP aide II.

(4) A certified statement from the supervisor that the SLP aide I and SLP aide II will be supervised as required by IC 25-35.6-1-2 and this rule.

(5) A certified statement from the SLP aide I or SLP aide II that he or she may not perform any activity as specified in section 7 of this rule.

(6) A certified statement that the SLP aide I or SLP aide II may perform the tasks as specified in section 8 of this rule if delegated by the supervisor.

(7) An application fee as specified in section 5 of this rule.

(8) Official transcripts from an educational institution:

(A) SLP aide I: Proof of a high school degree or equivalent.

(B) SLP aide II: Official transcript from an educational institution recognized by the board, certifying that the applicant possesses an associate' degree or its equivalent from an accredited institution in the area for which the applicant is requesting to be registered.

(9) Any other information as required by the board.

(c) When an application has been approved by the board, a certificate of registration will be issued by the bureau.

(d) A SLP aide I and SLP aide II may not begin work before his or her application has been approved by the board. *(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-4)*

880 IAC 1-2.1-5 Report change of information

Authority: IC 25-35.6-2-2
Affected: IC 25-35.6-1-2

Sec. 5. The supervisor must report any change in activities or supervision at the time the change occurs by submitting a new application and fee as specified in section 4 of this rule within fourteen (14) days. *(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-5)*

880 IAC 1-2.1-6 Renewal of registration

Authority: IC 25-35.6-2-2
Affected: IC 25-35.6-1-2

Sec. 6. (a) A registration issued under section 2 of this rule expires on December 31 of each year. A supervisor must renew the registration by submitting a renewal form provided by the bureau and a fee as specified in 880 IAC 1-1-5.

(b) In order to avoid any interruption of work activity, a registration must be renewed prior to December 31 of each year.

(c) Information submitted with the renewal form shall include the following:

(1) The nature and extent of the functions performed by the aide during the preceding year.

(2) The nature and extent of the training completed by the aide during the preceding year.

(3) Any other information required by the board.

(d) The supervisor must report any change in information required by subsection (a) to the board at the time the change occurs by submitting a new application and fee as specified in 880 IAC 1-1-5.

(e) An SLP aide I and SLP aide II may not continue working after his or her registration has expired. Any such continuation will constitute a violation of this section.

(f) If a supervisor does not renew the SLP aide I or SLP aide II registration on or before December 31, the registration becomes invalid. The supervisor must submit a new application and fee as specified in section 4 of this rule. *(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-6)*

880 IAC 1-2.1-7 Activities prohibited by the SLP aide I and SLP aide II

Authority: IC 25-35.6-2-2
Affected: IC 25-35.6-1-2

Sec. 7. An SLP aide I and/or SLP aide II may not perform any of the following activities:

(1) Standardized or nonstandardized diagnostic tests, formal or informal evaluations, or interpret test results.

(2) May not participate in parent conferences, case conferences, or any interdisciplinary team without the presence of the supervisor or other licensed speech-language pathologist designated by the supervisor.

(3) May not provide patient/client or family counseling.

(4) May not write, develop, or modify a patient's or client's individualized treatment plan in any way.

(5) May not assist with a patient or client without following the individualized treatment plans prepared by the supervisor or without access to supervision.

(6) May not sign any formal documents, for example, treatment plans, reimbursement forms, or reports. However, the SLP aide I and/or SLP aide II may sign or initial informal treatment notes for review and co-signature by the supervisor if specifically asked to do so by the supervisor.

(7) May not select patients or clients for services.

(8) May not discharge a patient or client from services.

(9) May not disclose clinical or confidential information either orally or in writing to anyone other than the supervisor.

(10) May not make referrals for additional service outside the scope of the intervention setting.

(11) May not communicate with the patient, client, family, or others regarding any aspect of the patient or client status or service without the specific consent of the supervisor.

(12) May not counsel or consult with the patient, client, family, or others regarding the patient or client status or service.

(13) May not represent himself or herself as a speech-language pathologist.

(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-7)

880 IAC 1-2.1-8 Tasks that may be delegated to the SLP aide I and SLP aide II

Authority: IC 25-35.6-2-2
Affected: IC 25-35.6-1-2

Sec. 8. The following tasks may be delegated to an SLP aide I and/or SLP aide II if the tasks have been planned by the supervisor and the SLP aide I and/or SLP aide II has been provided with adequate training to perform the task competently:

(1) Assist the supervisor with speech-language and hearing screenings (without interpretation).

(2) Follow documented treatment plans or protocols developed by the supervisor.

(3) Document patient or client performance, for example:

(A) tallying data for the speech-language pathologist to use; and

(B) preparing charts, records, and graphs;

and report this information to the supervising speech-language pathologists.

(4) Assist the supervisor during assessment of patients or clients.

(5) Assist with informal documentation as directed by the supervisor.

(6) Assist with clerical duties, such as preparing materials and scheduling activities as directed by the supervisor.

(7) Perform checks and maintenance of equipment.

(8) Support the supervisor in research projects, in-service training, and public relations programs.

(9) Assist with departmental operations (scheduling, record keeping, and safety and maintenance of supplies and equipment).

(10) Correct data for quality improvement.

(11) Exhibit compliance with regulations, reimbursement requirements, and SLP aide I and SLP aide II job responsibilities.

(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-8)

880 IAC 1-2.1-9 Supervisors; responsibilities

Authority: IC 25-35.6-2-2
Affected: IC 25-35.6-1-2

Sec. 9. (a) Prior to utilizing an aide, the supervisor shall carefully delineate the role and tasks of the SLP aide I and/or SLP aide II, including the following:

(1) Specific lines of responsibility and authority.

(2) Assurance that the SLP aide I and/or SLP aide II is responsible only to the supervisor in all patient/client activities. The supervisor must assess individual client needs when deciding the appropriateness of a support personnel service delivery model.

(b) When an aide assists in providing treatment, the supervisor of the SLP aide I and/or SLP aide II shall do the following:

(1) The supervisor of the SLP aide I shall provide direct supervision a minimum of twenty percent (20%) weekly for the first ninety (90) days of work and ten percent (10%) weekly after the initial work period. The supervisor must be physically present within the same building as the SLP aide I whenever direct client care is provided. The supervisor must directly provide a minimum of thirty-three percent (33%) of the patient's or client's treatment weekly.

(2) The supervisor of the SLP aide II shall provide direct supervision a minimum of twenty percent (20%) weekly for the first ninety (90) days of work and ten percent (10%) weekly after the initial work period. Supervision days and times should be alternated to ensure that all individuals receive direct contact with the supervisor at least once every two (2) weeks. At no time should an SLP aide II perform tasks when a supervisor cannot be reached by personal contact, telephone, pager, or other immediate means.

(3) The amount of supervision may be adjusted depending on the competency of the SLP aide I or SLP aide II, the needs of the patients or clients served, and the nature of the assigned tasks; however, the minimum standard must be maintained. The supervisor must determine supervision needs. Indirect supervision activities may include, but are not limited to, record review, phone conferences, or audio/video tape review.

(4) Determine the responsibilities assigned to the SLP aide I and/or SLP Aide II based upon the educational level, training, and experience of the aide.

(5) Evaluate each patient or client prior to treatment.

(6) Outline and direct the specific program for the clinical management of each client assigned to the SLP aide I and/or SLP aide II.

(7) Every five (5) working days, review all data and documentation on clients seen for treatment by the SLP aide I and/or SLP aide II.

(8) Ensure that, at the termination of services, the case is

reviewed by the speech-language pathologists responsible for the client.

(c) The supervisor shall not permit an SLP aide I and/or SLP aide II to make decisions regarding the diagnosis, management, or future disposition of clients.

(d) The supervisor must officially designate an SLP aide I and/or SLP aide II, as such, on all clinical records.

(e) The supervisor must be present when the SLP aide I and/or SLP aide II provides direct client treatment outside the designated practice setting.

(f) The supervisor may designate a licensed speech-language pathologist to supervise a SLP aide I and/or SLP aide II under his or her supervision during vacation periods or illness, but for no longer than a thirty (30) day period.

(g) Within ten (10) days after the termination of the supervision of an SLP aide I and SLP aide II, the supervisor shall notify the board, in writing, of the termination and the date of the termination and may designate a licensee to serve as an interim supervisor for a period not to exceed thirty (30) days upon approval of the board. An interim supervisor is not required to pay a fee for the thirty (30) day period.

(h) A supervisor may not supervise more than three (3) aides at one (1) time.

(i) A supervisor must be a licensed speech-language pathologist for a minimum of two (2) years prior to registering and supervising an SLP aide I and/or SLP aide II. *(Speech-Language Pathology and Audiology Board; 880 IAC 1-2.1-9)*

SECTION 2. 880 IAC 1-2 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 14, 2003 at 10:45 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 3, Indianapolis, Indiana the Speech-Language Pathology and Audiology Board will hold a public hearing on proposed amendments concerning educational, registration, and renewal requirements for speech-language pathology aides I and II; professional activities of speech-language pathology aides I and II; and supervision of speech-language pathology aides I and II. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W041 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Lisa R. Hayes
Executive Director
Health Professions Bureau

Indiana Register

Readopted Rules

Final Readopted Rules

TITLE 135 INDIANA TRANSPORTATION FINANCE AUTHORITY

LSA Document #02-175(F)

DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. *NOTE: IC 4-22-2.5-5 authorizes the governor, by executive order, to postpone the expiration date for one year. Executive Order 01-18 (printed at 25 IR 1745), issued December 21, 2001, extends the rules listed in this document to expire January 1, 2003.* Effective 30 days after filing with the secretary of state.

135 IAC 2
135 IAC 3

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

135 IAC 2 GENERAL PROVISIONS
135 IAC 3 TOLL BRIDGES

LSA Document #02-175(F)
Intent to Readopt Rules Published: July 1, 2002; 25 IR 3460
Proposed Readopted Rules Published: September 1, 2002; 25 IR 4219
Hearing Held: October 3, 2002
Filed with Secretary of State: November 6, 2002, 10:33 a.m.

TITLE 210 DEPARTMENT OF CORRECTION

LSA Document #02-174(F)

DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

210 IAC 6-2-1
210 IAC 6-2-2
210 IAC 6-2-6
210 IAC 6-2-7
210 IAC 6-2-8
210 IAC 6-2-9
210 IAC 6-2-10
210 IAC 6-2-11
210 IAC 6-2-12
210 IAC 6-3-6
210 IAC 6-3-7
210 IAC 6-3-8
210 IAC 6-3-12

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

210 IAC 6-2-1 General applicability
210 IAC 6-2-2 "ACA" defined
210 IAC 6-2-6 "Full compliance" defined
210 IAC 6-2-7 "Inspection" defined
210 IAC 6-2-8 "Juvenile detention facility" defined
210 IAC 6-2-9 "Mandatory standard" defined
210 IAC 6-2-10 "Provisional compliance" defined
210 IAC 6-2-11 "Recommended standard" defined
210 IAC 6-2-12 "Secure" defined
210 IAC 6-3-6 References to ACA standards
210 IAC 6-3-7 Dispositional programs
210 IAC 6-3-8 Inspection of juvenile detention facilities
210 IAC 6-3-12 Severability

LSA Document #02-174(F)
Intent to Readopt Rules Published: July 1, 2002; 25 IR 3460
Proposed Readopted Rules Published: September 1, 2002; 25 IR 4219
Hearing Held: September 25, 2002
Filed with Secretary of State: October 22, 2002, 1:53 p.m.

60 Day Requirement (IC 4-22-2-19)

TITLE 11 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL

LSA Document #02-238

October 21, 2002

Administrative Rules Oversight Committee
c/o Susan Kennell, Attorney for the Committee
Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, IN 46204-2789

RE: LSA Doc. # 02-238
Consumer Protection Division of the Office of the Attorney General
Notice of Delay in Adoption of Rule under IC 24-4.7-3-7

Dear Ms. Kennell:

The Consumer Protection Division of the Office of Attorney General has adopted rules implementing IC 24-4.7 concerning the telephone solicitation of consumers. The rulemaking process was initiated within sixty (60) days after the July 1, 2001 effective date of the statute.

Pursuant to IC 4-22-2-19(c) we are notifying Administrative Rules Oversight Committee that the Division has instituted further rulemaking (LSA #02-238) more than sixty (60) days after the effective date of the statute.

While LSA 02-238 contains a new rule (proposed 11 IAC 1-1-3.5) defining the term "existing debt or contract" contained in IC § 24-4.7-1-1. The Division did not anticipate the need for such a rule at the time of its initial rulemaking.

If you have any questions, I can be reached at (317) 232-1011.

Sincerely,

Marguerite M. Sweeney
Chief Counsel
Telephone Privacy

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

LSA Document #02-46

October 23, 2002

Chairman
c/o George Angelone
Administrative Rules Oversight Committee
302 Statehouse
Indianapolis, IN 46204

Subject: 460 IAC 6; LSA Doc. #02-46

Dear Chairman:

The Division of Disability, Aging, and Rehabilitative Services is adopting rule to establish standards for providers of services to individuals with developmental disabilities. These rules will formalize standards that have been in practice in the division.

Statutory authority for adoption of these rules has been in place for many years. Under IC 4-22-2-19, promulgation of rules require beginning the rulemaking process within 60 days of the enactment of such statutory authority unless an exception applies. The rulemaking process did not begin for these rules within the 60 day requirement.

Under IC 4-22-2-19(a)(3) an exception is provided for rules required by statutes enacted before June 30, 1995. IC 12-11-1.1-9 was added by P.L.272-1999 but this was a recodification of P.L.2-1992 in a similar form. Our proposed rule falls under the exception in IC 4-22-2-19(a)(3). Although IC 12-11-1.1-9 was added by P.L.272-1999, it existed in similar form in IC 12-11-1, which was added by P.L.2-1992 and repealed by P.L.272-1999.

The division is providing this written notification to the committee to explain why this rule does not comply with the timeframe specified in IC 4-22-2-19(c)(1). In the case of this rule, we could not comply with the statute that authorized the rule because this statute was enacted 10 years ago.

If you need additional information, please contact Jean Oswalt at (317) 232-1161.

Sincerely,

Steven Cook, Director
Division of Disability, Aging, and Rehabilitative Services

TITLE 760 DEPARTMENT OF INSURANCE

LSA Document #02-137

October 10, 2002

Chairperson, Administrative Oversight Committee
c/o George Angelone
Legislative Services Agency

RE: Rule pursuant to IC 27-1-34-9

Dear Chairperson:

Pursuant to IC 27-1-34-9, the department of insurance shall adopt rules under IC 4-22-2 necessary to implement this

chapter, including but not limited to: (1) certificate of registration requirements; (2) reinsurance requirements; (3) reserve levels; (4) deposits; (5) financial reporting; (6) fidelity bonds; and (7) the operations of multiple employer welfare arrangements.

In accordance with IC 4-22-2-19, this letter is to notify you that the Department did not institute the rulemaking process within 60 days of the effective date of this statute. The Department is now prepared to propose an administrative rule.

If you have any questions or need any additional information I can be reached at 232-0143.

Very truly yours,

Amy E. Strati
Chief Counsel

365 Day Notice (IC 4-22-2-25)

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-49

To: Senator Luke Kenley, Chairperson
c/o Ms. Susan Kennell
The Administrative Rules Oversight Committee

From: Maureen Bartolo, Staff Attorney
Office of General Counsel
Family and Social Services Administration

Re: LSA #02-49, Amendments to the Medicaid Chiropractic Rule

Date: October 24, 2002

cc: Susan Kennell, LSA
Howard Stevenson, General Counsel, FSSA
Melanie Bella, Assistant Secretary, OMPP

On behalf of the Family and Social Services Administration, Office of Medicaid Policy and Planning, I am submitting this memo to the Administrative Rules Oversight Committee in compliance with IC 4-22-2-25, because the agency has determined that the promulgation of the captioned rule may not be completed within one year after publication of the notice of intent to adopt a rule.

The agency published its notice of intent to adopt a rule for the captioned document on March 1, 2002 (25 IR 1927). Its proposed rule was published on May 1, 2002 (25 IR 2555). A public hearing was held on June 3, 2002. Due to the input we received during the comment period, further research and discussion with affected provider associations was necessary. In order to complete the research and properly consider additional input, the agency needs additional time.

Any rule adopted by the agency must be approved by the Family and Social Services Committee (see IC 12-8-3), a committee that meets only once per month. It is possible a monthly meeting could occur without a quorum and therefore without any action being taken on an adopted rule. This would mean delayed approval until the next monthly meeting of the committee and presence of a quorum. Following approval by the FSSA committee, the rule must be submitted to the Attorney General's office. Pursuant to IC 4-22-2-32, the Attorney General has forty-five days to complete his review of a rule. Whether a quorum is present at a monthly meeting of the FSSA Committee and the Attorney General's time frame for rule review are outside of the agency's control. For these reasons, it may not be possible for the rule to be approved by the governor within one year of the date of publication of the notice of intent. The agency expects that the rule can be approved by the governor by September 1, 2003.

This notice setting forth the expected date of approval of LSA# 02-49 as September 1, 2003, is being submitted in a timely manner. November 6, 2002 is the two hundred fiftieth day after publication of the notice of intent to adopt a rule.

TITLE 327 WATER POLLUTION CONTROL BOARD

FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO IC 13-14-9-7 AND SECOND NOTICE OF COMMENT PERIOD #02-327(WPCB)

DEVELOPMENT OF NEW RULES AND AMENDMENTS TO RULES CONCERNING ON-SITE RESIDENTIAL SEWAGE DISCHARGING DISPOSAL SYSTEMS IN ALLEN COUNTY

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for a new rule and amendments to rules concerning a National Pollutant Discharge Elimination System (NPDES) general permit for on-site residential sewage discharging disposal systems in Allen County, Indiana. The purpose of this notice is to seek public comment on the draft rule, including suggestions for specific language to be included in the rule. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking.

CITATIONS AFFECTED: 327 IAC 5-1-1.5; 327 IAC 15-3-2; 327 IAC 15-14.

AUTHORITY: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2.

STATUTORY REQUIREMENTS

IC 13-14-9-7 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that the rulemaking policy alternatives available to IDEM are so limited that the notice of first public comment period would provide no substantial benefit, IDEM may forego this comment period and proceed directly to the notice of second comment period.

If the commissioner makes the determination of limited rulemaking policy alternatives required by IC 13-14-9-7, the commissioner shall prepare written findings and include them in the second notice of public comment period published in the Indiana Register. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-7.

The statute provides for this shortened rulemaking process if the commissioner determines that "the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under [IC 13-14-9-3]... would provide no substantial benefit to:

(1) the environment; or

(2) persons to be regulated or otherwise affected by the proposed rule.".

BACKGROUND

This rulemaking is being initiated pursuant to SECTION 8 of Public Law 172-2002 (SEA 461 (2002)), which requires IDEM to obtain from the U.S. Environmental Protection Agency a general permit for a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000) (a/k/a Allen County), to regulate point source discharges of treated sewage from on-site residential sewage disposal systems installed to repair or replace sewage disposal systems that fail to meet public health and environmental standards.

SECTION 8(b) of P.L. 172-2002 requires IDEM to obtain the general NPDES permit described in the Public Law "in an expeditious manner calculated to obtain the general permit as soon as possible." The Indiana General Assembly clearly intended that this rulemaking proceed quickly. IDEM believes that the regulatory framework for a general NPDES permit has been set forth unambiguously in P.L.172-2002, as well as in the existing general NPDES permits contained in 327 IAC 15. Therefore IDEM has decided to proceed with this rulemaking under the provisions of IC 13-14-9-7.

The draft rule sets forth requirements for the permitting of on-site residential sewage discharging disposal systems in Allen County that discharge one thousand (1,000) gallons or less per day of treated sanitary wastewater. To be permitted, such systems must be located within an on-site waste management district and must have received an operating permit from the local health department. The rule sets forth other duties and requirements of the permitted systems and their owners, including duties to comply and mitigate, and provisions addressing other issues, including property rights, transfers, bypasses, maintenance and quality control, and penalties. The rule also sets forth inspection and enforcement requirements applicable to the permitted systems.

FINDINGS

The commissioner of IDEM has prepared written findings regarding rulemaking concerning a National Pollutant Discharge Elimination System (NPDES) general permit for on-site residential sewage discharging disposal systems in Allen County, Indiana. These findings are prepared under IC 13-14-9-7 and are as follows:

(1) SECTION 8 of Public Law 172-2002 (SEA 461 (2002)) requires IDEM to obtain from the U.S. Environmental Protection Agency a general permit for a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000) (a/k/a Allen County) to regulate point source discharges of treated sewage from on-site residential sewage disposal systems installed to repair or replace sewage disposal systems that fail to meet public health and environmental standards.

(2) SECTION 8(b) of P.L.172-2002 requires IDEM to obtain the general NPDES permit described in the Public Law "in an expeditious manner calculated to obtain the general permit as soon as possible."

(3) The Indiana General Assembly clearly intended that this rulemaking proceed quickly.

(4) IDEM believes that the regulatory framework for a general NPDES permit has been set forth unambiguously in P.L.172-2002, as well as in the existing general NPDES permits contained in 327 IAC 15.

(5) I have determined that under the specific circumstances pertaining to this rule the rulemaking policy alternatives are so limited that the public notice and comment period provided in the notice of first public comment period would provide no substantial benefit to the environment or to persons to be regulated or otherwise affected by the rule.

(6) The draft rule is hereby incorporated into these findings.

Lori F. Kaplan
Commissioner
Indiana Department of Environmental Management

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the rule. Mailed comments should be addressed to:

#02-327(WPCB) [*Allen County NPDES general permit*]
Lawrence Wu
Rules Section, Chief
Office of Water Quality
Indiana Department of Environmental Management
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the twelfth floor reception desk, Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Room 1255, Indianapolis, Indiana. Comments may be delivered by facsimile to (317) 232-8406. Please confirm the timely receipt of faxed comments by calling the Office of Water Quality Rules Section at (317) 233-8903.

COMMENT PERIOD DEADLINE

Comments must be postmarked, hand delivered, or faxed by December 31, 2002.

Additional information regarding this action may be obtained from MaryAnn Stevens, Rules Section, Office of Water Quality, (317) 232-8635 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 327 IAC 5-1-1.5 IS AMENDED TO READ AS FOLLOWS:

327 IAC 5-1-1.5 Prohibitions
Authority: IC 13-11-2-99; IC 13-13-5-1; IC 13-22-2-3
Affected: IC 13-18-3

Sec. 1.5. **Except as provided in 327 IAC 15-14,** the point source discharge of sewage treated or untreated, from a dwelling or its associated residential sewage disposal system, to the waters of the state is prohibited. *(Water Pollution Control Board; 327 IAC 5-1-1.5; filed Nov 13, 1995, 5:00 p.m.: 19 IR 660; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)*

SECTION 2. 327 IAC 15-3-2 IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-3-2 Content requirements of a NOI letter
Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3
Affected: IC 13-11-2; IC 13-18-4

Sec. 2. **Except as provided in 327 IAC 15-14-4,** the NOI letter shall include the following:

(1) Name, mailing address, and location of the facility for which the notification is submitted.

(2) Standard Industrial Classification (SIC) codes, as defined in 327 IAC 5, up to four (4) digits, that best represent the principal products or activities provided by the facility.

(3) The person's name, address, telephone number, ownership status, and status as federal, state, private, public, or other entity.

(4) The latitude and longitude of the approximate center of the facility to the nearest fifteen (15) seconds, or the nearest quarter section (if the section, township, and range are provided) in which the facility is located.

(5) The name of receiving water, or, if the discharge is to a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water.

(6) A description of how the facility complies with the applicability requirements of the general permit rule.

(7) Any additional NOI letter information required by the applicable general permit rule.

(8) The NOI letter must be signed by a person meeting the signatory requirements in 327 IAC 15-4-3(g).

(Water Pollution Control Board; 327 IAC 15-3-2; filed Aug 31, 1992, 5:00 p.m.: 16 IR 19; errata filed Sep 10, 1992, 12:00 p.m.: 16 IR 65; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 3. 327 IAC 15-14 IS ADDED TO READ AS FOLLOWS:

Rule 14. On-Site Residential Sewage Discharging Disposal Systems within the Allen County On-Site Waste Management District

327 IAC 15-14-1 Purpose
Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 1. The purpose of this rule is to establish requirements for point source discharges of treated sewage from on-site residential sewage discharging disposal systems within the Allen County on-site waste management district so that the public health, existing water uses, and aquatic biota are protected. *(Water Pollution Control Board; 327 IAC 15-14-1)*

327 IAC 15-14-2 Applicability
Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4; IC 13-18-12-9

Sec. 2. This rule applies to on-site residential sewage discharging disposal systems located within the Allen County on-site waste management district that have been installed to repair or replace a sewage disposal system that fails to meet public health and environmental standards and for which an operating permit has been issued pursuant to IC 13-18-12-9. This rule is only applicable to existing on-site systems or the replacement of such systems that were installed on or before July 1, 2002. Such systems shall discharge one thousand (1,000) gallons or less per day of treated sanitary wastewater. *(Water Pollution Control Board; 327 IAC 15-14-2)*

327 IAC 15-14-3 Definitions
Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-11-2; IC 13-18-4; IC 36-11

Sec. 3. In addition to the definitions contained in IC 13-11-2, 327 IAC 5, and 327 IAC 15-1-2, the following definitions apply throughout this rule:

(1) "$CBOD_5$" means Five (5)-day Carbonaceous Biochemical Oxygen Demand.

(2) "Commissioner" means the commissioner of the department of environmental management.

(3) "District" means the Allen County on-site waste management district established under IC 36-11.

(4) "E. coli" means Escherichia coli bacteria.

(5) "Notice of intent letter" or "NOI" means a written notification indicating a person's intention to comply with the terms of a specified general permit rule in lieu of applying for an individual National Pollutant Discharge Elimination System (NPDES) permit and includes information as required by 327 IAC 15-3 and the general permit rules.

(6) "On-site residential sewage discharging disposal system" means a sewage disposal system that:

(A) is located on a site with and serves a one (1) or two (2) family residence; and

(B) discharges effluent offsite.

(7) "Sewage disposal system" means septic tanks, wastewater holding tanks, seepage pits, cesspools, privies, composting toilets, interceptors or grease traps, portable sanitary units, and other equipment, facilities, or devices used to:

(A) store;

(B) treat;

(C) make inoffensive; or

(D) dispose of;

human excrement or liquid carrying wastes of a domestic nature.
(8) "TSS" means total suspended solids.
(Water Pollution Control Board; 327 IAC 15-14-3)

327 IAC 15-14-4 NOI letter requirements
Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4; IC 13-18-12-9

Sec. 4. (a) The owner of property upon which an on-site residential sewage discharging disposal system subject to this rule is located shall submit an NOI letter to the following address:
Indiana Department of Environmental Management
Office of Water Quality
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015
Attention: Permits Section

(b) The NOI letter shall include the following:
(1) Name and mailing address of the owner and location of the property for which the NOI is submitted, if different than the mailing address.
(2) A copy of the operating permit issued by the local health department with jurisdiction over the system as provided in section 7 of this rule, pursuant to IC 13-18-12-9(d).
(3) The name of the receiving stream into which the system will discharge.

(c) The NOI letter must be signed by:
(1) the owner of the property for which the NOI is submitted if the owner is not described under 327 IAC 15-4-3(g); or
(2) a person described under 327 IAC 15-4-3(g).
(Water Pollution Control Board; 327 IAC 15-14-4)

327 IAC 15-14-5 Deadline for submission of a NOI letter
Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 5. Any person requesting coverage under this rule shall submit an NOI letter within ninety (90) days of receipt of the operating permit issued by the local health department with jurisdiction over the on-site residential sewage discharging disposal system as provided in section 7(a)(1) of this rule unless permission for a later date has been granted by the commissioner. *(Water Pollution Control Board; 327 IAC 15-14-5)*

327 IAC 15-14-6 General permit rule boundary
Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 6. On-site residential sewage discharging disposal systems located within the boundaries of the Allen County on-site waste management district are regulated under this rule. *(Water Pollution Control Board; 327 IAC 15-14-6)*

327 IAC 15-14-7 General requirements
Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4; IC 13-18-12-9

Sec. 7. (a) The point source discharge of treated sewage from an on-site residential sewage discharging disposal system is prohibited unless:
(1) the local health department with jurisdiction over the system has issued an operating permit for the system as provided under IC 13-18-12-9(d); and
(2) all applicable requirements of this article and 327 IAC 5 have been met.

(b) Coverage commences under this rule for discharges from an on-site residential sewage discharging disposal system upon receipt of a NOI letter by the department of environmental management.

(c) Under this rule, the permittee must meet the discharge and monitoring requirements listed in Table 1 as follows:

Table 1

The discharge shall be limited and monitored by the permittee as specified as follows:

Parameter	Daily Maximum	Daily Minimum	Units	Monitoring Frequency
Temperature	Report	Report	°C	2 X Annually
$CBOD_5$	15	—	mg/l	2 X Annually
TSS	18	—	mg/l	2 X Annually
Ammonia-nitrogen	2	—	mg/l	2 X Annually
pH	9.0	6.0	s.u.	2 X Annually
E. coli	235	—	colonies/100ml	2 X Annually
Dissolved Oxygen				2 X Annually
Winter [1]	—	6.0	mg/l	
Summer [2]	—	[3]	mg/l	

[1] Winter limitations apply from December 1 through April 30 of each year.
[2] Summer limitations apply from May 1 through November 30 of each year.
[3] During the summer monitoring period, the dissolved oxygen concentration shall not be less than fifty percent (50%) of saturation as determined by Table 2 as follows:

Table 2

No one (1) sample shall be less than 4.0 mg/l.

Temp. °C	18.0	18.5	19.0	19.5	20.0	20.5	21.0	21.5	22.0	22.5	23.0	23.5	24.0	24.5	25.0	25.5	26.0
D.O. mg/l	4.703	4.654	4.606	4.559	4.513	4.467	4.422	4.378	4.335	4.293	4.251	4.210	4.169	4.129	4.090	4.051	4.012

(d) The discharge from the on-site residential sewage discharging disposal system shall not cause receiving waters, including the mixing zone, to contain substances (e.g. foam), materials, floating debris, oil, scum, or other pollutants that:

(1) will settle to form putrescent or otherwise objectionable deposits;

(2) are in amounts sufficient to be unsightly or deleterious;

(3) produce color, visible oil sheen, odor, or other conditions in such degree as to create a nuisance;

(4) are in amounts sufficient to be acutely toxic to or otherwise severely injure or kill aquatic life, other animals, plants, or humans; or

(5) are in concentrations or combinations that will cause or contribute to the growth of aquatic plants or algae to such a degree as to create a nuisance, be unsightly, or otherwise impair the designated uses.

(e) Samples and measurements required by this rule shall:

(1) be representative of the volume and nature of the monitored discharge flow;

(2) be taken at times that reflect the full range of effluent parameters normally expected to be present;

(3) be taken more than four (4) months apart unless approved by the commissioner; and

(4) not be taken at times or in a manner to avoid showing elevated levels of any parameter.

(Water Pollution Control Board; 327 IAC 15-14-7)

327 IAC 15-14-8 Standard conditions

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 8. In addition to the conditions set forth in this rule, the standard conditions for a NPDES general permit under 327 IAC 15-4-2 and 327 IAC 15-4-3 apply to this rule. *(Water Pollution Control Board; 327 IAC 15-14-8)*

327 IAC 15-14-9 Inspection and enforcement

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-14-10; IC 13-15-7; IC 13-18-3; IC 13-18-4; IC 13-30; IC 36-11-2-1; IC 36-11-5

Sec. 9. (a) The permittee shall allow the commissioner or an authorized representative, upon presentation of credentials, to enter upon the premises where a regulated facility or activity is located and have access to and copy any records that must be kept under the conditions of this rule, in accordance with 327 IAC 15-4-1(l).

(b) The conditions of this rule are subject to enforcement pursuant to 327 IAC 15-4-1 and IC 13-30. *(Water Pollution Control Board; 327 IAC 15-14-9)*

327 IAC 15-14-10 Duration and renewal of coverage

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 10. (a) Coverage under this rule is granted by the commissioner for a period of five (5) years from the date coverage commences according to section 7(b) of this rule.

(b) To obtain renewal of coverage under this general permit rule, the information required under section 4 of this rule shall be submitted to the commissioner no later than ninety (90) days prior to the expiration of coverage under this rule unless the commissioner determines that a later date is acceptable. *(Water Pollution Control Board; 327 IAC 15-14-10)*

Notice of First Hearing

These rules are not scheduled for hearing at this time. When the public hearing is scheduled, it will be noticed in the Change in Notice section of the Indiana Register.

Additional information regarding this action may be obtained from MaryAnn Stevens, Rules Section, Office of Water Quality, (317) 232-8635 or (800)451-6027 (in Indiana).

Copies of these rules are now on file at the Office of Water Quality, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Twelfth Floor, Indianapolis, Indiana and are open for public inspection.

Lori F. Kaplan
Commissioner
Department of Environmental Management

OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Office of Medicaid Policy and Planning

Public Notice Regarding LSA 01-301 and Changes in Medicaid Methods and Standards

For Setting Payment Rates for Services

In accordance with the public notice requirements of 447.205 of Title 42, Code of Federal Regulations, the Indiana Family and Social Services Administration, Office of Medicaid Policy and Planning (OMPP) publishes this notice of significant changes in the methods and standards for setting payment rates for medical and surgical supplies. Proposed changes to the medical supplies regulation,405 IAC 5-19-1, including notice, were published in the *Indiana Register*, Vol. 25, Number 11, beginning at page 3811, on August 1, 2002, as LSA Document #01-301. Following consideration of comments received during the public comment period, revisions have been made to the proposed rule. This notice describes the significant changes in the methods and standards for setting payment rates for medical surgical supplies resulting from those revisions.

The amendments define medical and surgical supplies, provide restrictions and limitations for their coverage, and provide that reimbursement shall be equal to the lower of the provider's submitted charges or the Medicaid allowable amount for each item. The Medicaid allowable fee schedule amount to be effective on the effective date of the amendment is the base statewide fee schedule amount equal to the lower of the Medicaid fee schedule amount in effect during SFY 2001 or the amount determined as follows:

(1) The average acquisition cost of the item adjusted by a multiplier of one and two-tenths (1.2), if available; or

(2) The Indiana Medicare fee schedule amount adjusted by a multiplier of no less than eight tenths (.8), if available; or

(3) The weighted median of providers' usual and customary charges adjusted by a multiplier of no less than eight tenths (.8), if available; or

(4) The Medicaid fee schedule amount in effect during state fiscal year 2001, if available; or

(5) The average Indiana Medicaid payment amount per item during state fiscal year 2001.

OMPP may review the statewide fee schedule and adjust it as necessary using the Medicare fee schedule, the providers' usual and customary charges, and the providers' acquisition cost information.

Notwithstanding the above, to ensure that supply items are available to providers at or below the fee schedule amount to be effective on the effective date of the amendment, OMPP shall establish the fee schedule amount for the following items based on the Medicare fee schedule and the Indiana Medicaid fee schedule amount in effect during SFY 2001: A4253 (glucose testing strips) $33.88; A4254 (replacement battery, any) $6.11; A4256 (normal, low no high calib) $11.20; A4258 (lancet device) $15.27; A4259 (lancets) $11.00; A4265 (paraffin) $3.37; A4323 (sterile saline irrigation) $8.68; A4351 (intermittent urinary cath) $1.52; A4554 (disposable underpads, all) $0.47; A4556 (electrodes, [e.g., apnea]) $9.67; A4621 (tracheotomy mask or colla) $1.40; and Y4011 (diapers or incontinence) $0.19. No multiplier will be applied to the initial fee schedule amount for these items. Twelve (12) months after the effective date of the amendment, OMPP shall re-establish the fee schedule amounts for the items listed in this paragraph based on the methodology described in items 1-5 above.

Providers will be required to bill for medical supplies using the Health Care Common Procedure Coding System in accordance with the instructions set forth in the Indiana Health Coverage Programs manual or update bulletins.

The amendments are required to provide reimbursement for medical supply items that is consistent with the cost of the item and public payors including Medicare and other State Medicaid programs. The amendments clarify the definition of medical and surgical supplies, including a specific enumeration of items that are not covered, and provides for a review and adjustment of fee schedule amounts to reflect changes in market conditions and product availability. The proposed amendments are expected to result in reduced payments to Medicaid providers of $3.1 million annually.

A public hearing on the proposed rule was held on September 3, 2002, at 10 a.m. in Conference Center Room A of the Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana. All parties interested in the rule were invited to attend that hearing and offer public testimony. Written comments concerning these amendments received at or after the hearing are available for public inspection by contacting Marc Shirley, R.Ph., Pharmacy Program Director, Office of Medicaid Policy and Planning, MS07 402 West Washington Street, Indianapolis, Indiana 46204.

Copies of this notice and the rule are available for public review by contacting the Director of the local office of the Division of Family and Children, except in Marion County. The inspection material will be available for public viewing in Marion County at the Office of Medicaid Policy and Planning, 402 West Washington Street, Room W382, and will be available from 8:30 a.m. to 4:30 p.m., Monday through Friday. Written comments from any source regarding these changes should be sent to the above listed address. Correspondence should be identified by reference to LSA 01-301.

John Hamilton, Secretary

Office of the Secretary of Family and Social Services

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 02-20

FOR: THE HOOSIERS HELPING HOOSIERS FOOD DRIVE

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, with the efforts of religious and social service organizations there are people who go hungry; and

WHEREAS, in the spirit of hospitality, Hoosiers have a tradition of extending a helping hand to those in need; and

WHEREAS, state offices should assist those in need by facilitating the collection of nonperishable food staples;

NOW THEREFORE, I, Frank O'Bannon, by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. State offices shall designate space to accept private donations of food and staples from state employees.
2. The food drive shall begin November 1, 2002 and conclude November 29, 2002.
3. Contributions received are to be retained and distributed in the local communities where donated.
4. With the approval of the employing agency, a state employee may volunteer to use the Community Service Leave program to assist with this food drive.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 25th day of October, 2002.

BY THE GOVERNOR: Frank O'Bannon
Governor of Indiana

Seal
ATTEST: Sue Anne Gilroy
Secretary of State

OFFICE OF THE ATTORNEY GENERAL

March 7, 2002

OFFICIAL OPINION 2002-1

Tim McClure, Director
State Ethics Commission
402 West Washington Street, Room W189
Indianapolis, Indiana 46204

RE: Authority of State Ethics Commission to Enforce Executive Orders

Dear Mr. McClure:

This letter responds to the request of the former director, David Maidenberg, for an answer to the following question:

Does the State Ethics Commission have the authority to enforce an executive order establishing standards of conduct for the Indiana Utility Regulatory Commission?

It is our opinion that the State Ethics Commission does have the authority to enforce an executive order establishing standards of conduct for the Indiana Utility Regulatory Commission.

ANALYSIS

The Commission is established in, and granted authority by, Indiana Code Chapter 4-2-6. The Commission's authority to investigate and take action concerning ethics violations is found in Indiana Code Chapter 4-2-6-4 which provides a procedure by which the Commission may initiate investigations itself or receive complaints that ultimately can lead to action being taken. In language that is repeated elsewhere in the statute regarding the Commission's powers, Indiana Code Section 4-2-6-4(b)(2)(E) and (F) allow the Commission to take various actions when it determines that a respondent has violated "this chapter, a rule adopted under this chapter, or any other statute or rule establishing standards of official conduct of state officers, employees, or special state appointees."

In 1993 Governor Bayh issued an executive order entitled Code of Ethics for the Indiana Utility Regulatory Commission which addresses the conduct of the members of the Commission and certain employees of the Commission. Section 1 of the executive order states that:

> An independent and honorable Commission is indispensable to the proper performance of its statutory duties. Commissioners should establish, maintain, and enforce high standards of conduct so that the integrity and independence of the Commission may be preserved. **The provisions of this code should be construed and applied to further that objective without any limitation upon the State Ethics Commission in the exercise of its powers**.

(emphasis added). Therefore, it is clear that the intent was that the Code of Ethics for the Indiana Utility Regulatory Commission was intended to supplement other requirements enforced by the State Ethics Commission.

There still remains the question of whether this Code of Ethics falls within the scope of "any other statute or rule establishing standards of official conduct of state officers, employees, or special state employees" and thus falls within the State Ethics Commission jurisdiction. The question becomes whether this Code of Ethics is either a statute or a rule. Executive orders are issued by the governor and statutes are enacted by the General Assembly. An executive order is clearly not a statute.

The Indiana Court of Appeals discussed the nature of executive orders in a recent opinion stating that:

> In general an executive order is a command or direction issued by the "President of the United States or the chief executive officer of a State that has the force of law and that is promulgated in accordance with applicable law." 43 U.S.C. § 14616 (defining an executive order in the context of public health and welfare). An executive order must fall within the authority granted to the Governor by the constitution or statutory provision. 81A C.J.S. § *States* 130 (1977).... Executive power is the "power to execute the laws, to carry them into effect as distinguished from the power to make the laws and the power to judge them." *Tucker v. State*, 218 Ind. 614,670, 35 N.E. 2d 270, 291 (1941). By express legislation the Governor has the responsibility of ensuring the efficient operation of the executive branch of government. Ind. Code § 4-3-6-3 provides in part that the Governor shall re-examine from time to time the organization of all agencies of State government and determine what changes are necessary to accomplish various purposes including "to promote the better execution of laws, the more effective

management of the executive and administrative branch of the government and of its agencies and functions, and expeditious administration of the public business."

Nass v. State ex. rel. Unity Team, Local 9212 International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW), 718 N.E.2d 757, 763 (Ind. App. 1999), transfer denied, *Nass v. Unity Team*, 735 N.E.2d 224 (Ind. 2000).

However, the inquiry remains whether an executive order is a rule. Rules and rulemaking are generally governed by Indiana Code Chapter 4-22-2. Several pertinent definition are found in Indiana Code Section 4-22-2-3 as follows:

(a) **"Agency" means any officer**, board, commission, department, division, bureau, committee, or other governmental entity **exercising any of the executive** (including the administrative) **powers of state government**. The term does not include the judicial or legislative departments of state government or a political subdivision as defined in IC 36-1-2-13.

(b) "Rule" means the whole or any part of an agency statement of general applicability that:

(1) has or is designed to have the effect of law; and

(2) implements, interprets, or prescribes:

(A) law or policy; or

(B) the organization, procedure, or practice requirements of an agency.

(c) "Rulemaking action" means the process of formulating or adopting a rule….

(emphasis added).

Indiana Code Section 4-22-2-13 addresses the scope of Indiana Code Chapter 4-22-2 and states the following as pertinent to the current question.

(c) **This chapter does not apply to a rulemaking action that results in any of the following rules**:

(1) A resolution or directive of any agency that relates solely to internal policy, internal agency organization, or internal procedure and does not have the effect of law

(2) A restriction or traffic control determination of a purely local nature that:

(A) is ordered by the commissioner of the Indiana department of transportation;

(B) is adopted under IC 9-20-1-3(d), IC 9-21-4-7, or IC 9-20-7; and

(C) applies only to one (1) or more particularly described intersections, highway portions, bridge causeways, or viaduct areas.

(3) A rule adopted by the secretary of state under IC 26-1-9.1-526.

(4) **An executive order or proclamation issued by the governor**.

(emphasis added).

Although rules probably are more typically thought of as provisions adopted by various state agencies after having gone through the rulemaking process under Indiana Code Chapter 4-22-2, it is clear from the above quoted provisions that the General Assembly considers an executive order a rule. With that said, it would be an "other rule establishing standards of official conduct" as contemplated by the State Ethics Commission statute and therefore within the enforcement authority of the State Ethics Commission.

CONCLUSION

For the foregoing reasons, it is our opinion that the State Ethics Commission does have the authority to enforce an executive order establishing standards of conduct for the Indiana Utility Regulatory Commission.

We hope this response has adequately answered your question. If you need more assistance concerning this matter, please call me at (317) 232-6303.

Sincerely,

Stephen Carter
Attorney General

James F. Schmidt
Deputy Attorney General

OFFICE OF THE ATTORNEY GENERAL

March 7, 2002

OFFICIAL OPINION 2002-02

Dr. Suellen Reed
State Superintendent of Public Instruction
Room 229 State House
Indianapolis, IN

RE: Funding for Charter Schools

Dear Dr. Reed:

During its 2001 session, the Indiana General Assembly passed the Charter School Act, now codified at Ind. Code § 20-5.5, *et. seq*. (the "Act"). The Act provides for the creation of charter schools, which are defined as "*public* elementary school[s] or secondary school[s] established under this chapter." Ind. Code § 20-5.5-1-4 (emphasis added). In the Act the Legislature provided an alternative to traditional public schools, and authorized charter schools to provide:

> innovative and autonomous programs that do the following:
>
> (1) Serve the different learning styles and needs of *public school students*.
>
> (2) Offer *public school students* appropriate and innovative choices.
>
> (3) Afford varied opportunities for professional educators.
>
> (4) Allow *public schools* freedom and flexibility in exchange for exceptional levels of accountability.
>
> (5) Provide parents, students, community members, and local entities with an expanded opportunity for involvement *in the public school system*.

Ind. Code § 20-5.5-2-1.

The Department of Education (the "Department") will be required by Ind. Code § 20-5.5-7-3 to distribute state tuition support for charter schools. An issue has arisen as to when the initial distribution of these funds[1] to charter schools must be made by the Department.

In your letter dated February 14, 2002, requesting a legal opinion, you provided us with the Department's interpretation based on its reading of the Act and the Budget Bill, P.L.291-2001 § 4. The Department believes that (i) it is prohibited by statute from making any distribution of state tuition support to charter schools earlier than January 2003, and (ii) it has no authority to reduce payments to which traditional public school corporations are entitled to receive (during the first semester of a school year) for the purpose of providing tuition support to charter schools.

Brief Answer

It is my legal opinion that the General Assembly has created dual obligations that the Department must fulfill. It cannot be assumed that the General Assembly intended to have the new public schools operate without state tuition funds absent clear language to that effect in the Charter School Act. Therefore, the Department of Education is required both to distribute tuition support and other state funding upon verification of the required information from the charter school organizer and to make full state tuition payments to public school corporations.

Analysis

The importance of the issue presented is one that is set within our Indiana Constitution, which states:

> Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government; it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general and uniform system of Common Schools[2], wherein tuition shall be without charge, and equally open to all.

Ind. Const. art. 8, § 1. Any analysis of charter school funding requirements must begin with the basic and irrefutable fact that charter schools are *public* schools, "wherein tuition shall be without charge."

Titles 20 and 21 of the Indiana Code are replete with statutory provisions evidencing the General Assembly's ongoing concern with the quality of education in this state and the importance of minimizing disparities of funding available to educate each student in a *public* school.

The establishment of charter schools is in direct response to public interest in providing innovation and flexibility in education. The fact that these schools may operate independently of already-established school corporations does not negate the fact that they are, nonetheless, by definition *public* schools. Each charter school student is to be counted for the purpose of state tuition support "in the same manner as a student of the school corporation in which the charter school student resides." Ind. Code § 20-5.5-7-2.

In the absence of a specific legislative directive which indicates that charter schools must operate without state tuition support during the first semester of operation, one may only conclude that charter schools, like all other public schools, are required to be funded with public funds during the first semester of a school year. Indeed, any other reading would require the inference that the General Assembly intended charter schools with inadequate private start-up monies to never open. *See, e.g., Wilson v. Stanton*, 424 N.E.2d 1042, 1045 (Ind. App. 1981) ("It is not to be presumed that the legislature intends its enactments to have no effect.")

Although the Act provides that the organizer of a charter school "*may* apply for and accept for a charter school (1) independent financial grants; or (2) funds from public or private sources other than the department," Ind. Code § 20-5.5-7-5 (emphasis added), a traditional school corporation has similar authorization. (A "school corporation... shall have... the power... [t]o make all applications, to enter into all contracts, and to sign all documents necessary for the receipt of aid, money, or property from the state government, the federal government, *or from any other source*." Ind. Code § 20-5-2-2-(15) (emphasis added).

In addition, the General Assembly has explicitly provided that charter schools are entitled to a proportionate share of the public funds available to all other public schools. S*ee generally*, Ind. Code § 20-5.5-7-3. Of equal importance is the fact that the General Assembly did *not* provide that charter schools specifically be required to operate without state tuition funding during the first semester they are in operation.

Any other statutory provisions that possibly conflict must be construed to give effect to the Act. "[T]his is particularly true where the hardships and evils of a different construction could readily affect adversely the educational opportunities of children." *Fort Wayne Public Schools v. State ex rel New Haven Public Schools*, 159 N.E.2d 708, 712 (Ind. App. 1959). The Indiana Court of Appeals provided this guidance for statutory construction:

> … when two statutes on the same subject must be construed together, the court should attempt to give effect to both; however, where the two are repugnant in any of their provisions, then the later statute will control and operate to repeal the former to the extent of the repugnancy. Similarly, where one statute deals with a subject in general terms and another statute deals with a part of the same subject in a more detailed or specific manner, then the two should be harmonized, if possible; but if they are in irreconcilable conflict, then the more detailed will prevail as to the subject matter it covers.

Indiana Alcoholic Beverage Commission v. Osco Drugs, 431 N.E.2d 823, 833 (Ind. App. 1982) (citations omitted).

In the funding formulas set forth in Ind. Code § 21-3-1.7, the General Assembly has sought to reduce the disparity in resources available to educate students residing in "property-poor" taxing districts and those in "property-rich" taxing districts. The funding formulas require each school corporation to make an Average Daily Membership ("ADM") count "within the first thirty (30) days of the school term." Ind. Code § 21-3-1.6-1.1(d). The school corporation's ADM is then used in a formula weighted to take into account, among other things, the amount of local revenues available and significant changes in both the number of students and the amount of local revenues over previous years. Ind. Code § 21-3-1.7. A school corporation's state tuition entitlement is adjusted in January to reflect changes in the September ADM.

The fact that an already-existing school corporation must wait until January for funding adjustments based on September's ADM does not support the argument by correlation that a charter school must wait until January for any state tuition support.

In regard to state tuition support for charter schools, the Act provides:

> (a) Not later than the date established by the department for determining average daily membership under IC 21-3-1.6-1.1(d), the organizer shall submit to the department [of education] the following information:
>
> (1) The number of students enrolled in the charter school.
>
> (2) The name of each student and the school corporation in which the student resides.
>
> (b) After verifying the accuracy of the information reported under subsection (a), the department shall distribute the following to the organizer[3]:

> (1) Tuition support and other state funding for any purpose for students in the charter school.
> (2) A proportionate share of state and federal funds received for students with disabilities or staff services for students with disabilities or staff services for students with disabilities for the students with disabilities enrolled in the charter school.
> (3) A proportionate share of funds received under federal or state categorical aid programs for students who are eligible for the federal or state aid enrolled in the charter school.
>
> ....
>
> (d) The distribution under subsection (b) shall be made on the same schedule as the schedule on which the school corporation receives funds.

Ind. Code § 20-5.5-7-3. It is important to note that the count mentioned in subsection (a) is *not* referred to as the "ADM" count. Likewise, the Department is *not* directed by subsection (a) to use the student count number to determine the calendar year tuition support for a charter school. Rather, it is directed simply to "distribute tuition support" to the charter school.

In its interpretation of the statute, the Department does not distinguish between the difference in: (i) the requirement that public schools (including charter schools) be funded during the first semester of a school year; and (ii) the availability of such funds to make such distributions. The Department appears to interpret Ind. Code § 20-5.5-7-3(d) ("the distribution under subsection (b) shall be made on the same schedule as the schedule on which the school corporation receives funds") to preclude distribution to a charter school during the first semester based on the fact that available funds are already committed to pre-existing public school corporations.

P.L. 291-2001 § 4 makes the biennial appropriation for tuition support to public schools. It makes no specific reference to charter schools, providing simply that

> [t]he above appropriations for tuition support shall be made each calendar year under a schedule set by the budget agency and approved by the governor. However, the schedule shall provide for at least twelve (12) payments, that one (1) payment shall be made at least every forty (40) days, and the aggregate of the payments in each calendar year shall equal the amount required under the statute enacted for the purpose referred to above.

Although public schools operate on the basis of a school year (defined in Ind. Code § 21-3-1.6-1(b) as "a year beginning July 1 and ending the next succeeding June 30"), state tuition support is distributed during the following calendar year. Ind. Code § 21-3-1.6-1.1(c) defines "state distribution" to mean "the amount of state funds to be distributed to a school corporation in any *calendar* year under this chapter," with the amount of funds calculated on the basis of a school's ADM of "the school year ending in the calendar year." Ind. Code § 21-3-1.6-1.1(d).

Subject to the amount appropriated by the General Assembly, "the amount a school corporation is *entitled* to receive in tuition support for a year is the amount determined by section 8 of this chapter," Ind. Code § 21-3-1.7-9. This amount is distributed on a monthly schedule established by the Budget Agency and approved by the Governor. P.L. 291-2001 § 4.

Thus, the statutory framework established by the General Assembly has an inherent time lag of roughly one semester between the time a public school starts a school year and the time it receives a distribution of state tuition support based on September ADM.

However, during the first semester of a school year each public school corporation is assured under Ind. Code § 21-3-1.7-9 that it will receive at least the monthly distributions based on the previous September ADM count, and the school may budget accordingly. The Charter School Act in no way alters the state's obligation to the traditional public school corporations. It is therefore my legal opinion that the Department has no authority to reduce payments which traditional public school corporations are entitled to receive during the first semester for the purpose of providing tuition support to charter schools.

I am fully aware that the General Assembly has created what may be termed an "unfunded legislative mandate". It has created a new variety of public school without either (1) addressing the fiscal impact these schools may have on entitlements to existing school corporations, or (2) expressing an intent that charter schools will not receive state tuition support during the first semester of operations.

It is possible, given current budget projections, that the appropriations cap set by the General Assembly in 2001 may be inadequate. This is an issue that the General Assembly created, and one that may require its action to remedy.

The Department may find in the performance of its ministerial duties that it is impossible to satisfy the State's financial obligations to all public schools as required by the General Assembly. In such an event, the General Assembly must supply the Department with

the necessary funds to satisfy these obligations. The Department must carry out all of its ministerial duties as required by statute and may not allow the potential lack of funding to cause it to choose one duty over another.

Therefore, in answer to your request for guidance as to your statutory obligations as Superintendent of Public Instruction under the new Charter School Act, it is my legal opinion that the Charter School Act obligates the Indiana Department of Education to distribute tuition support and other state funding upon verification of the required information from the charter school organizer, and to make full state tuition payments to public school corporations.

Sincerely,
Stephen Carter
Attorney General

[1] The Act also provides that charter schools shall receive a proportionate share of "local support" (general fund property tax levy, auto excise and financial institution taxes) available to any other public school. Ind. Code § 20-5.5-7-3(c). The Department is not responsible for distribution of these funds, and any issue surrounding distribution of these funds is beyond the scope of this opinion.
[2] The phrase "Common Schools" is synonymous with "public schools" and includes high schools. *State v. O'Dell*, 118 N.E. 529, 530 (Ind. 1918).
[3] This opinion focuses exclusively on the distribution of state tuition support as that term is used in Ind. Code § 21-2-1.7. It does not address other sources of state or federal funding.

OFFICE OF THE ATTORNEY GENERAL

July 3, 2002

OFFICIAL OPINION 2002-3

Mr. Phillip H. Roush
Commissioner
Proprietary Education Committee
302 W. Washington Street, Room E201
Indianapolis, IN 46204-2767

RE: Jurisdiction of the Committee over computer software/hardware training programs.

Dear Mr. Roush:

This letter responds to your request for an answer to the following question:

Are organizations that offer instructional services for a fee in a variety of the popular software and mainframe operation programs exempt from the jurisdiction of the Proprietary Education Committee by virtue of offering instruction that may be used for self-motivational or avocational purposes?

BRIEF ANSWER

The types of computer software/hardware training programs your office presented to our office for review meet the statutory definition of a post-secondary proprietary educational institution. The governing statute provides that "no person shall do business as a post-secondary proprietary educational institution in the state of Indiana without accreditation." In order to gain accreditation, a person must file an application and be approved by the Proprietary Education Committee. The only exceptions to the requirement for accreditation for individuals doing business in Indiana by offering to the public instructional or educational services or training in any of the technical, professional, mechanical, business, or industrial occupations for a fee are found at Indiana Code section(s) 20-1-19-1(1)(A) through (E). The programs presented to our office for review did not fall under any of the listed exceptions.

Your office additionally, specifically asked whether any of the programs presented to our office would be exempt from jurisdiction under Indiana Code section 20-1-19-1(1)(D)(iii). This subsection provides that any organization that offers *exclusively* instruction that is self-improvement, motivational, or avocational in intent is not deemed a post-secondary proprietary educational institution for purposes of the chapter." It is our opinion that the programs presented to our office for review did not offer *exclusively*

instruction that was clearly self-improvement, motivational, or avocational in intent. Therefore, the software/hardware computer training programs presented to our office for review should fall under the jurisdiction of the Proprietary Education Committee.

ANALYSIS

Ind. Code § 20-1-19-1 provides in pertinent part:

> "Post-secondary proprietary educational institution" means any person doing business in Indiana by offering to the public for a tuition, fee or charge, instructional or educational services or training in any technical, professional, mechanical, business, or industrial occupation, either in the recipient's home, at a designated location, or by mail."

Ind. Code § 20-1-19-5 provides that "[o]n or after July 1, 1972, no person shall do business as a post-secondary proprietary educational institution in the state without having obtained accreditation." The exceptions to the requirement for accreditation from the committee are found at Ind. Code § 20-1-19-1(A) through (E). If any organizations' instructional curriculum falls under one of the listed exceptions, jurisdiction under the committee is not required. The exceptions listed include, but are not limited to educational institutions financed by public funds, institutions that are regulated by another state regulatory board, employer training for employees provided without charge, and training that is offered *exclusively* for self-improvement or avocational purposes. Because in Indiana, corporations, partnerships, limited liabilities, etc., can be defined as "persons," anyone doing business in any of those manners are contemplated by the statute, and potentially subject to jurisdiction.

Individuals may enroll in a variety of the computer software/hardware training programs exclusively for self-improvement, or avocational purposes. Because of this fact, you have asked our office if that qualified the organizations providing training or educational services from the requirement for accreditation by virtue of one of the listed statutory exceptions.

Ind. Code § 20-1-19-1(1)(D)(iii) specifically provides:

> The following are not considered to be post-secondary proprietary educational institutions under this chapter:
> (D) Any educational institution or educational training that:
> "[o]ffers *exclusively* instruction which is *clearly* "self-improvement, motivational, or avocational in intent."

The statute provides that to fall under this exception, the educational institution or training must only offer instruction that is *clearly* "self-improvement, motivational, or avocational in intent." The authors use of the words *exclusively* and *clearly* must be assumed to be intentional. "There is a presumption that words appearing in a statute were intended to have meaning, and a court will give those words their plain and ordinary meaning absent a clearly manifested purpose to do otherwise." *Indiana Dept. of Human Services v. Firth*, 590 N.E.2d 154, 157 (Ind. Ct. App. 1992) trans den. "Additionally, courts are given the authority to use the dictionary to determine the plain and ordinary meaning of a word." *State Bd. of Accounts v. Indiana University Found.*, 647 N.E.2d 342,347 (Ind. Ct. App. 1995). Merriam-Webster's Ninth New Collegiate Dictionary (1988) defines exclusively as "in an exclusive manner." Exclusive is further defined as "limiting or limited to possession, control, or use by a single individual or group."

Although the programs may provide educational training that any individual may choose to enroll in exclusively for self-improvement or avocational purposes, it is not the intended purpose of the enrollee that is contemplated by the statute. Based on the statutes' language, it is clear that it is the intention of the provider that the statute addresses. The *provider* must intend to offer only instruction that is self-improvement, motivational, or avocational in intent. Based on the provider responses received, and the information gleaned from provider brochures, it appears clear that the instruction provided by the programs given to our office for review was not offered only for self-improvement, motivational or avocational purposes, as is required to fall under the statutory exception.

A majority of the programs we reviewed were costly. Typical packages range from one-thousand five hundred ($1,500) to eleven thousand ($11,000) dollars for a complete program that included testing and certification. The courses generally certified students to be at an alphabetic or numeric level of mastery for a specific type of software program, or hardware maintenance/operation after the successful completion of an examination. The programs were generally advertised as being able to either increase the marketability of an individual or qualify them for specific types of positions by virtue of their level of certification. Some courses were offered as a part of a comprehensive program, and many of the providers are accredited vocational schools in their states of origin.

The courses are generally purchased by individuals who are already using information technology skills in their respective jobs and who are attempting to improve their skill level for promotion or employment, or to become qualified for a specific job. The majority of the courses offered are in classroom facilities with intensive instruction. Some courses may be able to be purchased over

the internet or by mail order and are self-paced for completion at home. Whether there are attendance or hour requirements to qualify to sit for testing was not made clear from the materials presented. The programs at minimum appear to offer a benefit of improved competency with a particular software package even if an individual fails to achieve a specific certification level. However, organizations that provide these training services do not appear to be regulated by any agency, and it is therefore not clear where a dissatisfied consumer would turn for a grievance. Although the extent of job placement services provided was also not made clear, many of the brochures mentioned job placement assistance. Based on those facts, it does not appear as if a majority of the providers are offering their educational services *exclusively* for self-improvement or avocational purposes.

"Vocational education," is defined at Ind. Code § 20-10.1-1-11(a) as "any education the major purpose of which is to prepare a person for profitable employment." The Indiana Court of Appeals has addressed the question of what constitutes a vocational education. In the case of *Sweet v. Art Pape Transfer, Inc.*, 721 N.E.2d 311 (Ind. Ct. App. 1999) transfer dismissed by *Sweet v. Art Pape Transfer, Inc.*, 735 N.E.2d 232 (Ind. 2000), the court found that a nontraditional school of natural health, in which a 21-year-old decedent was enrolled in at the time of her death, was a vocational school for purposes of a wrongful death statute. That statute permitted parents to bring an action for the death of a child under twenty-three (23), if that child was enrolled in vocational school or program at the time of death. The court looked to the statutory definition of vocational education for assistance in basing their decision. Because the wrongful death statute did not offer it's own definition of a vocational school or program, the court looked to definitions applicable to public schools and non-public schools which have voluntarily become accredited at Ind. Code § 20-10.1-1-11(a).

That statute defines vocational education as "any education the major purpose of which is to prepare a person for profitable employment." The court went on to look at the rules in place at the time at 511 IAC 6-1-1 that established the curricular requirements for commissioned schools, and their definition of vocational education program areas. These areas included among other areas "the recognized occupational fields of …consumer and homemaking;…home economics;… [and] …health… "for which organized educational programs are developed that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree." See Id at 314.

The court found the statute and the rules instructive. The court noted that the natural health program was not accredited or financially supported by the state of Indiana and that credits earned from the program could not be transferred to an accredited school. The court noted that the coursework was self-study with no required deadlines. The court noted that the program was preparing students for opportunities that did not require licensure or diplomas, nor did the program maintain a job placement bureau. The court still found the natural health program in which the decedent was enrolled in at the time of her death a vocational school. The court considered the language of the law defining vocational education and held that the facts of the decedent's case met the statutory definition of vocational education. The court found Trinity, a non-traditional school of natural health a vocational school. The court found this way because the instruction provided by Trinity was offered to prepare students to advise clients about natural health in jobs with chiropractors and medical doctors, in health food stores, and etc., and that students from that particular school were employed in such jobs. Because the student was enrolled in a program that was preparation for profitable employment, the Court of Appeals found the program to be vocational.

If there were a challenge to a decision to have these programs fall under the jurisdiction of your committee, the same type of analysis should be applied. The organization of the information technology software/hardware training programs given to our office for review is similar to the natural health program's organization discussed in the *Sweet* decision. A majority of the programs appear to be training to work in the field of information technology, either in the area of software applications, or hardware configuration or maintenance. Just as in *Sweet*, although the majority of the schools are not accredited, and a diploma or licensure is not required for many of these jobs, enrollees are receiving training in a field that will prepare them for a specific type of profitable employment. Some of the brochures provided did contain testimonials from satisfied customers who had found employment in these fields.

Because of these facts, the education offered by the providers sent to our office for review should be found to be vocational, as opposed to avocational. Additionally, although some may argue that the programs can be offered for avocational purposes, it is highly unlikely that the provided training will be found to be offered *exclusively* or only for self-improvement, motivational, or avocational purposes, as is required by the statute. The key to the analysis is not the intention of the enrollee, but that of the provider. And because the programs do not appear to be offered *exclusively* for such purposes, they do not meet that particular statutory exception for jurisdiction.

CONCLUSION

Therefore, because the programs meet the statutory definition for post-secondary proprietary educational institution, because by law to operate one of these institutions a person must be accredited by the committee, and because the information technology

training programs reviewed by our office do not meet any of the statutory exceptions to jurisdiction, these training programs should fall under the jurisdiction of the Committee.

Sincerely,

Stephen Carter
Attorney General

Tracy L. Richardson
Deputy Attorney General

OFFICE OF THE ATTORNEY GENERAL

July 29, 2002

OFFICIAL OPINION 2002-4

The Honorable Bernard A. Carter
Prosecuting Attorney
31st Judicial Circuit, Lake County, Indiana
2293 North Main Street
Crown Point, Indiana 46307

RE: Validity of County Ordinance Conferring Merit Status on Deputy Prosecutors

Dear Mr. Carter:

This letter responds to your request for an answer to the following questions:
1) May a county council confer merit status on a deputy prosecuting attorney by adopting an ordinance to that effect under the authority of the Home Rule Statute?
2) What is the legal effect of such an ordinance?
3) May a county ever have the legal power to exercise control over the independent judgment of a prosecuting attorney in any of the prosecutor's employment decisions?

It is our opinion that a county council may not confer merit status on a deputy prosecuting attorney, and a county ordinance attempting to do so is invalid. The county government's legal powers as they relate to the prosecuting attorney's hiring decisions are set out in statute. The councils have direct involvement in the hiring of an investigator but in other matters have only indirect involvement stemming from the county's duty to appropriate necessary funds for the office.

BACKGROUND

Along with your letter you included a copy of an ordinance that the Lake County Council adopted in 1983. Lake County, Indiana, Code of Ordinances, Volume I, Chapter 35: County Policy, §§35.30-35.38, Merit Status. The ordinance provides that "[a]ll full-time deputy prosecuting attorneys, including any deputy prosecuting attorney in a supervisory position, who accrue three years continuous service in the Prosecuting Attorney's Office, shall be designated as having attained *merit status* for the purposes herein set forth." (emphasis in original) As stated in your letter, "merit status created by the ordinance provides for a vesting of inalienable rights which, once attached, cannot be divested by the Prosecuting Attorney..." The ordinance also provides that if a deputy prosecuting attorney is disciplined, he or she may appeal to a grievance board made up of the circuit judge, the presiding judge of the superior court, and a third person selected by the prosecuting attorney, whose decision is binding on the prosecuting attorney. § 35.35(N). The "Statement of Intent" for the ordinance sets out that the county council adopted the ordinance under the authority of Ind. Code § 36-1-3-2, the Home Rule Act.

DISCUSSION

1. The Home Rule Act

In 1980 the General Assembly adopted Indiana's current Home Rule Act ("Act"). Under the Act, a local unit of government is granted broad authority, with few exceptions, to adopt any local law needed "for the effective operation of government as to local

affairs." Ind. Code § 36-1-3-2. But certain powers are withheld from local control and, additionally, a local unit may not exercise power that is expressly denied by the Indiana Constitution or by statute. Ind. Code § 36-1-3-8; 36-1-3-5(a)(1).

Local laws may be invalid because they are preempted by state law. A local unit of government may not exercise power that is expressly denied by statute or expressly granted to another governmental entity. Ind. Code § 36-1-3-5. In addition, local units of government are prohibited from regulating conduct that is already regulated by a state agency, except as expressly granted by statute. Ind. Code § 36-1-3-8(7). If state law preemptively governs an area, a local unit of government may legislate the area only when given specific authority to do so in the enacting statute. *City of Hammond v. N.I.D. Corp.*, 435 N.E.2d 42, 48 (Ind. Ct. App. 1982).

Thus, "where the legislature properly enacts a general law which occupies the area, then a municipality may not by local ordinance impose restrictions which conflict with rights granted or reserved by the General Assembly." *Suburban Homes Corp. v. City of Hobart*, 411 N.E.2d 169, 171 (Ind. Ct. App. 1980). *See also Koppin v. Strode*, 761 N.E.2d 455, 461 (Ind. Ct. App. 2002) (citing *City of Indianapolis v. Fields*, 506 N.E.2d 1128, 1131 (Ind. Ct. App. 1987)).

2. Office of the prosecuting attorney

> The office of prosecuting attorney in its present form was created by the judicial article of the Indiana Constitution in 1851. There shall be elected in each judicial circuit by the voters thereof a prosecuting attorney, who shall have been admitted to the practice of law in this State before his election, who shall hold his office for four years, and whose term of office shall begin on the first day of January next succeeding his election....

Ind. Const. Art. 7, § 16. The office is a "constitutional office, carved out of the office of the attorney general as it existed at common law." *State ex rel. Neeriemer v. Daviess Circuit Court*, 236 Ind. 624, 629, 142 N.E.2d 626, 628 (1957) (footnotes omitted), citing *State ex rel. Williams v. Ellis*, 184 Ind. 307, 312, 112 N.E. 98, 100 (1916). Prosecuting attorneys were originally appointed by the governor, later chosen by joint ballot of the state legislature, and finally elected by the people beginning in 1843. *State ex rel Bingham v. Home Brewing Co.*, 182 Ind. 75, 87, 105 N.E. 909, 913 (1914).

The prosecuting attorney is elected not for each county, but in "each judicial circuit" of the state. For this reason, the Indiana Supreme Court has remarked that judges of the circuit courts and prosecuting attorneys are not state, county, or township officers, but rather are officers of the circuit. *State ex rel. Pitman v. Tucker*, 46 Ind. 355, 359 (1874); *State v. Patterson*, 181 Ind. 660, 663, 105 N.E. 228, 229 (1914).

Officers of circuits are simply officers of the State of Indiana whose jurisdiction extends to territorial divisions of the state but nonetheless are not independent of the state. *See Woods v. City of Michigan City*, 940 F.2d 275, 279 (7th Cir. 1991) (Indiana circuit and superior court judges are judicial officers of the state, "they are not county officials"), quoting *Pruitt v. Kimbrough*, 536 F.Supp. 764, 766 (N.D. Ind. 1982), *aff'd*, 705 F.2d 462 (7th Cir. 1983).

The prosecutor, in everything the prosecutor does, enforces state law. The prosecutor is not answerable to county authorities, nor does the prosecutor exercise county power. The prosecutor's only connection with the counties in the prosecutor's circuit is that the counties fund the operation of the office. Ind. Code § 33-14-7-2(g). But counties exercise no discretion or control beyond determining what level of funding is "necessary." *See State ex rel. Schuerman v. Ripley County Council*, 182 Ind. App. 616, 395 N.E.2d 867 (1979); *Brown v. State ex rel. Brune*, 172 Ind. App. 31, 359 N.E.2d 608 (1977). This level of independence is necessary for circumstances may arise where the prosecutor may be compelled to bring criminal charges against a member of the county commissioners. *Willner v. State*, 602 N.E.2d 507 (Ind. 1992).

"The prosecuting attorney is not only specifically provided for in the Constitution, but... is necessary to the administration of justice contemplated by the Constitution." 1965 OAG No.36, pp. 177-78. A council cannot defeat the performance by an officer of a duty imposed upon the officer by the law. *Gruber v. State ex rel. Welliver*, 196 Ind. 436, 148 N.E. 481 (1925). If the county council fails to make appropriations for the salary of the prosecutor and the prosecutor's deputies, it may be mandated to do so. *Howard County Council v. State, ex rel. Osborn*, 247 Ind. 279, 280, 215 N.E.2d 191, 192 (1966). But the mere fact that the county appropriates funds for the prosecutor does not make the prosecutor a county officer. *Bibbs v. Newman*, 997 F.Supp. 1174, 1180 (S.D. Ind. 1998). No statute or case holds that this duty of appropriation brings with it the right to control the terms of employment of deputy prosecuting attorneys.

3. Employment status of deputy prosecuting attorneys

As noted above, if the prosecuting attorney is acting as a state officer, it follows that deputy prosecuting attorneys are also acting as state officers. A prosecutor's authority to appoint deputies and the number of deputies who may be appointed is a matter

of statute. Ind. Code § 33-14-7-2. Under Indiana law, a deputy is fully authorized to act for the principal officeholder. Ind. Code § 1-1-4-1(5). Deputy prosecuting attorneys legally can perform any act pertaining to the office. *Hamer v. State*, 200 Ind. 403, 163 N.E. 91 (1928); *State ex rel. Williams v. Ellis*, 184 Ind. 307, 313, 112 N.E. 98 (1916); *Stout v. State*, 93 Ind. 150 (1884).

For this reason, the Seventh Circuit has held that a deputy prosecutor has a confidential relationship with the prosecuting attorney, with the ability to directly implement policy by acting for the prosecutor. *Livas v. Petka*, 711 F.2d 798, 800 (7th Cir. 1983); *see also Americanos v. Carter*, 74 F.3d 138 (7th Cir.), *cert. denied*, 116 S.Ct. 1853 (1996) (deputy attorneys general). When a prosecuting attorney selects deputies, therefore, he or she is acting as a state officer. The decision to appoint or discharge a deputy is not some administrative detail of running the office, but rather is the selection of the lawyers through whom the prosecuting attorney will execute the function of the office. "Since the officer who appoints a deputy is responsible for all official acts of the deputy and the deputy may perform all the official duties of the officer who appointed him and is subject to the same regulations and penalties as the officer who appointed him, it is obvious that the Indiana general assembly intended deputies appointed under the chapter to be officers-at-will of the appointing constitutional officer." 1988 OAG No.11, p. 193. "Under Indiana law the relationship is presumed to be an appointment at the will of the appointing authority, and there is no evidence here tending to show that the prosecutor's power to terminate the appointment at any time and for any reason has been limited by law." *Bibbs*, 997 F.Supp. at 1180.

4. Prosecuting attorney's other employment decisions

Deputy prosecuting attorneys have a special relationship with the appointing authority and, like the prosecutor, act as state officers. In addition, the prosecutor may find it necessary to employ other individuals to assist with his duties. The appointment of an investigator must be done "with the approval of the county council or councils" and that person's salary "shall be set by the county council or councils." Ind. Code § 33-14-6-1. That same statute, however, prevents the council from terminating the investigator position or reducing the compensation of the position by the council "without approval of the prosecuting attorney." *State ex rel. Schuerman*, at 395 N.E.2d 869, 182 Ind. App. 618 (1979). In terms of other employment decisions that the prosecutor may make, "[t]here shall also be appropriated annually by the various county councils for other deputy prosecuting attorneys, investigators, clerical assistance... an amount as may be necessary for the proper discharge of the duties imposed by law upon the office of the prosecuting attorney of each judicial circuit." Ind. Code § 33-14-7-2(g). Although the county council is obliged to support the prosecutor's office,

> It is self evident that two very different sums could be arrived at as the necessary salaries for a prosecutor's staff. While these figures may be varied they may both be reasonable and thus not an abuse of discretion by the county council.

Brown at 359 N.E.2d 610, 172 Ind. App. 35. Aside from setting the level of funding, however, there is no direct involvement by the county councils in filling positions other than that of investigator.

CONCLUSION

1. Conferring merit status

"[D]eputies of elected Indiana constitutional officers [e.g. prosecuting attorneys]... are not, *by constitution or specific statute*, merit... Such deputies are officers-at-will" 1988 OAG No.11, p**.** 200 (emphasis in original)**.** Under Indiana law the prosecutor is a state officer elected by the citizens of the circuit. "The prosecuting attorney is the employer of the prosecutor's deputies, and retains the right to control the terms of their employment." 2001 OAG No. 11. Conferring merit status on a deputy prosecutor is simply outside the realm of county regulation.

2. Validity of ordinance conferring merit status

Ordinances are presumed valid and the burden of proving invalidity is upon any party challenging an ordinance. *Hobble v. Basham*, 575 N.E.2d 693, 697 (Ind. Ct. App. 1991). But an ordinance is invalid if it conflicts with "rights granted or reserved by the General Assembly." *Suburban Homes Corp.*,411 N.E.2d at 171. The prosecutor is a state officer and the General Assembly has enacted legislation concerning the appointment of deputies and their salaries. Ind. Code § 33-14-7-2. Because the General Assembly has enacted a general law that "occupies the area" an ordinance that interferes with the prosecutor's statutory authority to select deputies is invalid.

3. Other employment decisions

The nature of a county council's involvement in a prosecutor's employment decisions is set out in statute. The council may be directly involved in the decision to hire an investigator. The councils are indirectly involved in other decisions to expend funds

by setting the level of appropriations deemed necessary, "but this obligation does not carry with it the right to dictate the terms and conditions of employment in that office." 2001 OAG No. 11.

Sincerely,

Stephen Carter
Attorney General

OFFICE OF THE ATTORNEY GENERAL

October 11, 2002

OFFICIAL OPINION 2002-5

Mr. Charles Johnson, III, CPA
State Examiner
State Board of Accounts
302 West Washington Street
4th Floor, Room E418
Indianapolis, Indiana 46204-2765

RE: Payment by Public Employers of Group Health Insurance Premiums

Dear Mr. Johnson:

This letter responds to your request for an advisory letter on the following questions:

May a public employer pay the full amount of group health insurance premiums for its employees under Ind. Code § 5-10-8-2.6 and Ind. Code § 5-10-8-3.1?

What is the application of these statutes in situations where a collective bargaining agreement exists?

It is our opinion that public employers may not pay the full amount of group health insurance premiums for their employees. Ind. Code § 5-10-8-2.6(c) clearly states that employers may pay "a part" of the cost of group insurance and this language has been interpreted by past Attorneys General to exclude the possibility of allowing employers to pay the full amount. Because it is not permissible to bargain for a term that is contrary to statute or public policy, the existence of a collective bargaining agreement allowing full payment by employers would not alter this conclusion. *See Ahuja v. Lynco Ltd. Medical Research,* 675 N.E.2d 704 (Ind. Ct. App. 1997); *Gary Teachers Union, Local No. 4 v. School City of Gary,* 165 Ind. App. 314, 332 N.E.2d 256 (1975).

ANALYSIS

I. Public Employers May Not Pay the Full Amount of Their Employees' Group Health Insurance Premiums

Ind. Code § 5-10-8-2.6 states that public employers may provide programs of group insurance for their employees and retired employees. The statute provides in pertinent part: "A public employer may pay *a part* of the cost of group insurance..." Ind. Code § 5-10-8-2.6(c) (emphasis added).

In interpreting the meaning of a statute, the primary goal is to discern the legislative intent behind it. *Woods v. State,* 703 N.E.2d 1115, 1117 (Ind. Ct. App. 1998). To determine the legislature's intent, courts will look to the plain language of the statute. *N. Miami Educ. Ass'n v. N. Miami Cmty. Schools,* 746 N.E.2d 380, 381 (Ind. Ct. App. 2001). If a statute has not been previously construed, its interpretation is controlled by the express language of the statute and by application of the general rules of statutory construction. *Woods,* 703 N.E.2d at 1117. One of the fundamental rules of statutory construction is that we look to the plain language of the statute and attribute the common, ordinary meaning to terms found in everyday speech. *Id.*

Ind. Code § 5-10-8-2.6 has not been previously construed by a court; therefore, we must look to its plain language. The fact that the legislature has expressly stated that public employers may pay "a part" of the cost of group insurance is controlling here. It would in no way be possible to construe the word "part" to mean "whole." It is helpful here to bear in mind the Latin phrase "expressio unius est exclusio alterius" which represents a canon of construction holding that the enumeration of certain things in a statute necessarily implies the exclusion of all others. *T.W. Thom Const., Inc. v. City of Jeffersonville,* 721 N.E.2d 319, 325 (Ind. Ct. App. 1999). Therefore, because the statute specifically states that employers may pay only a part of the cost of group insurance, it excludes the possibility of allowing them to pay the full amount. Presumably, if the legislature had intended to permit employers to pay the full amount, the statute would not have included the words "a part." It may be reasonably inferred by the deliberate use of those words that the legislature did not intend for employers to pay the full amount.

However, there is no limitation in the statute upon the proportionate share which the employers may pay. Therefore, past Attorney General opinions have stated that the employer may pay any amount *less* than the total cost of the insurance. 1978 Ind. Op. Att'y Gen. No. 20 (citing 1957 Ind. Op. Att'y Gen. No. 21). The determination as to what share of the cost the employer will pay is left to the local unit. 1957 Ind. Op. Att'y Gen. No. 21. Thus, a public employer "may participate financially to any degree it desires, short of full payment for the cost of the insurance plan selected, so long as the employer has sufficient funds available for the payment of wages and salaries from which it can appropriate the money for the payment." *Id.*

Additionally, Ind. Code § 5-10-8-3.1 provides that a public employer who contracts for group insurance "may withhold or cause to be withheld from participating employees' salaries or wages whatever part of the cost of the plan the employees are required to pay." If this option is exercised, the employer withholds from the employee's wages that portion which the employee is required to pay. The employer must then contribute the additional funds necessary to comprise the entire cost of the premium. 1978 Ind. Op. Att'y Gen. No. 20.

II. Collective Bargaining Agreements

"Collective bargaining" normally refers to the negotiation process between an employer and a properly accredited agent of its employees concerning the wages, hours and working conditions of those employees. *City of Michigan City v. Fraternal Order of Police*, 505 N.E.2d 159, 160 (Ind. Ct. App. 1987). A collective bargaining agreement is the contract[1] resulting from those negotiations. *Id.* While there is a strong presumption of the validity of contracts, courts have refused to enforce contracts that contravene a statute or are otherwise contrary to the declared public policy of the state. *Ahuja v. Lynco Ltd. Medical Research*, 675 N.E.2d 704, 708 (Ind. Ct. App. 1997).

In *Gary Teachers Union, Local No. 4 v. School City of Gary*, the Indiana Court of Appeals held that a provision in a collective bargaining agreement entered into between the teachers union and the school was void as contrary to law. 165 Ind. App. 314, 316, 332 N.E.2d 256, 258 (1975). The provision granted tenure to any teacher who had served under contract as a teacher in the School City of Gary for three (3) or more successive years and who at any time thereafter entered into a contract with the school for further service. *Id.* This conflicted with the Teacher Tenure Act passed by the General Assembly which provides that teachers who have served under contract as a teacher in a school city or school town corporation for five (5) or more successive years and then enter into a contract for further service with such corporation shall become "permanent" teachers with indefinite contracts to remain in force until the teacher reaches 66 years of age. *Id.* The court ruled that the Teacher Tenure Act controls and prohibits according tenure status to teachers before the statutory requirements are met. *Id.* at 320, 332 N.E.2d at 260.

The courts will not, therefore, uphold a term reached through collective bargaining that is contrary to statute or public policy. Ind. Code § 5-10-8-2.6(c) clearly states that public employers may only pay a part of the cost of group insurance; therefore, any term of a collective bargaining agreement providing for the payment of the entire cost by the employer would be void as contrary to statute.

CONCLUSION

The language of Ind. Code § 5-10-8-2.6 unambiguously states that public employers may pay *a part* of the cost of group health insurance premiums for their employees. Rules of statutory construction hold that an unambiguous statute must be held to mean what it plainly expresses. *N. Miami Educ. Ass'n*, 746 N.E.2d at 382. Therefore, because the statute provides that employers may only pay a part of the cost, this language cannot be expanded or construed to allow employers to pay the full amount. The existence of a collective bargaining agreement allowing employers to pay the full amount would not alter this conclusion, as courts will not enforce contract terms that run contrary to statute or public policy. *Ahuja*, 675 N.E.2d at 707.

Sincerely,

Stephen Carter
Attorney General

James F. Schmidt
Deputy Attorney General

[1] Although collective bargaining agreements are considered contracts relating to employment, "they do not necessarily create a 'contract of employment' within the strict meaning of the term." *Ritter v. Stanton*, 745 N.E.2d 828, 841 (Ind. Ct. App. 2001).

INDIANA DEPARTMENT OF INSURANCE
BULLETIN 113
November 4, 2002
PRODUCER DUE DILIGENCE WHEN SELLING GROUP HEALTH PLANS

This Bulletin is directed to all insurance producers licensed in Indiana to sell accident and sickness insurance and to any person who may assist directly or indirectly in the procurement of an insurance product. This Bulletin is intended to replace Bulletin 65, and Bulletin 65 is hereby withdrawn.

As health insurance costs rise, employers and individuals are shopping for more affordable health plans. Producers may be tempted to offer unlicensed plans, "ERISA plans," or plans that claim to be "reinsurance" or "stop-loss coverage," and that appear to have significantly lower premiums than plans issued by licensed insurance companies. Often, these plans may claim they are not subject to regulation by the Indiana Department of Insurance ("Department.")

The Department has shut down some of these plans and, nationwide, consumers and employers have lost millions of dollars to unauthorized and under-funded health insurance plans. Contrary to their claims, most of these plans are subject to state regulation. The plans should be licensed or registered with the Department and monitored for financial solvency. Some employer-sponsored and union plans are exempt from state regulation by the Employee Retirement and Income Security Act of 1974 (29 U.S.C. 1001, *et seq*.). Such plans are formed by employers or unions for their own employees or members and are not sold by insurance producers. A health plan that claims to be exempt from state licensing requirements, but is in fact not exempt, is an unauthorized insurer. Pursuant to Ind. Code § 27-4-5-2(b)(2) if an unauthorized insurer fails to pay any claim or loss within the provisions of its contract, any person who assisted or in any manner aided directly or indirectly in the procurement of the contract is liable to the insured for the full amount of the claim or the loss in the manner provided in the contract.

Any producer approached to sell one of these plans should contact the Enforcement Division at the Department at (317) 233-4243 to learn whether the plan is licensed in Indiana and the existence and/or status of any investigation. A producer should also examine the plan carefully and request financial information, copies of contracts, filings with any state or federal agencies and the plan's authority to engage in the business of providing health coverage. Producers should pay careful attention to a health plan that:

1. Operates like insurance but claims not to be;
2. Avoids insurance terminology, although it operates like insurance;
3. Refers to reinsurance or stop-loss as the only coverage;
4. Calls itself an "ERISA" or union plan;
5. Calls itself an "employee leasing" arrangement with self-funded coverage;
6. Targets individuals with pre-existing conditions;
7. Advertises unusually low premiums or generous benefits, low or no participation requirements, or little or no underwriting.

Even if a health plan is authorized, producers should be familiar with the plan, including whether it is an employer sponsored plan, a trust or association plan, the name of the policyholder or plan sponsor, the state and federal mandates applicable to the plan, and what protections exist for the consumer in the event of insolvency.[1] The Department receives many complaints from people who believed they bought one kind of plan and then discovered it to be another.

The Department expects producers to exercise due diligence when selling group health plans, and to provide written proof of such due diligence upon request from the Department. In addition to the potential liability outlined above, the failure of a producer to exercise due diligence and to make reasonable inquiries of a health plan may subject the producer to disciplinary action under Ind. Code § 27-8-15.6-12 for incompetence, untrustworthiness, or financial irresponsibility in the conduct of his or her business.

INDIANA DEPARTMENT OF INSURANCE
Sally McCarty, Commissioner

[1] It should be noted that Ind. Code § 27-8-8-18 prohibits the use of the Indiana Life and Health Guaranty Association for marketing purposes.

DEPARTMENT OF STATE REVENUE
COMMISSIONER'S DIRECTIVE # 18
DECEMBER 2002

Disclaimer: Commissioner's Directives are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations or court decisions is not binding on either the Department or the taxpayer. Therefore the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: UTILITY RECEIPTS TAX

INTRODUCTION

The purpose of this Directive is to present an overview of the Utility Receipts Tax which was enacted in 2002. This overview is intended to highlight the major areas of the new law and promote a general understanding of its basic principles.

The Department is required by statute to adopt the initial rules and prescribe the initial forms before December 1, 2002. The statute permits the Department to adopt the initial rules in the same manner that emergency rules are adopted under IC 4-22-2-37.1. The initial rules expire on the earlier of the date that the rule is superseded, amended or repealed by a permanent rule, or July 1, 2004.

AUTHORITY

House Enrolled Act 1001ss (2002) added a new Article to the Indiana Code which enacts a utility receipts tax imposed on the taxable gross receipts of a taxpayer providing the retail sale of utility services. The statute is effective on January 1, 2003.

DEFINITIONS

Gross Receipts. Gross receipts refers to anything of value, including cash or other tangible or intangible property, that a taxpayer receives in consideration for the **retail** sale of utility services for consumption before deducting any costs incurred in providing the utility services.

Receives. Receives as applied to a taxpayer means the actual coming into possession of, or the crediting to the taxpayer of gross receipts; or the payment of a taxpayer's expenses, debts, or other obligations by a third party for the taxpayer's direct benefit.

Taxable Gross Receipts. Taxable gross receipts means the remainder of all gross receipts that are not exempt from tax less all deductions that are allowed under the statute.

Taxable Year. Taxable year means the year that a taxpayer uses for purposes of filing the taxpayer's federal income tax return. If a taxpayer does not file a federal income tax return, then the term means a calendar year.

Taxpayer. Taxpayer includes the following:

1. Assignee;
2. Receiver;
3. Commissioner;
4. Fiduciary;
5. Trustee;
6. Institution;
7. Consignee;
8. Firm;
9. Partnership;
10. Limited liability partnership;
11. Joint venture;
12. Pool;
13. Syndicate;
14. Bureau;
15. Association;
16. Cooperative association;
17. Corporation;
18. Political subdivision or the State of Indiana, to the extent engaged in private or proprietary activities or business;
19. Trust;
20. Limited liability company; or
21. Other group or combination acting as a unit;

regardless of whether the entity is exempt from adjusted gross income tax under IC 6-3 or exempt from federal income tax under the Internal Revenue Code.

Telecommunication Services. Telecommunication services means the transmission of messages or information by using wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities.

The term does not include value added services in which computer processing applications are used to act on the form of the information for purposes other than transmission. The term does not include value added services providing text, video graphic or audio program content for a purpose other than transmission.

The term does not include the transmission of video programming or other programming provided by a television broadcast station or a radio station, including cable TV, direct broadcast satellite, or digital television.

Utility Service. Utility service means the furnishing of any of the following:

1. Electrical energy.
2. Natural gas used for heat, light, cooling or power.

3. Water.
4. Steam.
5. Sewage.
6. Telecommunication services.

IMPOSITION

The utility receipts tax is imposed upon the receipt of the entire taxable gross receipts of a taxpayer that is a resident or domiciliary of Indiana, and the taxable gross receipts derived from activities or business or any other sources within Indiana by a taxpayer that is not a resident or domiciliary of Indiana.

The tax is imposed at a rate of one and four-tenths percent (1.4%).

Every "S" Corporation or other entity exempt from federal income taxation under Section 1361 of the Internal Revenue Code, partnership, limited liability company, and limited liability partnership is liable for the utility receipts tax. No utility receipts tax is imposed on a partner's, member's or shareholder's distributive share of the entity's gross income.

TAXABLE RECEIPTS

The following receipts are subject to the utility receipts tax:

1. The retail sale of utility services for consumption.
2. Judgments or settlements as compensation for lost retail sales.
3. Sales to a reseller if the utility is used in hotels, mobile home parks or marinas.
4. Sales of water or gas to another for rebottling.
5. Installation, maintenance, repair, equipment, or leasing services provided to a commercial or domestic consumer that are directly related to the deliver of utility services, and charges for removal of the equipment from such consumer upon termination of service.
6. All other receipts not segregated between retail and non-retail transactions.

NOTE: Generally, retail receipts from all utility services consumed within Indiana are subject to the utility receipts tax regardless of the point of generation or transmission across state lines. Receipts from the provision of mobile telecommunication services are subject to utility receipts tax to the extent that the receipts are sourced to Indiana pursuant to IC 6-8.1-15.

DEDUCTIONS

The following deductions are permitted against the taxable receipts for purposes of the utility receipts tax.

1. Each taxable year a taxpayer is entitled to deduct from the taxpayer's gross receipts an amount equal to $1,000. This amount is prorated if the taxpayer's tax period is less than one year. NOTE: An affiliated group that files a consolidated return is entitled to only one deduction.
2. If a taxpayer reports the taxpayer's gross receipts on an accrual basis, the taxpayer is entitled to deduct bad debts from the taxpayer's gross receipts in the same manner provided in IC 6-2.5-6-9.
3. If, for federal income tax purposes a taxpayer is allowed a depreciation deduction for a particular taxable year with respect to a resource recovery system, and the resource recovery system processes solid waste or hazardous waste, the taxpayer is entitled to a deduction equal to the depreciation deduction for an Indiana resource recovery system that the taxpayer is allowed under Sections 176 and 179 of the Internal Revenue Code.
4. The taxpayer is entitled to deduct from the gross receipts the amount paid by the taxpayer for the return of an empty container of the type customarily returned by the buyer of the contents for reuse as a container if the taxpayer included such deposits in its gross receipts.
5. The taxpayer is entitled to a deduction for gross receipts exempt from taxation under IC 6-8.1-15 and the Mobile Telecommunications Sourcing Act.

NONTAXABLE RECEIPTS

The following receipts are excluded from the computation of the utility receipts tax.

1. Sales to the U.S. Government to the extent prohibited by the U.S. Constitution.
2. Collections by a taxpayer of a tax, fee or surcharge imposed by a state, political subdivision, or the United States if the tax is imposed solely on the sales at retail of utility services, and the taxpayer collects the tax separately as an addition to the price of the utility service sold.
3. Wholesale sales to another generator or reseller of utilities.
4. Holding company receipts from member electric cooperatives.
5. Joint agency receipts from member municipal electric utilities.
6. Refundable deposits paid by a customer to the taxpayer.
7. An occasional sale of utility services by a taxpayer that is not regularly engaged in the trade or business of selling utility services is exempt from the tax.

EXEMPT ENTITIES

Gross receipts received by the following entities are exempt from the utility receipts tax.

1. Conservancy districts established under IC 14-33-20 or IC 13-3-4.
2. Regional water, sewage, or solid waste districts established under IC 13-26 or IC 13-3-2.
3. A nonprofit corporation formed solely for the purpose of supplying water to the public.
4. A county solid waste management district or a joint solid waste management district established under IC 13-21 or IC 13-9.5-2.
5. A nonprofit corporation formed for the purpose of providing a combination of water and sewer and sewage service to the public.
6. A county onsite waste management district established under IC 36-11.

ESTIMATED PAYMENTS AND RETURNS

Every taxpayer whose annual tax liability exceeds one thousand dollars ($1,000) is required to file and pay the utility receipts tax on a quarterly basis. The taxpayer shall pay to the Department twenty-five percent (25%) of the annual estimated tax or the exact amount of utility receipts tax that is due for that quarter.

A taxpayer that uses a taxable year that ends on December 31 shall file the taxpayer's estimated utility receipts tax return and pay the tax due on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer's taxable year does not end on December 31, the due dates for filing the return and paying the tax are the 20th day of the fourth, sixth, ninth, and twelfth month of the taxpayer's taxable year.

If a taxpayer's estimated quarterly utility receipts tax liability exceeds ten thousand dollars ($10,000), the taxpayer shall pay the estimated utility receipts tax due by electronic funds transfer (EFT) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the Department. The transfer or payment shall be made on or before the date that the tax is due. If the taxpayer's utility receipts tax payment is made by electronic funds transfer (EFT), the taxpayer is not required to file an estimated utility receipts tax return. To register for electronic funds transfer, form EFT-1 must be completed and remitted to the Department by fax (317-615-2691) or mailed to:

Indiana Department of Revenue
P. O. Box 6077
Indianapolis, IN 46206-6077

Form EFT-1 can be obtained on the Department's web site (www.state.in.us/dor/). Questions concerning the registration process can be directed to 317-615-2695.

ANNUAL RETURNS AND PAYMENTS

Every taxpayer who receives more than one thousand dollars ($1,000) in receipts from the retail sale of utility services is required to file an annual utility receipts tax return, Form URT. Any taxpayer who does not file an annual utility receipts tax return for a taxable year may be required to execute and file with the Department a sworn statement that the taxpayer did not receive more than one thousand dollars ($1,000) of taxable gross receipts during the taxable year.

When the taxpayer files an annual utility receipts tax return, the taxpayer shall pay to the Department the total utility receipts tax liability incurred by the taxpayer for that taxable year, minus the total estimated payments that were made for that taxable year.

A taxpayer who used a taxable year that ends on December 31 shall file the taxpayer's annual return on or before April 15 of the immediately succeeding year. A taxpayer, whose taxable year does not end on December 31, shall file the annual return on or before the fifteenth day of the fourth month after the close of the taxpayer's tax year.

CONSOLIDATED RETURN OF AN AFFILIATED GROUP

Corporations are considered to be affiliated if at least eighty percent (80%) of the voting stock of one corporation is owned by the other corporation. Every corporation affiliated with another corporation is affiliated with every corporation that is affiliated with such other corporation. All corporations so affiliated constitute an affiliated group.

Corporate members of an affiliated group that are incorporated in Indiana or are authorized to do business in Indiana may file a consolidated utility receipts tax return.

An affiliated group must elect at the time the group files its first annual return whether or not the group will file a consolidated utility receipts tax return, or whether each corporate member of the group will file a separate utility receipts tax return. Once an election is made, the group must file the utility receipts tax returns in the same manner as the group's first annual return is filed, unless the Department allows the group to change the manner in which it files its utility receipts tax return.

If a consolidated return is filed, the return can be filed by any member of the group incorporated or authorized to do business in Indiana. The filing member shall remain the filing member on all subsequent consolidated returns filed by the affiliated group, unless the Department allows another member to file the group's consolidated return.

TRANSITIONAL PROCEDURES

There is transitional language in HEA 1001ss that gives direction on how a fiscal year taxpayer will file its initial utility receipts tax return. As stated earlier, the annual return is due on the fifteenth day of the fourth month following the close of the taxpayer's taxable year.

A fiscal year taxpayer for purposes of the utility receipts tax has an initial short tax year that begins on January 1, 2003 and ends on the day preceding the day that the taxpayer's next taxable year under the Internal Revenue Code begins.

If a taxpayer is filing a short year return, the one thousand dollar ($1,000) taxpayer deduction, and the resource recovery system tax deduction will be multiplied by a fraction. The numerator of the fraction is the number of days remaining in the taxpayer's taxable year after December 31, 2002, and the denominator is the total number of days in the taxable year under the Internal Revenue Code for the purposes of federal income taxation.

_____

Kenneth L. Miller
Commissioner

STATE OF INDIANA
DEPARTMENT OF STATE REVENUE

IN REGARDS TO THE MATTER OF:
V.F.W. POST NO. 1421
7712 BLUFFTON ROAD
FORT WAYNE, IN 46809
DOCKET NO. 29-20020316

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DEPARTMENTAL ORDER

An administrative hearing was held on Tuesday, August 20, 2002 in the office of the Indiana Department of State Revenue, 100 N. Senate Avenue, Room N248, Indianapolis, Indiana 46204 before Bruce R. Kolb, an Administrative Law Judge acting on behalf of and under the authority of the Commissioner of the Indiana Department of State Revenue.

Its Quartermaster John Dahman represented the Petitioner. Attorney Steve Carpenter, appeared on behalf of the Indiana Department of State Revenue.

A hearing was conducted pursuant to IC 4-32-8-1, evidence was submitted, and testimony given. The Department maintains a record of the proceedings. Being duly advised and having considered the entire record, the Administrative Law Judge makes the following Findings of Fact, Conclusions of Law and Departmental Order.

REASON FOR HEARING

On June 18, 2002 Petitioner's Indiana Charity Gaming Application was denied. The Petitioner protested in a timely manner. A hearing was conducted pursuant to IC § 4-32-8-1.

SUMMARY OF FACTS

1) Petitioner submitted its Indiana Department of Revenue Annual Bingo License Application CG-2 on April 17, 2002.

2) Based upon a review of Petitioner's application and an investigation by the Indiana Department of Revenue's Criminal Investigation Division the Petitioner's Indiana Charity Gaming Application was denied.

FINDINGS OF FACT

1) Petitioner submitted its Indiana Department of Revenue Annual Bingo License Application on April 17, 2002. (Department's Exhibit A).

2) The Department upon reviewing the application and an investigation by the Indiana Department of Revenue's Criminal Investigation Division determined that Petitioner had violated IC 4-32-9-20; IC 4-32-9-27; and IC 4-32-9-28. (Record at 6).

3) The Department then notified Petitioner by letter dated June 18, 2002, that their Indiana Charity Gaming Application was denied. (Record at 5).

4) The Department opines that the amount paid by Petitioner to rent its facility to conduct charity gaming may exceed the $200 per day statutory limitation provided in IC 4-32-9-20(a). (Record at 8).

5) A review of the individuals listed on Petitioner's CG-2 showed that two individuals on the list were not members of Petitioner's organization, but paid bartenders a violation of IC 4-32-9-27 & 28. (Record at 11).

6) The Petitioner admitted at hearing that the two individuals listed as workers on its Indiana Form CG-2 were paid employees and not members of its organization and as such, should not have been listed as workers on its application. (Record at 26 & 27).

7) The Commander of Petitioner's Post stated in a sworn statement that the checking account listed on its Indiana Charity Gaming Application did not belong to the Post. (Department's Exhibit B).

8) Petitioner also admitted at hearing that they did not know the provisions of IC 4-32-9-17, requiring a separate and segregated charity gaming account, prohibited them from authorizing the opening of a separate individual account held by an individual member. (Record at 32 & 33).

9) Additionally, the Department contends that its denial was based upon the fact that the check that accompanied Petitioner's application was drawn on an account and signed by an individual who was not an officer of the organization.

STATEMENT OF LAW

1) Pursuant to IC 6-8.1-5-1, the Department's findings are prima facie evidence that the Department's claim is valid. The burden of proving that the findings are wrong rests with the person against whom the findings are made. See Portland Summer Festival v. Department of Revenue, 624 N.E.2d 45 (Ind.App. 5 Dist. 1993).

2) The Department's administrative hearings are conducted pursuant to IC § 6-8.1-5-1 et seq. (See, Portland Summer Festival v. Department of Revenue, 624 N.E.2d 45 (Ind.App. 5 Dist. 1993)).

3) Pursuant to 45 IAC 15-5-3(b)(7), "The hearing is not governed by any rules of evidence. The department is expressly excluded from the requirements of the Administrative Adjudication Act.(renamed the Administrative Order and Procedures Act)."

4) Even if the Department were bound by the Administrative Orders and Procedures Act (AOPA), the rules clearly state that hearsay evidence that is properly objected to and does not fall with an exception to the hearsay rule may not form the sole basis of a resulting order. The AOPA does not say that the evidence cannot be heard, presented, or considered.

5) IC 4-32-9-27 states, "An operator or a worker may not directly of indirectly participate, other than in a capacity as operator or worker, in an allowable event…"

6) IC 4-32-9-28 states, "An operator must be a member in good standing of the qualified organization that is conducting an allowable event for at least one (1) year at the time of the allowable event."

7) According to IC 4-32-9-29, "A worker must be a member in good standing of a qualified organization that is conducting an allowable event for at least thirty (30) days at the time of the allowable event."

8) IC 4-32-9-20 states, "Except as provided in subsection (d), if facilities are leased for an allowable event, the rent may not:

(1) be based in whole or in part on the revenue generated from the event; or

(2) exceed two hundred dollars ($200) per day.

(b) A facility may not be rented for more than three (3) days during a calendar week for an allowable event.

(c) If personal property is leased for an allowable event, the rent may not be based in whole or in part on the revenue generated from the event.

(d) If a qualified organization conducts an allowable event in conjunction with or at the same facility where the qualified organization or its affiliate is having a convention or other meeting of its membership, facility rent for the allowable event may exceed two hundred dollars ($200) per day. A qualified organization may conduct only one (1) allowable event under this subsection in a calendar year.

9) IC 4-32-12-1(a) (4) provides in pertinent part, "The Department may suspend… an individual …for any of the following: (1) Violation of a provision of this article or of a rule of the department…(4) Commission of fraud, deceit, or misrepresentation."

10) The Indiana Department of Revenue Annual Bingo License Application CG-2 states on line 24, "The license fee for an organization's first Annual Bingo License is $25.00 and must be paid with this application. The fee should be paid by a check drawn from **your not-for-profit checking account**. Make your check payable to: Indiana Department of Revenue." (Emphasis added).

11) IC 4-32-9-17 states, "A qualified organization shall maintain accurate records of all financial aspects of an allowable event under this article. A qualified organization shall make accurate reports of all financial aspects of an allowable event to the department within the time established by the department. The department may prescribe forms for this purpose. The department shall, by rule, require a qualified organization to deposit funds received from an **allowable event** in a **separate and segregated account set up for that purpose**. All expenses of the qualified organization with respect to an **allowable event** shall be paid from the separate account." (Emphasis added).

12) IC 4-32-15-4 states, "A payment by a licensed entity to the department may not be in cash. All payments must be in the form of a check, a draft, an electronic funds transfer, or another financial instrument authorized by the commissioner. The department may require licensed entities to establish separate electronic funds transfer accounts for the purpose of making payments to the department."

CONCLUSIONS OF LAW

1) The Department's findings are prima facie evidence that the Department's claim is valid. The burden of proving that the findings are wrong rests with the person against whom the findings are made.

2) Once again (having ruled on this issue previously) the mere fact that the amount of rent paid by Petitioner ***MAY*** exceed the $200 statutory limitation is ***NOT SUFFICIENT*** to justify a denial of Petitioner's charity gaming application.

3) The Petitioner admitted at hearing that the two individuals listed as workers on its Indiana Form CG-2 were paid employees and not members of its organization and as such, should not have been listed as workers on its application. A violation of IC 4-32-9-27 & 28.

4) Petitioner also admitted at hearing that they did not know the provisions of IC 4-32-9-17, requiring a separate and segregated charity gaming account, prohibited them from authorizing the opening a separate individual account held by an individual member.

5) Pursuant to IC 4-32-9-17, the organization conducting charity gaming must establish a separate and segregated charity gaming account. No other organization or individual may open or operate this account.
6) The provisions of IC 4-32-9-17 only applies to the deposit of funds and payment of expenses related to running allowable events not the submission of application fees.
7) When filing a completed Form CG-2, the appropriate application fee must accompany the application. As long as the fee is in valid United States legal tender, and conforms to the method of payment proscribed in IC 4-32-15-4, the Department must accept it.
8) The Department's CG-2 states, "The fee should be paid by a check drawn from your not-for-profit checking account…" The Department's own form states that the fee ***should*** be paid and does not use the terms **shall** or **must**. Additionally, the form does not state that an officer must sign the check or that it must be from a separate and segregated charity gaming account. The CG-2 merely states that the check should be drawn from "your not-for-profit checking account."
9) The Department's denial of Petitioner's application based upon the fact that the original application fee accompanying the CG-2 was a check drawn from another's account and that it was not signed by one of Petitioner's officers is not valid reason for a denial.

DEPARTMENTAL ORDER

Following due consideration of the entire record, the Administrative Law Judge orders the following:
Based upon Petitioner's admissions of its violations of IC 4-32-9-17, IC 4-32-9-27 & 28 its appeal is denied.
1) Under IC 6-8.1-5-1, the organization may request a rehearing. However, rehearings are granted only under unusual circumstances. Such circumstances are typically the existence of facts not previously known that would have caused a different result if submitted prior to issuance of the Departmental Order.
2) A request for rehearing shall be made within seventy-two (72) hours from the issue date of the Departmental Order and should be sent to the Indiana Department of Revenue, Legal Division, Appeals Protest Review Board, P.O. Box 1104, Indianapolis, Indiana 46206-1104.
3) Upon receipt of the request for rehearing, the Department will review the respective file and the rehearing request to determine if sufficient new information has been presented to warrant a rehearing.
4) The Department will then notify the organization in writing whether or not a rehearing has been granted. In the event a rehearing is granted, the organization will be contacted to set a rehearing date.
5) If the request for rehearing is denied or a request is not made, all administrative remedies will have been exhausted. The organization may then appeal the decision of the Department to the Court of proper jurisdiction.

THIS ORDER SHALL BECOME THE FINAL ORDER OF THE INDIANA DEPARTMENT OF STATE REVENUE UNLESS OBJECTIONS ARE FILED WITHIN SEVENTY-TWO (72) HOURS FROM THE DATE THE ORDER IS ISSUED.

Dated: _____ _____

Bruce R. Kolb / Administrative Law Judge

DEPARTMENT OF STATE REVENUE
SALES TAX DIVISION
INFORMATION BULLETIN #1FB
DECEMBER, 2002
(REPLACES BULLETIN #1FB ISSUED APRIL 8, 2002)

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SUBJECT: COUNTY FOOD AND BEVERAGE TAX

REFERENCE: IC 6-9-12, IC 6-9-20, IC 6-9-21, IC 6-9-23, IC 6-9-24, IC 6-9-25, IC 6-9-26, IC 6-9-27, and IC 6-9-33

This information bulletin is directed to retail merchants responsible for collecting the county food and beverage tax. The purpose of this information bulletin is to assist retail merchants in the proper application of the food and beverage tax. In counties adopting a food and beverage tax the tax equals one percent (1%) of the gross retail income received from food and beverage transactions.

LOCATION OF TRANSACTION

This tax applies only to transactions taking place in counties adopting the tax. A retail merchant that does catering in counties who have not adopted the tax will not collect the tax on transactions in those counties.

MEALS

Sales of meals, including food and beverages, which are sold by a retail merchant for consumption at the merchant's business location or at a location where the merchant provides the meal, are subject to the tax.

All sales of food and beverage as a meal or for immediate consumption made by a retail merchant are subject to the tax. The tax shall apply to all sales of food and beverages which are packaged, prepared, or sold as meals, or in a form which normally may be consumed at or near the premises, whether or not such food and beverages are actually consumed on the premises. This includes street vendor sales, catering sales, and sales by grocery stores.

Food and beverage tax must be collected on any unitary transaction of fifty cents ($0.50) or more. The amount shown on a single check is considered to be a single sale even though food or drink is consumed by more than one person. Payment by one person of items listed on more than one check is also a single sale. Tax is computed on the single sale total.

The Indiana sales tax and county food and beverage tax cannot be included in the selling price. The taxes may be combined after computation as one separately stated tax. The merchant cannot represent that the tax is being absorbed by the merchant.

Food and beverage sold to employees is subject to both the sales tax and the food and beverage tax. If food and beverage is given to an employee; the sales tax, use tax, and food and beverage tax do not apply to the gift.

FOOD AND BEVERAGE SOLD FOR IMMEDIATE CONSUMPTION

Sales of food and beverage which ordinarily are sold for immediate consumption at or near the premises of the seller are taxable even though such food and beverage are sold on a "take-out" or "to go" order and are actually bagged, packaged, or wrapped and taken from the premises of the seller. Where and when the customer actually eats such food is immaterial. Accordingly, sales by restaurants, bars, taverns, cafeterias, lunch counters, grocery stores, drive-ins, roadside ice cream and refreshment stands, fish and chip places, fried chicken places, pizzerias, food and drink concessions, or similar facilities of meals, sandwiches, hamburgers, hot dogs, french fries, fried chicken, fish and chips, pizza, potato salad, cole slaw, salads, popcorn, sundaes, cones and cups of ice cream, milk shakes, soft drinks, and similar ready-to-eat food and beverage items are taxable, regardless whether sold by such establishments for consumption on the premises or on a "take-out" or "to go" basis. Alcoholic beverages sold as part of a meal or by the drink are taxable. Sales of prepared food which requires heating is subject to the food and beverage tax if the merchant provides equipment for heating. For example, sales of individual serving size popcorn or french fries are taxable if the merchant provides a microwave for preparing the food, regardless of whether the customer uses the equipment.

Certain items which are not for immediate consumption, but are subject to sales tax are not subject to the food and beverage tax. For example, soft drinks and alcoholic beverages purchased in packaged form (i.e., 6 packs, bottles, cases) are not subject to the food and beverage tax. Vending machine sales are not subject to food and beverage tax.

Any food and beverage which is prepared to the order of the purchaser or which is cooked and maintained at or near the cooking temperature prior to sale shall be considered to be sold as a meal or for immediate consumption and shall be subject to the food and beverage tax.

COMBINATION BUSINESS

Where a person operates a combination type business at one location such as an eating place combined with a grocery line, or an eating place combined with a donut or pastry shop, sales by such retailer of non-taxable grocery items are non-taxable for purposes of the food and beverage tax when sold for later preparation and consumption by the consumer. The method used in distributing these items, including the kind and size of the order and the container used, will be considered in determining whether the items are sold for immediate consumption. For example, bulk sales of donuts or other assorted pastries, sales of whole pies or cakes, and bulk sales of ice cream are non-taxable as they are not sold for immediate consumption. However, individual orders (i.e., an order of coffee and donuts, a piece of pie and milk, or a cup of ice cream) are taxable regardless whether sold for consumption on the premises or sold on a "take-out" basis for off-premises consumption.

Grocery stores which sell food for immediate consumption (i.e., salad bars, fried chicken, submarine sandwiches, pizza) must collect the food and beverage tax on these sales.

CATERERS

The law provides that the sale of food and beverage shall be taxable whether such food and beverage is served on or off the premises of the retailer. Accordingly, the sale of food or meals by caterers is subject to sales tax.

Tax applies to the entire charges made by caterers for serving meals, food and drink, inclusive of charges for food, the use of dishes, silverware, glasses, chairs, tables, etc., used in connection with serving meals, and for labor of serving meals.

REGISTRATION, SALES AND ACCOUNTING

All retail merchants are required to file an application for a registered retail merchants certificate for each location for the purpose of collecting Indiana sales tax. There is no additional registration requirement for merchants who collect the county food and beverage tax. However, these merchants must contact the Taxpayer Services Division for reporting forms for the county food and beverage tax.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #11
SALES TAX
DECEMBER, 2002
(Replaces Bulletin #11 dated May 1994)

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SUBJECT: Application of Sales Tax to Restaurant Owners Including Fast Food Operations and Caterers

REFERENCES: IC 6-2.5-5-20, 45 IAC 2.5-5-4, 45 IAC 2.5-5-43, 45 IAC 2.5-5-44, 45 IAC 2.5-5-45

I. General Information

All sales of tangible personal property made by restaurants are subject to the sales tax. The sales tax shall apply to all sales of food and beverages which are packaged, prepared, sold as meals, or in a form which is normally consumed at or near the premises whether or not such food and beverages are actually consumed on the premises.

Sales through a grocery store, salad bar, bakery, or delicatessen and by restaurants, cafeterias, lunch counters, drive-ins, roadside ice cream and refreshment stands, fish and chip places, fried chicken places, pizzerias, food and drink concessions, or similar facilities, of meals, sandwiches, hamburgers, hot dogs, french fries, fried chicken, fish and chips, pizza, potato salad, cole slaw, popcorn, sundaes, cones and cups of ice creams, milk shakes, soft drinks, and similar ready to eat food and beverage items are taxable regardless of whether sold by such establishments for consumption on the premises or on a "take-out" or "to go" basis.

Any food that is cooked to the order of the purchaser, or that is cooked and maintained at or near the cooking temperature prior to sale, or prepared food shall be considered to be sold as a meal or for immediate consumption and shall be subject to the sales tax. In addition the sale of food furnished, prepared, or served for consumption at tables, chairs, or counters, or from trays, glasses, dishes, or other equipment provided by the retail merchant is subject to sales tax.

The sale of food sold through vending machines or by street vendors is also subject to sales tax. The sale of food or meals by caterers is subject to sales tax. The tax does not apply to charges for serving or delivering food or beverages furnished, prepared, or served for consumption at a location or on equipment provided by the retail merchant. However, this exclusion only applies if the charges for serving or delivery are stated separately from the price of the food or beverages when the purchaser pays the charges.

Restaurants and caterers may not accept exemption certificates from any customer or organization in lieu of collecting sales tax except where: (1) the customer or organization purchases food and beverages exclusively for resale; or (2) a not-for-profit organization purchases food and beverage for fund raising.

Sales tax must be collected on any unitary transaction. The amount shown on a single check is considered to be a single sale even though the food or beverage is consumed by more than one person. Payment by one person of items listed on more than one check is also a unitary transaction.

II. Purchases by Restaurants:

A. Exempt Purchases

All purchases by restaurants of tangible personal property to be resold are exempt from sales tax. This exemption shall apply to all types of food, beverages, and other tangible personal property which are to be sold at retail. The purchase of tangible personal property that will act directly on the food during preparation is exempt from sales tax. (For example, a fryer or broiler would be exempt. However, a refrigerator is taxable because it serves merely as an agent in the preservation of food and does not act directly on the food during preparation). Utilities used in the production of food may also be exempt. For more information on this exemption, contact the Indiana Department of Revenue, Compliance Division.

Transactions involving tangible personal property are exempt from sales tax if the property is used, consumed, or removed in the service or consumption of the food, and the property is made unusable for further food service or consumption after the property's first use for food service or consumption. Items considered exempt include paper napkins, plastic silverware, paper and Styrofoam cups, plates, or bowls. Other items included would be paper place mats, paper tablecloths, and other "to go" containers. Items not exempt from the sale tax would be cloth napkins and tablecloths, reusable plates, glasses, or silverware.

B. Taxable Purchases

The purchase of reusable glasses, cups, plates, cleaning materials, fixtures, cash registers, containers, preparation and serving counters, or any other item which is not directly used in direct production of food or is not purchased for resale is subject to sales tax. All materials that have been purchased exempt from sales tax which are later used for a non-exempt purpose are subject to the use tax.

C. Wrapping Materials:

The purchase of wrapping materials may or may not be subject to tax depending on their use. Wrapping materials and containers used to preserve food are subject to tax because such materials are not to be resold and are not directly used in direct

production of food. Other wrapping materials and containers could be exempt if purchased for the reasons described in subpart A. Exempt Purchases.

III. Restaurant Records

All restaurant owners and operators must be registered as retail merchants and must maintain accurate records for three (3) years plus the current year in order to report to the Department the correct amount of gross receipts. If any sales are claimed as exempt sales, the records must clearly reflect such, and the owner must be able to substantiate all exempt sales. Refer to IC 6-2.5-6-8 to determine the calculation of very small transactions and the applicability of a sampling method.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #12
SALES TAX
DECEMBER, 2002
(Replaces Information Bulletin #12 dated August 1991)

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SUBJECT: Public Transportation

REFERENCES: IC 6-2.5-5-27, 45 IAC 2.2-5-61, 45 IAC 2.2-5-62, 45 IAC 2.2-5-63

I. Public Transportation Definition

"Public transportation" means the movement, transportation, or carrying of persons and/or property for consideration by a common carrier, contract carrier, household goods carrier, carriers of exempt commodities, and other specialized carriers performing public transportation service for compensation by highway, rail, air, or water, which carriers operate under authority issued by, or are specifically exempt by statute or regulation from economic regulation of, the appropriate federal or state regulatory authority.

Even if a person or company operates under the appropriate authority, they also must transport people or property for consideration. That is to say a public transportation provider must be compensated for transporting people or goods. The goods transported must be goods owned by someone other than the public transportation provider. To qualify for the exemption, a taxpayer must be predominately engaged in public transportation. A taxpayer is predominately engaged in public transportation if greater than 50% of its gross income is derived from transporting people or property for hire.

II. Acquisition of a Public Transportation Provider

Tangible personal property bought by a public transportation provider can be bought exempt from sales or use tax if the property is to be directly used in providing public transportation. Property is directly used in providing public transportation if the property is reasonably necessary to provide public transportation.

Determining whether property is reasonably necessary to provide public transportation can be difficult. The Department has determined that the following list of items are reasonably necessary to provide public transportation. The items listed are not all the items that could be considered reasonably necessary and the purpose of the list is to give some basic examples.

1. Roadway machinery and equipment;
2. Caboose and locomotive supplies such as fuses, lanterns, batteries, and flags;
3. Tariff publications;
4. Vehicles used for public transportation;
5. Communication equipment;
6. Equipment and items purchased to meet federal requirements;
7. All replacement parts, repair parts, and materials consumed by exempt equipment;
8. Tools and equipment used to repair and maintain rolling stock and track;
9. Vehicles used primarily for transportation of track maintenance crews;
10. Items used for repairs and maintenance of such vehicles;
11. Items used for production of financial matters, insurance, schedules, routes, and rates;
12. Items used to provide customer stations, handle baggage, sell tickets;
13. Items used to keep vehicles clean and safe for the passengers;

14. Machine shop and truck tools;
15. Equipment related to the construction and operation of terminals;
16. Directories;
17. Gas storage facilities;
18. Caboose and locomotive compliments such as towels, masking tape, powders, cleaners, ice, water coolers, and bottled water;
19. Cleaning supplies;
20. Employee uniforms; and
21. Garage supplies.

There are certain functional categories of items that are not reasonably necessary to provide public transportation. For example, all items related to the marketing and selling of public transportation are taxable. Telephone utilities used for sales activities, office supplies and furniture for sales personnel, and promotional expenses, such as matches, caps or jackets given away to the public, also would be subject to tax. If a taxpayer predominately engaged in public transportation acquires tangible personal property for predominate use in providing public transportation, it is entitled to the exemption. Thus, a phone used ten percent of the time for sales calls and ninety percent of the time to dispatch vehicles, would meet the predominate use (greater than 50%) test, and the entire purchase price would be exempt.

III. Exemption Certificates

A. Public Transportation

Any person or company predominately engaged in providing public transportation may buy certain items exempt from sales or use tax (see Section II), but to buy exempt, the public transportation provider should register with the Indiana Department of Revenue to obtain a Registered Retail Merchant Certificate, "RRMC". The RRMC will have a number that must be used on all exemption certificates given to vendors by the public transportation provider. Exemption certificates may be used either as a blanket exemption, kept on file by the vendor, or for each individual transaction. A blanket exemption certificate tells the vendor that all purchases made by the public transportation provider are reasonably necessary to providing public transportation. If a public transportation provider uses property purchased with a blanket exemption in a taxable manner, the provider must pay use tax for the purchase. The tax must be remitted on either the provider's sales and use tax return, the annual income tax return or a consumer use tax return, Form ST-115.

B. Individuals

Individuals predominately engaged in public transportation but operating under another person's IN USDOT or IN ID# or similar permit must use a special exemption certificate, Form ST-135, when making an exempt purchase. This special exemption certificate eliminates the need for individuals to register with the Department as retail merchants.

IV. Utilities

Before a person or company predominately engaged in providing public transportation can purchase utilities, natural gas, electricity, local exchange telephone service, intrastate toll message telephone service, steam or water, exempt from tax, an exemption certificate issued by the Department on behalf of the transportation provider, must be on file with the utility. A public transportation provider will only qualify for the special exemption certificate, Form ST-109, after having an ST-200 utility exemption application approved by the Department. The Department will only issue an ST-109 to a utility on behalf of the provider if the utility being bought is used exclusively for an exempt purpose. If the utility is being used less than fifty percent (50%), in providing public transportation, the public transportation provider must pay the tax and file a claim for refund for the exempt percentage.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #14
SALES TAX
DECEMBER, 2002
(Replaces Bulletin #14 dated October 1982)

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SUBJECT: Taxability of Purchases by Advertising Agencies
REFERENCE: IC 6-2.5-4

Items Used in the Everyday Performance of the Business:

Any purchases of personal property to be used in the everyday performance of the business are taxable to the advertising agency, (e.g., stationery, office supplies, office equipment, furniture, etc.).

Purchases by Advertising Agencies for Their Clients:

If an agency relationship exists between the advertising agent and his client, the principal, the agent may pay the sales tax for the principal when the advertising agency makes purchases of personal property in the client's behalf in the process of performing his services, (e.g., printing plates, photographs, advertising brochures). The agency may then seek reimbursement from the client at the time of billing. Similarly, if the purchase by the advertising agent is for an exempt organization and if the agent is duly authorized by his client to do so, then the agent may execute an exemption certificate using the client's Registered Retail Merchant Certificate Number and signing as agent for the client.

Failure of the agency to pay the sales tax on purchases as outlined above shall not relieve the principal of liability for the tax due.

Retail Sales by Advertising Agencies:

The transfer of tangible personal property for a consideration shall constitute a retail sale by the advertising agency and is subject to Gross Retail Tax unless transferred to the principal for whom the agency purchased the tangible personal property as outlined in the above paragraph.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #15
SALES TAX
DECEMBER, 2002
(Replaces Bulletin #15 dated November 1987)

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SUBJECT: Application of Indiana Sales Tax to Sales of Gasoline, and Special Fuels Sold Through Stationary Metered Pumps
REFERENCES: IC 6-2.5-7, 45 IAC 2.2-7

I. Gasoline: Calculating the Tax

A. The State Gross Retail (Sales) Tax applies to the total sales price of gasoline sold except for the part which constitutes Indiana Gasoline or Special Fuel tax or Federal Excise Tax. The oil inspection fee cannot be backed out of the price to determine the net price of the fuel. (See Departmental Notice #12 for further information.)

With respect to the sale of gasoline or special fuel from a metered pump, the retail merchant shall collect for each unit sold an amount equal to:

1. The price per unit before the addition of state and federal taxes;
2. Multiplied by the current sales tax rate.

B. Aviation Fuel: The federal tax on aviation fuel is also subtracted from the total sales price before computing Indiana Sales or Use Tax.

C. Each seller is responsible for deducting the correct amount of state and federal excise tax in order to determine the base for computing sales or use tax. (See Departmental Notice #12 for the applicable state and federal excise tax rates.)

D. Price discounts and coupons offered by gasoline retailers will be treated the same as other coupons and discounts offered by other retailers. (See Information Bulletin #58)

EXAMPLE 1: A retailer offers a $.03 per gallon discount if the purchaser has a coupon card issued by the retailer. The gasoline will be sold for $.03 less than the pump price, and the retailer is required to remit the sales tax on the discounted price.

EXAMPLE 2: A manufacturer of a product offers a $1.00 discount for the purchase of gasoline. The manufacturer reimburses the retailer for the $1.00 discount. The retailer is required to remit the tax on the full price of the gasoline.

II. Prepayment of Sales Tax on Gasoline

At the time of purchase or shipment of gasoline from a qualified distributor, a retail merchant shall prepay to the qualified distributor the state gross retail tax. The amount of tax that must be prepaid under this section equals:

1. The prepayment rate per gallon of gasoline; multiplied by
2. The number of invoiced gallons purchased or shipped.

The prepayment rate is the statewide average price per gallon, multiplied by the sales tax rate, multiplied by ninety percent (90%). The prepayment rate shall be determined semiannually, in June and December. The retail merchant must file monthly and remit sales tax which has been collected on the gasoline, less the amount of prepaid tax.

III. Exempt Sales of Gasoline Through a Stationary Metered Pump

A. All persons must pay the full pump price of gasoline sold through a stationary metered pump, whether or not an exemption certificate has been received from the purchaser.

B. If the gasoline is purchased for exempt use, the purchaser may recover sales tax paid by either of the following methods:

1. The purchaser must purchase the official form, STR-100 for gasoline. These receipts can be purchased at the Indiana Department of Revenue at cost. The signed receipts must be attached and filed on a Claim for Refund Form, (GA-110LMP). The request may be on a monthly, quarterly, semiannual, or annual status; or

2. If the purchase of gasoline is made through use of a credit card of a participating credit card company, and a proper exemption certificate has been filed by the cardholder, the company will credit the purchaser's account for the sales tax paid.

IV. Special Fuel: Calculating the Tax

A. Special fuels include those fuels commonly known as diesel fuel, LPG, propane, compressed natural gas, and compressed methane. Fuels which are not gasoline by statute will be considered a special fuel.

B. The Sales Tax is applied to the total sales price of the special fuel sold (except for the part which constitutes Indiana Special Fuel Tax or Federal Excise Tax) unless the retail merchant designates the metered pumps by a sign that reads 'TRUCKS ONLY". To do this, a retail merchant must place at the pump, a sign that states that fuel dispensed from the metered pump may only be placed in the fuel supply tanks of a truck. A sign that reads "TRUCKS ONLY" is sufficient to meet the requirements. If a vehicle not engaged in public transportation uses a "truck only" pump, the sales tax is required to be charged to the purchaser. The sales tax will be the sales tax rate times the raw price of the fuel which excludes state and federal excise taxes.

A retail merchant may not dispense special fuel from a metered pump that is designated for "TRUCKS ONLY" into the supply tank of a vehicle that is not a truck.

A retail merchant is not required to display the total price per unit of the special fuel on a metered pump, if that particular metered pump is designated for "TRUCKS ONLY".

C. Each seller is responsible for deducting the correct amount of state and federal excise tax in order to determine the base for computing sales or use tax.

V. Exempt Sales of Special Fuel Sold Through a Stationary Metered Pump Designated "TRUCKS ONLY"

A. The retail merchant may accept a properly completed exemption certificate from the purchaser of diesel or other special fuel where the sales tax is not required to be included in the pump price. The purchaser must be registered as a retail merchant.

B. Exemption certificate Form ST-105 is normally used to certify exempt use. Exemption certificate Form ST-135 may be used only if the purchaser is engaged in public transportation but is operating under another person's motor carrier permit. Farmers or others hauling their own products are not eligible for exemption. The purchaser must be engaged in providing public transportation of persons or property.

VI. Exempt Sales of Special Fuel Through a Stationary Metered Pump with the Sales Tax Included in the Pump Price

A. All persons must pay the full pump price of special fuel sold through a stationary metered pump which is not designated for "TRUCKS ONLY", unless an exemption certificate has been received from the purchaser.

B. If the special fuel is purchased for exempt use and tax is paid, the purchaser may recover sales tax paid by either of the following methods:

1. The purchaser must purchase the official Form STR-100. These receipts can be purchased at the Indiana Department of Revenue at cost. The signed receipts must be attached and filed on a Claim for Refund Form, (GA-110LMP). The request may be on a monthly, quarterly, semiannual or annual basis; or

2. If the purchase of special fuel is made through use of a credit card of a participating credit card company, the company may credit the purchaser's account for the sales tax paid, if a proper exemption certificate has been filed by the cardholder.

VII. Display of Price on Pump

A. Gasoline. The pump price of all gasoline sold through a stationary metered pump must include the total price per unit, including state sales tax.

B. Special Fuel. Sales tax on the sale of special fuel sold through a stationary metered pump designated for "TRUCKS ONLY" may not be included in the pump price.

Sales tax on the sale of special fuel sold through a stationary metered pump which is not designated for "TRUCKS ONLY" must include the sales tax.

VIII. Advertised or Curb Price of Gasoline and Special Fuel

The retail merchant may not advertise a price which is different than the pump price required to be displayed on the metered pump.

If a retail merchant advertises special fuel at a price that does not include any gross retail taxes that may be due on the sale of the special fuel, the retail merchant must display in easily read lettering, above or below the advertised price, the words "EXEMPT TRUCKS ONLY".

IX. Service Station Nontaxable Transactions

A. Labor charges separately stated on repair orders are not subject to sales tax. (Sales tax must be collected on any parts used unless the purchaser issues an exemption certificate certifying exempt use.)

B. Charges for washes, lubrications, polishing, and waxing are not subject to sales tax. (The service station must pay sales or use tax on the purchase of any supplies consumed.)

X. Purchases by Service Stations

A. Sales or use tax is due on the purchase or use of all supplies, equipment, parts, building repairs, etc., which are not to be resold. Examples of such purchases are:

1. Grease and greasing equipment;
2. Car washing and waxing supplies, materials, and equipment;
3. Soap, towels, brooms, paint, and all other cleaning and maintenance items;
4. All tools, equipment, and utilities used in operating the station;
5. All products taken from stock for personal use by owners or given to employees as part of their compensation; or
6. Those items purchased to be given away as part of a sales promotion such as soft drinks, glassware, candles, etc.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #20
SALES TAX
DECEMBER, 2002
(Replaces Bulletin #20 dated December 1992)

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SUBJECT: Casual Sales: Auctions; Garage Sales; Rummage Sales; and Similar Sales

REFERENCES: IC 6-2.5-4-12, 45 IAC 2.2-4-33, 45 IAC 2.2-4-34, 45 IAC 2.2-4-35

I. General Rule

Indiana Sales Tax is not imposed upon transactions involving casual sales (except for sales of motor vehicles, watercraft or aircraft where sales tax is paid upon titling, registering, or licensing).

A "casual sale" is an isolated or occasional sale of tangible personal property whereby:

1. Such properly was originally acquired by the seller for the seller's own use or consumption; and
2. The seller, in the ordinary course of his or her regularly conducted business, does not acquire such property for the purpose of resale.

II. Auctions

An auction that meets all of the following conditions is a casual sale and is therefore not subject to sales tax:

1. The sale must be on premises owned or provided by the owner of the tangible personal property being sold and not the auctioneer.
2. The tangible personal property must not have been purchased for resale nor consigned by a third party for sale.

In addition, casual sales, which meet the above criteria, are not subject to the use tax and the purchaser is not required to remit use tax.

In the event that certain tangible personal property sold at a particular auction sale meets the foregoing "casual sale conditions", but other property was purchased by the owner for resale or consignment, the sale of the other property is a taxable sale and sales tax must be collected on the property that was purchased for resale or consignment.

If such a taxable sale is conducted by a licensed auctioneer, the auctioneer is a retail merchant with respect to the property being sold and is responsible for the collection of sales tax thereon.

If such a taxable sale is conducted by the owner of the property or a consignee of the property, the owner or the consignee becomes a retail merchant and must collect sales tax on the property being sold.

Before conducting a taxable sale as defined above, a licensed auctioneer; the owner of the property or the consignee must obtain a Registered Retail Merchant Certificate, "RRMC" from the Indiana Department of Revenue.

III. Garage Sales, Rummage Sales or Similar Sales

A garage sale, rummage sale, or similar sale that meets all of the following conditions is a casual sale and therefore is not subject to sales tax:

1. The sale must be at the residence of the owner of the tangible personal property;
2. The sale must be conducted by the owner or the immediate family of the owner of the property being sold;
3. The tangible personal property must not have been acquired by the owner for resale; and
4. All sales or use tax due on the original acquisition of the property must have been paid by the owner.

In the event that certain tangible personal property being sold at a particular sale meets the above conditions but other property fails to meet such conditions, the sales tax must be collected on the sale of all property failing to meet the conditions.

The sale of consigned tangible personal property is a retail sale and the consignee must register as a retail merchant and must collect and remit sales tax.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #24
SALES TAX
DECEMBER, 2002
(Replaces Bulletin #24, dated May 1983)

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SUBJECT: Application of Sales Tax to Merchandise Sold through Television and Radio Stations or Magazines and Newspapers

REFERENCES: IC 6-2.5-4, IC 6-2.5-8-1, 45 IAC 2.2-8

Whenever merchandise is offered for sale by means of customer orders to be placed with or mailed to television stations, radio stations, magazines or newspapers in Indiana, the seller thereof, no matter where located**,** is an Indiana Retail Merchant and must collect and remit Indiana Sales Tax on all merchandise sold through or by means of such orders, together with the sales tax on all other tangible personal property which the seller delivers in Indiana for use or consumption in this state.

Such sellers, prior to offering merchandise for sale by means of customer orders placed with or mailed to such stations or newspapers, must apply for and obtain an Indiana Registered Retail Merchant Certificate.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #25
SALES TAX
DECEMBER, 2002
(Replaces Bulletin #25 dated March 1983)

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SUBJECT: Floriculturists, Horticulturists and Arboriculturists
REFERENCES: IC 6-2.5-4, IC 6-2.5-5-5.1, 45 IAC 2.2-5-13

I. Sales by Such Merchants

All persons engaged in the business of floriculture, horticulture or arboriculture are retail merchants. All persons so engaged must collect Indiana Sales Tax on the sale of all tangible personal property such as shrubs, trees, flowers, etc. If the tangible personal property is sold to the purchaser by such merchants and installed by the seller, the total charge is subject to sales tax unless the selling price of the plants is segregated from the cost of labor and service.

All floriculturists, horticulturists and arboriculturists shall obtain a Registered Retail Merchant's Certificate ("RRMC") from the Indiana Department of Revenue. The sales tax that is collected shall be remitted to the Indiana Department of Revenue on the forms provided by the Department.

II. Sales to Such Merchants

The sale of any tangible personal property as a material which is to be directly used or consumed in direct production by a floriculturist, horticulturist or arboriculturist in the business of producing tangible personal property shall not be subject to the Indiana Gross Retail Tax (i.e., Sales and Use Tax). To purchase such tangible personal property exempt, the floriculturist, horticulturist or arboriculturist must use a General Exemption Certificate, Form ST-105, and submit it to each supplier.

Purchases of tangible personal property by such merchants that are not to be used directly in the direct production of tangible personal property and not for resale shall be subject to the State Gross Retail Tax (i.e., Sales and Use Tax).

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #26
SALES TAX
DECEMBER, 2002
(Replaces Bulletin #26, dated April 1983)

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SUBJECT: Dry Cleaning and Laundry Establishments Rental and Nonrental Services
REFERENCES: IC 6-2.5-4, IC 6-2.5-5-8, 45 IAC 2.2-5-15

I. Nonrental Services

The service provided by persons engaged in the operation of laundries or dry cleaning establishments is generally not subject to the Indiana sales tax.

All purchases by laundries and dry cleaning establishments of tangible personal property used in the operation of such businesses are subject to the sales tax, including the purchase of:

1. Detergents;
2. Cleaning fluids;
3. Machinery and equipment;
4. Utilities consumed in the operation of the business, and
5. All wrapping materials, including garment bags and hangers.

The above rules apply uniformly to coin operated dry cleaning, conventional dry cleaning, industrial dry cleaning, and the laundry businesses.

II. Clean Linen, Towel and Uniform Rental Services

This subsection deals with the application of the sales and use tax to the rental of linens, towels, uniforms, and other garments owned by dry cleaners or laundries to their customers.

For the purpose of sales and use tax, total receipts from the rental of clean linens, towels, uniforms and other garments are subject to sales tax, and the operators of such businesses are retail merchants required to collect the tax from their customers. If not so collected, the tax becomes the liability of the lessor as well as customer-lessee. Out-of-state operators furnishing such clean linen, towel, uniform and garment rental service to Indiana customers are engaged in local intrastate business and are required to register as Indiana Retail Merchants and to collect and remit Indiana sales tax.

The subsequent sale of any tangible personal property which has been rented or leased is subject to the sales tax.

Tangible personal property purchased expressly for rental use, such as linens, towels, uniforms and other garments as well as wrapping materials in which such rented property is furnished to customers is exempt from sales and use tax liability on the purchase thereof.

The purchase from Indiana suppliers by operators of such rental service of all materials, supplies, tools and equipment, including soaps, detergents cleaning fluids, deodorants, bleaches, water, electricity, gas washers, dryers, ironers, mangles and all other tangible personal property used in carrying on such rental business, is subject to sales tax. Sellers must collect the tax on such purchases. All such purchases by any laundry, dry cleaner or operators of a rental service on which Indiana sales tax is not paid at the time of purchase, including purchases out-of-state, are subject to payment of use tax by the purchaser.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #27
SALES TAX
DECEMBER, 2002
(Replaces Information Bulletin #27, dated June 1995)

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SUBJECT: Barbers and Beauticians

REFERENCES: IC 6-2.5-4-1, 45 IAC 2.2-1-1, 45 IAC 2.2-4-2

Services Performed by Barbers and Beauticians

Services performed by barbers and beauticians are not subject to Indiana gross retail tax. Such services include permanents, shaves, and haircuts.

Supplies Used by Barbers and Beauticians

A barber or beautician is liable for Indiana gross retail tax on the purchase of all supplies and equipment used in the course of performing hair services. Such supplies include shampoos, hair rinses, and hair dryers. Indiana sales tax should normally be paid on these items at the time of purchase.

Supplies Purchased for Sale

A barber or beautician who purchases products for the purpose of resale must register with the Department as a retail merchant and collect and remit tax on all product sales. Sales tax is not due on the original purchase of these products if purchased for the purpose of resale.

If a barber or beautician purchases hair products for resale but later uses these products for personal or professional use, the barber or beautician must remit use tax as the consumer of these products. Indiana use tax may be paid and reported on Form ST-103.

Office Equipment

The purchase of furnishings, office equipment, and utilities used by a barber or beautician in the operation of a barber shop or salon is subject to Indiana sales tax.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #29
SALES TAX
DECEMBER, 2002
(Replaces Information Bulletin #29 dated July 1994)

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consistent with the statutes, rules or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current statute and procedures related to the subject matter covered herein.

SUBJECT: Sales of Food

REFERENCES: IC 6-2.5-5-20, IC 6-2.5-5-21, IC 6-2.5-5-22

INTRODUCTION:

Generally, the sale of food for human consumption is exempt from Indiana sales tax. The law specifically lists food items which constitute "tax exempt" foods as well as "taxable" foods. Primarily, the exemption is limited to the sale of food items commonly referred to as "grocery" food. The purpose of this bulletin is to assist Indiana retailers in the proper application of this exemption.

A number of items sold by grocery stores, supermarkets, and similar type businesses are classified in this bulletin under the headings "nontaxable grocery food items" and "taxable grocery items". These examples are for illustrative purposes and are not intended to be all-inclusive.

I. Non-taxable Grocery Food Items:

The Indiana sales tax does not apply to the sale of the following food items:

Baby food
Bakery products
Baking soda
Bouillon cubes
Cereal and cereal products
Chocolate (for cooking purposes only)
Cocoa
Coconut
Coffee and coffee substitutes
Condiments
Cookies
Crackers
Dehydrated fruits and vegetables
Deli items, Deli trays, party trays
Eggs and egg products
Extracts, flavoring as an ingredient of food products
Fish and fish products
Flour
Food coloring
Fruit and fruit products
Gelatin
Honey
Ice cream, toppings, and novelties
Jams
Jellies
Kernel popcorn
Ketchup
Lard
Marshmallows
Meat and meat products
Milk and milk products
Mustard
Natural spring water
Nuts, including salted, (but not chocolate or candy coated)
Oleomargarine
Olive oil
Peanut butter
Pepper
Pickles
Potato chips
Powdered drink mixes (presweetened or natural)
Relishes
Salad dressings and dressing mixes
Salt
Sauces
Sherbets
Shortenings
Soups
Spices
Sandwich spreads
Sugar, Sugar products, and Sugar substitutes
Syrups
Tea
Vegetables and Vegetable Products (excluding salad bars)
Vegetable oils
Yeast

Some items in the above categories will be subject to tax if they are sold and prepared for immediate consumption. See Section II E. for further information.

II. Taxable Grocery Items:

The following grocery items are subject to Indiana sales tax:

Alcoholic beverages
Candy and confectionery
Candied apples
Chewing gum
Medicines not prescribed
Paper products
Pet food and supplies
Prepared popcorn

Chocolate covered nuts	Products sold in vending machine - sizes available for immediate consumption
Cocktail mixes (dry or liquid)	Soap and soap products
Dietary supplements (see Household supplies (brooms, mops, etc.)	Soft drinks, sodas, and Tobacco products
Ice	Tonics and vitamins
Liver oils, cod and halibut	Toothpaste
Lozenges	Water, including mineral, distilled, flavored, bottled, carbonated, and soda

A. Confectionery Items:

Preparations of fruits, nuts, or popcorn in combination with chocolate, sugar, honey, candy, or other confectionery are not considered exempt food items. The method used in packaging and distributing these preparations including the kind and size of container used will be considered in determining the primary use for which these preparations are sold. The fact that these items contain ingredients which, if purchased separately, are considered exempt, does not exempt these items

Chocolate commonly used for cooking purposes will be considered exempt food within the meaning of this information bulletin. The method used in packaging and distributing chocolate, including the kind and size of container used, will be considered in determining the primary use for which it is sold.

B. Soft Drinks. Sodas. and Similar Beverages:

Any soft drink which contains carbonated water is subject to tax. Other drinks which may not contain carbonated water, but are normally purchased for consumption out of soft drink bottles or cans will be subject to tax. This would include, for example, chocolate drinks. The term "soft drinks" does not include fruit and vegetable juices. Some beverages contain less than one hundred percent (100%) fruit juice. However, any beverage which contains fruit juice and no carbonated water will be exempt from tax.

C. Dietary Supplements:

Sales of dietary supplements are subject to Indiana sales tax. The term "dietary supplements" includes powdered mixes and meal substitutes specially designed for weight gain, loss, or control, irrespective of the fact that the product may substitute for meals. This includes products such as Figurines, Carnation Diet Drinks, Slimfast, Slender, and Ensure.

Sales of food prescribed as medically necessary by a physician licensed to practice medicine in Indiana are exempt from the sales tax if dispensed by a registered pharmacist or sold by a licensed physician.

D. Water:

All sales of water, except natural spring water, are subject to Indiana sales tax. In determining what constitutes natural spring water, retailers may rely on the labeling of the product as a means of identification. While the Department considers natural spring water to mean all water that comes from a spring and has no artificial or manufactured additives, such a method of identification lends itself to easy application by retailers. Therefore, the label must include the words "natural spring water" in order for the water to be exempt under the natural spring water exemption. It should be noted that the brand name need not contain the words "natural spring water", it is only necessary that the words or phrase appear somewhere on the label. All water (except natural spring water) including mineral, distilled, bottled, carbonated, soda, and flavored is taxable.

E. Food Sold for Immediate Consumption: Combination Business:

Food sold for immediate consumption at or near the merchant's premises, or sold through a grocery store salad bar, bakery or delicatessen is subject to sales tax. These sales are taxable even though such food is sold on a "take out" or "to go" basis and is actually taken from the premises of the seller. Where and when the customer actually eats the food is immaterial. If a location combines the sale of grocery items with the sale of food for immediate consumption, sales of the latter are taxable. The sale of food for immediate consumption is taxable even if the merchant does not provide a place to eat the food.

Any food cooked to the order of the purchaser, which is cooked and maintained at or near the cooking temperature prior to sale, or prepared food which is sold by the piece shall be subject to the sales tax. The kind and size of the order and packaging used will be considered in determining whether items are for immediate consumption. For example, individual orders such as a cup of ice cream, the sale of a single pastry, or single servings of pie or cake are taxable regardless of whether they are sold for consumption on the premises or are bagged, wrapped, or packaged on a "take out" basis for off premise consumption.

All food sold through a vending machine or by a street vendor is subject to sales tax regardless of the size of the package or the type of food sold. The fact that the item qualifies as "food for human consumption" if sold by a grocery store does not make the purchase exempt if sold through a vending machine.

III. Coupons, Redemption Certificates, and Bottle Deposits

Coupons or redemption certificates received by the seller as payment or partial payment of merchandise are considered as cash if such coupons are redeemable to the seller and were not extended by the seller.

Example: A cigarette manufacturer issues a coupon for two dollars off on a carton of cigarettes. The tax is applied to the original price and then the discount is given. If the seller reduces the price of cigarettes by two dollars per carton and only rings up the discounted price, then the selling price is subject to tax, and not the original price. The difference is that in the first example the seller will send the coupon to the manufacturer and be reimbursed the two dollars.

Charges for bottle deposits are not subject to sales tax and should be removed from the total on which sales tax is computed. The refund of bottle deposits are not deductible when computing taxable receipts.

IV. Purchases by Retailers

Purchases by the retailer of merchandise for resale and material for non-returnable packaging of merchandise sold is exempt from sales tax.

Gifts and premiums given by a retailer are not purchases for resale and such items are subject to the sales tax when purchased by the retailers. The retailer cannot purchase cash registers, equipment cleaning supplies, cash register tapes, sales tickets and other similar items exempt since the retailer is the final consumer of these items. The retail merchant must pay sales tax on all such items. Sales of merchandise to employees are subject to sales tax on the full final sales price.

V. Registration and Record Keeping Requirements

All grocers and other general merchandise retailers are required to file an application for a registered retail merchant's certificate for each location. Upon application with the Department of Revenue and the payment of a twenty-five dollar ($25.00) fee, a permanent certificate will be issued which must be displayed on the premises at all times.

Indiana retail merchants are required to keep adequate books and records for both taxable and non-taxable sales for a period of three (3) years, plus the current year.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #32
SALES TAX
DECEMBER, 2002
(Replaces Bulletin #32, dated August 1997)

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SUBJECT: Public School Corporation Purchases and Sales

REFERENCES: IC 6-2.5-5-22; IC 6-2.5-5-23; IC 6-2.5-5-25; IC 6-2.5-5-26; 45 IAC 2.2- 5-46; 45 IAC 2.2-5-47; 45 IAC 2.2-5-55; 45 IAC 2.2-5-58

INTRODUCTION

This Information Bulletin sets out guidelines and instructions to be followed by public school corporations, (grades one (1) through twelve (12)), and extra curricular account treasurers in determining the applicability of sales tax in acquisitions by the school corporation and the requirements to collect sales tax when selling items.

Registration of Public School Corporations

Indiana public school corporations must register with the Indiana Department of Revenue as not-for-profit organizations. Application for not-for-profit registration must be made on Form NFP20A, **Application to File as a Not-for Profit Organization**, and may be obtained by contacting the Indiana Department of Revenue, Compliance Division. The registration number assigned must be included on Form ST-105, **General Sales Tax Exemption Certificate**, submitted to a vendor to validate an exemption from sales tax collection on qualified purchases by the school corporation. The exemption number can only be used for the purpose of making exempt purchases, and may not be used as authority for making sales and collecting sales tax.

If the school corporation in its ordinary course of business acquires tangible personal property for resale and transfers that property to others for consideration, the school corporation must register as a retail merchant and obtain a Registered Retail Merchant Certificate (RRMC) from the Department.

Sales of School Meals

Sales of school meals are exempt from the sales tax if the seller is a school corporation containing students in any grade one (1) through twelve (12), the purchaser is a student or school employee, and the school furnishes the food on its premises. This exemption also extends to the sale of school meals prepared by a private caterer provided the meals are served on the school's premises, and the caterer is merely acting as an agent for the school.

Sales of school meals through a vending machine will be granted exemption **only** in the following instances:

(1) The vending machine is located in the school cafeteria or lunch room; and

(2) The food is being sold to students or school employees who are purchasing such food in lieu of purchasing the prepared meals furnished by the school.

All other sales of food through vending machines are subject to sales tax.

Acquisition of Tangible Personal Property

Purchases of tangible personal property are exempt from the sales tax if the property is acquired for incorporation into a school building which is being constructed by a school corporation.

Purchases of tangible personal property are exempt from the sales tax if it is acquired by a school corporation and the property is used to carry on and further the educational purposes of the school corporation. The purchase must be invoiced to and paid for by the school corporation.

School organizations that are under the parental control of the school corporation and whose funds are accounted for through the extra curricular activities account may use the exemption number of the school corporation to make qualified purchases exempt from sales tax. Such purchases may be made **only** where payment is made by an extra curricular activities check, **and** the property purchased is to be used by the organization for purposes other than in connection with social activities.

School organizations may not make purchases exempt from sales tax when such purchases are for the personal ownership or use of individual members of the organization, or if such purchases will be used in connection with social activities of the organization such as parties, dances, picnics, etc., conducted by such organizations.

Registration of Extra Curricular Activities Account as Registered Retail Merchants

Each extra curricular account treasurer must obtain a Registered Retail Merchant Certificate (RRMC) if taxable sales are made by the organization. It is the responsibility of the extra curricular account treasurer to account for the collection of sales tax in connection with all taxable sales of any organization whose funds are accounted for by the particular treasurer.

In order to account for the sales tax, it is necessary for the organization to obtain a registered retail merchant certificate in the name of the extra curricular activities account. Application for an Indiana Registered Retail Merchants Certificate must be made on form BT-1, and accompanied with a remittance of twenty-five dollars ($25.00). This form may be obtained by contacting the Indiana Department of Revenue at www.state.in.us./dor/, Tax Forms Ordering Line at 317-615-2581, Taxpayer Services Division, or any district office of the Department.

Sales Subject to Sales Tax: (Except School Bookstores)

Individual school organizations or functions which conduct selling activities need not collect sales tax if the funds are to be used by the organization in furtherance of the purpose of which it was organized, **and** the organization makes such sales for a period of fewer than thirty (30) days during a calendar year.

This exemption excludes most activities from the responsibility to collect sales tax on the various fund raising and student activities conducted during the school year. It usually eliminates the necessity for collection of sales tax on athletic event concession sales, as long as the concessions are sold directly by the school organization.

Sales of high school yearbooks and annuals are exempt as long as the yearbooks are produced and sold as a student activity or class project, and the commercial publisher's activities are limited to furnishing necessary artwork, printing, and binding.

Sales of tangible personal property on an ongoing basis **are** subject to collection of sales tax. An example of this would be continued sales of tangible personal property to raise money to buy band uniforms.

Sales by School Bookstores

The sales tax shall not apply to sales by bookstores of tangible personal property intended primarily for the educational purpose of the organization and not used in carrying on a private or proprietary function.

The sales of textbooks and supplies by a parochial, public, or private not-for-profit school is exempt if made to students of the school in grades one through twelve. Such sales are primarily intended to further the educational purposes of the school.

Sales by a bookstore of non-related items such as T-shirts, sweatshirts, hats, memorabilia, class rings, license plates, etc. **are** subject to tax and the bookstore must register as a retail merchant to purchase these items exempt for resale and collect the tax from the ultimate purchaser. Sales to persons that are not students or school personnel are subject to the sales tax.

Purchases by Teachers

Tangible personal property purchased by teachers for use in their classrooms are subject to sales/use tax. This is true even though the teacher may use the funds allotted to teachers to purchase classroom supplies. In order to be exempt from sales tax the purchase must be invoiced directly to the school corporation and paid with a school check.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #33
SALES TAX
DECEMBER, 2002
(Replaces Bulletin #33 dated April 1983)

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SUBJECT: Exemption from the Retail Sales Tax on Unitary Transaction of Eight Cents ($.08) or Less

REFERENCES: IC 6-2.5-2-2; IC 6-2.5-6-8

Effective December 1, 2002, unitary transactions in the amount of one cent ($.01) to eight cents ($.08) are not subject to sales tax.

A "unitary transaction" includes all items of property and/or services, whether or not such services would otherwise be taxable, furnished pursuant to a single order or agreement and for which a total combined charge or selling price is computed for payment.

Items of one cent ($.01) to eight cents ($.08) purchased or paid for at one time are not exempt if the total sale or sales is more than eight cents ($.08).

Registered retail merchants recording and accounting for such sales (i.e., unitary sales of eight cents [$.08] or less) separately may deduct the amount of such sales.

When record keeping and recording procedures are such that it would not be practical or feasible to maintain actual records of unitary transactions of one cent ($.01) to eight cents ($.08) every day in the year, the Department will accept the following procedures as proof of such transactions:

(1) The retail merchant may determine the ratio of one cent ($.01) to eight cent ($.08) sales to total sales during a period of fifteen (15) consecutive days during the first quarter of the merchant's normal and customary sales activity throughout the year.

(2) If a merchant has multiple selling locations or different kinds of selling transactions, the merchant may apply in advance to the Indiana Department of Revenue for permission to use a "representative sampling of locations" at which such checks are to be made. Sufficient information to establish the fact that such locations will be "representative" of all locations will be required.

(3) The merchant using the sampling method must keep an accurate record of the dollar amount of unitary transactions under nine cents ($.09) during this fifteen (15) day period. By dividing this total amount of gross sales at the locations used for the fifteen (15) day period, a percentage can be determined which the merchant may apply against gross sales to establish "sales not subject to the tax". This percentage factor is used throughout the balance of the calendar year in which the sampling is made.

It is important that the percentage factor be calculated from the merchant's actual records. These records must be maintained for three (3) years plus the current year because the merchant will be required to substantiate the percentage factor used upon the request of the Department.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #36
SALES TAX
DECEMBER 2002
(Replaces Bulletin #36 dated June 1995)

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SUBJECT: Water Conditioning Companies

REFERENCES: IC 6-2.5-4-3; 45 IAC 2.2-4-6; 45 IAC 2.2-4-7

INTRODUCTION

The term "water conditioner" includes all automatic softeners, softener tanks, exchange tanks, purifiers, chlorinators or similar devices, and minerals contained in water conditioning systems which act to condition, purify, soften, or rejuvenate water.

TAXATION OF SALES OF WATER CONDITIONING PRODUCTS

Any water conditioning company or soft water conditioning company which sells, rents, or leases tangible personal property must register with the Indiana Department of Revenue as a retail merchant. Every water conditioning company is required to collect and remit Indiana gross retail tax on the sale of such property.

Sales tax is not due on the sale or rental of water conditioning products if the purchaser qualifies for an exemption. A qualified purchaser must present a valid exemption certificate to the seller at the time of purchase.

TAXATION ON RENTAL OF WATER CONDITIONERS

A company is required to collect sales tax on the rental or leasing of water conditioners. A water conditioner furnished for a monthly or periodic charge, or a water conditioner leased with an option to purchase, is also subject to sales tax on the amount charged. Sales tax is also due on acquiring an option to purchase a water softener as well as on a water softener acquired pursuant to an option to purchase contract.

RELATED MATTERS

Sales tax is due on any materials used to make modifications to accommodate water conditioning equipment (including plumbing) and billed separately from the price of the water softening equipment. If the materials used for installation purposes are not billed as a separate item, the water conditioner company is considered the user of those materials and is therefore liable for use tax.

Example

A company sells and installs a water softener. The cost of the softener is four hundred dollars ($400), and the cost of the installation materials is one hundred dollars ($100). The customer is only billed for the cost of the softener, or four hundred dollars ($400). Therefore, the seller is liable for use tax on the one hundred dollars ($100), cost of the materials.

The purchase of salt and other materials and equipment used to rejuvenate water tanks or water tank minerals is subject to sales tax. Sales tax is also due on all utilities.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #38
INCOME TAX
JANUARY 1, 2003
(Replaces Information Bulletin #38 dated November 2000)

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SUBJECT: RENTER'S DEDUCTION

REFERENCE: IC 6-3-2-6

INTRODUCTION

Indiana residents who rent their dwelling and use it as their principal place of residence are allowed a deduction from adjusted gross income if the dwelling is subject to Indiana property tax. This deduction applies to both rent paid on a single family dwelling and any unit of a multiple family dwelling.

I. LIMITATION OF DEDUCTION:

The renter's deduction is limited to the actual amount of rent paid or two thousand five hundred dollars ($2,500), whichever is less, for tax years beginning after December 31, 2002.

EXAMPLE: Taxpayer A paid rent totaling twelve hundred dollars ($1,200) during the year. Because his total rent was less than the two thousand five hundred dollar ($2,500) limitation, he may deduct twelve hundred dollars ($1,200) on his return.

EXAMPLE: Taxpayer B paid rent totaling three thousand four hundred ($3,400) during the year. Since the total rent exceeded the two thousand five hundred dollar ($2,500) limitation, the taxpayer may deduct two thousand five hundred dollars ($2,500) on the return.

EXAMPLE: If the taxpayer's payment includes items other than rent for the dwelling, the total payment must be segregated and the portion attributed to rent for the dwelling determined. Taxpayer C makes monthly payments of two hundred dollars ($200) for his apartment. His landlord provides the utilities which average twenty-five dollars ($25) per month. Therefore, the taxpayer may only use one hundred seventy-five dollars ($175) of his monthly payment as a basis for deduction. His total deduction on an annual basis would be two thousand one hundred dollars ($2,100).

II. CLAIMING THE DEDUCTION:

This deduction shall be claimed on the Indiana individual income tax return. When claiming the renter's deduction, the taxpayer is required to indicate the landlord(s) to whom the rent was paid and the location(s) of the property.

III. RENT ON MOBILE HOMES:

Rent paid for mobile homes and for land use for mobile homes qualifies for this deduction provided the mobile home is the claimant's principal place of residence. Owners of mobile homes who maintain the mobile home as their dwelling may deduct rent paid for land use.

IV. MEMBERS OF COOPERATIVE HOUSING:

Members of cooperative type housing projects, whereby each member shares in the ownership of the entire property, are not permitted to take the renter's deduction available on the individual income tax return. The purpose of the renter's deduction is to afford to renters, on their individual returns, similar property tax relief as is now enjoyed by property owners in the form of a reduction in property tax liability. Since the payments made by the cooperative member to the cooperative association are based on a cost formula, it is the Department's position that each cooperative member will benefit from property tax relief through a reduction in his/her proportionate share of the cost. Furthermore, payments made by the member to the cooperative association are considered investments and do not constitute rent.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #38
SALES TAX
DECEMBER 2002
(Replaces Bulletin #38, dated July 2, 1984)

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SUBJECT: Application of Sales Tax to Direct Payment Permit Holders

REFERENCE: IC 6-2.5-8-9

Registered retail merchants, wholesalers, and manufacturers may apply for a Direct Payment Permit, which enables them to remit use tax directly to the state rather than paying sales tax to their suppliers.

Direct Payment Permits are issued only when the following conditions are established:

1. The taxpayer normally buys substantial quantities of tangible personal property which may be used for either an exempt or non-exempt purpose.
2. There is no reasonable way that the exempt or non-exempt use can be determined at the time of purchase.
3. Adequate records will be maintained by the taxpayer showing the ultimate use of all tangible personal property purchased and the amount of use tax remitted.

Direct Payment Permits may not be used for the purchase of utilities, motor vehicles required to be licensed for highway use, and aircraft or watercraft required to be registered with this state.

Holders of Direct Payment Permits are required to file a copy of their Direct Payment Permit with their suppliers in lieu of an exemption certificate. A Direct Payment Permit does not expire and is valid until revoked by the Department.

The tax due must be reported as use tax on the sales tax return of the Direct Pay Permit holder.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #39
SALES TAX
DECEMBER 2002
(Replaces Bulletin #39, dated September, 1994)

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SUBJECT: Insurance Companies

REFERENCES: IC 6-2.5-3; IC 6-2.5-4

The purchase of all personal property used or consumed by the insurance company is subject to either sales or use tax. Sales tax should normally be paid to the seller at the time of purchase. However, if the seller is an out-of-state merchant or if sales tax is not paid at the time of purchase, the insurance company is liable for the payment of use tax.

If the insurance company is a registered retail merchant, purchases subject to use tax must be reported on Form ST-103 at the same time any sales tax is reported. If the insurance company is not a registered retail merchant, any use tax due must be listed and remitted to the Indiana Department of Revenue on Form ST-115.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #41
SALES TAX
DECEMBER, 2002
(Replaces Information Bulletin #41, dated October, 2000)

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SUBJECT: Sales Tax Application to Furnishing of Accommodations

REFERENCES: IC 6-2.5-4-4; 45 IAC 2.2-4-8; 45 IAC 2.2-4-9

INTRODUCTION:

Indiana sales tax applies to the rental of rooms, lodgings, camping space, or other accommodations in Indiana furnished by any person engaged in the business of renting or furnishing such accommodations for periods of less than thirty (30) days. Persons furnishing such accommodations must register as a retail merchant and must collect sales tax from their customers.

I. Definition of Accommodations

"Accommodation" means any space, facility, structure, or combination thereof including booths, display spaces and banquet facilities, together with all associated real or personal property which is intended for occupancy by persons for a period of less than thirty (30) days. The term includes the following:

- Rooms in hotels, motels, lodges, ranches, villas, apartments, houses, bed and breakfast establishments, and vacation homes or resorts.
- Gymnasiums, coliseums, banquet halls, ball rooms, arenas, and other similar accommodations regularly offered for rent.
- Cabins or cottages.
- Tents or trailers (when situated in place).
- Houseboats and other craft with over night facilities.
- Space in camper parks and trailer parks wherein spaces are regularly offered for rent for periods of less than thirty (30) days.
- The renting or furnishing of cubicles or spaces used for adult relaxation, massage, modeling, dancing, or other entertainment to another person.

II. Imposition of Tax

The tax is imposed on the gross receipts received by the retail merchant and include the amount which represents consideration for the rendition of those services which are essential to the furnishing of the accommodation, and those services which are regularly provided in furnishing the room or accommodation. Such amounts are subject to tax even if they are separately itemized on the statement or invoice. This includes telephone access charges. It also includes food or drinks provided by the retail merchant to the customer, if it is included in the room charge. If there is a membership fee charged to the customer, it is included in gross receipts.

III. Exemptions from the Tax

An accommodation that is rented for thirty (30) days or more is not subject to the sales tax. The customer is required to pay the tax for the first thirty (30) days if the customer is billed on less than a monthly basis.

EXAMPLE:

A business rents accommodations for its employees and signs a lease for four months, payable monthly, the first thirty (30) days would not be subject to tax.

Same situation as above; however the business pays the rental on a weekly basis. The business is required to pay sales tax on the first thirty (30) days of rental.

If an entity rents the rooms for employees, the entity is renting the rooms and not the person who stays in the room. The contract would not have to be for a specific room as long as the continuous stay portion of the contract remains in effect.

EXAMPLE:

An innkeeper moves two occupants of rooms rented on an extended stay to make a contiguous area available for a convention that wants all of their rooms together. Moving the people in the extended stay contract does not void the contract.

The tax does not apply to the rental of meeting rooms to charitable or other exempt organizations if the facility is to be used for furtherance of the purpose for which they are granted the exemption.

A person is not a retail merchant if the person is a promoter that rents a booth or display space in a facility that is operated by a political subdivision (including a capital improvement board established under IC 36-10-8 or IC 36-10-9) or the state fair commission. However, this does not exempt the renting of accommodations by a political subdivision or the state fair commission to a promoter or an exhibitor.

NOTE: All exemptions applicable to the sales tax apply to the various innkeepers' taxes.

IV. Subleasing Accommodations

The rental of rooms, lodgings, camping space or other accommodations to a person for periods of less than thirty (30) days for the purpose of subleasing or subletting such accommodations to others, may be done exempt from tax. However, in such situations, the sublessor must register as an Indiana retail merchant and must collect the tax from the person to whom the accommodation is ultimately leased.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #45
SALES TAX
DECEMBER 2002
(Replaces Information Bulletin #45 dated December, 1991)

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SUBJECT: Vending Machines and Other Food Holding Units

REFERENCE: IC 6-2.5-5-20

I. Vending Machine Sales

A vending machine is a mechanical device that dispenses items for either money or tokens. As a general rule, sales tax must be collected on sales made from a vending machine, including sales of food (fruit, sandwiches, etc.) and beverages.

Because of the nature of vending machine sales, the sales tax due cannot be separately stated on a receipt. A person responsible for collecting sales tax on vending machine sales must post a sign on the vending machine stating that sales tax is included in the price.

If no sign is posted, the Department will assume that the price of the item does not include tax. Thus, the Department will expect the responsible person to remit sales tax on the gross sales from the machine.

If a sign is posted on the machine, the gross receipts subject to tax will be calculated. The gross receipts subject to tax equals the taxable gross receipts from vending machine sales divided by one (1) plus the tax rate.

EXAMPLE:

Vendor A owns and operates fifteen (15) vending machines. Vendor A does not have signs stating that the tax is included in the price of the items on five (5) machines, but does have signs on ten (10) machines. The total taxable sales from each machine is two hundred ($200.00) per month. Because Vendor A does not post signs on five (5) of the machines, the Department will assume that Vendor A collected tax on the total gross receipts of the five (5) machines. For the remaining ten machines, the

amount subject to tax is equal to $2,000 divided by one plus the current tax rate. To calculate the tax due, the gross sales subject to tax must be multiplied by the current tax rate.

II. Vending Machine Sales Not Subject to Sales Tax

Sales of tangible personal property for eight cents ($.08) or less are not subject to sales tax. Vending machine sales of items for eight cents ($.08) or less are thus not taxable.

Certain vending machine sales could qualify as exempt sales because of the tax exempt status of the persons or organizations who make the sales. For example, if an elementary school sells food through a vending machine, the food sales could qualify as exempt school meals. There is a specific exemption from sales tax for school meals. Vending machine sales of food by an elementary or secondary school are exempt from sales tax regardless of who makes the sales as long as the sales are only made to students or school employees. (See Sales Tax Information Bulletin #32)

A state operated correctional facility or city/county jail could make exempt sales from a vending machine if the vending machine sales were limited to detainees and employees. The sale by the correctional facility or jail is exempt because selling food or other items to detainees furthers the governmental purpose of the facility or jail. Vending machine sales to employees furthers a governmental purpose because keeping staff on-site contributes to the efficient operation of the facility.

Items sold by the State of Indiana, the federal government or any Indiana political subdivision must be purchased for resale by the exempt entity and the exempt entity must actually sell the item. Vending machine sales from a machine located in a jail or on a federal installation that are made by a person other than the jail or the federal government are taxable.

III. Purchases of Vending Machines

Generally, the purchase of a vending machine is taxable. A vending machine that actually produces a product for resale is not taxable because the vending machine is directly used in manufacturing. A vending machine would also be exempt if purchased by schools to serve school meals, a jail to provide service to detainees or the federal government.

IV. Other Food Holding Units

Sales from any device or equipment other than a vending machine, such as honor boxes, follow the general rules for any sales of property. Tax should be collected on taxable food items, such as candy and confectionery, sold from a cardboard honor box. Tax should also be collected on items, such as fruit and cookies, because it is for immediate consumption.

The method used for determining tax on vending machine sales may also be used to determine the amount subject to tax on sales from honor boxes or similar devices. Honor boxes must have a sign indicating that tax is included to avoid the requirement to remit tax on the gross taxable sales from honor boxes.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN # 50
SALES TAX
DECEMBER 2002
(Replaces Information Bulletin #50 dated October 1994)

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SUBJECT: SALE OF GOLD, SILVER OR OTHER METAL ALLOYS

REFERENCES: IC 6-2.5-3-5; IC 6-2.5-4-1; 45 IAC 2.2-4-1

I. APPLICATION OF SALES TAX

Persons who are occupationally engaged in the selling of gold, silver, or any other metal or alloy such as bullion, bars, ingots, or in any other shape, size, or condition in Indiana are required to register as Indiana retail merchants and collect and remit Indiana sales tax on such transactions.

The sale of gold or silver bullion or any other tangible personal property that is delivered to a point outside Indiana is not subject to Indiana sales tax.

The sale of gold or silver bullion either stored or arranged to be stored in Indiana is subject to Indiana sales tax, regardless of whether the buyer is identified as the owner of the particular gold or silver sold. Further, the sale is subject to tax if the gold or silver sold is stored in Indiana in anticipation of later exchanging or substituting it to discharge an obligation.

II. APPLICATION OF USE TAX

The storage, use or consumption in Indiana of gold, silver, and other alloys and metals purchased in a retail transaction, wherever located, is subject to the use tax.

A credit for sales tax due and paid in another state may be taken for up to the amount of Indiana use tax due.

III. LEGAL TENDER

The use of metal coins (which are legal tender of the United States) given in exchange for goods or in payment of debts is not considered selling at retail, provided the value assigned to such coins in the transaction is not more than the face value of the coin. The sale of coins or currency for more than face value is considered selling at retail and subject to the collection of Indiana sales tax.

IV. POSTAGE STAMPS

The sale by a retail merchant of canceled postage stamps, or the sale, for more than face value, of uncancelled stamps is a retail sale and subject to Indiana sales tax in the same manner as gold, silver, and other alloys and metals.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #56
SALES TAX
DECEMBER 2002
(Replaces Bulletin #56 dated May 31, 1985)

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SUBJECT: Time Limitation for the Issuance of Assessments

REFERENCE: IC 6-8.1-5-2

IC 6-8.1-5-2 sets forth the time limitation for the issuance of assessments. The Department of Revenue must issue an assessment within three (3) years of the latter of the due date of the return, or, in the case of a return filed for the state gross retail tax, the end of the calendar year which contains the taxable period for which the return is filed.

If a person files a fraudulent, unsigned, or substantially blank return, or does not file a return, there is no time limit within which the department must issue its proposed assessment. If the blank is completed with a zero, and it is determined that substantial use tax liabilities exist, the department will consider the issue of fraud. If fraud appears to exist, the limitation again will not apply.

The three (3) year limitation is inapplicable regarding those individuals found to have the responsibility to remit the sales or use taxes of a corporation or partnership as long as the corporation or partnership receives notice of the assessments within the time limits; additional notice is not required.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #58
SALES TAX
DECEMBER 2002
(Replaces Bulletin #58 dated October, 1991)

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SUBJECT: Price Discounts

REFERENCES: IC 6-2.5-1-5, IC 6-2.5-2-2, IC 6-2.5-4-1, 45 IAC 2.2-2-1, 45 IAC 2.2-2-3, 45 IAC 2.2-2-4, 45 IAC 2.2-2-5, 45 IAC 2.2-4-1

In any taxable sale of tangible personal property, the amount subject to tax is the amount received by the merchant for the sale of the property. The amount received by the merchant for the sale of any property includes all elements of consideration. Consideration means all items of value such as cash, property or forgiveness of debt.

If time discounts (e.g. 2% discount for payment within ten days) or cash discounts (e.g. discount for cash) are given by a merchant, only the actual amount received by the merchant is subject to the collection of tax. If the consumer is not actually given the discount, then tax must be collected on the full price paid.

Coupons presented to a retail merchant only lower the amount of tax if the merchant is not reimbursed for the coupon. Typically, a manufacturer's coupon entitles a merchant to reimbursement for the face value of the coupon, thus the taxable amount paid for a product purchased with a manufacturer's coupon is the price of the product before applying the coupon.

Coupons for which the merchant is not reimbursed reduce the price subject to tax because by accepting the coupon the merchant has discounted the price of the product.

Example 1: Dishwashing soap is sold for $1.00 per bottle. The customer gives a $.20 manufacturer's coupon to the merchant. The amount subject to sales tax is $1.00 because the merchant receives $.80 from the customer and is reimbursed $.20 from the manufacturer.

Example 2: Cat food is $1.00 for a two pound bag. The merchant gives out coupons that reduces the price of cat food to $.75. The merchant would collect sales tax on $.75 because there is no reimbursement for the $.25 reduction.

Example 3: Dishwashing soap is sold for $1.00 per bottle and the customer presents a $.20 manufacturer's coupon. The merchant advertises that he will double the value of all manufacturer's coupons for the week. The customer pays $.60 for the product. The manufacturer reimburses the merchant $.20 for the coupon. The merchant is not reimbursed for the $.20 for doubling the value of the coupon. The amount subject to sales tax is $.80.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #59
SALES TAX
DECEMBER 2002
(Replaces Bulletin #59 dated October, 1991)

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SUBJECT: Advertising Signs and Billboards

REFERENCES: IC 6-2.5-4-1, IC 6-2.5-4-10

The taxability of billboards and advertising signs for sales tax purposes requires a determination of whether the rental of the advertising space is the rental of tangible personal property or the sale of a service. If the rental of the advertising space is the rental of personal property, then the rental is subject to tax. If the transaction of allowing someone to use a billboard or other advertising space is the sale of a service, then the transaction is not subject to tax.

The key element in determining whether the transaction is a rental or a service is who controls the property. If the person paying for the use of the advertising space controls the space, the transaction is a rental of the space and is taxable. If the person using the property does not control the property then the transaction is a service.

The person paying for the use of the space has control when that person can determine the location of the advertising space or has the right to direct how the advertising space will be used. The person using the space must have exclusive use of the space. Other factors indicating control are whether the customer provides upkeep and maintenance of the space, and whether the customer pays for the posting of the advertising material.

EXAMPLES:

1. A person, who owns a portable advertising sign, lets a customer use the sign for one month for five hundred dollars ($500). The customer's employees move the sign to a location determined by the customer and put a message on the sign also determined by the customer. The transaction between the sign owner and the customer is a rental subject to sales tax.

2. A person owns a billboard next to a major highway. The billboard cannot be moved. A customer pays to display an advertisement for thirty days. The customer chooses the advertisement's content but the sign owner employs the people who

affix the ad to the billboard. The owner also pays for any upkeep and insurance for the billboard and also owns the property on which the billboard is erected. The transaction is a service because the customer does not control the advertising space.

All materials purchased by a person who provides the service of displaying a customer's advertisements are subject to sales and use tax, including any materials incorporated into the advertising structure itself. All materials purchased to be rented or leased to a customer may be purchased exempt from sales or use tax.

Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN # 60
SALES TAX
DECEMBER 2002
(Replaces Bulletin #60 dated December, 2001)

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SUBJECT: Construction Contractors

REFERENCES: IC 6-2.5-3-3, IC 6-2.5-4-9, IC 6-2.5-5-3, 45 IAC 2.2-3-7 through 45 IAC 2.2-3-12, 45 IAC 2.2-4-21 through 45 IAC 2.2-4-26

INTRODUCTION

The general rule for the application of sales or use tax is that all sales of tangible personal property are taxable, and all sales of real property are not taxable. This general rule is not changed by the conversion of tangible personal property into realty. Therefore, all construction material purchased by a contractor is taxable either at the time of purchase, or if purchased exempt (or otherwise acquired exempt) upon disposition unless the ultimate recipient could have purchased it exempt.

DEFINITIONS

A. "Construction Contractor" means anyone who is obligated under the terms of a contract to furnish the necessary labor or materials, or both, to convert construction material into realty, including a general or prime contractor, a subcontractor, or a specialty contractor. The term includes a person engaged in the business of: building, cement work, carpentry, plumbing, heating and cooling, electrical work, roofing, wrecking, excavating, plastering, tile work, road construction, landscaping, or installing underground sprinkler systems.

Persons selling and installing personal property such as manufacturing equipment, carpeting, appliances, water softeners, water heaters, garage door openers, telephone or intercom systems under a "lump sum purchase price" are not construction contractors. However, the sales and installation of these properties do result in the conversion of tangible personal property into realty. Therefore, these persons must collect the Indiana sales tax on the purchase price of the personal property and all incidental materials used to install the personal property.

The retail merchant must list separately on its invoices any charges for services not specifically taxable and the purchase price for tangible personal property which is taxable. If the service charges are not separately stated as required, the entire invoice amount will be taxable as a unitary transaction.

B. "Construction materials" means any tangible personal property to be used for incorporation in or improvement of a facility or structure constituting or becoming part of realty. A "facility" means any additions to the land.

C. "Lump sum contract" means a contract to incorporate construction materials into real estate with the charge for labor and materials being quoted as one price. The contractor may subsequently furnish a breakdown of the charges for labor and materials without changing the nature of the lump sum contract. For example, a typical lump sum contract provides that the contractor will build a structure for a total stated price such as $40,000. A lump sum contractor generally must pay sales tax to the vendor who sells the contractor construction materials. If the vendor is located out-of-state and is not required to collect Indiana sales tax or if the person for whom the structure is being built would be exempt from sales tax for the purchase of the construction materials, the lump sum contractor would not pay sales tax. Although the contractor may not pay sales tax when purchasing material from an out-of-state vendor, the contractor would be liable for use tax if the construction materials are stored, used or consumed in Indiana for a nonexempt purpose. Unless otherwise exempt, when a lump sum contractor purchases construction materials free of sales tax, the contractor must pay use tax on those materials when they are

incorporated into real property in Indiana. To purchase construction materials exempt from sales tax, a lump sum contractor must be registered as a retail merchant.

D. "Time and materials contract" means a contract to incorporate construction materials into real estate with the charge for the labor and materials being separately stated and the final contract price being dependent on the cost of the materials and the amount of labor it actually takes to complete the contract. Time and materials contractors are considered retail merchants making retail transactions with respect to the sale of construction materials and must register as retail merchants with the Department. Contractors that perform time and material contracts must separately state the charge for any construction materials and must collect Indiana sales tax on the full sales price of the construction material including overhead and profit charges. The construction materials used by a contractor in a time and materials contract should be purchased exempt by the contractor. The sales tax collected by the contractor must be separately stated on the invoice. A time and materials contractor would be entitled to the eighty-three hundredths of one percent (.83%) collection allowance for timely remittances. Exemption certificates and direct pay permits must be retained by time and materials contractors to prove their non-liability for collecting sales tax on a sale of construction materials. If a time and materials contractor purchases construction materials exempt from sales tax and subsequently uses those materials to fulfill a lump sum contract, the contractor would be subject to use tax on those materials.

E. "Improvement to real estate" means that personal property has been incorporated into and becomes a permanent part of the real property. To accomplish this, the personal property generally takes on an immovable character. An immovable fixture is characterized by three elements:

(1) Real or constructive annexation of the article in question to the land.

(2) Adaptation of the personal property as part of the land.

(3) The intention of the party making the annexation to make the personal property a permanent part of the land so that it would pass with the land upon a sale.

Indiana Property Tax regulations concerning commercial property may be consulted as a guideline to determine whether property is real or personal, but it should not be considered determinative.

Tax Consequences

A contractor's purchase of machinery, tools, equipment and supplies that are not incorporated into the structure being built is subject to sales and/or use tax at the time of purchase. No exemption is available to the contractor because of the exempt status of the customer. Rule 45 IAC 2.2-3-12 [c], which is specifically applicable to contractors under contract for an improvement to real estate with an organization entitled to exemption from sales and use tax, states:

(1) Utilities, machinery, tools, forms, supplies, equipment, and any other items used or consumed by the contractor and which do not become part of the improvement to real estate are not exempt regardless of the exempt status of the person for whom the contract is performed.

Note:

In the construction and repair of public roads, bridges, highways and other public infrastructure for a governmental entity, a contractor may be specifically required to provide certain items of tangible personal property for the safety of the public, for traffic control, or to enable the government to perform its responsibilities. Such items include, but are not limited to, traffic signals; signs; barrels; barricades; temporary pavement markings; materials to construct temporary traffic lanes, roads and bridges; erosion control and drainage materials; aggregates used to set grades; and field offices and communications equipment, provided such offices and equipment are exclusively for government representatives. The purchase, lease or use of such items by a contractor or its subcontractor to comply with the requirements of a government construction contract are not subject to sales or use tax, provided the item is used solely, in connection with the construction and/or repair of public roads, bridges, highways or other public infrastructures that will be paid for by a governmental entity and is not used for any other purpose.

Direct Payment Permits

A contractor holding a direct payment permit may issue it to his suppliers, but when acting as a contractor should remember that he must obtain an exemption certification—not a direct payment permit—from any exempt customer for whom he is making an improvement to real estate as a result of a lump sum contract.

A lump sum contractor does not sell tangible personal property or collect sales tax as a result of the contract and may not accept a direct payment permit. If the organization, for which the contractor is constructing the improvement, is entitled to an exemption, it must give the contractor an exemption certificate (Form ST-105) -- not a direct payment permit—certifying the exemption.

A prime contractor receiving an exemption certificate for a particular job should pass the exemption on to the subcontractor.

Asphalt Manufacturers

The manufacturing exemption will apply to an asphalt plant and paver, including repair parts and fuel for the respective equipment. Asphalt manufacturers/contractors will be granted an exemption for dump trucks used to transport "hot mix asphalt" from their asphalt plant to the job site. No exemption is available to the extent the respective dump trucks are used to haul "raw materials". Additionally, no exemption for dump trucks is available to contractors who do not produce "hot mix asphalt". Actual

records must be maintained to document the exempt usage, if any. Graders, rollers, distributors, front-end loaders and other construction equipment are not exempt and will be subject to Indiana sales and use tax.

Streets and Sewers

Contractors acquiring material for incorporation as an integral part of a public street or of a public water, sewage or other utility service system are exempt from sales tax on the purchase of the construction material. The public street or public utility service system must be required under an approved subdivision plot and must be accepted by the appropriate Indiana political subdivision to be publicly maintained after its completion.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE
INFORMATION BULLETIN #61
SALES TAX
DECEMBER 2002
(Replaces Bulletin #61 dated September 12, 1986)

DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the subject matter covered herein.

SUBJECT: Food Stamps

REFERENCES: IC 6-2.5-5-33

The purchase of food items with food stamps will be exempt from sales tax.

(1) Normally, taxable items will be exempt from sales tax when food stamps are used for the purchase, even if cash is submitted with food stamps, provided the amount of cash does not represent a disproportionate amount of the purchase price.

Example: When $20.00 in food stamps and $2.00 in cash is tendered for the purchase of a group of items that are food stamp eligible, the entire transaction is exempt from tax.

(2) Non-food stamp eligible items (i.e., tobacco products, alcoholic beverages, paper products, etc.) will be unaffected. Applicable sales tax will be collected on all non-food stamp eligible items.

(3) Tax will not be due on the coupon value of any food stamp eligible item paid for with food stamps, or in combination with cash. The full amount of the item would be exempt from tax under (1) above, if purchased without the coupon.

Example: When food stamp eligible items are purchased with $2.00 cash, $20.00 in food stamps and various coupons, the tax will not be due on the coupon value of any food stamp eligible items, resulting in an entire tax exempt transaction.

Stores which accept food stamps are to exempt the entire food stamp purchase including any transaction that provides cash in combination with the food stamps and coupons submitted for food stamp eligible items.

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Kenneth L. Miller
Commissioner

DEPARTMENT OF STATE REVENUE

04980493.LOF

LETTER OF FINDINGS NUMBER: 98-0493 ST
Sales and Use Tax
For Tax Periods: 1994 Through 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning specific issues.

ISSUES

1. Sales and Use Tax- Dust Lights

Authority: IC 6-2.5-3-2 (a), IC 6-8.1-5-1 (b), IC 6-2.5-5-4, 45 IAC 2.2-5-10 (c), *Indiana Department of Revenue v. Cave Stone*, 457 N.E. 2d 520, (Ind. 1983).

The taxpayer protests the assessment of tax on dust lights.

2. Sales and Use Tax-Computer Software

Authority: IC 6-2.5-3-2 (a), Sales Tax Information Bulletin #8, *Lincoln National Life Insurance Company v. Indiana Department of State Revenue*, Ind. Cir. Ct., Noble County Docket No. C-80-635 (October 20, 1981).

The taxpayer protests the assessment of tax on computer software.

3. Sales and Use Tax-Labels and Label Printing Machine

Authority: IC 6-2.5-5-6, IC 6-2.5-5-3, 45 IAC 2.2-5-14 (e).

The taxpayer protests the assessment of tax on labels and the label printing machine.

4. Tax Administration-Negligence Penalty

Authority: IC 6-8.1-10-2.1, 45 IAC 15-11-2 (b).

The taxpayer protests the assessment of the negligence penalty.

STATEMENT OF FACTS

The taxpayer is a manufacturer of kitchen and bath cabinets that are sold mostly at wholesale to retailers. After an audit, the Indiana Department of Revenue, hereinafter the "department," assessed additional sales and use tax, interest, and penalty. The taxpayer protested a portion of the assessment and a hearing was held. Further facts will be provided as necessary.

1. Sales and Use Tax-Dust Lights

DISCUSSION

Pursuant to IC 6-2.5-3-2 (a), Indiana imposes an excise tax on tangible personal property stored, used, or consumed in Indiana. All tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b).

IC 6-2.5-5-4 provides an exemption from the use tax for tangible personal property directly used in the direct production of the taxpayer's product. In *Indiana Department of Revenue v. Cave Stone*, 457 N.E. 2d 520, (Ind. 1983) the Indiana Supreme Court found that a piece of equipment qualifies for the manufacturing exemption if it is essential and integral to the production process. 45 IAC 2.2-5-10 (c) further describes manufacturing machinery and tools as exempt if they have an immediate effect on the property in production.

The taxpayer has sanding booths for the individual sanders' use. These booths originally had no attached lighting. After a period of time, the taxpayer decided to attach lights with dust protection to each of the booths. The dust lights were specifically engineered and constructed for this purpose. The lights supplement the general lighting in the room. The department assessed use tax on the dust lights. The taxpayer argued that these lights qualify for the manufacturing exemption.

Because the taxpayer's employees were able to produce the cabinets without the dust lights prior to their installation, the dust lights cannot be essential and integral to the production process as required for the manufacturing exemption. Further the dust lights do not directly impact the production process as required in the regulation. Although the dust lights improved the working situation, they do not qualify for the directly used in direct production exemption from the use tax.

FINDING

The taxpayer's first protest is denied.

2. Sales and Use Tax-Computer Software

DISCUSSION

The department also assessed use tax on the taxpayer's use of a computer software licensing agreement pursuant to IC 6-2.5-3-2 (a). The taxpayer contends that since the computer software licensing agreement was intangible rather than tangible personal property, it was not subject to the use tax. The taxpayer bases this contention on the finding in *Lincoln National Life Insurance Company v. Indiana Department of State Revenue*, Ind. Cir. Ct., Noble County Docket No. C-80-635 (October 20, 1981). In that case, the Noble County Circuit Court held that a computer program software license was intangible, intellectual personal property and not subject to the Indiana sales or use taxes.

The taxpayer's reliance on *Lincoln National* is misplaced. *Lincoln National* is a nonappellate opinion. It was decided in a county circuit court prior to the creation of the Indiana Tax Court. As such, it does not serve as general precedent.

The department's interpretation of the sales and use taxability of canned or pre-written computer programs has been consistently available for taxpayers in Sales Tax Information Bulletin #8 that states as follows:

Pre-written or canned computer programs are taxable because the intellectual property contained in the canned program is not different than the intellectual property in videotape or a textbook.

As tangible personal property like a textbook, the use of pre-written or canned software is subject to the use tax.

FINDING

The taxpayer's protest is denied.

3. Sales and Use Tax-Labels and Label Printing Machine

DISCUSSION

The taxpayer also protests the assessment of use tax on certain carton labels. Pursuant to IC 6-2.5-5-6, transactions involving tangible personal property are exempt from the use tax if the purchaser acquires it for "incorporation as a material part of other tangible personal property which the purchaser manufactures, assembles, refines, or processes for sale in his business."

This exemption is further explained at 45 IAC 2.2-5-14 (e) as follows:

... incorporated as a material or an integral part into tangible personal property for sale means:

(1) The material must be incorporated into and become a component of the finished product.

(2) The material must constitute a material or integral part of the finished product.

(3) The tangible property must be produced for sale by the purchaser.

The taxpayer attaches the subject adhesive labels to its shipping cartons. These labels identify the size, type, and style of the product. Two of the taxpayer's major customers submitted letters indicating that they require the information provided on the labels. Therefore, the taxpayer argues that the labels meet the statutory and regulatory requirements for exemption.

The cartons to which the taxpayer affixes the labels are cardboard shipping cartons designed to protect the taxpayer's product during shipping. Shipping cartons are not an essential part of the final product. Therefore, the labels that are attached to the shipping cartons do not become part of the finished product and do not qualify for exemption.

The taxpayer also protests the assessment of use tax on the machine used to print the labels. The taxpayer contended that the machine qualified for exemption because it was directly used in the direct production of tangible personal property produced for resale pursuant to IC 6-2.5-5-3. Since the labels are attached to the shipping carton, they are not part of the finished product produced for resale. The label printing machine operates on labels which are not part of the finished product. Therefore, it does not impact the final product and it does not qualify for exemption.

FINDING

The taxpayer's protest to the assessment on the labels and the label printing machine is denied.

4. Tax Administration-Negligence Penalty

DISCUSSION

The taxpayer's final point of protest concerns the imposition of the ten per cent negligence penalty pursuant to IC 6-8.1-10-2.1. Indiana Regulation 45 IAC 15-11-2 (b) clarifies the standard for the imposition of the negligence penalty as follows:

"Negligence", on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence.

The taxpayer failed to follow the law, regulations, and generally available departmental instructions by failing to pay sales or use tax on several varieties of clearly taxable items such as office supplies, first aid supplies, cleaning supplies, and general maintenance supplies. Some of these same items had been assessed in a previous audit. This constitutes negligence. The negligence penalty was properly applied.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04980506.LOF

LETTER OF FINDINGS NUMBER: 98-0506
Sales And Use Tax
For Tax Periods: 1994

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

1. Sales and Use Tax: Unreported Taxable Sales

Authority: IC 6-8.1-5-1 (b).

The taxpayer protests the assessment of sales tax on certain unreported sales.

2. Sales and Use Tax: School Food Service

Authority: IC 6-2.5-2-1 (a), IC 6-2.5-5-20, Sales Tax Information Bulletin #32, August 1997, Hope Lutheran Church v. Chellew, 460 N.E. 2d 1244(Ind. Ct. App.1984), United Artists Theatre Circ., Inc. v. Indiana Department of State Revenue, 459 N.E. 2d 754 (Ind. Ct. App. 1984).

The taxpayer protests the assessment of sales tax on its university food service operations.

3. Sales and Use Tax: Vending Machine Labels

Authority: IC 6-2.5-2-1 (a), IC 6-2.5-5-20, Information Bulletin #45, issued December 1991.

The taxpayer protests the assessment of tax on the gross sales of vending machines.

4. Sales and Use Tax: Consumable Goods

Authority:. IC 6-2.5-2-1 (a), IC 6-2.5-3-2 (a).

The taxpayer protests the assessment of use tax on the use of certain consumable goods.

5. Sales and Use Tax: Capital Purchases

Authority: IC 6-2.5-2-1 (a), IC 6-2.5-3-2 (a).

The taxpayer protests the assessment of use tax on certain capital purchases.

6. Tax Administration: Negligence Penalty

Authority: IC 6-8.1-10-2.1, 45 IAC 15-11-2 (b).

The taxpayer protests the imposition of the negligence penalty.

STATEMENT OF FACTS

The taxpayer, a corporation with its commercial domicile in North Carolina, is a food and beverage service company with revenue derived from cafeterias and vending machines in Indiana. After an audit, the Indiana Department of Revenue ("department") assessed the taxpayer additional sales and use tax, interest and penalty. The taxpayer protested the assessment and a hearing was held. More facts will be provided as necessary.

1. Sales and Use Tax: Unreported Taxable Sales

DISCUSSION

All department assessments are presumed to be correct. Taxpayers bear the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b).

The department assessed additional tax on sales from various locations that were not reported during some months. The department used close dates taken from the taxpayer's operation reports in calculating the assessments. The taxpayer contends that the close dates used in the audit were inaccurate. The taxpayer submitted computer runs concerning business activity at the protested locations. Each of the computer runs includes a handwritten note that the operations ceased on a certain date. These documents are not persuasive evidence that the operations closed on the handwritten dates. The taxpayer did not sustain its burden of proving that the department used inaccurate close dates for the calculation of sales taxes due.

FINDING

The taxpayer's protest is denied.

2. Sales and Use Tax: School Food Service

DISCUSSION

Indiana imposes a sales tax on the sale of tangible personal property at retail. IC 6-2.5-2-1 (a). Sales tax is specifically imposed on sales of prepared meals in a retailer's establishment. IC 6-2.5-5-20. Meals sold by schools on school premises to university students are exempt from the sales tax. IC 6-2.5-5-22. This statutory exemption is clarified in Sales Tax Information Bulletin #32, August 1997, as being available to an agent who provides food services on behalf of its principal.

The department considered the taxpayer an independent contractor in providing the food service to the universities. Therefore the department assessed additional tax on the taxpayer's university food services. The taxpayer alleged that it was actually the agent of the universities and was entitled to the universities' exemption from sales tax. In Indiana an agency relationship exists when consent to the agency is manifested by the principal, the agent acquiesces to the agency relationship and control is exerted by the principal. Hope Lutheran Church v. Chellew, 460 N.E. 2d 1244(Ind. Ct. App.1984). In this case the taxpayer did not submit any evidence that the universities considered this an agency relationship. In fact, the department cited contracts between the universities and the taxpayer specifically calling the taxpayer an independent contractor. An agency relationship cannot be proved merely by the statements of the agent. United Artists Theatre Circ., Inc. v. Indiana Department of State Revenue, 459 N.E. 2d 754 (Ind. Ct. App. 1984). The taxpayer did submit a previous department decision on a different university food service program. It is not known, however, how that food service operation compared to the taxpayer's food service programs assessed in this audit. The taxpayer did not sustain its burden of proof in establishing that it was in fact operating as an agent rather than an independent contractor.

FINDING

The taxpayer's protest is denied.

3. Sales and Use Tax: Vending Machine Labels

DISCUSSION

Indiana imposes a sales tax on the sale of tangible personal property at retail. IC 6-2.5-2-1 (a). Sales tax is specifically imposed on sales of food through a vending machine. IC 6-2.5-5-20.

Sales taxes must be stated separately from the commodity price.. Consumers pay the sales tax. Vendors collect the tax and remit the tax to the state. IC 6-2.5-2-1 (b). Vending machine sales, however, do not lend themselves to the normal collection practices. Therefore, the department has issued the following directions for the collection and remittance of sales tax from vending machines in Information Bulletin #45, issued December 1991.

Because of the nature of vending machine sales, the sales tax collected by persons responsible to collect the tax cannot be separately stated on a receipt. A person responsible for collecting sales tax on vending machines sales must post a sign on the vending machine stating that sales tax is included in the price.

If no sign is posted, the Department will assume that the price of the item does not include tax. Thus, the Department will expect the responsible person to collect and remit sales tax on the gross sales from the machine.

The auditor personally inspected many of the taxpayer's vending machines and did not find the requisite tags on the machines. Therefore the tax was calculated on the gross sales from the vending machines. The taxpayer alleged that all the machines actually had the requisite tags. In support of this argument, the taxpayer submitted samples of tags and letters to the department written by taxpayer's employees in 1986 asserting that the tags had been applied to the taxpayer's vending machines. The letters indicate that there were tags in 1986. The tax period, however, was 1994. Assertions that there were tags in 1986 does not prove that there were tags in 1994. The auditor did not see tags in 1998. The taxpayer did not sustain its burden of proving that there were the requisite tags on the machines during the tax period. Therefore the tax was properly calculated on the gross sales of the vending machines.

FINDING

The taxpayer's protest is denied.

4. Sales and Use Tax: Consumable Goods

DISCUSSION

Indiana imposes a sales tax on the transfer of tangible personal property for consideration in a retail transaction. IC 6-2.5-2-1 (a). Indiana imposes a complementary excise tax, the use tax, on tangible personal property purchased in a retail transaction and used in Indiana. IC 6-2.5-3-2 (a). Proof of payment of the sales tax on a transaction exempts the purchaser from payment of the use tax on the use of the item purchased in the retail transaction.

During the audit, the taxpayer and the department agreed to use a sample method for determination of the amount of use tax due on the consumable goods. Pursuant to this agreement, the department reviewed the taxpayer's available records and gave the taxpayer credit for any sales tax paid during the sample period. The percentage of taxable purchases during the sample period was applied to the total purchases during the entire audit period to determine the proper amount of tax due. This was an appropriate method of computing the taxpayer's use tax liability. The consideration of additional invoices at this time would alter the basis of the original agreement. Therefore, invoices submitted after the hearing will not be used to modify the percentages used in the sample for the determination of use tax properly due to the state.

FINDING

The taxpayer's protest is denied.

5. Sales and Use Tax: Capital Purchases

DISCUSSION

Indiana imposes a sales tax on the transfer of tangible personal property for consideration in a retail transaction. IC 6-2.5-2-1 (a). Indiana imposes a complementary excise tax, the use tax, on tangible personal property purchased in a retail transaction and used in Indiana. IC 6-2.5-3-2 (a). Proof of payment of the sales tax on a transaction exempts the purchaser from payment of the use tax on the use of the item purchased in the retail transaction.

The taxpayer made several capital purchases throughout the audit period. After the close of the audit, the taxpayer submitted evidence that it had paid sales tax on the following capital purchases.

Date	Description	Amount
2/1/94	Conv/door kits (3)	206.42
6/1/94	RMI 213 AW/V	3,315.38
8/1/94	Cash register (3)	525.19
8/1/94	Cash register (3)	525.19

Since the taxpayer showed that it had paid sales tax on these items, the taxpayer does not owe use tax on the use of these items.

FINDING

The taxpayer's protest to the above listed capital purchases is sustained.

6. Tax Administration: Negligence Penalty

DISCUSSION

The taxpayer also protested the imposition of the ten percent negligence penalty pursuant to IC 6-8.1-10-2.1. Indiana Regulation 45 IAC 15-11-2 (b) clarifies the standard for the imposition of the negligence penalty as follows:

> Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The taxpayer is a major corporation with an extensive tax and accounting department. Even so, it failed to follow the department's clear directions concerning the remittance of sales taxes on vending machine sales. Further, the taxpayer failed to set

in place systems to assure compliance with the sales and use tax law. This failure "to use such reasonable care, caution or diligence as would be expected of an ordinary reasonable taxpayer" was a breach of the taxpayer's duties under the law. This breach of the taxpayer's duties constitutes negligence.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04980507.LOF

LETTER OF FINDINGS NUMBER: 98-0507
Sales And Use Tax
For Tax Periods: 1994-1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

1. Sales and Use Tax: Unreported Taxable Sales

Authority: IC 6-8.1-5-1 (b).

The taxpayer protests the assessment of sales tax on certain unreported sales.

2. Sales and Use Tax: School Food Service

Authority: IC 6-2.5-2-1 (a), IC 6-2.5-5-20, Sales Tax Information Bulletin #32, August 1997, Hope Lutheran Church v. Chellew, 460 N.E. 2d 1244(Ind.Ct. App.1984), United Artists Theatre Circ., Inc. v. Indiana Department of State Revenue, 459 N.E. 2d 754 (Ind. Ct. App. 1984).

The taxpayer protests the assessment of sales tax on its university food service operations.

3. Sales and Use Tax: Vending Machine Labels

Authority: IC 6-2.5-2-1 (a), IC 6-2.5-5-20, Information Bulletin #45, issued December 1991.

The taxpayer protests the assessment of tax on the gross sales of vending machines.

4. Sales and Use Tax: Consumable Goods

Authority:. IC 6-2.5-2-1 (a), IC 6-2.5-3-2 (a).

The taxpayer protests the assessment of use tax on the use of certain consumable goods.

5. Sales and Use Tax: Capital Purchases

Authority: IC 6-2.5-2-1 (a), IC 6-2.5-3-2 (a).

The taxpayer protests the assessment of use tax on certain capital purchases.

6. Tax Administration: Negligence Penalty

Authority: IC 6-8.1-10-2.1, 45 IAC 15-11-2 (b).

The taxpayer protests the imposition of the negligence penalty.

STATEMENT OF FACTS

The taxpayer, a corporation with its commercial domicile in North Carolina, is a food and beverage service company with revenue derived from cafeterias and vending machines in Indiana. After an audit, the Indiana Department of Revenue ("department") assessed the taxpayer additional sales and use tax, interest and penalty. The taxpayer protested the assessment and a hearing was held. More facts will be provided as necessary.

1. Sales and Use Tax: Unreported Taxable Sales

DISCUSSION

All department assessments are presumed to be correct. Taxpayers bear the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b),

The department assessed additional tax on sales from various locations that were not reported during some months. The department used close dates taken from the taxpayer's operation reports in calculating the assessments. The taxpayer contends that the close dates used in the audit were inaccurate. The taxpayer submitted computer runs concerning business activity at the protested locations. Each of the computer runs includes a handwritten note that the operations ceased on a certain date. These documents are not persuasive evidence that the operations closed on the handwritten date. The taxpayer does not sustain its burden of proving that the department used inaccurate close dates for the calculation of sales taxes due.

FINDING

The taxpayer's protest is denied.

2. Sales and Use Tax: School Food Service

DISCUSSION

Indiana imposes a sales tax on the sale of tangible personal property at retail. IC 6-2.5-2-1 (a). Sales tax is specifically imposed on sales of prepared meals in a retailer's establishment. IC 6-2.5-5-20. Meals sold by schools on school premises to university students are exempt from the sales tax. IC 6-2.5-5-22. This statutory exemption is clarified in Sales Tax Information Bulletin #32, August 1997, as being available to an agent who provides food services on behalf of its principal.

The department considered the taxpayer an independent contractor in providing the food service to the universities. Therefore, the department assessed additional tax on the taxpayer's university food services. The taxpayer alleged that it was actually the agent of the universities and was entitled to the universities' exemption from sales tax. In Indiana an agency relationship exists when consent to the agency is manifested by the principal, the agent acquiesces to the agency relationship and control is exerted by the principal. Hope Lutheran Church v. Chellew, 460 N.E. 2d 1244(Ind. Ct. App.1984). In this case the taxpayer did not submit any evidence that the universities considered this an agency relationship. In fact, the department cited contracts between the universities and the taxpayer specifically calling the taxpayer an independent contractor. An agency relationship cannot be proved merely by the statements of the agent. United Artists Theatre Circ., Inc. v. Indiana Department of State Revenue, 459 N.E. 2d 754 (Ind. Ct. App. 1984). The taxpayer did submit a previous department decision on a different university food service program. It is not known, however, how that food service operation compared to the taxpayer's food service programs assessed in this audit. The taxpayer did not sustain its burden of proof in establishing that it was in fact operating as an agent rather than an independent contractor.

FINDING

The taxpayer's protest is denied.

3. Sales and Use Tax: Vending Machine Labels

DISCUSSION

Indiana imposes a sales tax on the sale of tangible personal property at retail. IC 6-2.5-2-1 (a). Sales tax is specifically imposed on sales of food through a vending machine. IC 6-2.5-5-20.

Sales taxes are stated separately from the commodity price. Consumers pay the sales tax. Vendors collect the tax and remit the tax to the state. IC 6-2.5-2-1 (b). Vending machine sales, however, do not lend themselves to the normal collection practices. Therefore, the department has issued the following directions for the collection and remittance of sales tax from vending machines in Information Bulletin #45, issued December 1991.

> Because of the nature of vending machine sales, the sales tax collected by persons responsible to collect the tax cannot be separately stated on a receipt. A person responsible for collecting sales tax on vending machines sales must post a sign on the vending machine stating that sales tax is included in the price.
>
> If no sign is posted, the Department will assume that the price of the item does not include tax. Thus, the Department will expect the responsible person to collect and remit sales tax on the gross sales from the machine.

The auditor personally inspected many of the taxpayer's vending machines and did not find the requisite tags on the machines. Therefore the tax was calculated on the gross sales from the vending machines. The taxpayer alleged that all the machines actually had the requisite tags. In support of this argument, the taxpayer submitted samples of tags and letters to the department written by taxpayer's employees in 1986 asserting that the tags had been applied to the taxpayer's vending machines. The letters indicate that there were tags in 1986. The tax period, however, was 1994-1996. Assertions that there were tags in 1986 does not prove that there were tags in 1994-1996. The auditor did not see tags in 1998. The taxpayer did not sustain its burden of proving that there were the requisite tags on the machines during the tax period. Therefore the tax was properly calculated on the gross sales of the vending machines.

FINDING

The taxpayer's protest is denied.

4. Sales and Use Tax: Consumable Goods

DISCUSSION

Indiana imposes a sales tax on the transfer of tangible personal property for consideration in a retail transaction. IC 6-2.5-2-1 (a). Indiana imposes a complementary excise tax, the use tax, on tangible personal property purchased in a retail transaction and used in Indiana. IC 6-2.5-3-2 (a). Payment of sales tax on a retail transaction exempts the use of the purchased item from the use tax.

During the audit, the taxpayer and the department agreed to use a sample method for determination of the amount of use tax due on the consumable goods. Pursuant to this agreement, the department reviewed the taxpayer's available records and gave the taxpayer credit for any sales tax paid during the sample period. The percentage of taxable purchases during the sample period was applied to the total purchases during the entire audit period to determine the proper amount of tax due. This was an appropriate method of computing the taxpayer's use tax liability. The consideration of additional invoices at this time would alter the basis of the original agreement. Therefore, invoices submitted after the hearing will not be used to modify the percentages used in the sample for the determination of use tax properly due to the state.

FINDING

The taxpayer's protest is denied.

5. Sales and Use Tax: Capital Purchases

DISCUSSION

Indiana imposes a sales tax on the transfer of tangible personal property for consideration in a retail transaction. IC 6-2.5-2-1 (a). Indiana imposes a complementary excise tax, the use tax, on tangible personal property purchased in a retail transaction and used in Indiana. IC 6-2.5-3-2 (a). Proof of payment of the sales tax on a transaction exempts the purchaser from payment of the use tax on the use of the item purchased in the retail transaction.

The taxpayer made several capital purchases throughout the audit period. After the close of the audit, the taxpayer submitted evidence that it had paid sales tax on several of the capital purchases. Since the taxpayer showed that it had paid Indiana sales tax on these items, the taxpayer does not owe use tax on the use of these items.

FINDING

The taxpayer's protest to the capital purchases on which Indiana sales tax was paid is sustained.

6. Tax Administration: Negligence Penalty

DISCUSSION

The taxpayer also protested the imposition of the ten per cent negligence penalty pursuant to IC 6-8.1-10-2.1. Indiana Regulation 45 IAC 15-11-2 (b) clarifies the standard for the imposition of the negligence penalty as follows:

> Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The taxpayer is a major corporation with an extensive tax and accounting department. Even so, it failed to follow the department's clear directions concerning the remittance of sales taxes on vending machine sales. Further, the taxpayer failed to set in place systems to assure compliance with the sales and use tax law. This failure "to use such reasonable care, caution or diligence as would be expected of an ordinary reasonable taxpayer" was a breach of the taxpayer's duties under the law. This breach of the taxpayer's duties constitutes negligence.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

03980557.LOF

LETTER OF FINDINGS NUMBER: 98-0557
Withholding Tax
For Tax Periods: 1995 through 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning specific issues.

ISSUE

Gross Income Tax: Withholding on Nonresident Contractor

Authority: IC 6-2.1-2-2, IC 6-2.1-6-1, IC 6-8.1-5-1 (b), 45 IAC 1-1-213, 45 IAC 1-1-214, 45 IAC 1-1-215.

The taxpayer protests the assessment of withholding tax on nonresident contractors.

STATEMENT OF FACTS

The taxpayer is a corporation engaged in the processing of food products that it sells to a major fast food chain. During the tax period, the taxpayer contracted with several nonresident contractors to build a new facility in Indiana. The taxpayer did not withhold gross income tax from the payments to these contractors. The Indiana Department of Revenue, hereinafter referred to as the "department," assessed withholding tax after an audit. The taxpayer protested the assessment and a hearing was held. More facts will be provided as necessary.

Gross Income Tax: Withholding on Nonresident Contractor

DISCUSSION

All tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b).

Indiana imposes an income tax, known as the gross income tax, upon the receipt of "the taxable gross income derived from

activities or businesses or any other sources within Indiana by a taxpayer who is not a resident or a domiciliary of Indiana." IC 6-2.1-2-2. Except as provided in IC 6-2.1-6-1, each calendar year each individual, firm, organization, or governmental agency of any kind who makes payments to a nonresident contractor for performance of any contract, except contracts of sale, shall withhold from such payments the amount of gross income tax owed upon the receipt of those payments under this article. IC 6-2.1-6-1.

These statutory requirements are further described and clarified at 45 IAC 1-1-213 in effect during the audit period that states as follows:

> Indiana gross income tax is required to be withheld from any and all payments made to a nonresident contractor for performance of any work or services which are taxable to the State of Indiana. The withholding will be made at the higher rate under IC 6-2-1-3(g) on all payments made during the year to a nonresident contractor which exceed the sum of $1,000.00.
>
> The term "nonresident contractor" is defined at 45 IAC 1-1-214, in effect during the tax period as follows:
>
> A nonresident contractor is any corporation, including partnerships and joint ventures with a corporate partner, either for profit or not-for-profit... which is not qualified with the Indiana Secretary of State to conduct business in the State of Indiana and which performs any work or service of any kind in the State of Indiana.

Pursuant to 45 IAC 1-1-215 in effect during the tax period, work or service performed in Indiana includes "construction contracts of any kind" and "contracts for the furnishing and installation of any tangible personal property."

During the tax period, the taxpayer was a corporation doing business in Indiana. It made payments to out-of-state contractors who were not registered with the Indiana Secretary of State and performed work or service in Indiana by constructing the factory and furnishing and installing the machinery. The law, as clarified in the applicable regulations, required that the taxpayer withhold gross income tax on these payments that it made to the nonresident contractors.

The taxpayer contends that the assessments were for exempt contracts of sale rather than construction contracts or contracts for the furnishing and installation of tangible personal property. In support of its contention, the taxpayer offered legal arguments and definitions of contracts for sale. The taxpayer did not, however, offer any documentary evidence that the transactions in this case were actually contracts of sale rather than the furnishing and installation of tangible personal property. Therefore, the taxpayer did not sustain its burden of proof.

Alternatively, the taxpayer argues that the department should examine the individual contracts to determine the gross income tax rate applicable to that payment. The internal documents submitted by the taxpayer did not, however, provide proof that the transactions were contracts of sale or verifiable breakdowns of the sales of tangible personal property and services. The applicable regulation for out-of-state clearly states that the withholding is to be made at the higher rate for all payments above $1,000.00. The taxpayer did not sustain its burden of proof that it qualified for any of the statutory exceptions. The taxpayer did not withhold in the required manner.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

04980558.LOF

LETTER OF FINDINGS NUMBER: 98-0558 ST
Sales and Use Tax
For Tax Periods: 1995 through 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning specific issues.

ISSUE

Sales and Use Tax-Manufacturing Exemption

Authority: IC 6-2.5-3-2 (a), IC 6-2.5-5-3, IC 6-8.1-5-1 (b), 45 IAC 2.2-5-8 (d), *Gross Income Tax Division v. National Bank and Trust Co.*, 79 N.E. 2d 651 (Ind. 1948).

The taxpayer protests the assessment of tax on three items.

STATEMENT OF FACTS

The taxpayer is engaged in the processing of food products that it sells to a major fast food chain. The Indiana Department of Revenue, hereinafter referred to as the "department," assessed additional use tax, interest and penalty after an audit. The taxpayer protested the assessment and a hearing was held. More facts will be provided as necessary.

Sales and Use Tax-Manufacturing Exemption

DISCUSSION

Pursuant to IC 6-2.5-3-2 (a), Indiana imposes an excise tax on tangible personal property stored, used or consumed in Indiana. A number of exemptions are available from use tax. All exemptions must be strictly construed against the party claiming the

exemption. *Gross Income Tax Division v. National Bank and Trust Co.,* 79 N.E. 2d 651 (Ind. 1948). IC 6-2.5-5-3 provides for the exemption of "manufacturing machinery, tools and equipment which is to be directly used by the purchaser in the direct production, manufacture, fabrication... of tangible personal property."

All tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b).

The taxpayer protests the assessment of tax on a laser printer, a conveyor belt, and the flour corn used during packaging of the product.

The law sets out a two pronged test to determine whether an item qualifies for exemption. First, exempt items must be used during the production process. Secondly, exempt items must direct affect the production of the product.

The first issue to be determined is whether or not the protested items are used during or after the production process. 45 IAC 2.2-5-8 (d) defines the production process as follows:

Pre-production and post-production activities. "Direct use in the production process" begins at the point of the first operation or activity constituting part of the integrated production process and ends at the point that the production has altered the item to its completed form, including packaging if required.

The items are packaged in small groupings within plastic wrap to maintain freshness. The groupings wrapped in plastic are then transported to the boxing area on conveyer belts. The boxes are assembled and moved on a conveyor belt to the packaging area where the product is inserted. The flour corn is a mechanical device that presses the product during placement into the cardboard boxes. The laser printer prints information such as weight, count, supplier, run number, and date directly onto the box.

The customer restaurants require the information printed on the boxes so they know exactly what foodstuffs they are receiving, when and where the foodstuffs were produced, allow discussion of the quality of the product, and to accommodate a recall if necessary. The taxpayer argues that since the restaurants require the labeling, the entire process prior to and including the printing of the information is in the production process. Therefore, according to the taxpayer, the protested items are used in the production process and meet the first prong of the test to qualify for exemption.

The taxpayer's argument is not persuasive. The plastic wrap preserves the freshness of the product. The boxes are merely used for shipping. The information required by the restaurants could be placed on the plastic wrap rather than the boxes. Therefore, the plastic wrap is the last required packaging as contemplated in the regulation. The protested items are used after the completion of the production process and do not meet the first prong of the test for qualification for exemption from the use tax.

Since the protested items do not meet the first prong of the test, it is not necessary to consider the second prong of the test.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02990152.LOF

LETTER OF FINDINGS NUMBER: 99-0152
Adjusted Gross Income Tax—Business/Non-Business Income
Tax Administration—Penalty
For Tax Years 1995-1997

NOTICE: Under Indiana Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Income Tax—Business Versus Nonbusiness Income

Authority: IC § 6-3-1-20; 45 IAC 3.1-1-29; IC § 6-3-1-21; 45 IAC 3.1-1-30; IC § 6-3-2-1(b); 45 IAC 3.1-1-31; IC § 6-8.1-5-1(b); 45 IAC 3.1-1-58; 45 IAC 3.1-1-59; 45 IAC 3.1-1-60; *May Department Stores v Indiana Department of Revenue,* 749 N.E.2d 651 (Ind.Tax, 2001)

Taxpayer protests the auditor's reclassification of certain types of income from non-business to business income.

II. Tax Administration—Penalty

Authority: IC § 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the imposition of the 10% negligence penalty.

STATEMENT OF FACTS

Taxpayer manufactures medical, electronic, fabric, and industrial products, selling them throughout the world. Taxpayer has a number of subsidiaries, including overseas corporations in countries where taxpayer does business. In Indiana, taxpayer has

inventory on consignment to various hospitals, with a single Indiana salesperson holding the remainder of taxpayer's in-state inventory.

The Department audited taxpayer for tax years 1995 through 1997, determining that certain types of income taxpayer had classified as "non-business" should have been classified, for Indiana Adjusted Gross Income Tax purposes, as "business income." Therefore, additional tax was assessed and the 10% negligence penalty was imposed.

Taxpayer timely protested, arguing that the income at issue was "non-business." A hearing was held wherein taxpayer presented some evidence of the non-business nature of the income at issue. The Department requested further information and taxpayer has provided it. Additional facts will be provided as necessary.

I. Income Tax—Business Versus Non-Business Income

DISCUSSION

Taxpayer protests the reclassification of income received from its investment portfolio from non-business to business income. Taxpayer also protests the reclassification of interest received from loans to foreign affiliates, dividends from ownership interests in other affiliates, and a small amount of capital gains, as business income. Taxpayer argues that the income is "non-business" because none of it serves any operational functions within its overall corporate structure. Taxpayer's investment committee, whose purview is separate from the operations arm of the company, decides when and where to invest taxpayer's surplus cash. At the hearing, taxpayer was asked to provide the Department with further information regarding the committee and its decision-making processes. The Department also requested that taxpayer provide documentation and narrative explanations of all contested income reclassifications.

Under IC § 6-8.1-5-1(b), a "notice of proposed assessment is *prima facie* evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made."

IC § 6-3-1-21 defines "nonbusiness income" as "all income other than business income." *See also*, 45 IAC 3.1-1-31. Secondly, IC § 6-3-1-20 defines "business income" as "income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations." *See also*, 45 IAC 3.1-1-29:

> "Business Income" Defined. "Business Income" is defined in the Act as income from transactions and activity in the regular course of the taxpayer's trade or business, including income from tangible and intangible property if the acquisition, management, or disposition of the property are integral parts of the taxpayer's regular trade or business.
>
> Nonbusiness income means all income other than business income.
>
> The classification of income by the labels occasionally used, such as manufacturing income, compensation for services, sales income, interest, dividends, rents, royalties, gains, operating income, non-operating income, etc., is of no aid in determining whether income is business or nonbusiness income. Income of any type or class and from any source is business income if it arises from transactions and activity occuring in the regular course of a trade or business. Accordingly, the critical element in determining whether income is "business income" or "nonbusiness income" is the identification of the transactions and activity which are the elements of a particular trade or business.

The Indiana Tax Court in *May Department Stores v. Indiana Department of Revenue,* 749 N.E.2d 651 (Ind. Tax 2001), 2001 Ind. Tax Lexis 32, clarified the statutory and regulatory language cited above, and outlined the transactional and functional tests the Department must apply to distinguish business from non-business income.

In *May*, the Indiana Tax Court construed the definitions of "business income" under IC § 6-3-1-20 and IC § 6-3-1-21 (non-business income). As the court noted, the "distinction between business and nonbusiness income is important in calculating a taxpayer's tax liability... whether income is deemed business or nonbusiness income determines whether it is allocated to a specific state or whether it is apportioned between Indiana and other states wherein the taxpayer is conducting its trade or business." *May*, 749 N.E.2d 651 at 656. The court found that "... in passing IND. CODE § 6-3-1-20, the General Assembly provided two tests for defining business income... the 'transactional' and 'functional' tests." Id. at 662. The court goes on to say that IC § 6-3-1-20 "requires that not only the property's disposition but also its acquisition and management must be integral parts of the taxpayer's regular trade or business." Id. at 664.

Under the transactional test, the nature of the particular transaction generating the income is the controlling factor the Department uses to identify business income pursuant to *May*. Three considerations enter into the Department's identification process: the frequency and regularity of similar transactions; the former practices of the business; and taxpayer's subsequent use of the income.

Under the functional test, gain from the disposition of a capital asset is considered business income if the asset disposed of was used by the taxpayer in its regular trade or business operations. According to the court in *May*, the regulation found at 45 IAC 3.1-1-30 requires the Department to consider the following in determining the scope of a taxpayer's trade or business:

1. The nature of taxpayer's trade or business.
2. The substantiality of the income derived from activities and transactions and the percentage of that income which forms taxpayer's total income for a given tax period.

3. The length of time the property producing income was owned by taxpayer.

4. The taxpayer's purpose in acquiring and holding the property producing income.

Under the functional test, the Department must focus on the property being disposed of and the relationship between the property at issue and taxpayer's business operations. The question to be asked is whether the property, its use and /or disposition, forms an integral part of taxpayer's business.

The Investment Committee invests surplus funds with a "horizon" of 5-10 years, to maximize returns while managing investment risks. Allocation of assets with the Investment Fund changes as financial conditions warrant; allocation of assets is consistent with the risk and returns parameters outlined by taxpayer. Taxpayer then steps back from the operations of the Committee. The Committee monitors returns achieved by portfolio managers, recommends corrective action if returns do not meet the standards taxpayer has set forth, and makes periodic adjustments. Portfolio managers exercise complete investment discretion within the boundaries described. Investment objectives are intended to provide quantifiable benchmarks against which the progress toward long-term investment goals can be measured.

Given the fact that taxpayer is in the business of manufacturing tangible personal property for sale, income derived from long-term investment strategies is not business income. If taxpayer were to cease its Investment Committee's activities, there would be no effect whatsoever on taxpayer's day-to-day, month-to-month, or year-to-year manufacturing and marketing operations. There would also be no effect on taxpayer inventory or operations in Indiana.

The Committee's view is long-term, with one goal; thus, if investment parameters are met, no changes occur. Taxpayer invests surplus cash this way; taxpayer does not actively oversee or utilize the income to further its manufacturing operations and objectives, i.e., to increase its market share of medical products sold to hospitals and doctors. Therefore, under the transactional test, income from these investments is non-business because the transactions giving rise to the income have nothing to do with manufacturing, or the sale of products in Indiana.

So, too, under the functional test: taxpayer's use and disposition of surplus cash for investment purposes do not serve an integral part of taxpayer's business, manufacturing.

The tests as applied to dividends received from investing in foreign affiliates show that this income is also non-business. Taxpayer lacks any means of controlling operations in the foreign affiliates; they do not rely on taxpayer to conduct operations because they function autonomously and independently of taxpayer's manufacturing goals. The transactions are passive financial investments; if taxpayer withdrew its investment, nothing would happen to taxpayer other than receiving no income from dividends. Nothing would happen to taxpayer's inventory and operations in Indiana.

As applied to the interest on loans to foreign affiliates, the tests demonstrate that interest on the loan to the German subsidiary is business income. The promissory note signed by the parties shows that this is a long-term loan, almost 10 years old, to a subsidiary looking for cash to pursue its own long-term growth strategies. Taxpayer analyzed and entered into the loan transaction back in the early 1990's for tax purposes related to federal and foreign tax rates. 45 IAC 3.1-1-59 states that "interest income is nonbusiness income if the intangible with respect to which the interest was received did not arise out of or was not created in the regular course of the taxpayer's trade or business operations." The original intangible was an accounts receivable owed to the taxpayer by the German subsidiary. Taxpayer converted the accounts receivable into a long-term loan. Thus, the German subsidiary pays interest on the loan, not the accounts receivable.

The Department's research into the issue of transforming an accounts receivable—an intangible arising out of and created "in the regular course of the taxpayer's trade or business operations"—into a loan reveals nothing on point either way, i.e., business or nonbusiness income. The Department therefore upholds the characterization of the interest as business income. Taxpayer has the burden of proof on all issues raised in a protest, and has presented insufficient evidence to show that the interest on the loan to the German subsidiary is not business income.

The analysis concerning the loan to the Italian subsidiary is similar. The promissory note for the loan between taxpayer and the Italian subsidiary indicates that the Italian subsidiary needed an additional influx of cash to relocate its offices; there were difficulties in selling the old offices, and "general business conditions" required taxpayer to give the Italian subsidiary more cash for its operational functions. Therefore, the acquisition, management, and disposition of the loan proceeds were directly for the Italian subsidiary's operational functions. The interest on that loan is therefore business income to the taxpayer.

FINDING

Taxpayer's protest concerning the Audit Division's reclassification of income from certain transactions from non-business to business income is partially sustained and partially denied. Interest gained from taxpayer's investment portfolio and dividends are nonbusiness income. Interest received from the loans to the German and Italian subsidiaries are business income.

II. Tax Administration—Penalty

Taxpayer protests the imposition of the 10% negligence penalty. Taxpayer argues that it had reasonable cause to characterize as non-business the income from the transactions described, *supra.* Taxpayer's characterizations were based solely on taxpayer's interpretation of the relevant statutes and regulations which the Indiana Tax Court has only recently construed.

Indiana Code Section 6-8.1-10-2.1(d) states that if a taxpayer subject to the negligence penalty imposed under this section can

show that the failure to file a return, pay the full amount of tax shown on the person's return, timely remit tax held in trust, or pay the deficiency determined by the department was due to reasonable cause and not due to willful neglect, the department **shall** waive the penalty. Indiana Administrative Code, Title 45, Rule 15, section 11-2 defines negligence as the failure to use reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence results from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by Indiana's tax statutes and administrative regulations.

In order for the Department to waive the negligence penalty, taxpayer must prove that its failure to pay the full amount of assessed taxes was due to reasonable cause. Taxpayer may establish reasonable cause by "demonstrat[ing] that it exercised ordinary business care and prudence in carrying or failing to carry out a duty giving rise to the penalty imposed...."

FINDING

Waiver of the penalty is appropriate in this instance. At the time, Taxpayer exercised ordinary and reasonable business care in characterizing the income at issue as non-business rather than business income.

DEPARTMENT OF STATE REVENUE

04990296.LOF

LETTER OF FINDINGS NUMBER: 99-0296
Use Tax
For Tax Years 1995 through 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Use Tax—Out of State Sales Tax Collected in Error

Authority: 45 IAC 2.2-3-16; 45 IAC 2.2-3-20; Information Bulletin # 31

Taxpayer protests imposition of Indiana use tax when it was charged Kentucky sales tax in error.

II. Use Tax—Rented Office Space

Authority: 45 IAC 2.2-4-9; 45 IAC 2.2-4-10

Taxpayer protests imposition of use tax on a trailer it rented as temporary office space.

III. Use Tax—Lump Sum Contracts

Authority: 45 IAC 2.2-1-1; 45 2.2-3-8; 45 IAC 2.2-3-9; 45 IAC 2.2-3-12

Taxpayer protests imposition of use tax on materials used in telephone system installation.

STATEMENT OF FACTS

Taxpayer operates several banks in Indiana. The Department conducted an audit for the years in question, and issued several proposed assessments. Taxpayer protests three of the proposed assessments. Further facts will be provided as required.

I. Use Tax—Out of State Sales Tax Collected in Error

DISCUSSION

Taxpayer protests the imposition of Indiana use tax on items for which it was charged Kentucky sales tax. The Department assessed Indiana use tax on these items because they were delivered in Indiana, and Indiana use tax was due but not charged. 45 IAC 2.2-3-20 states:

> All purchases of tangible personal property which are delivered to the purchaser for storage, use, or consumption in the state of Indiana are subject to the use tax. The use tax must be collected by the seller if he is a retail merchant described in Reg. 6-2.5-3-6(b)(010) *[45 IAC 2.2-3-19]* or if he has Departmental permission to collect the tax. If the seller is not required to collect the tax or fails to collect the tax when required to do so, the purchaser must remit the use tax directly to the Indiana Department of Revenue.

Taxpayer purchased tangible personal property from a Kentucky vendor for storage, use or consumption in the state of Indiana. The purchases were subject to Indiana use tax, as explained in 45 IAC 2.2-3-20.

The vendor charged Kentucky sales tax, even though the tangible personal property was delivered to the purchaser for use in Indiana. Taxpayer believes that it is due a credit for sales tax paid to the other state, under 45 IAC 2.2-3-16, which states:

> Liability for Indiana use tax shall be reduced by a credit for the amount of any sale, purchase, or use tax paid to any other state, territory or possession of the United States with respect to the tangible personal property on which Indiana use tax applies.

The Department refers to sales tax Information Bulletin # 31, Section II-B, which explains in relevant part:

> A person is entitled to a credit against the Indiana use tax which is equal to the amount of sales tax, purchase tax, or use tax properly and validly paid to another state, territory, or jurisdiction of the United States for the acquisition of a particular item

of property. No credit will be allowed if the tax was paid in error to another state and was not due that state.

Information Bulletin # 31, dated January 31, 1986, clearly explains that the credit described in 45 IAC 2.2-3-16 is not available when tax is paid to another state in error. Indiana use tax was due on the purchases as described in 45 IAC 2.2-3-20. Taxpayer has not established that Kentucky sales tax was properly due, therefore 45 IAC 2.2-3-16 does not apply in this case.

FINDING

Taxpayer's protest is denied.

II. Use Tax—Rented Office Space

DISCUSSION

Taxpayer protests the imposition of use tax on rented office space. The rental space was a trailer, which was a purpose-built mobile banking facility, used by taxpayer as a temporary branch. The Department assessed use tax on the rental fees paid, on the basis that the office space was in a trailer that was not situated in place. The Department based its decision on 45 IAC 2.2-4-9, which states in part:

For purposes of the state gross retail and use tax, an "accommodation" is any space, facility, structure, or combination thereof including booths, display spaces and banquet facilities, together with all associated personal or real property (including land), which is intended for occupancy by human beings for a period less than thirty (30) days including:

(1) Rooms in hotels, motels, lodges, ranches, villas, apartments or houses.

(2) Gymnasium, coliseums, banquet halls, ballrooms, or arenas, and other similar accommodations requlary *[sic.]* offered for rent.

(3) Cabins or cottages.

(4) Tents or trailers (when situated in place).

(5) Spaces in camper parks and trailer parks wherein spaces are regularly offered for rent for periods of less than thirty (30) days.

(6) Rooms used for banquets, weddings, meetings, sales displays, conventions or exhibits.

(7) Booths or display spaces in a building, coliseum or hall.

The Department decided that the trailer was not situated in place, since taxpayer was unable to provide documentation establishing that the wheels had been removed and the trailer placed on blocks.

As part of this protest, taxpayer provided a lease describing the trailer as a "Modular Bank Facility". The lease contained a section that described the foundation that would be required for the facility. The lease also explained that the wheels used to move the facility were the property of the lessor and would be removed after delivery.

45 IAC 2.2-4-8(b) provides:

In general, the gross receipts from renting or furnishing accommodations are taxable. An accommodation which is rented for a period of thirty (30) days or more is not subject to the gross retail tax.

Since the facility was situated on a foundation, the facility was situated in place as required by 45 IAC 2.2-4-9(4) to qualify as an accommodation. Since the accommodation was rented for eleven months, 45 IAC 2.2-4-8(b) provides that the facility is not subject to the gross retail tax.

FINDING

Taxpayer's protest is sustained.

III. Use Tax—Lump Sum Contracts

Taxpayer protests the imposition of use tax on the materials used in improvements to realty at one of its branch offices. Taxpayer paid Kentucky sales tax on the materials used in improvements to realty. The Department imposed use tax on the materials portion of the amount charged, but not on the labor amount. For reasons previously discussed, the credit described in 45 IAC 2.2-3-16 does not apply in this instance. In the alternative, taxpayer asserts that the contract called for a lump sum and the materials are therefore not subject to use tax. Taxpayer states that it did not issue exemption certificates to the contractor.

The Department refers to 45 IAC 2.2-3-8, which states:

(a) In general, all sales of tangible personal property are taxable, and all sales of real property are not taxable. The conversion of tangible personal property into realty does not relieve the taxpayer from a liability for any owing and unpaid state gross retail tax or use tax with respect to such tangible personal property.

(b) All construction material purchased by a contractor is taxable either at the time of purchase, or if purchased exempt (or otherwise acquired exempt) upon disposition unless the ultimate recipient could have purchased it exempt (see 6-2.5-5 *[45 IAC 2.2-5]*

The Department also refers to 45 IAC 2.2-1-1(a), which states:

Unitary Transaction. For purposes of the state gross retail tax and use tax, such taxes shall apply and be collected in respect to each retail unitary transaction. A unitary transaction shall include all items of property and/or services for which a total combined charge or selling price is computed for payment irrespective of the fact that services which would not otherwise be taxable are included in the charge or selling price.

Taxpayer refers to 45 IAC 2.2-3-12(e), which states:

A person selling tangible personal property to be used as an improvement to real estate may enter into a completely separate contract to furnish the labor to install or construct such improvement, in which case the sales tax shall be collected and remitted by such seller on the materials sold for this purpose. Such sale of materials must be identifiable as a separate transaction from the contract for labor. The fact that the seller subsequently furnished information regarding the charges for labor and material used under a flat bid quotation shall not be considered to constitute separate transactions for labor and material.

The Department refers to 45 IAC 2.2-3-9(d), which states in relevant part:

Disposition subject to the state gross retail tax. A contractor-retail merchant has the responsibility to collect the state gross retail tax and to remit such tax to the Department of Revenue whenever he disposes of any construction material in the following manner:

(1) Time and material contract. He converts the construction material into realty on land he does not own and states separately the cost for the construction material and the cost for the labor or other charges (only the gross proceeds from the sale of the construction materials are subject to tax)

....

Taxpayer states that the contracts were lump sum contracts, and as such the materials are not subject to use tax. Taxpayer misunderstands the regulations. 45 2.2-3-12(e) does not state that if the sale of materials is not separately stated from the sale of labor then the sale of materials is not taxable. Rather, 45 IAC 2.2-3-12(e) provides that only materials will be taxed as long as materials are a separately identifiable transaction from labor. In either case, materials are taxable. 45 IAC 2.2-3-9(d) provides that a person making a time and material contract for the conversion of materials into realty on land he does not own must collect sales tax.

The Department has reviewed the documentation supplied by taxpayer, and has found that some of the invoices show that the contractor charged sales tax and incorrectly remitted it to Kentucky. The fact that the contractor charged sales tax indicates that he considered the materials to be taxable at the time of taxpayer's purchase. For reasons previously discussed, the sales tax was incorrectly collected and remitted to Kentucky, and Indiana use tax is due. The other invoices showed that materials were used and no sales tax was charged, therefore use tax is due.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220000445.LOF

LETTER OF FINDINGS NUMBER: 00-0445
Indiana Corporate Income Tax
For the Tax Years 1994 through 1998

NOTICE: Under IC 4-22-2-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Exclusion of Taxpayer's Subsidiary from Taxpayer's Consolidated Adjusted Gross Income Tax Return – Adjusted Gross Income Tax.

Authorities: IC 6-3-2-2(l); IC 6-3-2-2(m); 45 IAC 3.1-1-62; 45 IAC 3.1-1-111.

Taxpayer protests the audit's determination that its out-of-state subsidiary should be excluded from the taxpayer's consolidated adjusted gross income tax return. The exclusion of the subsidiary had the effect of increasing the taxpayer's corporate income tax liabilities. The taxpayer argues that the exclusion of the subsidiary resulted in an unfair and arbitrary division of taxpayer's income derived from Indiana sources.

II. Resource Recovery System Credit – Gross Income Tax.

Authorities: IC 6-2.1-4-3(a); IC 6-2.1-4-3(b); IC 13-11-2-99(a); IC 13-11-2-205(a).

Taxpayer protests the audit's decision to disallow taxpayer's depreciation deduction for its resource recovery system. The taxpayer's argues that the disallowance was erroneous and that it was entitled to the deduction.

STATEMENT OF FACTS

Taxpayer is a major steel manufacturer operating facilities inside and outside the state. The audit determined that the taxpayer was not entitled to include one of its subsidiaries in its consolidated income tax return. The audit also determined that taxpayer was not entitled to a depreciation credit for its resource recovery system. These decisions resulted in Notices of Proposed Assessment for deficiencies in Indiana corporate income tax. The taxpayer protested the audit's decisions, an administrative hearing was held, and this Letter of Findings followed.

DISCUSSION

I. Exclusion of Taxpayer's Subsidiary from Taxpayer's Consolidated Adjusted Gross Income Tax Return.

Taxpayer objects to the exclusion of its out-of-state subsidiary from its consolidated adjusted gross income tax returns. During the tax years at issue, taxpayer engaged in a recapitalization of certain loans entered into by other subsidiaries including a subsidiary operating within Indiana. The recapitalization had the effect of retiring high interest debts and shifting that debt to the out-of-state subsidiary here at issue. The out-of-state subsidiary was able to economically borrow the money necessary to retire the high interest loans because it was in a superior financial position. The out-of-state subsidiary now bears the loan debt – albeit at a lower interest rate – and incurs the expenses concomitant with that loan debt. The audit's decision to exclude the out-of-state subsidiary from the taxpayer's consolidated return, had the effect of precluding taxpayer from taking advantage of the potential tax benefits otherwise attributable to the out-of-state subsidiary.

The audit decided to exclude the out-of-state subsidiary from the taxpayer's adjusted gross income tax returns based upon 45 IAC 3.1-1-111 which states that "The Adjusted Gross Income Tax Act adopts the definition of "affiliated group" contained in Internal Revenue Code section 1504, except that no member of the affiliated group may be included in the Indiana return unless it has adjusted gross income derived from sources within the state...." Therefore, because the audit concluded that the out-of-state subsidiary had no Indiana adjusted gross income, the audit excluded the out-of-state subsidiary.

Taxpayer does not directly challenge the determination that the out-of-state subsidiary did not receive adjusted gross income from sources from within the state. Rather, the taxpayer argues that exclusion of the out-of-state subsidiary results in overstating the income taxpayer – and the consolidated group – received from Indiana sources.

Taxpayer predicates its argument upon the provisions included within IC 6-3-2-2(l) which provides as follows:

> If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable;
>
> (1) separate accounting;
>
> (2) the exclusion of any one (1) or more of the factors;
>
> (3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or
>
> (4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

In addition, taxpayer cites to IC 6-3-2-2(m) which provides:

> In the case of two (2) or more organizations, trades or businesses owned or controlled directly or indirectly by the same interests, the department shall distribute, apportion, or allocate the income derived from sources within the state of Indiana between and among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources within the state of Indiana by various taxpayers.

IC 6-3-2-2(l) provides the Department discretionary authority to adjust the allocation and apportionment provisions of the adjusted gross income tax in order to arrive at an equitable and accurate allocation of the taxpayer's Indiana income.

The Department's regulation, 45 IAC 3.1-1-62, provides guidance in applying that discretionary authority. In relevant part, the regulation states that "the Department will depart from use of the standard formula only if the use of such formula works a hardship or injustice upon the taxpayer, results in an arbitrary division of income, or in other respects does not fairly attribute income to this state or other states." However, the regulation also cautions "that these situations will arise only in limited and unusual circumstances (which ordinarily will be unique and nonrecurring) when the standard apportionment provisions produce incongruous results."

Taxpayer argues that before restructuring of its load debt, taxpayer was able to deduct the debt service interest payments from its adjusted gross income because the debt was borne, in part, by taxpayer's in-state subsidiary. The subsequent restructuring did not eliminate the debt but shifted it exclusively to out-of-state subsidiary. However, that restructured debt was intended for the benefit – in part – of in-state subsidiary. The funds made available after the restructuring were used to retire some of in-state subsidiary's debts and fund the continued operation of in-state subsidiary. The funds were used to retire in-state subsidiary's high interest outstanding notes and mortgage bonds which had previously been secured by in-state subsidiary's real property located within Indiana. In addition, the newly available funds were used to retire in-state subsidiary's pollution control bonds issued on behalf of in-state subsidiary. Taxpayer summarizes as follows: "In short, the proceeds from the recapitalization were used to shore up [in-state subsidiary's] balance sheet and capital structure by paying off debt bearing above market interest rates, moving that debt off of [in-state subsidiary's] and onto [out-of-state subsidiary's] books and easing [in-state subsidiary's] burden of managing the debt that remained on its books."

Taxpayer is not entitled to the requested relief because – despite the superficial appeal of taxpayer's argument – the audit's decision to exclude the out-of-state subsidiary from the taxpayer's consolidated return, did not have the effect of artificially distorting the taxpayer's *current* Indiana income. For purposes of determining that Indiana income, the restructuring of the taxpayer's debt load had the effect of totally eliminating the Indiana debt; therefore, the debt – and the associated interest payments – are

entirely irrelevant in calculating taxpayer's current Indiana income. Although the taxpayer's debt may be traced to events which were at one time pertinent to taxpayer's Indiana activities, taxpayer's voluntary restructuring rendered the current interest payments, immaterial in "effectuat[ing] and equitable allocation and apportionment of the taxpayer's [current] income." IC 6-3-2-2(l).

FINDING

Taxpayer's protest is respectfully denied.

II. Resource Recovery System Credit.

Taxpayer operates a basic oxygen furnace and continuous caster which it classifies as a "resource recovery system" (RRS). Taxpayer's RRS recycles scrap metals obtained from outside sources, taxpayer's own scrap metals, and various metallic and non-metallic wastes produced during taxpayer's manufacturing process. Taxpayer originally claimed a credit for its RRS against receipts subject to the gross income tax equal to the amount of depreciation taken on its federal returns. The audit disallowed the Indiana depreciation credit stating that the deduction was only available under two conditions. According to audit, those conditions were as follows:

The "waste" which is to be disposed of in a RRS must have been created by the owner of the RRS and the "waste" which is to be disposed of in a RRS must be worthless at the time of its creation by the owner.

Taxpayer argues that these two additional requirements were "invented" and that the additional requirements were "arbitrary and discriminatory."

Taxpayer claims the credit which is provided for at IC 6-2.1-4-3. The statute states in relevant part as follows:

If for federal income tax purposes a taxpayer is allowed a depreciation deduction for a particular taxable year with respect to a resource recovery system, and if the resource recovery system processes solid waste or hazardous waste, the taxpayer is entitled to a deduction from his gross income for that same taxable year. IC 6-2.1-4-3(b).

Therefore, in order for taxpayer to claim the credit, the taxpayer must (1) operate a RRS, (2) the taxpayer must have been allowed a federal credit, and (3) the RRS must process "solid waste or hazardous waste."

The statute sets out the criteria as follows; "'Hazardous waste' has the meaning set forth in IC 13-11-2-99(a) and includes a waste determined to be hazardous waste under IC 13-22-2-3(b)." IC 6-2.1-4-3(a).

IC 13-11-2-99(a) states that the term "hazardous waste" means:

a solid waste or combination of solid wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may: (1) cause or significantly contribute to an increase in: (A) mortality; (B) serious irreversible illness; or (C) incapacitating reversible illness; or (2) pose a substantial present or potential hazard to (A) human health; or (B) the environment; when improperly treated, stored, transported, disposed of, or otherwise managed.

In addition, the RRS statute establishes the criteria for "solid waste" stating that "'Solid waste' has the meaning prescribed by IC 13-11-2-205(a) but does not include dead animals or any animal solid or semisolid wastes." IC 6-2.1-4-3(a).

IC 13-11-2-205(a) states in part that "'Solid waste', for purposes of IC 13-19, IC 13-21, IC 13-20-22, and environmental management laws... means any garbage, refuse, sludge from a waste treatment plant, sludge from a water supply plant, sludge from an air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations or from community activities."

Clearly, the Legislature has deemed it appropriate to limit availability of the credit – otherwise available under IC 6-2.1-4-3 – to those RRS which process specifically defined solid or hazardous wastes. Equally clear is that "solid waste or hazardous waste" is defined in such a way as to specifically include certain materials and to exclude certain materials.

IC 13-11-2-99(a) and IC 13-11-2-205(a) support the audit's contention that the depreciation credit is available to those RRS which process materials which are worthless. The statutory authority leads to the conclusion that the Legislature intended to exclude taxpayers from claiming the credit for those RRS which reprocess materials which, by themselves, possess an intrinsic value. However, the statutory authority does not demonstrate that the Legislature intended to exclude taxpayer's from claiming the credit for those RRS merely on the ground that it is processing the valueless waste of third-parties. *See* State of Indiana v. Money, 651 N.E.2d 344 (Ind. Ct. App. 1995).

The taxpayer may not claim the credit for its RRS to the extent that it reprocesses scrap metals obtained from third-parties because these scrap metals possess an intrinsic value. The taxpayer may not claim the credit for its RRS to the extent that it reprocesses scrap metals which are the by-product of the taxpayer's own steel manufacturing activities because those scrap materials also possess an inherent value.

Accordingly, depreciation for the RRS will be eligible as a deduction only to the extent the basic oxygen furnace and continuous caster is used to process the valueless waste of the owner of the RRS or the valueless waste of third-parties. To the extent the RRS is used to process valuable property belonging to the taxpayer or to process valuable property obtained from others, the deduction is not allowed.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0220010141.LOF

LETTER OF FINDINGS NUMBER: 01-0141
Gross Income Tax
For the Years 1996, 1997, and 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Receipts for Graphic Design Work – Gross Income Tax.

Authority: 45 IAC 1-1-15; 45 IAC 1-1-88; 45 IAC 1-1-96; 45 IAC 1-1-121; 45 IAC 1-1-121(c).

Taxpayer maintains that the receipts it derives from its provision of graphic design work are subject to the low rate of gross income tax. In addition, taxpayer argues that the receipts derived from graphic design work provided to out-of-state customers are not subject to the gross income tax.

II. Interest Income as Intercompany Receipts – Gross Income Tax.

Authority: 45 IAC 1-1-8; 45 IAC 1-1-9; 45 IAC 1-1-10; 45 IAC 1-1-17.

Taxpayer argues that its receipt of "intercompany" interest income did not constitute the receipt of taxable "gross income."

III. Out-of-State Subsidiaries' Indiana Destination Sales – Gross Income Tax.

Authority: IC 6-2.1-1-2(a); IC 6-2.1-2-2; IC 6-2.1-2-2(a)(2); Bethlehem Steel v. Dept. of State Revenue, 597 N.E.2d 1327 (Ind. Tax Ct. 1992); Indiana- Kentucky Elec. Corp. v. Indiana Dept. of State Revenue, 598 N.E.2d 647 (Ind. Tax Ct. 1992); 45 IAC 1-1-120.

Taxpayer asserts that its out-of-state subsidiaries do not have an Indiana situs and that income derived by those subsidiaries – from sales made to Indiana customers – is not subject to the gross income tax. Even if the subsidiaries did have an Indiana business situs, the activities giving rise to that situs did not give rise to Indiana gross income tax liability.

IV. Abatement of the Ten Percent Negligence Penalty.

Authority: IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c).

Taxpayer maintains that the Department should exercise its discretion to abate the ten percent negligence penalty.

STATEMENT OF FACTS

Taxpayer operates as a holding company in the business of producing plastic packaging products. Taxpayer has various in-state and out-of-state subsidiaries. Taxpayer's corporate headquarters and commercial domicile is in Indiana. The audit examined taxpayer's business records, its federal tax returns, and its state tax returns. As a result of that audit, a number of additional assessments were proposed. The taxpayer disagreed with certain of those assessments and submitted a protest to the Department of Revenue (Department). An administrative hearing was held, and this Letter of Findings resulted.

DISCUSSION

I. Receipts for Graphic Design Work – Gross Income Tax.

One of taxpayer's Indiana subsidiaries (Hereinafter, "taxpayer") produces customized plastic products. Taxpayer operates an arts and graphic automation department. This graphics department creates the proofs and color separations needed to produce printing plates. The printing plates are then used to print the customer's individual design work on the particular products the customer has ordered from taxpayer. The taxpayer's graphics department does not actually create the customer's design work but simply adapts the customer's pre-existing art work to conform to the surface of the intended product. For example, the department will use a computer program to adjust the customer's logo to fit on the curved surface of a plastic cup.

The audit concluded that, pursuant to 45 IAC 1-1-96, the money that taxpayer received for the performance of these design services was subject to gross income tax at the high rate.

Taxpayer disagrees arguing that, under 45 IAC 1-1-88, the provision of the design services was integral to the sale of the finished product (i.e. customer's plastic cups) and was subject to gross income tax at the low rate. According to taxpayer, the sale of the final product – including the cost of the printing plates – was a "retail sale" and the entire transaction was subject to tax at the low rate.

45 IAC 1-1-96, states as follows:

> Gross receipts from services means receipts derived from activities performed in the process of completing a service agreement or contract, and includes all amounts charged for labor and expenses forming an integral and/or required part of its completion.
>
> Gross income from services of any character is taxable at the higher rate. Such income includes, but is not limited to commissions, fees, receipts from service contracts or income from similar sources.

However, 45 IAC 1-1-88 establishes that certain service charges are included as part of the consideration received for "Selling at Retail" and are taxable at the lower rate. The regulation states in part:

Gross income derived from the transfer of ownership of tangible personal property by a retail merchant through selling at retail

is taxable at the lower rate. *Any receipts from services performed in connection with the sale at retail prior to the delivery of the property is also taxable at the lower rate...* (*Emphasis added*).

In order for the income to be taxed at the lower rate, the "income shall include all amounts representing bona fide charges added to or included in the consideration for a transaction. Such charges include charges for preparation, fabrication, alteration, modification, finishing, completion, delivery or other services performed by the retail merchant." Id. "These charges are to be stated separately or otherwise clearly determinable by the retail merchant's records and performed before the delivery of the property to the purchaser." Id.

In taxpayer's case, it was its practice to offset the income received from graphic services against related expenses in its account labeled "Bill to Customer."

The Department's regulations distinguish between services provided to the customer before delivery of the goods and services provided after the goods are delivered. The regulation specifies that income for services provided *after* delivery of the goods is to be taxed at the high rate. However, the regulation also provides that income derived from services provided *before* delivery is to be taxed at the low rate. Specifically, 45 IAC 1-1-15 states, in relevant part, as follows: "[W]hen the sales price of goods includes charges for services rendered before delivery, i.e., charges for preparation, fabrication, alteration, modification, finishing, completion, delivery charges, etc., such charges are considered a part of the sales price and are taxed at the same rate as the sale itself."

Taxpayer's customers contracted with taxpayer for the production of a customized plastic product. As part of those agreements, taxpayer's graphics department prepares the design work and printing plates necessary to imprint the customer's design on the finished goods. That design work is performed prior to the delivery of the completed goods. The service charges are "clearly determinable by the merchant's records." 45 IAC 1-1-88.

Accordingly, as set forth in 45 IAC 1-1-15 and 45 IAC 1-1-88, the income received from preparing the customer's design work and the printing plates is taxable at the low rate. The issue, initially raised by taxpayer, of whether the provision of the services, is somehow "integral" to the production of the plastic products, is irrelevant because the provision of the services is conceptually severable from the provision of the plastic products. Clearly, some of taxpayer's customers will arrange to pay for the full range of taxpayer's graphics services, while other customers will purchase only a limited range of those services. It is entirely possible that certain customers, in contracting to buy plastic products, will purchase none of the taxpayer's graphics services. In order to sustain taxpayer's basic argument, it is sufficient to find that the services – to whatever extent required – were "rendered before delivery" (45 IAC 1-1-15) and that cost of the services was related to, but separately determinable from, the charges for the plastic products themselves. *See* 45 IAC 1-1-88.

Taxpayer sets out a secondary argument related to the provision of the design services arguing that those services provided to out-of-state customers are not subject to the state's gross income tax. Taxpayer's argument is without foundation. 45 IAC 1-1-121 clearly provides that "Gross income derived from the performance of a contract or service within Indiana is subject to gross income tax." The regulation specifically addresses those instances when the Indiana taxpayer provides the service for an out-of-state customer stating that "[t]he performance of a service with or without the incidental furnishing of tangible personal property on goods belonging to others is taxable if it takes place in Indiana, regardless of whether the property is moved in interstate commerce before or after performance of the service." 45 IAC 1-1-121(c). Since the provision of taxpayer's services occurs entirely within the state, the income derived from the provision of those services is subject to the states gross income tax even if services are provided to out-of-state customers.

FINDING

Taxpayer's protest is sustained in part and denied in part.

II. Interest Income as Intercompany Receipts – Gross Income Tax.

Taxpayer borrowed money from an outside lender. When it came time to pay the money back, it charged a portion of the accrued interest due to certain of its subsidiaries. The subsidiaries then paid the interest back to the taxpayer. As a hypothetical example, taxpayer owed the outside lender $100 in interest and apportioned that $100 to three of its subsidiaries. Subsidiary one would be apportioned $25, subsidiary two $25, and subsidiary three $50. The three subsidiaries then individually paid their apportioned share of the interest back to taxpayer.

The audit determined that the interest payments taxpayer received from its subsidiaries represented gross income and assessed additional tax accordingly. The interest payments could not be eliminated as inter-company receipts since the affiliated members did not qualify to file a consolidated return.

The taxpayer has protested the assessment of this gross income tax because, according to taxpayer, its receipt of the interest did not represent "gross income." Taxpayer maintains that the interest allocation was made merely for accounting purposes and that the allocation and subsequent repayment was without economic substance. There was no debt instrument evidencing an actual obligation between the taxpayer and its subsidiaries. Rather the allocation of the interest to the subsidiaries was made to better account for the operating income and expenses of the different entities. Therefore, the inter-company interest charges were not subject to gross income tax because the charges did not constitute actual payments made to the taxpayer.

For purposes of the state's gross income tax scheme, 45 IAC 1-1-8 defines "receipts" as follows:

"Receipts" is used synonymously with the Act *[IC 6-2.1]* and means the entire or total amount of "gross income" or "gross receipts" derived from all sources, and which are actually or constructively received by the taxpayer, credited to him, or paid to his creditors by another person. The term "receipts" is not limited to cash or checks received by or credited to a taxpayer, but also includes notes or other property of any kind, or the value received in the form of services, or receipts in any form received by or credited to him in lieu of cash.

The accompanying regulation encompasses those situations in which the taxpayer does not come into actual physical possession of gross income. 45 IAC 1-1-9 states, in relevant part that "[i]t is not necessary for gross income to actually come into a taxpayer's possession to be his gross income. Whenever gross income is 'received' in any manner other than by actual possession, gross income is considered to be 'constructively received.'" The companion regulation defines "constructive receipts" stating that "'Constructive receipts' are those items of gross income which are not actually received by the taxpayer but which are credited to him, available for his withdrawal, paid to another for his benefit, or represent income to which he is entitled." 45 IAC 1-1-10.

Under 45 IAC 1-1-17 – which defines gross income as "all income actually or constructively received" – the interest payments taxpayer received from its subsidiaries constituted "gross income." Even if the taxpayer regarded the interest allocation and subsequent repayment of that interest as a nonsubstantive apportionment of the entities' relative financial liabilities, nonetheless, the interest payments constituted the constructive receipt of the value represented by the subsidiaries' interest payments. The interest payments were "credited to him" and "represent[ed] income to which he [was] entitled." 45 IAC 1-1-10.

FINDING

Taxpayer's protest is respectfully denied.

III. Out-of-State Subsidiaries' Indiana Destinations Sales – Gross Income Tax.

Taxpayer owns a number of out-of-state subsidiaries. The out-of-state subsidiaries made sales to Indiana customers. The audit, on the ground that the out-of-state subsidiaries "channeled" their sales through taxpayer's Indiana office, determined that the transactions were Indiana destination sales for gross income tax purposes and assessed additional taxes accordingly.

Under the provisions of IC 6-2.1-2-2, the state's gross income tax is imposed on the receipt of "the taxable gross income derived from activities or businesses or any other sources within Indiana by a taxpayer who is not a resident or a domiciliary of Indiana." IC 6-2.1-2-2(a)(2).

However, taxpayer indirectly cites to 45 IAC 1-1-120 for support of the proposition that the Indiana sales were not subject to gross income tax. The regulation states as follows:

As a general rule, income derived from sales made by nonresident sellers to Indiana buyers is not subject to gross income tax unless the seller was engaged in business activity within the state and such activity was connected with or facilitated the sales. Local activity sufficient to subject the seller to taxation may result from his maintenance of a fixed business location in Indiana, or may result from the nature and extent of his business activities in the State.

Taxpayer argues that these receipts are not subject to the state's gross income tax because the out-of-state subsidiaries do not have sufficient contacts with the state. The Indiana Tax Court has set forth a three-part test to determine whether a non-resident taxpayer has sufficient contacts with Indiana to warrant imposition of the state's gross income tax. The taxability of the non-resident taxpayer is dependent on determining whether (1) the taxpayer's receipts constitute "gross income," (2) whether the "gross income" is derived from sources within Indiana," and (3) whether the "gross income" derived from those sources within Indiana is "taxable gross income." Bethlehem Steel v. Dept. of State Revenue, 597 N.E.2d 1327, 1330 (Ind. Tax Ct. 1992), *aff'd* 639 N.E.2d 264 (Ind. 1994); *See also* Indiana- Kentucky Elec. Corp. v. Indiana Dept. of State Revenue, 598 N.E.2d 647, 661 (Ind. Tax Ct. 1992).

The preliminary question is easily answered. Taxpayer's out-of-state subsidiaries entered into agreements to sell goods to Indiana customers. It is not disputed that the consideration received for the shipment of the goods into Indiana constituted "gross income" for purposes of the state's gross income tax scheme. IC 6-2.1-1-2(a) clearly provides that "[e]xcept as expressly provided in this article, 'gross income' means all the gross receipts a taxpayer receives... from the performance of contracts." Therefore, under IC 6-2.1-1-2(a), and in the absence of any exemption to the contrary, the payments received by the out-of-state subsidiaries constituted "gross income" for purposes of determining the applicability of the state's gross income tax.

It is the second provision of the Bethlehem Steel test which is central to taxpayer's protest. In order for the Department to establish that the subsidiaries' income – received for the completion of Indiana destination sales – is subject to the state's gross income tax, the Department must establish that the taxpayer's income is derived from a source within Indiana. Specifically, "[i]f the activities giving rise to the income sought to be taxed do not occur within Indiana, then the tax may not be levied – not because to do so is forbidden by the United States Constitution (although it may well be) – but rather because under those facts the levy is forbidden by the statute." Bethlehem Steel, 597 N.E.2d at 1330. 45 IAC 1-1-120 clearly provides that sales into Indiana by non-resident taxpayers is not subject to the gross income tax "unless the seller was engaged in business activity within the State [i.e., tax situs]." The court in Indiana-Kentucky explained stating that "the regulations teach that a nonresident is subject to taxation if the 'source' of the gross income is an Indiana *tax situs,* i.e., an Indiana *business situs* at which business activities are performed that are connected with or facilitate the transaction... giving rise to the gross income." Indiana-Kentucky, 598 N.E.2d at 662 (*Emphasis added*).

According to taxpayer, the facts support the proposition that its out-of-state subsidiaries have not established an Indiana tax situs. Taxpayer maintains that, the subsidiaries do not have physical locations or assets with the state; the subsidiaries do not perform direct services in Indiana; the subsidiaries do not distribute goods within the state with their own vehicles; the subsidiaries do not accept or approve contracts within the state; visits by the subsidiaries' employees to taxpayer's Indiana headquarters are de minimis; the subsidiaries do not have a commercial domicile in the state; the subsidiaries' activities are managed and directed from their respective out-of-state headquarters. In addition, taxpayer states that each of the out-of-state locations also has its own customer service representative who may be called upon to accept orders, service accounts, and answer customer questions.

The audit cited to specific instances in which the out-of-state subsidiaries had contact with the state. The general headquarters for both taxpayer and its subsidiaries is in Indiana. Most of the managerial decisions, affecting the out-of-state subsidiaries, are made in Indiana. Additional centralized Indiana activities, affecting the out-of-state subsidiaries, include: management training, research and development, payables, purchasing, payroll, software system development, and credit checks. According to the audit report, all customer orders are received at taxpayer's Indiana location by means of an 800 telephone number. All the customer orders are approved at the Indiana location. All customer complaints are handled at the Indiana location. All applications for credit are approved at the Indiana location. All requests for customer service are handled at the Indiana location.

It is apparent that the subsidiaries "[were] engaged in business activity within the state and such activity was connected with or facilitated the sales." 45 IAC 1-1-120. Not only do the out-of-state subsidiaries have substantial operational contacts with the state, it is evident that sales made by the out-of-state subsidiaries are completed within Indiana. The order for each sale is received in the state, the customer's credit is checked in this state, and the order is approved at taxpayer's Indiana location.

Therefore, given that the income at issue is derived from business activities conducted within the state, under IC 6-2.1-2-2(a)(2), the income from those business activities is subject to the state's gross income tax.

FINDING

Taxpayer's protest is respectfully denied.

IV. Abatement of the Ten Percent Negligence Penalty.

The taxpayer argues that the ten percent negligence penalty, associated with the imposition of the additional tax assessment, should be abated. According to taxpayer, it made every effort to comply with the state's tax laws. Given the amount of taxpayer's total sales, any error attributable to a misclassification of that income was relatively minor. Further, the gross income tax laws are subject to varying interpretations and applications.

IC 6-8.1-10-2.1 requires that a ten percent penalty be imposed if the tax deficiency results from the taxpayer's negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." Id.

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on "reasonable cause and not due to willful neglect." Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish "reasonable cause," the taxpayer must demonstrate that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed...."

Taxpayer has presented evidence sufficient to establish to establish that its failure to pay the deficiency was due to reasonable cause and not due to willful neglect.

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

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0220010172.LOF

LETTER OF FINDINGS NUMBER: 01-0171; 01-0172
Indiana Corporate Income Tax
For the Tax Years 1996, 1997, and 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Taxpayer's Out-of-State Sales Subsidiaries – Adjusted Gross Income Tax.

Authority: IC 6-3-2-2(l); IC 6-3-2-2(m); Allied-Signal Inc. v. Director, Div. of Taxation, 504 U.S. 768 (1992); F.W. Woolworth

v. Taxation and Revenue Dep't. of New Mexico, 458 U.S. 354 (1982); ASARCO, Inc. v. Idaho State Tax Comm'n., 458 U.S. 307 (1982); Exxon Corp. v. Dep't. of Revenue of Wisconsin, 447 U.S. 207 (1982); Mobil Oil Corp. v. Commissioner of Taxes of Vermont, 445 U.S. 425 (1980).

Taxpayer takes issue with the audit's decision to include certain of taxpayer's subsidiaries within its Indiana consolidated income tax returns. The taxpayer had originally included within those returns only the subsidiaries which were incorporated within Indiana.

II. Georgia Throw-Back Sales.

Authority: 15 U.S.C.S. § 381; IC 6-3-2-2; IC 6-3-2-2(e); IC 6-3-2-2(n); IC 6-3-2-2(n)(1); Wisconsin Dept. of Revenue v. William Wrigley, Jr., Co., 112 S.Ct. 2447 (1992); Indiana Dept. of State Revenue v. Continental Steel Corp., 399 N.E.2d 754 (Ind. Ct. App. 1980); 45 IAC 3.1-1-53(5); 45 IAC 3.1-1-64; Ga. Code Ann. § 48-7-21(a).

Taxpayer maintains that the audit should not have "thrown-back" to Indiana the proceeds of sales made to Georgia customers. According to taxpayer, the sales should not have been thrown-back because it is subject to income tax within Georgia by virtue of its ownership of a land trust in that state.

III. Taxpayer's Delaware Trademark Holding Company.

Authority: IC 6-2.1-2-2; IC 6-3-1-1 et seq.; IC 6-3-2-2(a); Indiana Dept. of State Revenue v. Bethlehem Steel Corp., 639 N.E.2d 264 (Ind. 1994); 45 IAC 1-1-51; 45 IAC 3.1-1-55. Taxpayer argues that its Delaware trademark holding company was not subject to Indiana's corporate income tax scheme because the company did not have a "business situs" within the state.

IV. Abatement of the Ten Percent Negligence Penalty.

Authority: IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c).

Taxpayer asks that the Department exercise its discretion to abate the ten-percent negligence penalty.

STATEMENT OF FACTS

The taxpayer is a retail merchant which manufactures the products it sells. The products consists of remanufactured components. The majority of these products are remanufactured from salvaged parts. With the exception of certain specialty items, all of taxpayer's products are manufactured in Indiana.

Taxpayer has various wholly-owned subsidiaries operating both within the state and at out-of-state locations. One of the subsidiaries provides transportation for in-process and finished products between taxpayer's manufacturing facilities and its distribution facilities. Other subsidiaries operate exclusively as distribution warehouses for the parent company.

An audit was conducted of taxpayer's business activities during the years 1996, 1997, and 1998. The audit made certain adjustments including adjustments which resulted in additional corporate income tax liabilities for all three years. The taxpayer disagreed with the adjustments and submitted a protest. An administrative hearing was conducted, and this Letter of Findings followed.

DISCUSSION

I. Taxpayer's Out-of-State Sales Subsidiaries – Adjusted Gross Income Tax.

The audit determined that certain of taxpayer's out-of-state subsidiaries had a "unitary business" relationship with taxpayer. As a result, the audit found that taxpayer – having elected to make a consolidated filing for its adjusted gross income tax – was required to include all qualified affiliated members in taxpayer's consolidated filing. Taxpayer maintains that the income of the out-of-state subsidiaries, not incorporated within Indiana, should not have been considered when calculating taxpayer's adjusted gross income tax.

Both taxpayer and the audit approach the issue as to whether or not the subsidiaries had "nexus" with the state of Indiana. The issue is more properly addressed as whether the taxpayer and its subsidiaries should have been treated as a single taxpayer (unitary treatment) and, thereafter, required to file a combined return in order to more fairly reflect the taxpayer's Indiana income during the years at issue.

Some of taxpayer's subsidiaries operate as out-of-state distribution warehouses for delivery of taxpayer's products to local customers. Some of these subsidiaries operate out of one location. Two of these subsidiaries operate additional branch distribution centers. Each out-of-state location has a general manager responsible for that location's activities. Taxpayer's customers place orders at taxpayer's Indiana location. Once received, the order is processed, the customer's credit checked, and the order is given final approval at the Indiana location. After taxpayer's inventory has been checked, the order is electronically transferred to the local subsidiary from where delivery is arranged.

Yet another subsidiary operates to transport in-process goods and finished goods between taxpayer's manufacturing facilities. This transportation subsidiary also transports finished goods from the taxpayer's Indiana location to the various out-of-state distribution subsidiaries.

According to the audit, all orders flow through taxpayer's centralized order processing department at taxpayer's central Indiana location. Most of taxpayer's customers make payment to the central Indiana location. If a local subsidiary does receive a customer payment, that payment is transferred to taxpayer's local Indiana bank account.

According to the audit, the subsidiaries have their corporate headquarters in Indiana; each subsidiary has the same Indiana

corporate officers; management and administrative decisions are made at the Indiana location; the subsidiaries' boards of directors meet at the Indiana location; and the subsidiaries' corporate records and tax returns are prepared and maintained at the Indiana location. In addition, the subsidiaries' accounting, purchasing, manufacturing, advertising, inventory management, data processing, and accounts receivable are all controlled and managed by taxpayer at its Indiana location.

Taxpayer maintains that the subsidiaries exercise a degree of individual autonomy. All of the subsidiaries' employees work at or out of the local out-of-state location. Certain records – including bills of lading, invoices, cash accounting, return credit memos, inventory records, maintenance records – are maintained at the local subsidiary. In addition, the manager of each local subsidiary has the authority to reject an order otherwise approved at the Indiana location. Daily operational decision-making power is vested with the manager of the local subsidiary.

IC 6-3-2-2(m) provides as follows:

> In the case of two (2) or more organizations, trades, or businesses owned or controlled directly or indirectly by the same interest, the department shall distribute, apportion, or allocate the income derived from sources within the state of Indiana between and among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources within the state of Indiana by various taxpayers.

In addition, IC 6-3-2-2(l) vests both taxpayers and the Department with authority to allocate and apportion a taxpayer's income within and among the members of a unitary group of related entities.

> If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable;
>
> (1) separate accounting;
>
> (2) the exclusion of any one (1) or more of the factors;
>
> (3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or
>
> (4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

It is apparent from the language contained with IC 6-3-2-2(l) that the standard apportionment filing method is the preferred method of representing a taxpayer's income derived from Indiana sources. The alternate methods of allocation and apportionment – including the combined reporting method – are only employed when the standard apportionment formula does not fairly reflect the taxpayer's Indiana income.

The first issue is whether the audit was correct in determining that taxpayer and its various subsidiaries warranted treatment as a unitary group. If, after determining that a unitary relationship exists, the second issue is whether requiring taxpayer to file a combined return is necessary to fairly reflect the taxpayer's and its subsidiaries' Indiana income.

For purposes of resolving the unitary group issue, the Supreme Court has developed a three-part test to determine whether a unitary relationship exists between different entities. The test consists of the following factors; common ownership, common management, and common use or operation. Allied-Signal Inc. v. Director, Div. of Taxation, 504 U.S. 768 (1992); F.W. Woolworth v. Taxation and Revenue Dep't. of New Mexico, 458 U.S. 354 (1982); ASARCO, Inc. v. Idaho State Tax Comm'n., 458 U.S. 307 (1982); Exxon Corp. v. Dep't. of Revenue of Wisconsin, 447 U.S. 207 (1982); Mobil Oil Corp. v. Commissioner of Taxes of Vermont, 445 U.S. 425 (1980).

Because each of the subsidiaries is wholly owned by the Indiana parent company, the first factor in the three-part test – "common ownership" – is readily met.

Although taxpayer has demonstrated that the individual subsidiaries exercise a degree of managerial autonomy, the available information indicates that the individual subsidiaries and taxpayer parent company are largely governed under a common management scheme. The information indicates that the subsidiaries on-site management personnel are authorized to make decisions relating to immediate, day-to-day issues. However, the information also indicates the authority for the over-all governance of the individual subsidiaries remains largely reserved to the taxpayer parent company. A fair consideration of the relevant information weighs in favor of finding that the second factor in the three-part test – "common management" – is also met.

The third test is that of common operation or use. Evidence of common operation exists where certain functions are performed for the group by the parent. In taxpayer's case, the information indicates that all customer orders are received and processed by the Indiana parent. Although each subsidiary maintains a local checking account, most of the subsidiaries' purchases were made through the parent's central account with costing to the individual subsidiary. Corporate records and tax returns for each of the subsidiaries are prepared and maintained at the Indiana parent's location. With one exception, the subsidiaries have all designated the Indiana parent as their corporate headquarters. The subsidiaries are managed by the identical corporate officers and those corporate officers are located at the Indiana parent. Management and decisions are made at the Indiana parent's location.

Taxpayer, along with the individual subsidiaries, function jointly to construct and deliver rebuilt components to taxpayer's customers. There is little to indicate that the subsidiaries perform – or are capable of performing – independent, self-contained services for a particular sub-set of local customers. There is no indication that the transportation subsidiary offers independent

transportation services. There is no indication that the distribution subsidiaries offer independent warehousing or distribution services. Rather, the evidence weighs substantially in favor of a determination that the subsidiaries are integrated components of a "common operation." Based upon this information, the audit did not err when it concluded that the subsidiaries and the parent shared a common use or operation.

Based on their common ownership, common management, and common use or operation, the Department finds that the taxpayer and its subsidiaries exhibit a unitary relationship.

The final issue is whether, under IC 6-3-2-2(l), requiring the taxpayer and its subsidiaries to file a combined return is necessary to "fairly represent" the taxpayer's Indiana income. From the information contained within the file, it appears that the Indiana parent and its subsidiaries were so functionally integrated, that the filing of a combined return was necessary in order to avoid distorting and instead fairly portray the taxpayer's Indiana source income.

Accordingly – for purposes of calculating taxpayer's Indiana adjusted gross income under IC 6-3-2-2(l), (m) – the audit was justified in its determination that the taxpayer and its subsidiaries should be treated as a unitary group and required to file a combined return in order to fairly reflect taxpayer's Indiana income.

FINDING

Taxpayer's protest is respectfully denied.

II. Georgia Throw-Back Sales.

Taxpayer argues that the audit erred when it "threw back" Georgia sales to Indiana. Taxpayer maintains that the throw-back was inappropriate because the taxpayer was subject to income taxes in Georgia.

The audit determined that, for purposes of calculating taxpayer's Indiana tax liability, sales made to Georgia should be allocated back to Indiana because the sales were made within a state where the taxpayer was not subject to a state income tax. The audit was apparently basing its decision on 45 IAC 3.1-1-53(5) which states that "[i]f the taxpayer is not taxable in the state of the purchaser, the sale is attributed to [Indiana] if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state." Such sales are designated as "throw-back" sales. Id.

The basic rule is found at IC 6-3-2-2. IC 6-3-2-2(e) provides that "[s]ales of tangible personal property are in this state if... (2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and... (B) the taxpayer is not taxable in the state of the purchaser." IC 6-3-2-2(n) provides that "[f]or purposes of allocation and apportionment of income... a taxpayer is taxable in another state if: (1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business or a corporate stock tax; or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not." Therefore, in order to properly allocate income to a foreign state, taxpayer must show that one of the taxes listed in IC 6-3-2-2(n)(1) has been levied against him or that the state has the jurisdiction to impose a net income tax regardless of "whether, in fact, the state does or does not." Id.

According to taxpayer, the throw-back of the Georgia sales was improper because, "The auditor ignored the fact that the parent company is subject to income taxes in Georgia due to its ownership in a land trust in Georgia."

Georgia imposes a net income tax on corporations. Specifically, Ga. Code Ann. § 48-7-21(a) provides as follows: "Every domestic corporation and every foreign corporation shall pay annually an income tax equivalent to 6 percent of its Georgia taxable net income. Georgia taxable net income of a corporation shall be the corporation's taxable income from property owned or from business done in this state."

Assuming for the moment that taxpayer's ownership of a land trust brings it within the purview of Georgia's corporate income tax scheme, it does so apparently to the extent that income from the land trust is subject to Georgia's income tax. However, the unresolved issue is whether taxpayer's income – derived from sales within Georgia – is subject to that state's net income tax by virtue of the taxpayer's activities having established a Georgia nexus.

15 U.S.C.S. § 381 (Public Law 86-272) controls those occasions in which a state may properly impose a tax on the net income, derived from sources within that state, by foreign (out-of-state) taxpayers. 15 U.S.C.S. § 381 sets a minimum standard for the imposition of a state income tax based on the solicitation of interstate sales. Wisconsin Dept. of Revenue v. William Wrigley, Jr., Co., 112 S.Ct. 2447, 2453 (1992). 15 U.S.C.S. § 381 prohibits a state (Georgia) from imposing its net income tax on the foreign (Indiana) taxpayer if the foreign taxpayer's only business activity within that state is the solicitation of sales. Georgia may not impose its net income tax on income derived from an out-of-state entity's business activities unless those business activities exceed the mere solicitation of sales. 15 U.S.C.S. § 381(a), (c). Conversely, the effect of Indiana's throw-back rule is to revert sales receipts back to the state, from where the goods were shipped, in those situations where 15 U.S.C.S. § 381 deprives the purchaser's own state of the authority to impose a net income tax. 45 IAC 3.1-1-64. In effect, 15 U.S.C.S. § 381 allows Indiana to tax out-of-state business activities, without violating the Commerce Clause and without the possibility of subjecting taxpayer to double taxation, because Indiana's right to tax those out-of-state activities is derivative of the foreign state's own, taxing authority. In every transaction, at least one state has the power to tax income derived from the sale of tangible personal property; if the state wherein the sale occurred is forbidden to do so by 15 U.S.C.S. § 381, then the income is "thrown-back" to the originating state.

Accordingly, the resolution of taxpayer's protest does not depend on whether taxpayer pays Georgia net income on income

attributable to ownership of the Georgia land trust, but whether "taxpayer's business activities are sufficient to give the state jurisdiction to impose a net income tax under the Constitution and statutes of the United States." 45 IAC 3.1-1-64.

Based upon the information supplied by taxpayer, the issue cannot be resolved in taxpayer's favor. There is insufficient evidence to indicate that taxpayer's Georgia activities exceeded the "mere solicitation" standard set out in 15 U.S.C.S. § 381 as defined by Indiana Dept. of State Revenue v. Continental Steel Corp., 399 N.E.2d 754 (Ind. Ct. App. 1980).

FINDING

Taxpayer's protest is respectfully denied.

III. Taxpayer's Delaware Trademark Holding Company.

The audit concluded that the Delaware subsidiary's income producing activities occurred within Indiana subjecting the subsidiary's income to the state's taxing authority.

Taxpayer parent company (hereinafter "taxpayer") argues that its Delaware subsidiary (hereinafter "holding company") does not have a "business situs" within Indiana and the state was without authority to tax its 1996, 1997, and 1998 income. In support of that argument, taxpayer maintains that the holding company's assets and operations are directed and managed in the State of Delaware and that the holding company's business and tax situs are in Delaware.

The holding company was incorporated in the state of Delaware. Taxpayer entered into a "Trademarks Assignment Agreement" whereby taxpayer transferred ownership of certain intellectual property to the holding company. In exchange, the holding company issued taxpayer 1,000 shares of stock. As a result, taxpayer became the holding company's sole shareholder. By the terms of their agreement, taxpayer agreed to pay 6 percent of its annual wholesale sales as compensation for the uninterrupted privilege of using the intellectual property in conjunction with the on-going manufacture of taxpayer's products. The available information indicates that the holding company subsequently transferred substantial amounts of that income back to taxpayer.

Taxpayer maintains that its holding company is a valid entity, established for the valid business purpose of "protect[ing] valuable intellectual property rights." According to taxpayer, the holding company has no business activities within Indiana and that all of the holding company's business activities occur in Delaware. To that end, taxpayer points out that the holding company performs certain activities entirely within Delaware; the holding has a Delaware bank account, the stockholder and directors' meetings are held in Delaware, the holding company's minute books are located in Delaware, the officers perform their duties in Delaware, and the holding company's income is distributed by means of a Delaware bank account. Further, taxpayer argues that the formation of the holding company was based upon "genuine business purposes" including the protection of the intellectual property "in the event of some catastrophic lawsuit." In addition, taxpayer theorizes that the "existence of a separate trademark protection company... allows for the future additional licensing of the marks."

The intellectual property consists largely of four trademarks which taxpayer developed over the course of its Indiana business activities. The four trademarks are used to distinguish taxpayer's products from products produced by its competitors. The four trademarks consist of words displayed in stylized print accompanied by cartoon-like depictions. At the time the trademarks were transferred to the holding company, the taxpayer had placed a value of on the trademarks based upon the income-producing capabilities of those assets.

The essence of taxpayer's argument is that all business activities associated with intellectual property occur in Delaware, and that the Delaware holding company does not have an Indiana business situs.

A. Adjusted Gross Income Tax.

Indiana imposes an adjusted gross income tax on income derived from sources within the state. The adjusted gross income tax, IC 6-3-1-1 et seq., is an apportioned tax specifically designed to reach income derived from interstate transactions. Indiana Dept. of State Revenue v. Bethlehem Steel Corp., 639 N.E.2d 264, 266 n. 4 (Ind. 1994). The legislature has defined "adjusted gross income" as follows:

> (1) income from real or tangible property located in this state; (2) income from doing business in this state; (3) income from a trade or profession conducted in this state; (4) compensation for labor or services rendered within this state; and (5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property if the receipt from the intangible is attributable to Indiana under section 2.2 of this chapter. IC 6-3-2-2(a).

In order for Indiana to tax the income derived from an intangible, the intangible – such as the Delaware holding company's intellectual property – must have acquired a "business situs" within the state. 45 IAC 3.1-1-55 states that "[t]he situs of intangible personal property is the commercial domicile of the taxpayer... unless the property has acquired a 'business situs' elsewhere. 'Business situs' is the place at which intangible personal property is employed as capital; or the place where the property is located if possession and control of the property is localized in connection with a trade or business so that substantial use or value attaches to the property."

As taxpayer so vigorously maintains, the holding company's commercial domicile is found in Delaware. The corporate activities associated with the maintenance and governance of the Delaware holding company's business affairs – corporate meetings, record keeping, local financial decisions – occur largely within that state. However, it is equally apparent that the holding company's

intellectual property has acquired a "business situs" within Indiana. The Delaware holding company has licensed taxpayer to employ the intellectual property within Indiana in conjunction with taxpayer's Indiana manufacturing activities. The substantial value attached to the intellectual property exists solely in the ability to "place" that intellectual property within this state and to derive the economic benefits attributable entirely to the intellectual property's Indiana business situs. The "intellectual property" could accurately and fully be reproduced on a single sheet of typing paper. That this "intellectual property" somehow has an economic vitality severable from taxpayer's Indiana manufacturing activities – and attributable exclusively to the holding company's physical Delaware location – is an entirely illusory assertion. It would be a meaningless and unprofitable exercise in formalistic property rights for the holding company to abrogate its licensing agreement with taxpayer and husband the intellectual property entirely within Delaware. In addition, given the close relationship between taxpayer and the holding company, it would appear unlikely that the holding company would enter into a parallel relationship with one of taxpayer's competitors by which the competitor would become entitled to make use of the trademarks associated with the taxpayer's own products.

As the regulation states, "'business situs' is the place at which [the] intangible personal property is employed as capital...." 45 IAC 3.1-1-55. The place at which the "value attaches to the [intellectual] property is within the state of Indiana. Id.

The income attributable to the intellectual property falls within the purview of the state's adjusted gross income tax scheme because the value of that property derives entirely from the ability to assign the intellectual property to taxpayer and to reap the benefits derived from exploiting the intellectual property through activities occurring entirely within this state.

Therefore, because the intangible personal property has acquired an Indiana business situs, and – as set out in part I of this Letter of Findings - inclusion of the Delaware holding company within the combined return is necessary to fairly represent the unitary group's Indiana adjusted gross income.

B. Gross Income Tax.

In addition to the adjusted gross income tax, Indiana imposes a tax, known as the "gross income tax" on the "taxable gross income" of a taxpayer who is a resident or domiciliary of Indiana and on the taxable gross income from Indiana sources by a taxpayer who is not a resident or domiciliary of Indiana. IC 6-2.1-2-2.

Under the regulations governing the gross income tax, "taxable gross income" includes income that is derived from "intangibles." 45 IAC 1-1-51. The term "intangibles" includes:

> notes, stocks in either foreign or domestic corporations, bonds, debentures, certificates of deposit, accounts receivable, brokerage and trading accounts, bills of sale, conditional sales contracts, chattel mortgages, "trading stamps," final judgments, lease royalties, certificates of sale, choses in action, *and any and all other evidences of similar rights capable of being transferred, acquired or sold.* (*Emphasis added*). Id.

In order for Indiana to impose the gross income tax on income derived from the Delaware holding company's intangibles, the Department must determine that the income is derived from a "business situs" within the state. Id. The regulation states that a taxpayer has established a "business situs" within the state "[i]f the intangible or the income derived therefrom forms an integral part of a business regularly conducted at a situs in Indiana...." Id. Once the taxpayer has established a "business situs" within the state, "and the intangible or the income derived therefrom is connected with that business, either actually or constructively, the gross receipts of those intangibles will be required to be reported for gross income tax purposes." Id.

It is apparent that the income derived from the Delaware holding company's licensing of the intellectual property, is income derived from a "business situs" within Indiana and is properly subject to the state's gross income tax scheme. The intellectual property is exclusively licensed to the Indiana taxpayer. The intellectual property is "localized" within Indiana in the sense that the Indiana taxpayer employs the property to enhance the value of its goods manufactured within this state. The Delaware holding company would derive no income from the intellectual property except for the fact that the intellectual property was licensed for use within Indiana and then actually used within Indiana in conjunction with the manufacturing activities themselves occurring within the state. The holding company's income is based entirely on a fixed percentage of taxpayer's wholesale sales; in turn, those wholesale sales are derived from taxpayer's Indiana manufacturing activities.

Accordingly, because the intellectual property has acquired a business situs within the state and because the income at issued is "connected with that business, either actually or constructively," the income is subject to the state's gross income tax.

FINDING

Taxpayer's protest is respectfully denied.

IV. Abatement of the Ten-Percent Negligence Penalty.

Taxpayer protests the assessment of the ten-percent negligence penalty on the amount of tax deficiency determined at the time of the original audit.

IC 6-8.1-10-2.1 requires that a ten-percent penalty be imposed if the tax deficiency results from the taxpayer's negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." Id.

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based

on "reasonable cause and not due to willful neglect." Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish "reasonable cause," the taxpayer must demonstrate that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed...."

Taxpayer has presented evidence sufficient to establish to establish that its failure to pay the deficiency was due to reasonable cause and not due to willful neglect.

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0420010215.LOF

LETTER OF FINDINGS NUMBER: 01-0215
Sales And Use Tax
For Tax Periods: 1995-1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

1. Sales and Use Tax: Delivery Charges

Authority: IC 6-2.5-2-1, IC 6-2.5-4-1(b), IC 6-2.5-4-1(e)(2), IC 26-1-2-401(2), IC 26-1-2-308, IC 26-1-2-401, 45 IAC 2.2-4-3(a), Indiana Department of Revenue v. Martin Marietta Corporation, 398 N.E.2d 1309 (Ind. App. 1979).

The taxpayer protests the imposition of tax on freight charges.

2. Sales and Use Tax: Miscellaneous Receipts

Authority: IC 6-2.5-2-2, IC 6-8.1-5-1 (b).

The taxpayer protests the imposition of tax on miscellaneous receipts.

STATEMENT OF FACTS

The taxpayer operates an office forms and supplies business. After an audit, the Indiana Department of Revenue, hereinafter referred to as the "department", assessed additional sales tax. The taxpayer protested the assessment and a hearing was held. Further facts will be provided as necessary.

1. Sales and Use Tax: Delivery charges.

DISCUSSION

The taxpayer sells office forms and items that are embossed with the customer's name to businesses in Kentucky, Indiana, and Florida. All inventories are ordered from printers or other suppliers who drop ship the items to the customers. Shipment is handled by UPS, RPS or occasionally truck. The supplier bills the taxpayer for the item and freight (often shipping and handling or other added charges) and no sales tax. The taxpayer then bills his customer for the item, mark up, freight and sales tax on the cost of the item plus mark up. The department assessed sales tax on the freight charges and the taxpayer protested this assessment.

Retail transactions made in Indiana are subject to sales tax. IC 6-2.5-2-1. A retail transaction is defined generally as the acquiring and subsequent selling of tangible personal property. IC 6-2.5-4-1(b). Except for certain enumerated services, sales of services are generally not retail transactions and are not subject to sales tax. Delivery prior to the transfer of title to the purchaser is, however, one of the enumerated services that is specifically subjected to sales tax. IC 6-2.5-4-1(e)(2).

There are two prerequisites for separately stated delivery charges to be subject to sales tax. The Regulations state these prerequisites as "[s]eparately stated delivery charges are considered part of selling at retail and subject to sales and use tax if the delivery is made by or on behalf of the seller of property not owned by the buyer." 45 IAC 2.2-4-3(a).

The application of sales tax to these delivery charges then depends upon when title to the goods transferred to the buyer. The Indiana law concerning the passing of title of goods to the buyer states that, "Unless otherwise explicitly agreed, title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods... " IC 26-1-2-401(2). The taxpayer contends that it has completed his performance with regard to the sales of business forms when the printing companies load the shipments onto the common carrier and delivery to the buyer takes place at the printing factory prior to shipment and any delivery services or freight charges after that point would not be subject to the sales tax.

In support of its contention that the delivery charges are non-taxable services, the taxpayer cites Indiana Department of Revenue v. Martin Marietta Corporation, 398 N.E.2d 1309 (Ind. App. 1979). In that case the corporation excavated, processed and sold sand, gravel and other aggregate materials. Usually the product was shipped to buyers by common carrier. Customers were billed by a single invoice listing the price of the goods and delivery charges separately. The corporation did not collect and remit

sales tax on the cost of the delivery by common carrier. The court, finding that the freight charges were not subject to sales tax, stated on page 1313 in pertinent part as follows:

> Although the transactions here involved were made pursuant to oral agreements, with no discussion of "delivery" or "passage of title", the relevant Commercial Code provisions imply a "shipping contract" which provides that delivery occurs when the goods are placed on the carrier, IC 26-1-2-308, and that title to the goods passes to the buyer at the time of delivery, IC 26-1-2-401. Thus, we agree that the freight charges were incurred after delivery and in respect to property owned by the buyer.

The taxpayer submitted invoices from the factories to the taxpayer indicating that the purchases were F.O.B. the loading dock of the factory. These invoices indicate that the property was transferred to the taxpayer at this time. The taxpayer was then responsible for the delivery to the final purchasers at their locations. Title to the business forms did not transfer to the taxpayer's customers until the property was actually delivered to them at their location. This is, therefore, different than the Martin Marietta case where title to the tangible personal property had been transferred to the customer prior to the delivery services.

In this case the delivery charges were for services performed prior to the transfer of title to the customer. Therefore these charges are properly subject to the sales tax.

FINDING

The taxpayer's protest is denied.

2. Sales and Use Tax: Miscellaneous Receipts

DISCUSSION

The audit also assessed sales tax on the "miscellaneous receipts" in the cash accounts pursuant to IC 6-2.5-2-2 that states in pertinent part that the sales tax is "measured by the gross retail income." The taxpayer contended that these sums represented tax refunds and monies from loans that the owner loaned to the taxpayer business.

All tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b). In support of its contention that the miscellaneous receipts were exempt from the sales tax, the taxpayer submitted a register report with distribution detail. This report indicated that the funds were used to pay petty cash type expenses such as postage, parking and office expenses. In this case the taxpayer did not provide any documentation that the cash receipts were actually non-taxable loans from the owner to the taxpayer business. The distribution records do not verify the source of the funds in the account that was called "miscellaneous receipts." The taxpayer did not sustain its burden of proving that the receipts in this account were not subject to the sales tax.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420010238.LOF

LETTER OF FINDINGS NUMBER: 01-0238
Gross Retail Tax—Tangible Personal Property
Tax Administration—Penalty
For Tax Years 1999-2000

NOTICE: Under Indiana Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Gross Retail Tax—Tangible Personal Property

Authority: IC § 6-2.5-2-1; 45 IAC 2.2-3-8; IC § 6-2.5-4-9; 45 IAC 2.2-4-21; IC § 6-2.5-5-16; 45 IAC 2.2-5-3; IC § 6-8.1-5-1(b); 45 IAC 2.2-5-4; 45 IAC 2.2-5-24; 45 IAC 2.2-5-25

Taxpayer protests the assessment of Indiana's gross retail tax on sales of residential and industrial irrigation systems.

II. Tax Administration—Penalty

Authority: IC § 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the assessment of the 10% penalty.

STATEMENT OF FACTS

Taxpayer sells, installs, and services irrigation systems throughout the west central area of Indiana. The Audit Division assessed the state's gross retail tax on the untaxed selling price of the irrigation equipment and parts. The Audit also assessed the 10% negligence penalty. Taxpayer protested, arguing that the irrigation systems are more properly classified as nontaxable real property rather than as taxable tangible personal property, and, that in some cases, tax had already been paid on the components.

I. Gross Retail Tax—Tangible Personal Property

DISCUSSION

Taxpayer protests the Audit Division's assessment of Indiana's gross retail tax on sales of residential and industrial irrigation systems. Taxpayer argues that Indiana's exemption statutes and regulations are outdated and make absurd distinctions between real and tangible personal property. Taxpayer argues that the equipment and parts he sells are more properly classified as real property, not tangible personal property, and therefore the retail transactions are not subject to Indiana's gross retail tax. At the hearing, taxpayer appeared to drop this argument in favor of providing copies of documents to show that invoices taxed as lump sum invoices had actually charged, collected, and remitted tax on parts sold during installation. Taxpayer has provided those documents as requested.

Under IC § 6-8.1-5-1(b), a "notice of proposed assessment is *prima facie* evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." IC § 6-2.5-2-1 imposes the "excise tax, known as the state gross retail tax... on retail transactions made in Indiana." Taxpayer is not arguing that the transactions are not retail transactions. Taxpayer is arguing that the items he sells are real property, not tangible personal property, and are therefore not subject to Indiana's gross retail tax.

45 IAC 2.2-3-8 provides as follows:

(a) In general, all sales of tangible personal property are taxable, and all sales of real property are not taxable. The conversion of tangible personal property into realty does not relieve the taxpayer from a liability for any owing and unpaid state gross retail tax or use tax with respect to such tangible personal property.

(b) All construction material purchased by a contractor is taxable either at the time of purchase, or if purchased exempt (or otherwise acquired exempt) upon disposition unless the ultimate recipient could have purchased it exempt.

Taxpayer argues that the equipment and parts he sells for installation and servicing of irrigation systems are more properly classified as real property and not tangible personal property. Taxpayer analogizes irrigation systems to above and in ground pools (real property) and fences (real property), and states that it is illogical to consider these items real property while irrigation systems, less easily removed than above-ground pools and fences, are classified as tangible personal property under Indiana's tax statutes and regulations. *See*, 45 IAC 2.2-4-21.

Taxpayer's argument is without merit. As 45 IAC 2.2-3-8 states, "all sales of tangible personal property are taxable." The only difference lies in who pays the tax, taxpayer upon purchase of materials from a supplier, or his customers upon purchase of an irrigation system and installation from taxpayer.

The Audit Division's assessment is correct except for the transaction for which taxpayer has provided a valid exemption certificate for a sale to an Indiana instrumentality. *See*, 45 IAC 2.2-5-24 and 45 IAC 2.2-5-25; *see also* IC § 6-2.5-4-9 and IC § 6-2.5-5-16. In addition, those invoices previously taxed as lump sum invoices have shown that the state's gross retail tax was collected and remitted on the materials sold as part of an installation project. To the extent that taxpayer has shown the gross retail tax was collected and remitted, that part of the assessment is reversed.

FINDING

Taxpayer's protests regarding the assessment of the state's gross retail tax on tangible personal property, e.g., parts and equipment used to install and service irrigation systems, is sustained to the extent the documentation shows the state's gross retail tax was collected and remitted.

II. Tax Administration—Penalty

DISCUSSION

Taxpayer protests the imposition of the 10% negligence penalty. Taxpayer argues that it had reasonable cause for failing to pay the appropriate amount of tax due, based solely on taxpayer's interpretation of the relevant statutes and regulations.

Indiana Code Section 6-8.1-10-2.1(d) states that if a taxpayer subject to the negligence penalty imposed under this section can show that the failure to file a return, pay the full amount of tax shown on the person's return, timely remit taxes held in trust, or pay the deficiency determined by the department was due to reasonable cause and not due to willful neglect, the department shall waive the penalty. Indiana Administrative Code, Title 45, Rule 15, section 11-2 defines negligence as the failure to use reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence results from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by Indiana's tax statutes and administrative regulations.

In order for the Department to waive the negligence penalty, taxpayer must prove that its failure to pay the full amount of tax due was due to reasonable cause. Taxpayer may establish reasonable cause by "demonstrat[ing] that it exercised ordinary business care and prudence in carrying or failing to carry out a duty giving rise to the penalty imposed...." In determining whether reasonable cause existed, the Department may consider the nature of the tax involved, previous judicial precedents, previous department instructions, and previous audits.

Taxpayer has failed to set forth a basis whereby the Department could conclude taxpayer exercised the degree of care statutorily imposed upon an ordinarily reasonable taxpayer. Although some of the questions raised by taxpayer involve technical issues of interpretation and applicability, given the totality of the circumstances, waiver of the penalty is inappropriate in this instance.

FINDING

Taxpayer's protest concerning the assessment of the 10% negligence penalty is denied.

DEPARTMENT OF STATE REVENUE

0420010261.LOF

LETTER OF FINDINGS NUMBER: 01-0261
State Gross Retail Tax
For Years 1998 AND 1999

NOTICE: Under Ind. Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. State Gross Retail Tax —Adequate Documentation

Authority: 45 IAC 15-5-4; IC § 6-8.1-5-1; IC § 6-8.1-5-4

Taxpayer protests the proposed assessments of Indiana's State Gross Retail tax.

STATEMENT OF FACTS

Taxpayer is an Indiana merchant selling carpeting and flooring, including installation. Taxpayer sells to the general public and businesses with billings as time and material invoicing. Taxpayer had maintained insufficient documentation to establish amounts subject to gross retail tax, thus as part of the audit the auditor and taxpayer's representative signed two projections (Form AD-10A), one to calculate an unreported cash difference for 1998 due to missing records for the months of January 1998 through December 1998 and one to calculate the percentage of reported taxable sales to reported cash for 1998 and 1999. Taxpayer's new representative-engaged by taxpayer after the audit at issue- protested the assessment that was based on these amounts, arguing that the audit misinterpreted taxpayer's accounting system.

I. State Gross Retail Tax —Adequate Documentation

DISCUSSION

At the hearing, taxpayer's representative stated that the audit misinterpreted the taxpayer's accounting system. The representative did not address the absence of records to support taxpayer's claim of error in the audit determinations, nor did the representative address the projection agreements that this assessment was based on.

This issue revolves around the burden of proof in an audit situation, which IC § 6-8.1-5-4 defines as:

> Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

Taxpayer does not cite any statute, regulation, or case law for the proposition that the auditor was required to accept taxpayer's assertions as to the nature of the transactions without any supporting documentation and contrary to two signed projections between the Department and taxpayer for the period in question. Pursuant to the above statute and the requirements of IC § 6-8.1-5-1 and 45 IAC 15-5-4, taxpayer has failed to establish a basis for reversal of this assessment.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220010275.LOF

LETTER OF FINDINGS NUMBER: 01-0275
Gross Income Tax
For Calendar Year 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the proposed penalty assessment for the late payment of its income tax. The due date of the return was April 15, 1998. Taxpayer filed its return late on October 15, 1998 with payment of approximately forty-seven percent (47%) of its tax liability. The Department issued its late payment assessment on July 30, 2001.

Taxpayer filed a tax and penalty protest letter dated September 27, 2001 that states that it would provide a written brief and supplemental documentation supporting the protest. On July 2, 2002 taxpayer submitted its written brief to protest the penalty only.

Taxpayer states that it executed the sale of one of its divisions in December 1997 and the full ramifications of the sale such as the amount of realized gain and the forgiveness of debt were not realized until the filing of the tax return, at which time the remaining amount of tax due was paid in full. Taxpayer states it relied upon the advice of its accountant and the amount of tax due when it filed for an extension was based on the advice it was given. Taxpayer prepared the Indiana return and submitted payment of the tax. A federal extension was filed on March 16, 1998.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer's representative, at hearing, states that prior to 1997 the taxpayer was not required to file estimated taxes, was near bankruptcy, and due to financial problems decided to sell one of its divisions. In December 1997 it entered into a preliminary agreement to sell the company which was not completed until December 31, 1997. The ramifications of the sale were not realized until the filing of the tax return. Taxpayer requests the penalty be waived and states that it complied with the Indiana State Revenue requirements, relied upon the advice of its accountant, and the amount of tax due when it filed for an extension was based upon the advice it was given.

Taxpayer did not make full payment by the original due date of the return. More than forty-seven percent (47%) of the tax due was paid after the due date of the return. An extension to file is not an extension for payment.

Taxpayer has not provided reasonable cause to allow the Department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420020186.LOF

LETTER OF FINDINGS NUMBER: 02-0186
Use Tax
For Calendar Years 1998, 1999, and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Consumer Use Tax - Documentation

Authority: 45 IAC 2.2-4-2

Taxpayer protests purchases that had tax assessed.

STATEMENT OF FACTS

Taxpayer was audited for calendar years 1998, 1999, and 2000. Upon audit it was discovered that the taxpayer failed to retain a majority of its purchase records. The invoices that were provided the auditor had no sales tax charged. After repeated requests to provide invoices, the auditor utilized the purchase amounts reported on Schedule C of the 1120 form for each year.

At hearing, the taxpayer requested additional time to provide copies of invoices. Thereafter, several telephone conversations ensued indicating the taxpayer had not been able to provide additional information other than an invoice indicating a reduction in tax in the amount of $191.60 for 1999. The last telephone conversation was on September 6, 2002 when the taxpayer indicated that one of her suppliers had not supplied her with the promised information. The hearing officer called the supplier on September 10, 2002 and was informed that UNBS was not registered with the State of Indiana to collect sales tax.

I. Consumer Use Tax - Documentation

DISCUSSION

Taxpayer protests the proposed assessments of consumer Use Tax arguing that she may have available for inspection, documents supporting her contention that sales tax was paid upon purchases made. Because of taxpayer's inability to timely provide proper documents to the auditor, a hearing was held. At the hearing, taxpayer stated that records would be made available within a short period of time. Said records were not provided, other than one invoice indicating tax paid in the amount of $191.60 in 1999. That invoice, however, shows delivery to the taxpayer's home and is apparently for furnishings.

Taxpayer, on September 6, 2002 called the hearing officer and advised her that one of her suppliers would not verify whether tax was paid unless she had more detailed information regarding her purchases. On September 10, 2002, the hearing officer found that the retailer was not registered with the Indiana Department of Revenue.

The Department cannot allow a tax credit for 1999 in the amount of $191.60 because the furnishings were delivered to the taxpayer's home. In addition, no fixed assets are shown on taxpayer's Schedule C. Taxpayer has not provided proof to allow a reduction in tax.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420020243.LOF

LETTER OF FINDINGS NUMBER: 02-0243
Use Tax
For Calendar Years 1997, 1998, 1999, and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is a motel located in Indiana. The audit focused on capital asset purchases and start-up costs for the new motel. The motel has an outdoor pool and offers a complimentary continental breakfast to guests. An Indiana contractor who was working under a lump-sum contract built the motel.

Taxpayer did not register with the Indiana Department of Revenue as a retail merchant until 1998. In May 1997 it qualified to do business in Indiana as a foreign corporation incorporated in Kentucky in October 1996. Taxpayer had no use tax accrual system in place. Taxpayer requests abatement of the penalty because it attempted to recover taxes paid to the State of Kentucky in error. The statute, however, has elapsed and additional penalties would allegedly create additional undue burden upon them.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it has attempted to recover taxes paid to the State of Kentucky in error, the statute has elapsed and additional penalties would created additional undue burden upon the company.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer failed to self-assess use tax on clearly taxable items and had no use tax accrual system in place. Taxpayer has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420020256P.LOF

LETTER OF FINDINGS NUMBER: 02-0256P
Sales Tax
For June 1999 through March 2002

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed late payment penalties for several sales tax returns that were not timely filed nor paid. Taxpayer states that during transition in 1999, the new person responsible overlooked the filing of the sales tax returns. Taxpayer began to receive tax notices on non-payment of Indiana Sales Tax. These notices contained estimated tax liabilities that were paid. In March 2002, the taxpayer hired a local CPA to bring the sales tax to a current status.

Taxpayer, in a letter dated May 9, 2002 requests that the department waive the non-filing and late payment penalties because it has filed the returns.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer was assessed a penalty because it failed to remit its tax and tax returns by the due date for several months between 1999 and 2002. In a letter dated May 21, 2002, the taxpayer was advised that several liabilities were in the warrant stages and could no longer be protested. Only four of the liabilities were at the protest stage. Taxpayer was also advised to pay the outstanding liabilities or to send a protest letter regarding the four liabilities. No response was forthcoming. In a letter dated July 10, 2002 taxpayer was again advised to pay the outstanding liabilities or to send a protest letter within ten days. No response was forthcoming.

Taxpayer merely states that an employee overlooked the filing of sales tax returns.

Taxpayer was negligent in failing to monitor the work of its employees.

Taxpayer has not provided reasonable cause to allow a waiver of the penalty assessed.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0320020332P.LOF

LETTER OF FINDINGS NUMBER: 02-0332P
Withholding Tax
Calendar Year Ended 12-31-99

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

During a sales tax audit it was determined that the parent company located in Indiana failed to withhold and remit tax on its out-of-state shareholders as required under 45 IAC 3.1-1-109.

Taxpayer protests the penalty assessed and states that it made every effort to comply with the withholding requirements and due to first year filing issues, some shareholders had nothing withheld on the belief that such shareholders would file Indiana returns. Taxpayer requests a penalty waiver based upon the fact that 1999 was its first year.

ISSUE

I. Tax Administration – Penalty

Taxpayer protests the imposition of penalty.

DISCUSSION

Taxpayer states it has made every attempt at compliance with the laws and regulations of Indiana and every effort was made to file and pay taxes on a timely basis. Further, taxpayer states it correctly identified and withheld tax on all of its nonresident shareholders for the years 2000 and 2001.

Taxpayer did not comply with the regulations, did not correct the 1999 year, nor did it provide reasonable cause to allow the Department to waive the penalties assessed.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220020333P.LOF

LETTER OF FINDINGS NUMBER: 02-0333P
Adjusted Gross Income Tax
For Calendar Year Ended 12/31/2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer filed its return late and was assessed a penalty. Taxpayer's tax liability was $176,514.76, $71,404.65 of which came from a prior year overpayment. Taxpayer remitted the balance of $105,110.00 after the due date of the return. An extension to file is not an extension for payment and the taxpayer was assessed a late payment penalty.

Taxpayer filed a penalty protest in a letter dated June 27, 2002.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it timely filed its request for an extension of time. Taxpayer states that due to extenuating circumstances, the estimated tax that was calculated for 2000 at the time of the extension request was insufficient to satisfy the liability and the balance of the tax due was paid by the extended due date of the return. Taxpayer states there were two factors that impacted the underestimation of tax due at the time of the extension. The first factor related to bonus payments that were not paid by March 15, 2001 and therefore, not deductible until tax year 2001. The second factor is that the activity changed significantly during 2000 whereby the Indiana apportionment increased from 37% to 81.9%.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer failed to remit more than fifty percent (50%) of its tax by the due date of the return, did not remit one hundred percent (100%) of the prior year's tax by the due date, nor has provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0320020351P.LOF

LETTER OF FINDINGS NUMBER: 02-0351P
Withholding Tax
For the Period July 2000 through November 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed penalty for failing to file and remit its withholding tax by the due date.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer failed to file and remit its withholding tax for several months.

Taxpayer states that the circumstances that forced it to be late with payments were related to the Secretary of State's office

processing its application as a foreign corporation. It filed the necessary forms on August 21, 2000. A certificate of good standing from the State of Minnesota was dated July 19, 2000. The state rejected the application on August 28, 2000 because another company in Indiana was identically named. To correct the problem, the taxpayer wrote the word "fictitious" behind its name on the application. Several weeks passed and the taxpayer was rejected again saying it needed a board resolution authorizing the use of the fictitious name. A board resolution was submitted dated November 13, 2000. Taxpayer states it was again rejected on December 4, 2000 because its certificate of good standing from the State of Minnesota had expired. The processing time of its application was beyond its control. Taxpayer further states that it could have met the withholding report deadlines if it had been issued a temporary number.

Taxpayer failed to remit its tax timely and has not provided reasonable cause for its failure. Withholding Tax is a trust tax that could have been remitted and held in escrow.

The Department finds the penalty appropriate.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220020352P.LOF

LETTER OF FINDINGS NUMBER: 02-0352P
Gross Income Tax
Calendar Year 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, an out of state corporation, has an Indiana location and is a wholly owned subsidiary of Company A. Taxpayer filed form IT-20SC for 1997 in error, and, as a result of the incorrect return being filed, the Indiana Department of Revenue refunded all "Estimated Payments" made by the taxpayer.

Taxpayer filed a penalty protest letter dated March 15, 2002.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that prior to September 28, 2001, it was a wholly owned subsidiary of Company A and their auditors prepared all tax returns. For 1997, Company A's auditors prepared the return using the incorrect form IT-20SC rather than the IT-20. The return was forwarded to Company A's headquarters where it was signed and mailed. Taxpayers relied on their paid preparer to properly prepare the appropriate tax return.

During 2001 when a sales tax audit was initiated, the issue with the 1997 income tax return was discovered. At the same time Company A was in negotiations with the management of the taxpayer to sell the company to its management. During the negotiations, Company A indicated it would take responsibility for resolving the 1997 tax issue since it was during its tenure as owner and the mistake was made by its tax preparer. During the signing of the purchase agreement, Company A refused to include the 1997 taxes in the liabilities it retained. Taxpayer states that the new management has cooperated fully with the Indiana auditors in resolving this issue and requests a penalty waiver.

Taxpayer correctly prepared its 1998 and 1999 returns. The taxpayer erroneously prepared form IT-20SC for 1997 that was corrected during audit. The new managing company believes it should not be penalized when it was the responsibility of the old company to correctly prepare the returns. A company has the responsibility to assure that tax returns are properly filed, whether under new or old management.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220020386P.LOF

LETTER OF FINDINGS NUMBER: 02-0386P
Gross and Adjusted Gross Income Tax
For Calendar Year Ended December 31, 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the proposed penalty assessment for the late payment of its income tax. The due date of the return was April 15, 2001. Taxpayer filed its return late on October 12, 2001 with payment of thirty-two percent (32%) of its tax liability. The Department issued its late payment assessment on March 26, 2002.

Taxpayer filed a penalty protest letter dated April 26, 2002 and states that it did not have the infrastructure in place to handle all the matters that a new company has to contend with. Taxpayer was formed in July of 1999. Taxpayer prepared the Indiana return for calendar year 2000 and submitted the balance of tax due in the amount of $32,827 on October 12, 2001. The Department has no returns on file prior to calendar year 2000.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it did not become apparent that significant tax liabilities would be due for Indiana until it filed its return.

Taxpayer did not make payment by the original due date of the return as required under IC 6-8.1-10-2.1 (a)(2). The penalty is ten percent (10%) of the amount of the tax not paid, if the person fails to pay the full amount of tax shown on the person's return on or before the due date for the return or payment.

Taxpayer made payment after the due date of the return and has not provided reasonable cause to allow the Department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220020401P.LOF

LETTER OF FINDINGS NUMBER: 02-0401P
Corporate Income Tax
For the Calendar Years 1997, 1998, 1999, 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on the date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1; 45 IAC 15-11-2

The taxpayer protests the penalty assessed.

STATEMENT OF FACTS

The taxpayer is a not-for-profit organization formed to sponsor several soccer teams for high school students and young adults. A departmental audit resulted in the assessment of additional gross income tax on proceeds from gaming activities. The taxpayer filed a letter of protest for each audited year requesting that the penalty be waived. The taxpayer asserts that the understatement of gaming income on its tax returns was not intentional. All gaming activities were conducted by volunteers.

DISCUSSION

Administrative Rule 45 IAC 15-11-2 (b) states the following:

"Negligence" on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be

expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The unintentional omission of income from income tax returns falls within the definition of "negligence." The intentional omission of income might have resulted in the imposition of the penalty for fraud.[1] Further, the assertion that the gaming activities were conducted by volunteers is irrelevant. The Department's position on the matter of volunteers as opposed to compensated employees is set forth in its Charity Gaming Information publication: "An operator or a worker may not receive any compensation for conducting or assisting with any allowable (charity gaming) event."[2]

A taxpayer's total income is to be reported on its tax returns. The taxpayer has not established that its failure to timely pay the full amount of tax due was due to reasonable cause and not due to negligence.

FINDING

The taxpayer's protest is denied.

[1] The statutory imposition of the penalty for fraud may be found at IC 6-8.1-10-4.
[2] Charity Gaming Information, Publication 2, Revised June 1996, page 28.

DEPARTMENT OF STATE REVENUE

0220020410P.LOF

LETTER OF FINDINGS NUMBER: 02-0410P
Adjusted Gross and Supplemental Net Income Tax
For Fiscal Years Ended 07/29/00 and 07/28/2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed a penalty for the underpayment of quarterly estimated income taxes for the period ending July 28, 2001 and a penalty for failing to report and pay gross income tax for the years 2000 and 2001. Taxpayer failed to report sales shipped from within Indiana at the high rate of gross income, although it had property and inventories in the State of Indiana. Taxpayer paid tax on its adjusted gross income.

Taxpayer filed a penalty protest letter dated August 1, 2002.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalties assessed and requests a penalty waiver. No reasons were given in the letter. In a telephone conversation on September 17, 2002, taxpayer simply stated that he was unaware of Schedule A, and the income was already included in Adjusted Gross Income.

Taxpayer failed to report gross income subject to tax in Indiana and has not provided reasonable cause for its failure to do so. The failure to report gross income resulted in the taxpayer's failure to pay fourteen percent (14%) and thirty-six percent (36%) of its tax for fiscal years 2000 and 2002 respectively.

Taxpayer failed to pay one hundred percent of the prior years tax in estimated payments for fiscal year 2001 that resulted in an underpayment penalty.

Taxpayer has not provided reasonable cause to allow penalty waivers.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220020412P.LOF

LETTER OF FINDINGS NUMBER: 02-0412P
Adjusted Gross Income Tax
For Short Year 01/01/99 to 07/16/99

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the proposed penalty assessment for the late payment of its income tax. The due date of the return was November 16, 1999. Taxpayer had an extension to file until October 15, 2000 and submitted payment of approximately thirty percent (30%) of its tax liability. The Department issued its late payment assessment on June 25, 2002.

Taxpayer filed a penalty protest letter dated August 7, 2002.

Taxpayer states that it was formerly named Company A. The name change occurred on July 16, 1999 when Company A was sold. As a result of the sale, two short period returns were filed for tax year 1999. Immediately prior to its sale, Company A recognized unexpected and significant income as a result of a gain related to restructuring activity. Company A's estimated payments were not substantial enough to meet the Indiana income tax liability created by this additional income. During the period of the sale, the owner was in the process of restructuring its operations, which required extensive review of accounting systems, establishing procedures to close the financial reports or the sold corporations and transitioning personnel to new roles within the accounting and tax department. These factors contributed to reduced continuity within the accounting and tax departments as responsibilities were transferred among new and different people. As a result of the restructuring, Company A's tax personnel were not able to estimate the gain, and the resulting increased Indiana income tax liability, in time to pay additional estimated tax to cover the additional income.

These factors contributed to the underpayment of estimated tax for this period. These factors also resulted in the underpayment of estimated tax for the period from July 17, 1999 to December 31, 1999. Taxpayer states that it has an excellent history of filing all tax returns on a timely basis.

Taxpayer believes that its underpayment of tax was due to reasonable cause and not willful neglect and has paid the interest.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states.

The issue is not the underpayment of tax but the late payment thereof. Taxpayer did not make full payment by the original due date of the return. More than thirty percent of the tax due was paid after the due date of the return. An extension to file is not an extension for payment.

Taxpayer has not provided reasonable cause to allow the Department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220020414P.LOF

LETTER OF FINDINGS NUMBER: 02-0414P
Gross Income Tax
For Fiscal Year Ended March 31, 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the proposed penalty assessment for the late payment of its income tax. The due date of the return was July 15, 2001. Taxpayer filed its return late on January 15, 2002 with payment of one hundred percent (100%) of its tax liability. The Department issued its late payment assessment on May 15, 2002.

Taxpayer filed penalty protest letters dated May 25, 2002 and August 20, 2002. Taxpayer requests penalty abatement because it was taxpayer's initial return and the filing requirements were not known as of July 15, 2001. The corporation was qualified to do business in Indiana on February 28, 2001. Taxpayer prepared the Indiana return and submitted one hundred of the tax due on January 15, 2002.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it was not aware of the filing requirements until after the due date. In addition, the return was the initial return filed. It was not apparent that significant tax liabilities would be due for Indiana until it filed its return.

Taxpayer did not make payment by the original due date of the return as required under IC 6-8.1-10-2.1 (a)(2). The penalty is ten percent (10%) of the amount of the tax not paid, if the person fails to pay the full amount of tax shown on the person's return on or before the due date for the return or payment.

Taxpayer made payment after the due date of the return and has not provided reasonable cause to allow the Department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0320020415P.LOF

LETTER OF FINDINGS NUMBER: 02-0415P
Withholding Tax
Calendar Year 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer filed its WH-3 late and was assessed ten dollars ($10) for each late filed W-2.

Taxpayer protests the penalty assessed and states that its return was due on January 30, 2002, and the return and payment were submitted on January 12, 2002.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer requests the department waive the penalty for its failure to file information returns timely.

The Annual Withholding Tax Reconciliation Return shows that thirteen (13) W-2 forms were submitted to the Department on March 5, 2002 which was clearly late. The taxpayer erred in its assumption that the penalty is due to late payment of tax. Penalty applies to the late filing of an information return, as the taxpayer has not provided reasonable cause for its failure to file.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0320020416P.LOF

LETTER OF FINDINGS NUMBER: 02-0416P
Withholding Tax
For December 31, 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana

Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer filed its WH-1 and payment late and was assessed a late payment penalty. In a letter dated August 13, 2002, taxpayer protests the penalty assessed because it has filed returns for thirteen (13) years without incident. Taxpayer states that its accountants had to revise some of the preliminary information it supplied and the accountants needed additional time to revise the depreciation schedules. Unfortunately, their accountants sent the completed partnership return and withholding tax return to the wrong address. Taxpayer states that it had moved to a new location. When it realized that it had not received a return, the taxpayer contacted its accountant. As soon as the taxpayer received the newly generated returns, they were forwarded to the Department. Taxpayer requests a penalty waiver because it was not careless in its duty to file and remit tax to the state.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer was assessed a ten percent (10%) penalty because it paid its tax after the due date of the return for December 31, 2001.

Taxpayer, in a letter dated August 13, 2002 protested the penalty assessed and stated that it hires professionals to assist in its duty to file and remit tax, therefore, it used ordinary business care and prudence to meet its tax obligation to the state. The late filing was primarily due to an accident of using an incorrect address and not through gross neglect.

Actions of the taxpayer's representative are also the actions of the taxpayer. Taxpayer apparently did not inform its representative that it had a change of address causing the return to be filed late. Taxpayer has not provided reasonable cause to allow a waiver of the penalty assessed.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220020418P.LOF

LETTER OF FINDINGS NUMBER: 02-0418P
Adjusted Gross Income Tax
For Fiscal Years Ended September 30, 1995 and September 30, 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the proposed penalty assessment for failing to report Federal RAR adjustments. Taxpayer was audited for Fiscal Years 1998 through Calendar Year 2000. During the audit it was determined that final resolution with the Internal Revenue Service was on March 26, 2001 but the taxpayer failed to report the RAR adjustments to the Indiana Department of Revenue.

Taxpayer filed a penalty protest letter dated August 8, 2002 that merely requests a penalty waiver.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer merely requests a penalty waiver and provided no reasons.

Taxpayer did not notify the Department as required under 45 IAC 3.1-1-94 and IC 6-3-4-6 which state that the taxpayer file a notice, on a form prescribed by the department, within one hundred twenty (120) days after the modification is made.

Taxpayer has not provided reasonable cause to allow the Department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

9920020419P.LOF

LETTER OF FINDINGS NUMBER: 02-0419P
Motor Vehicle Rental Excise Tax
May 2000 through April 2002

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. Tax Administration – Interest

Authority: IC 6-8.1-10-1; 45 IAC 15-11-1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer was assessed late filing penalties. In a letter dated August 22, 2002, taxpayer states that it was its office manager's job to make all tax payments. Deposits were done through an electronic fund transfer and the taxpayer believed its books and financial statements were accurate. Taxpayer requests the department waive the penalties and interest assessed against it.

Taxpayer states its delinquent payment of motor vehicle rental excise taxes arose from an office manager that did not fulfill the responsibilities of her job. Not until recently was the taxpayer aware that the MVR tax returns had not been filed and tax had not been paid. Upon discovery, taxpayer immediately took steps to report and pay the tax due.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer states that it filed the missing returns immediately upon its knowledge that they were not remitted. Taxpayer further states it has cleared up the problem. Taxpayer states that it was unaware that its office manager did not file the returns.

Taxpayer's failure to remit the tax was not the result of reasonable cause. Taxpayer should have been aware of the actions of its employee and should have verified the books yearly.

FINDING

Taxpayer's protest is denied.

II. Tax Administration – Interest

DISCUSSION

Taxpayer requests that the department waive the interest.

The Indiana statute does not allow a waiver of interest.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420020420P.LOF

LETTER OF FINDINGS NUMBER: 02-0420P
Sales Tax
May 2000 through April 2002

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. Tax Administration – Interest

Authority: IC 6-8.1-10-1; 45 IAC 15-11-1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer was assessed late filing penalties. In a letter dated August 22, 2002, taxpayer states that it was its office manager's job to make all tax payments. Deposits were done through an electronic fund transfer and the taxpayer believed its books and financial statements were accurate. Taxpayer requests the department waive the penalties and interest assessed against it.

Taxpayer states its delinquent payment of sales taxes arose from an office manager that did not fulfill the responsibilities of her job. Not until recently was the taxpayer aware that the sales tax returns had not been filed and tax had not been paid. Upon discovery, taxpayer immediately took steps to report and pay the tax due.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer states that it filed the missing returns immediately upon its knowledge that they were not remitted. Taxpayer further states it has cleared up the problem. Taxpayer states that it was unaware that its office manager did not file the returns.

Taxpayer's failure to remit the tax was not the result of reasonable cause. Taxpayer should have been aware of the actions of its employee and should have verified the books yearly.

FINDING

Taxpayer's protest is denied.

II. Tax Administration – Interest

DISCUSSION

Taxpayer requests that the department waive the interest.

The Indiana statute does not allow a waiver of interest.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420020424P.LOF

LETTER OF FINDINGS NUMBER: 02-0424P
Sales and Use Tax
For Calendar Years 1998, 1999, and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was audited for calendar years 1998, 1999, and 2000. Upon audit it was discovered that the taxpayer failed to remit sales tax on a portion of its sales and had no evidence of exemption. In addition, taxpayer failed to self-assess use tax on a majority of its non-taxed taxable purchases.

Taxpayer requests abatement of the penalty due to human error.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it consistently files its sales tax returns in Indiana on time and has been prudent in determining the proper amount of sales tax liability. Taxpayer states that the error was not due to misrepresentation or intentional disregard of Indiana sales tax rules but the result of pure clerical oversight.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer was previously audited and failed to remit use tax due on clearly taxable items. Taxpayer remitted less than two percent (2%) in 1998, no percent in 1999, and approximately six percent (6%) in 2000 of the use tax due, and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420020425P.LOF

LETTER OF FINDINGS NUMBER: 02-0425P
Use Tax
For Calendar Years 1998, 1999, and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was audited for calendar years 1998, 1999, and 2000. Upon audit it was discovered that the taxpayer failed to remit use tax on approximately seventy percent (70%) of its non-taxed taxable purchases.

Taxpayer requests abatement of the penalty due to human error.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it manually reviews invoices for use tax liability. In conjunction with the conversion of its Accounts Payable systems to new software this year, Taxpayer is looking at automating this process so that all invoices that do not have sales tax on the invoice will automatically be selected for payment of use tax.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer was previously audited and failed to remit use tax due on clearly taxable items, primarily fixed assets, and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420000427.LOF

LETTER OF FINDINGS NUMBER: 00-0427
For The Period: 1997 & 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Sales/Use Tax: Model/Display Manufactured Homes

Authority: IC 6-2.5-3-1; IC 6-2.5-3-2; IC 6-2.5-3-4; 45 IAC 2.2-3-15; 45 IAC 2.2-5-8(j); Monarch Beverage v. Indiana Dept. of State Revenue, 589 N.E.2d 1209 (Ind.Tax 1992).

The taxpayer protests the assessment of tax on manufactured homes for model/display.

STATEMENT OF FACTS

Taxpayer is a producer of manufactured homes. The taxpayer has display homes at its manufacturing plant that it uses as models for prospective buyers. The taxpayer sells its manufactured homes through independent builders, dealerships, and planned home communities.

I. Sales/Use Tax: Model/Display Manufactured Homes

DISCUSSION

The taxpayer argues that its display homes are treated as inventory, and that the homes are used to "acquaint [customers] with the features of a [the taxpayer's manufactured home] and display various options that are available."

The taxpayer summarizes its position as follows:

> [The] units are inventory held for resale. The units could be moved off of their existing platform with minimal effort and could be transferred to a prospective customer's building site within days. Accordingly, we feel these units are inventory for resale and should be exempt from sales and use tax until the final sale occurs.

The taxpayer, shortly before the hearing date, faxed to the Department documents that it says shows that the display homes were eventually sold. In a cover sheet to the fax, the taxpayer stated:

> Here are the four houses invoices that were on display in 1997 and 1998. We have sold all four models and have collected the sales tax for each.

Additionally, the taxpayer stated that there was no true foundation, the models could be bought and shipped within a two-week time frame if a buyer so desired.

The Indiana Code 6-2.5-3-1 defines "use" as:

> (a) "Use' means the exercise of any right or power of ownership over tangible personal property.

And in pertinent part in IC 6-2.5-3-2:

> (a) An excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction.

And finally the use tax exemption, IC 6-2.5-3-4:

> (a) The storage, use, and consumption of tangible personal property in Indiana is exempt from the use tax if:
>
> (1) the property was acquired in a retail transaction in Indiana and the state gross retail tax has been paid on the acquisition of that property; or
>
> (2) the property was acquired in a transaction that is wholly or partially exempt from the state gross retail tax under any part of IC 6-2.5-5, except IC 6-2.5-5-24(b), and the property is being used, stored, or consumed for the purpose for which it was exempted.
>
> (b) If a person issues a state gross retail or use tax exemption certificate for the acquisition of tangible personal property and subsequently uses, stores, or consumes that property for a nonexempt purpose, then the person shall pay the use tax.

The questions before the Department can be stated as, "Were the homes converted from inventory by the taxpayer's use of them as display models and thus subjecting the taxpayer to the "use tax" statute?" And, "Does the assessment of use tax on display homes (eventually) sold constitute double-taxation?"

The auditor contends that the taxpayer made nonexempt use of the display homes. The auditor relies on 45 IAC 2.2-3-15 and 45 IAC 2.2-5-8(j). The former regulation states that "If any person who issues an exemption certificate … thereafter makes any use of the tangible personal property" that is "not permitted by the exemption, such use, consumption, or storage shall become subject to the use tax. …" The latter regulation, 45 IAC 2.2-5-8(j), says the following:

> Managerial, sales, and other non-operational activities. Machinery, tools, and equipment used in managerial sales, research, and development, or other non-operational activities, are not directly used in manufacturing and, therefore, are subject to tax. This category includes, but is not limited to, tangible personal property used in any of the following activities: management and administration; *selling and marketing; exhibition of manufactured or processed products;* …. (Emphasis added)

The display homes were for exhibition (tours for prospective buyers), which is set out in 45 IAC 2.2-5-8(j) (*See* the italicized portions above) as taxable. The fact that the taxpayer had utilities hooked up, carpeted and furnished the homes, further shows that the taxpayer made use of the homes in a selling, marketing, and exhibition mode.

Regarding the double-taxation issue, the auditor noted at the time of the audit:

> [An independent] dealer purchased and occupies one of the show models for uses as a sales office. The taxpayer did not provide evidence of ever selling one of these display homes except for the model sold to the dealer.

The taxpayer provided, prior to the hearing, documentation that purports to show that the homes were in fact sold. The taxpayer argues that it cannot be charged use tax on display homes that were sold. The touchstone case in Indiana on double-taxation is Monarch Beverage v. Indiana Dept. of State Revenue, 589 N.E.2d 1209 (Ind.Tax 1992). The court in that case stated "sales or use tax can be collected more than once on the same item if the item is subject of more than one nonexempt transaction." Id. at 1214.

In the present case the *taxpayer* is being assessed use tax on the materials used in manufacturing the display homes—thus the

taxpayer itself owes the use tax. With regard to the sales of the display homes the taxpayer is acting as an *agent* for the state (that is, the taxpayer is not the one who owes the tax, its *customers* do. The taxpayer is simply collecting and remitting the tax, as required, for the State of Indiana). The use tax and sales tax are for two separate and distinct transactions—one the use of the display homes for exhibition tours, the other the eventual sale of the homes.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02970521.SLOF

SUPPLEMENTAL LETTER OF FINDINGS: 97-0521 SLOF
Indiana Adjusted Gross Income Tax
For the Years 1993, 1994, and 1995

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Reallocation of Taxpayer's Sales to Indiana – Throw-Back Sales.

Authority: 15 U.S.C.S. § 381; IC 6-3-2-2(e); IC 6-3-2-2(n); IC 6-3-2-2(n)(1); IC 6-3-2-2(n)(2); Wisconsin Dept. of Revenue v. William Wrigley, Jr., Co., 112 S.Ct. 2447 (1992). Indiana Dept. of State Revenue v. Continental Steel Corp., 399 N.E.2d 754 (Ind. Ct. App. 1980); 45 IAC 3.1-1-53(5); 45 IAC 3.1-1-64.

Taxpayer argues that income it received from selling its products within other states should not be thrown back to Indiana because taxpayer's out-of-state activities were sufficient to establish nexus with those foreign states.

STATEMENT OF FACTS

Taxpayer is in the business of producing custom-designed plastic products. Most of its business is generated by the design, manufacture, and sale of custom designed packing and shipping trays which taxpayer refers to as "Transport Packaging Systems." Taxpayer's customers include television picture tube manufacturers and automobile component manufacturers. Taxpayer ships products from its plants in Indiana to other states.

Taxpayer original protest was addressed within a Letter of Findings (LOF) which concluded that "taxpayer's protest is sustained subject to the findings of a supplemental audit" because the LOF determined that the taxpayer had presented evidence of an "ongoing, complex, collaborative" endeavor between itself and its out-of-state customers.

That supplemental audit was conducted and concluded that the "taxpayer did not produce evidence to establish that the activities of the taxpayer created nexus in each state during the audit period." Therefore, the supplemental audit "[was] unable to make supplemental audit adjustments to the billing."

The taxpayer requested and was granted an opportunity for a rehearing. That rehearing was held, and this Supplemental Letter of Findings followed.

DISCUSSION

I. Reallocation of Taxpayer's Sales to Indiana – Throw-Back Sales.

Taxpayer protested the imposition of the Indiana adjusted gross income tax on sales income received from certain out-of-state customers. The original audit had determined that, for purposes of determining the taxpayer's adjusted gross income, sales to out-of-state customers should be allocated back to Indiana because the sales were made to customers located within states in which the taxpayer was not subject to an income tax. Under 45 IAC 3.1-1-53(5) "[I]f the taxpayer is not taxable in the state of the purchaser, the sale is attributed to [Indiana] if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state." Such sales are designated as "throw-back" sales. Id.

Taxpayer does business in 39 states outside of Indiana. With the exception of Idaho and Alaska, taxpayer argues that it is entitled to a blanket exemption from the application of Indiana's throw-back rule because of the intensive, ongoing, and complex relationship it develops with the out-of-state customers when it designs, manufacturers, and sells its Transport Packaging Systems.

Taxpayer believes it is entitled to this blanket exemption under the terms of IC 6-3-2-2 and Public Law 86-272. IC 6-3-2-2(e) provides that "[s]ales of tangible personal property are in this state if... (2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and... (B) the taxpayer is not taxable in the state of the purchaser." IC 6-3-2-2(n) provides that "[f]or purposes of allocation and apportionment of income... a taxpayer is taxable in another state if: (1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business or a corporate stock tax; or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of

whether, in fact, the state does or does not." Therefore, in order to properly allocate income to a foreign state, taxpayer must show that one of the taxes listed in IC 6-3-2-2(n)(1) has been levied against him or that the state has the jurisdiction to impose a net income tax regardless of whether the state actually does so.

15 U.S.C.S. § 381 (Public Law 86-272) controls the circumstances under which a state may impose a tax on the income – derived from sources within that state – by an out-of-state taxpayer. 15 U.S.C.S. § 381 establishes the minimum standard for the imposition of a state income tax based on the solicitation of interstate sales. Wisconsin Dept. of Revenue v. William Wrigley, Jr., Co., 112 S.Ct. 2447, 2453 (1992). 15 U.S.C.S. § 381 prohibits a state from imposing a net income tax on a foreign taxpayer if the foreign taxpayer's only business activity within that state is the solicitation of sales. A state may not impose an income tax on income derived from business activities within the taxing state unless those business activities exceed the mere solicitation of sales. 15 U.S.C.S. § 381(a), (c). Conversely, the effect of the throw-back rule is to revert sales receipts back to the state from where the goods were originally shipped in those situations where 15 U.S.C.S. § 381 deprives the purchaser's home state of the power to impose a net income tax. 45 IAC 3.1-1-64.

Taxpayer has presented information detailing its representatives' activities in various states. In addition, taxpayer has provided affidavits from certain of its employees describing the number and nature of the contacts between taxpayer and its out-of-state customers. Taxpayer maintains that – because of the extensive contacts it develops with its customers – it is not primarily in the business of selling tangible personal property; it is in the business of providing a service to its customers.

Even accepting taxpayer's basic contention – that it works closely with its out-of-state customers to custom design Transport Packaging Systems – the income here at issue was derived from the sale of taxpayer's unique packaging materials. Taxpayer is not entitled to the blanket exemption from Indiana's throw-back rule because its representatives' activities – even considering that close collaboration with the out-of-state customers – are simply "generally accepted or customary acts in the industry which lead to the placing or orders." Indiana Dept. of State Revenue v. Continental Steel Corp., 399 N.E.2d 754, 759 (Ind. Ct. App. 1980). Taxpayer's representatives clearly provide assistance to past purchaser's of its products; nonetheless, that assistance is provided with the principal aim of obtaining future orders from those same customers.

The statute precludes Indiana from employing the throw-back rule on a taxpayer's out-of-state income when the foreign state "has jurisdiction to subject the taxpayer to a net income regardless of whether, in fact, the state does or does not." IC 6-3-2-2(n)(2). Although not *determinative*, taxpayer's failure to demonstrate that it is already paying a foreign state's income tax on the subject income is clearly *probative* in determining whether Indiana may properly impose its own tax on that income.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

04970583; 04980355.SLOF

SUPPLEMENTAL LETTER OF FINDINGS: 97-0583 SLOF; 98-0355 SLOF
Indiana Sales and Use Tax
For the Tax Periods 1991 through 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Processing Exemption – Sales/Use Tax.

Authority: IC 6-2.5-2-1; IC 6-2.5-3-2; IC 6-2.5-5-1 et seq.; IC 6-2.5-5-3(b); Indianapolis Fruit Co. v. Department of State Revenue, 691 N.E.2d 1379 (Ind. Tax Ct. 1998); 45 IAC 2.2-5-10(d).

Taxpayer maintains that particular items of in-store equipment – deli prep counter, salad bar prep table, deli slicer, balloon wrap system, cardboard baler – qualify for the processing exemption.

II. Work-in-Process – Handling and Storage Equipment – Sales/Use Tax.

Authority: IC 6-2.5-5-3; Indianapolis Fruit Co. v. Department of State Revenue, 691 N.E.2d 1379, 1385 (Ind. Tax Ct. 1998); General Motors Corp. v. Indiana Dept. of State Revenue, 578 N.E.2d 399 (Ind. Tax Ct. 1991); 45 IAC 2.2-5-8; 45 IAC 2.2-5-8(e)(1); 45 IAC 2.2-5-8(f)(3); 45 IAC 2.2-5-8(f)(4).

Taxpayer argues that material handling equipment employed at its specialty foods division is used to transport work-in-process within the division. As such, the division's material handling equipment is not subject to sales or use tax. In addition, taxpayer asserts that certain items of its in-store equipment – deli cases, salad bars, self-serve bakery cases, floral cases, and lobster tanks – are used to store "work-in-process" and are similarly entitled to the exemption.

III. Refrigeration Equipment – Sales/Use Tax.

Authority: 45 IAC 2.2-5-10; 45 IAC 2.2-5-10(k).

Taxpayer argues that it is entitled to an additional 17 percent credit for certain refrigeration equipment because that refrigeration equipment is associated with its processing and manufacturing activities. In addition, taxpayer argues that it is entitled to a credit for tax previously paid on Freon-recovery equipment.

IV. Labels and Packaging Materials – Sales/Use Tax.

Authority: 45 IAC 2.2-5-15; 45 IAC 2.2-5-16.

Taxpayer maintains that labels used in its pharmacy department and labels used during its in-store manufacturing activities are not subject to sales or use tax.

V. 1991 Refund Claims – Sales/Use Tax.

Authority: IC 6-8.1-9-1.

Taxpayer argues that it is entitled to request additional credits/refunds for taxes incorrectly paid during 1991.

STATEMENT OF FACTS

Taxpayer is a major grocery store chain with, at the time of the audits, over 1,100 retail outlets. In addition, taxpayer operates 25 manufacturing and food processing facilities.

Over the course of two audits, taxpayer's records for 1991 through 1996 were examined. Three of taxpayer's retail store divisions, two dairies, one bakery, one distribution center, and one specialty foods division fell within the purview of the two audits.

The review of taxpayer's transactions resulted in proposed additional assessments of Indiana sales and use tax. Taxpayer protested those additional assessments, an administrative hearing was held, and a Letter of Findings was prepared and published. However, the original Letter of Findings did not address all of the "refund items" which the taxpayer had originally brought to the Department's attention. Accordingly, the Department determined that taxpayer was entitled to a rehearing. However, in the letter granting taxpayer's request for a rehearing, "the scope of the rehearing [was] limited to a review of those issues – included within the original protest – which were not addressed within the original Letter of Findings." In granting the rehearing, the Department gave no indication that the conclusions contained within the original Letter of Findings were erroneous or that those conclusions would be revisited.

DISCUSSION

I. Processing Exemption – Sales/Use Tax.

Indiana imposes a sales tax on retail transactions. IC 6-2.5-2-1. The state also imposes a complementary use tax on tangible personal property that is stored, used, or consumed within the state. IC 6-2.5-3-2. For both of these taxes, certain exemptions are available. IC 6-2.5-5-1 et seq. Taxpayer invokes the equipment exemption found at IC 6-2.5-5-3(b), which reads as follows:

> Transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for direct use in the direct production, manufacture, fabrication, assembly, extraction, processing, refining, or finishing of other tangible personal property.

Taxpayer maintains that its master scales are entitled to this exemption because the "master scales are used to weigh and label work in process items prior to being placed in the items final package."

As pointed out within the original Letter of Findings, "Without production there can be no exemption." Indianapolis Fruit Co. v. Department of State Revenue, 691 N.E.2d 1379, 1385 (Ind. Tax Ct. 1998). The original Letter of Findings came to the conclusion that taxpayer "performs a modicum of processing activities within its in-store bakery and meat departments. Conversely, work performed within taxpayer's cheese, deli, and produce departments cannot be characterized as the processing of tangible personal property." The original Letter of Findings concluded that the activities within the cheese, deli, floral, and produce departments represented the performance of services ancillary to taxpayer's retail sale of groceries. This Supplemental Letter of Findings finds no reason to challenge that original conclusion.

Accordingly, to the extent that taxpayer's master scales and parts are employed *within* the production process occurring in its in-store bakery and meat departments, the master scales and parts are entitled to exempt treatment.

Taxpayer argues that its deli prep counter, salad bar prep table, deli slicer, balloon wrap system, and cardboard bailer are entitled to the exemption because these items of equipment are found within its integrated production process. In support of that assertion, taxpayer cites to 45 IAC 2.2-5-10(d), which reads, in relevant part, as follows: "'Direct Use' begins at the point of the first operation or activity constituting part of the integrated production process and ends at the point that the processing or refining has altered the item to its completed form, including packaging, if required."

Taxpayer errs in its conclusions concerning the deli prep counter, salad bar prep table, and deli slicer. As noted within the original Letter of Findings, no "production" of tangible personal property occurs within the taxpayer's cheese, deli, and produce departments.

Taxpayer describes its balloon wrap system as follows: "The system combines various materials such as balloons, toys and ribbons and produces gift items sold in the stores." Taxpayer is not entitled to an exemption for the balloon wrap system because there is no indication that the device is in any way involved in the "production" of tangible personal property. Based upon taxpayer's

description, the use of the device more closely resembles the services provided within taxpayer's cheese, deli, and produce departments.

Taxpayer maintains that its cardboard bailer is entitled to the exemption. The bailer is used to process empty cardboard boxes into baled and tied units, which are then sold to a recycle processor. Taxpayer is entitled to claim the exemption for its cardboard bailer because, under at IC 6-2.5-5-3(b), the device is directly used in the "processing" of "tangible personal property" which is sold in a subsequent retail transaction. The device acts directly upon an unmarketable raw material – empty cardboard boxes – transforming that waste material into a form which then can be sold to its recycle processor.

FINDING

As to taxpayer's master scales, the associated master scale parts, and the cardboard bailer, taxpayer's protest is sustained. The remainder of taxpayer's protest is respectfully denied.

II. Work-in-Process – Handling and Storage Equipment – Sales/Use Tax.

Taxpayer operates a specialty foods division. This division produces various deli salads and food dips in bulk. Taxpayer maintains that the material handling equipment used to transport work in process within the plant and between the plant and the individual retail stores is entitled to the exemption afforded under 45 IAC 2.2-5-8. The regulation, in relevant part, states that "Transportation equipment used to transport work-in-process or semi-finished materials to or from storage is not subject to tax if the transportation is within the production process." IAC 2.2-5-8(f)(3) *See also* IC 6-2.5-5-3.

Taxpayer believes that its status is similar to that of the automobile manufacturer in General Motors Corp. v. Indiana Dept. of State Revenue, 578 N.E.2d 399 (Ind. Tax Ct. 1991) *aff'd* 599 N.E.2d 588 (Ind. 1992). In General Motors, the automobile manufacturer shipped component automobile parts to its plants and – as taxpayer here has done – claimed an exemption for the purchase of items employed in the interdivisional transfer of those components parts. The court held that the automobile manufacturer's packing materials were part of the integral process whereby the manufacturer produced its finished product. Therefore, the automobile manufacturer's packing materials were exempt under IC 6-2.5-5-3. The court reached that decision after finding the automobile manufacturer's widely separated production facilities formed a cohesive, singular production unit in which the claimant's "manufacture of finished marketable automobiles [was] accomplished by one continuous integrated production process within which the transport of parts from component plants to assembly plants [was] an essential and integral part." General Motors, 578 N.E.2d at 404.

Taxpayer has failed to establish that the equipment, for which taxpayer now seeks the exemption, is used to transport partially processed salads and food dips within the confines of its specialty foods division. One could postulate a scenario in which an item of equipment is used to move partially manufactured food dip from one location within the specialty foods division to another. However, such is not the case here. There is nothing to indicate that the equipment is used "*within* the production process." 45 IAC 2.2-5-8(f)(3) (*Emphasis added*).

Additionally, taxpayer maintains that – similar to the automobile manufacturer in General Motors – it is entitled to an exemption for the equipment used to transport food products between the specialty foods division and its individual retail outlets. However, the automobile manufacturer was entitled to the exemption because its equipment was used to move partially automobile parts *within* a continuous, integrated production process even though that production process took place at a series of geographically distinct locations. Unlike the automobile manufacturer, it is apparent that the taxpayer's processing of its salads and food dips is complete once those products leave the specialty food division. There is nothing to indicate that the salads and food dips undergo further processing or production once they leave the specialty food division's doorway. As stipulated within the regulation itself, "Transportation equipment used to transport work-in process, semi-finished, or finished goods between plants is taxable, if the plants are not part of the same integrated production process." 45 IAC 2.2-5-8(f)(4)

Taxpayer maintains that its deli cases, salad bars, self-serve bakery cases, floral cases, and lobster tanks are entitled to the temporary store exemption set out in 45 IAC 2.2-5-8(e)(1). The regulation states that "[t]angible personal property used in or for the purpose of storing work-in-process or semi-finished goods is not subject to tax if the work-in-process or semi-finished goods are ultimately completely produced for resale and in fact resold."

The deli cases, salad bars, and floral cases do not qualify for the exemption because there is nothing to indicate that manufacturing or processing occurs within the respective departments wherein this equipment is located. As previously stated, in the absence of a finding that the taxpayer is producing or processing tangible personal property, there can be no "work-in-progress" and the related equipment will not qualify for the exemption. Indianapolis Fruit, 691 N.E.2d 1384.

Even though it has been determined that a "modicum" of manufacturing activities take place within taxpayer's in-store bakery and meat departments, the lobster tank and the self-serve bakery cases do not qualify for exempt status because these items stand outside whatever processing or production activities occur within the two departments. Rather than temporarily holding "work-in-process or semi-finished goods," these items are used to display products for which production and processing has been completed and which are ready to be selected by the ultimate consumer.

FINDING

Taxpayer's protest is respectfully denied.

III. Refrigeration Equipment – Sales/Use Tax.

The audit found that 12 percent of taxpayer's refrigeration equipment was used to store work-in-process. Accordingly the 12 percent of the refrigeration equipment – used in taxpayer's meat, seafood, bakery, and commissary departments – was classified as "exempt" pursuant to 45 IAC 2.2-5-10.

Taxpayer requests a further exemption on the ground that an additional 17 percent of its refrigeration equipment is used to store work-in-process. According to taxpayer, 17 percent of its refrigeration equipment is attributable to its deli, cheese, produce, and floral departments.

Taxpayer is not entitled to the additional exemption because, as previously stated, there is no processing or refining within those four departments. As noted in 45 IAC 2.2-5-10(k), "A processed or refined end product... must be substantially different from the component parts." There is no indication that the products produced within taxpayer's deli, cheese, produce, or floral departments are "substantially different from the component parts."

In addition, taxpayer requests an exemption for Freon recovery equipment installed within its in-store refrigeration equipment. Taxpayer believes that this equipment is entitled to the exemption because it is associated with its in-store "manufacturing" activities. Consistent with the conclusions of the audit and the original Letter of Findings, taxpayer's Freon recovery equipment is exempt to the extent that the equipment is specifically associated with taxpayer's in-store meat, seafood, bakery, and commissary departments.

FINDING

Taxpayer's protest is denied in part and sustained in part.

IV. Labels and Packaging Materials – Sales/Use Tax.

Taxpayer argues that certain of its packaging labels are entitled to exempt status under 45 IAC 2.2-5-15 and 45 IAC 2.2-5-16. Taxpayer has provided nothing to indicate that the issue was not fully addressed within the original Letter of Findings or that the conclusions contained within that document were in any way erroneous.

FINDING

To the extent that taxpayer's protest is at variance with the original Letter of Findings, taxpayer's protest is respectfully denied.

V. 1991 Refund Claims – Sales/Use Tax.

Taxpayer argues that it was entitled to a further re-examination of its 1991 records to determine whether it overpaid taxes. The audit disagreed, because "the normal statute of limitations had expired on [tax year] 1991." Consistent with that conclusion, the audit determined that "no additional credit items discovered by the taxpayer for 1991 will be considered during this investigation, and if the review of the facts indicate additional use tax was due in excess of the amounts timely claimed, no additional assessment can be made for this year."

The time limitation for filing a refund claim is found at IC 6-8.1-9-1, which states in relevant part:

> If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (f) and (g), in order to obtain the refund, the person must file the claim with the department within three (3) years after the date of the following:
>
> (1) The due date of the return.
>
> (2) The date of the payment.

It is not disputed that taxpayer's original 1991 refund claim was timely submitted. However, by the time that the audit began examining that claim, the time for making additional 1991 refund claims – or for the Department to make additional assessments – had expired. During the audit examination, certain of taxpayer's refund claims were offset and certain claims were denied. Thereafter, in August of 2000, taxpayer submitted *additional* credit items for the audit's consideration because taxpayer viewed the initial offsets and denied claims as if they were audit payments which triggered anew the running of IC 6-8.1-9-1.

Taxpayer maintains that it is not seeking an additional refund but "believes these additional items should be considered in computing net offsets to amounts claimed." Taxpayer makes a distinction without a difference. Taxpayer filed its secondary claims in August of 2000 well beyond the time limitation contained with IC 6-8.1-9-1. The initial consideration of taxpayer's 1991 refund claim did not toll the running of the three-year limitations period specified under IC 6-8.1-9-1. Plainly stated, taxpayer is seeking a refund of overpaid 1991 taxes long after the allowable period for doing so had expired. This it may not do because, as correctly pointed out to the taxpayer, "there is no provision for legally extending this time limit."

FINDING

Taxpayer's protest is respectfully denied.

TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

10 IAC 2	RA	01-311	25 IR 183	**25 IR 897**
10 IAC 4	N	01-264	25 IR 128	**25 IR 2208**

TITLE 11 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL

11 IAC	N	01-265	25 IR 130	*CPH (25 IR 403)
				25 IR 1854
11 IAC 1-1-3.5	N	02-238	26 IR 420	*AROC (26 IR 883)
11 IAC 2-2-5	N	02-18	25 IR 2281	*AROC (25 IR 3884)
				25 IR 3702
11 IAC 2-5-1	A	02-18	25 IR 2281	*AROC (25 IR 3884)
				25 IR 3702
11 IAC 2-5-2	A	02-18	25 IR 2281	*AROC (25 IR 3884)
				25 IR 3702
11 IAC 2-5-3	A	02-18	25 IR 2281	*AROC (25 IR 3884)
				25 IR 3702
11 IAC 2-5-4	N	02-18	25 IR 2281	*AROC (25 IR 3884)
				25 IR 3702
				*ERR (26 IR 35)
11 IAC 2-6-1	A	02-110	25 IR 3213	**26 IR 6**
11 IAC 2-6-5	A	02-110	25 IR 3213	**26 IR 6**
11 IAC 2-6-6	N	02-110	25 IR 3213	**26 IR 6**
11 IAC 2-9	N	02-19	25 IR 2282	**25 IR 3703**

TITLE 20 STATE BOARD OF ACCOUNTS

20 IAC 1	RA	01-192	25 IR 183	**25 IR 897**
20 IAC 2	RA	01-192	25 IR 183	**25 IR 897**

TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION

25 IAC 1.1	RA	01-125	24 IR 3788	**25 IR 1265**
25 IAC 1.5	RA	01-125	24 IR 3788	**25 IR 1265**
25 IAC 2	RA	01-125	24 IR 3788	**25 IR 1265**
25 IAC 2-19	R	02-150	26 IR 86	
25 IAC 2-20	R	02-150	26 IR 86	
25 IAC 4	RA	01-125	24 IR 3788	**25 IR 1265**
25 IAC 5	N	02-150	26 IR 67	

TITLE 31 STATE PERSONNEL DEPARTMENT

31 IAC 1-9-3	A	02-10	25 IR 3214
31 IAC 1-9-4	A	02-10	25 IR 3215
31 IAC 1-9-4.5	A	02-10	25 IR 3215
31 IAC 1-12.1	R	02-10	25 IR 3219
31 IAC 2-11-3	A	02-10	25 IR 3216
31 IAC 2-11-4	A	02-10	25 IR 3217
31 IAC 2-11-4.5	A	02-10	25 IR 3217
31 IAC 2-17.1	R	02-10	25 IR 3219
31 IAC 4	R	02-10	25 IR 3219
31 IAC 5	N	02-10	25 IR 3218

TITLE 35 BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT FUND

35 IAC 1.2-1-1	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-1-2	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-1-3	RA	01-217	24 IR 4201	**25 IR 1265**
35 IAC 1.2-2	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-3	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-3-10	RA	01-217	24 IR 4202	**25 IR 1265**
35 IAC 1.2-3-11	RA	01-216	25 IR 897	**25 IR 897**
35 IAC 1.2-3-12	RA	01-216	25 IR 897	**25 IR 897**
35 IAC 1.2-4-1	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-4-2	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-4-3	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-4-4	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-4-5	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-1	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-2	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-4	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-5	RA	01-217	24 IR 4202	**25 IR 1265**
35 IAC 1.2-5-6	RA	01-217	24 IR 4202	**25 IR 1265**
35 IAC 1.2-5-7	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-8	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-9	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-10	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-11	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-12	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-13	RA	01-217	24 IR 4202	**25 IR 1266**
35 IAC 1.2-5-14	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-15	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-16	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-17	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-5-18	RA	01-217	24 IR 4203	**25 IR 1266**
35 IAC 1.2-5-19	RA	01-217	24 IR 4203	**25 IR 1266**
35 IAC 1.2-5-20	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-6	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 1.2-6-3	RA	01-217	24 IR 4203	**25 IR 1267**
35 IAC 1.2-6-7	N	01-196	24 IR 4017	**25 IR 1488**
35 IAC 1.2-7	RA	01-216	24 IR 4201	**25 IR 897**
35 IAC 2	RA	01-218	24 IR 4204	**25 IR 898**
35 IAC 4	RA	01-218	24 IR 4204	**25 IR 898**
35 IAC 6	RA	01-218	24 IR 4204	**25 IR 898**
35 IAC 8	RA	01-218	24 IR 4204	**25 IR 898**
35 IAC 8-1-1	A	02-163	25 IR 4134	
35 IAC 8-1-2	A	02-163	25 IR 4134	
35 IAC 8-2-1	A	02-163	25 IR 4135	
35 IAC 9-1-1	A	02-163	25 IR 4136	
35 IAC 9-1-2	A	02-163	25 IR 4136	
35 IAC 9-1-3	A	02-163	25 IR 4136	
35 IAC 9-1-4	A	02-163	25 IR 4136	
35 IAC 10	N	02-163	25 IR 4137	

TITLE 45 DEPARTMENT OF STATE REVENUE

45 IAC 3.1-1-99.1	N	02-305	26 IR 817	
45 IAC 18-1-2	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-3	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-4	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-5	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-6	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-7	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-8	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-1-9	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-10	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-11	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-12	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-13	N	02-40	25 IR 3220	*CPH (25 IR 4129)
45 IAC 18-1-14	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-15	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-16	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-17	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-18	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-19	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-20	N	02-40	25 IR 3221	*CPH (25 IR 4129)
45 IAC 18-1-21	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-22	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-23	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-24	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-25	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-26	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-27	N	02-40	25 IR 3222	*CPH (25 IR 4129)
45 IAC 18-1-28	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-29	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-30	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-31	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-32	N	02-40	25 IR 3223	*CPH (25 IR 4129)
45 IAC 18-1-33	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-34	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-35	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-36	N	02-40	25 IR 3224	*CPH (25 IR 4129)

45 IAC 18-1-37	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-38	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-39	N	02-40	25 IR 3224	*CPH (25 IR 4129)
45 IAC 18-1-40	N	02-40	25 IR 3225	*CPH (25 IR 4129)
45 IAC 18-1-41	N	02-40	25 IR 3225	*CPH (25 IR 4129)
45 IAC 18-1-42	N	02-40	25 IR 3225	*CPH (25 IR 4129)
45 IAC 18-1-43	N	02-40	25 IR 3225	*CPH (25 IR 4129)
45 IAC 18-2-1	A	02-40	25 IR 3225	*CPH (25 IR 4129)
45 IAC 18-2-2	A	02-40	25 IR 3226	*CPH (25 IR 4129)
45 IAC 18-2-3	A	02-40	25 IR 3227	*CPH (25 IR 4129)
45 IAC 18-2-4	A	02-40	25 IR 3228	*CPH (25 IR 4129)
45 IAC 18-3-1	A	02-40	25 IR 3228	*CPH (25 IR 4129)
45 IAC 18-3-2	A	02-40	25 IR 3229	*CPH (25 IR 4129)
45 IAC 18-3-3	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-3-4	N	02-40	25 IR 3231	*CPH (25 IR 4129)
45 IAC 18-3-5	N	02-40	25 IR 3232	*CPH (25 IR 4129)
45 IAC 18-3-6	N	02-40	25 IR 3232	*CPH (25 IR 4129)
45 IAC 18-3-7	N	02-40	25 IR 3232	*CPH (25 IR 4129)
45 IAC 18-3-8	N	02-40	25 IR 3233	*CPH (25 IR 4129)
45 IAC 18-4-1	A	02-40	25 IR 3233	*CPH (25 IR 4129)
45 IAC 18-4-2	A	02-40	25 IR 3234	*CPH (25 IR 4129)
45 IAC 18-5-2	A	02-40	25 IR 3235	*CPH (25 IR 4129)
45 IAC 18-6-1	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-6-2	R	02-40	25 IR 3238	*CPH (25 IR 4129)
45 IAC 18-6-3	A	02-40	25 IR 3235	*CPH (25 IR 4129)
45 IAC 18-7	N	02-40	25 IR 3236	*CPH (25 IR 4129)
45 IAC 18-8	N	02-40	25 IR 3236	*CPH (25 IR 4129)

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

50 IAC 2.3-1-1	A	01-305	25 IR 835	**26 IR 6**
	A	01-402	26 IR 86	*AROC (26 IR 183)
				*AROC (26 IR 184)
	A	02-240	26 IR 88	
50 IAC 2.3-1-2	A	01-366	25 IR 1200	*ARR (25 IR 3760)
				*AWR (26 IR 39)
	A	01-402	26 IR 87	*AROC (26 IR 183)
				*AROC (26 IR 184)
50 IAC 3.1-1	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-1	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-5	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-6	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-7	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-8	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-9	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.2	N	01-367	25 IR 2548	**26 IR 326**
				*ERR (26 IR 382)
50 IAC 4.2-1	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-2	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-3-1	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-3-2	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-3-3	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-4	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-5	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-6	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-8	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-9	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-10	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-11	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-12	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-14	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-15	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.2-16	R	00-284	24 IR 4054	*AROC (24 IR 4240)
				25 IR 1528
50 IAC 4.3	N	00-284	24 IR 4018	*AROC (24 IR 4240)
				25 IR 1489
50 IAC 5.1	R	01-347	25 IR 435	**25 IR 1875**
50 IAC 5.2	N	01-347	25 IR 417	**25 IR 1859**
50 IAC 12-16-30				*ERR (26 IR 793)
50 IAC 14	N	00-283	25 IR 1930	**25 IR 4048**
				*ERR (26 IR 382)
50 IAC 15-1-2.5	N	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-1-2.6	N	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-1-3	R	01-266	25 IR 416	*AROC (25 IR 2591)
50 IAC 15-1-5	R	01-266	25 IR 416	*AROC (25 IR 2591)
50 IAC 15-1-6	N	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-3-1	A	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-3-2	A	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-3-3	A	01-266	25 IR 411	*AROC (25 IR 2591)
50 IAC 15-3-4	A	01-266	25 IR 411	*AROC (25 IR 2591)
50 IAC 15-3-5	A	01-266	25 IR 411	*AROC (25 IR 2591)
50 IAC 15-3-6	N	01-266	25 IR 411	*AROC (25 IR 2591)
50 IAC 15-4-1	A	01-266	25 IR 412	*AROC (25 IR 2591)
50 IAC 15-5-1	A	01-266	25 IR 413	*AROC (25 IR 2591)
50 IAC 15-5-2	A	01-266	25 IR 414	*AROC (25 IR 2591)
50 IAC 15-5-4	A	01-266	25 IR 414	*AROC (25 IR 2591)
50 IAC 15-5-5	A	01-266	25 IR 414	*AROC (25 IR 2591)
50 IAC 15-5-6	A	01-266	25 IR 415	*AROC (25 IR 2591)
50 IAC 15-5-7	A	01-266	25 IR 415	*AROC (25 IR 2591)
50 IAC 15-5-8	A	01-266	25 IR 415	*AROC (25 IR 2591)
50 IAC 17-5-1	A	00-188	24 IR 705	*AROC (24 IR 2590)
50 IAC 17-6-2	A	00-188	24 IR 705	*AROC (24 IR 2590)
50 IAC 17-7-1	A	00-188	24 IR 705	*AROC (24 IR 2590)
50 IAC 17-10.5	N	00-188	24 IR 706	*AROC (24 IR 2590)

TITLE 52 INDIANA BOARD OF TAX REVIEW

52 IAC 1	N	02-206	26 IR 89	

TITLE 55 DEPARTMENT OF COMMERCE

55 IAC 1	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 2	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 3.1	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 4	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 5	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 6	RA	01-239	25 IR 518	**25 IR 1267**
55 IAC 8	RA	01-239	25 IR 518	**25 IR 1267**

TITLE 58 ENTERPRISE ZONE BOARD

58 IAC 1	RA	01-267	25 IR 518	**25 IR 1267**
58 IAC 2	RA	01-267	25 IR 518	**25 IR 1267**

TITLE 60 OVERSIGHT COMMITTEE ON PUBLIC RECORDS

60 IAC 1.1	RA	01-318	25 IR 519	**25 IR 1268**
60 IAC 2	RA	01-318	25 IR 519	**25 IR 1268**

TITLE 65 STATE LOTTERY COMMISSION

65 IAC 1	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 2	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 3	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 3-3-3	A	02-252		*ER (26 IR 40)
65 IAC 3-3-10	A	02-252		*ER (26 IR 40)
65 IAC 3-4-4	A	02-252		*ER (26 IR 41)
65 IAC 3-4-5	A	02-252		*ER (26 IR 42)
65 IAC 4-1	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-2	RA	01-286	25 IR 184	**25 IR 1268**

65 IAC 4-2-4	A	02-253		*ER (26 IR 42)
65 IAC 4-2-8	A	02-253		*ER (26 IR 43)
65 IAC 4-3	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-205	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-248	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-248-10	N	01-379		*ER (25 IR 816)
65 IAC 4-248-11	N	01-379		*ER (25 IR 816)
65 IAC 4-279	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-287	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-287-9	N	01-380		*ER (25 IR 816)
65 IAC 4-287-10	N	01-380		*ER (25 IR 816)
65 IAC 4-332	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-354	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-441	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-442	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-443	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-444	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-446	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 4-447	N	01-325		*ER (25 IR 109)
65 IAC 4-448	N	02-65		*ER (25 IR 2269)
65 IAC 4-450	N	02-102		*ER (25 IR 2531)
65 IAC 4-451	N	02-228		*ER (25 IR 4125)
65 IAC 5-1	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-2	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-2-4	A	02-253		*ER (26 IR 43)
65 IAC 5-2-8	A	02-253		*ER (26 IR 43)
65 IAC 5-3	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-5	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-6	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-7	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-9	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-10	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-12	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 5-12-2	A	02-254		*ER (26 IR 44)
65 IAC 5-12-3	A	02-254		*ER (26 IR 45)
65 IAC 5-12-4	A	02-254		*ER (26 IR 45)
65 IAC 5-12-5	A	02-254		*ER (26 IR 46)
65 IAC 5-12-6	A	02-254		*ER (26 IR 46)
65 IAC 5-12-7	A	02-254		*ER (26 IR 47)
65 IAC 5-12-9	A	02-254		*ER (26 IR 47)
65 IAC 5-12-10	A	02-254		*ER (26 IR 47)
65 IAC 5-12-11	A	02-254		*ER (26 IR 48)
65 IAC 5-12-12	A	02-254		*ER (26 IR 49)
65 IAC 5-12-12.5	A	02-254		*ER (26 IR 49)
65 IAC 5-12-14	A	02-254		*ER (26 IR 51)
65 IAC 5-15	N	02-26		*ER (25 IR 1909)
65 IAC 6-1	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 6-1-1.1	N	02-255		*ER (26 IR 51)
65 IAC 6-1-1.2	N	02-255		*ER (26 IR 51)
65 IAC 6-1-2.1	N	02-255		*ER (26 IR 51)
65 IAC 6-1-2.2	N	02-255		*ER (26 IR 51)
65 IAC 6-1-4.1	N	02-255		*ER (26 IR 51)
65 IAC 6-1-10	N	02-255		*ER (26 IR 52)
65 IAC 6-2	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 6-2-3	A	02-255		*ER (26 IR 52)
65 IAC 6-2-4	A	02-255		*ER (26 IR 52)
65 IAC 6-2-5	A	02-255		*ER (26 IR 52)
65 IAC 6-2-8	A	02-255		*ER (26 IR 53)
65 IAC 6-2-9	A	02-255		*ER (26 IR 53)
65 IAC 6-3	RA	01-286	25 IR 184	**25 IR 1268**
65 IAC 6-3-2	A	02-255		*ER (26 IR 53)
65 IAC 6-3-3	R	02-255		*ER (26 IR 54)
65 IAC 6-4-6	R	02-255		*ER (26 IR 54)
65 IAC 6-4-7	R	02-255		*ER (26 IR 54)
65 IAC 6-4-8	R	02-255		*ER (26 IR 54)
65 IAC 6-4-9	R	02-255		*ER (26 IR 54)
65 IAC 6-4-10	R	02-255		*ER (26 IR 54)
65 IAC 6-4-11	R	02-255		*ER (26 IR 54)
65 IAC 6-4-12	R	02-255		*ER (26 IR 54)

TITLE 68 INDIANA GAMING COMMISSION

68 IAC 1	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 2	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 2-2-1	A	01-23	24 IR 2728	**25 IR 1060**
68 IAC 2-2-9.5	N	01-23	24 IR 2729	**25 IR 1061**
68 IAC 2-3-5	A	01-23	24 IR 2729	**25 IR 1061**
68 IAC 2-6-6	A	01-23	24 IR 2732	**25 IR 1064**
68 IAC 3	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 3-3-6	A	01-23	24 IR 2732	**25 IR 1065**
68 IAC 4	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 5	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 6	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 7	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 8	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 9	RA	01-24	24 IR 2202	**25 IR 898**
68 IAC 10	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 10-2-1	A	01-23	24 IR 2733	**25 IR 1065**
68 IAC 11	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 11-2-7	A	01-23	24 IR 2734	**25 IR 1066**
68 IAC 11-5-1	A	01-23	24 IR 2734	**25 IR 1066**
68 IAC 12	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 13	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 14-2-2	A	01-23	24 IR 2734	**25 IR 1066**
68 IAC 14-3-8	N	01-23	24 IR 2735	**25 IR 1067**
68 IAC 14-10-2	A	01-23	24 IR 2735	**25 IR 1067**
68 IAC 14-11-2	A	01-23	24 IR 2736	**25 IR 1068**
68 IAC 14-12-2	A	01-23	24 IR 2736	**25 IR 1068**
68 IAC 15	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 15-2-3	A	01-23	24 IR 2736	**25 IR 1069**
68 IAC 15-2-6	A	01-23	24 IR 2737	**25 IR 1069**
68 IAC 15-4-2	A	01-23	24 IR 2738	**25 IR 1070**
68 IAC 15-4-3	A	01-23	24 IR 2739	**25 IR 1071**
68 IAC 15-7-3	A	01-23	24 IR 2739	**25 IR 1071**
68 IAC 15-8-1	A	01-23	24 IR 2740	**25 IR 1072**
68 IAC 15-8-2	A	01-23	24 IR 2740	**25 IR 1072**
68 IAC 15-14	N	01-23	24 IR 2740	**25 IR 1073**
68 IAC 16	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 17	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 18	RA	01-418	25 IR 2589	*CPH (25 IR 3208)

TITLE 71 INDIANA HORSE RACING COMMISSION

71 IAC 1	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 1-1-41.5	N	02-282		*ER (26 IR 394)
71 IAC 1.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 1.5-1-37.5	N	02-282		*ER (26 IR 394)
				*ERR (26 IR 793)
71 IAC 2	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 3	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 3-2-9	A	02-96		*ER (25 IR 2534)
71 IAC 3-10-1	A	02-96		*ER (25 IR 2534)
71 IAC 3.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 4	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 4.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 4.5-2-7	N	01-322		*ER (25 IR 118)
71 IAC 4.5-3-9	A	01-322		*ER (25 IR 118)
71 IAC 5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 5-3-3	A	02-96		*ER (25 IR 2535)
71 IAC 5.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 5.5-1-12	A	01-322		*ER (25 IR 118)
71 IAC 5.5-1-13	A	01-322		*ER (25 IR 118)
71 IAC 5.5-2-1	A	01-322		*ER (25 IR 118)
71 IAC 5.5-3-6	A	01-322		*ER (25 IR 119)
71 IAC 5.5-5-3	A	02-250		*ER (26 IR 55)
71 IAC 6	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 6-1-2	A	02-96		*ER (25 IR 2536)
71 IAC 6.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 6.5-1-4	A	02-250		*ER (26 IR 55)
71 IAC 7	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 7-1-26	A	02-96		*ER (25 IR 2536)

71 IAC 7-1-28	A	02-96		*ER (25 IR 2536)
71 IAC 7-3-9	A	02-96		*ER (25 IR 2536)
71 IAC 7-3-13	A	02-96		*ER (25 IR 2537)
71 IAC 7-3-16	A	02-96		*ER (25 IR 2537)
71 IAC 7-3-25	A	02-96		*ER (25 IR 2537)
71 IAC 7.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 7.5-3-4	A	01-322		*ER (25 IR 119)
71 IAC 7.5-4-2	A	01-322		*ER (25 IR 120)
71 IAC 7.5-10	N	02-250		*ER (26 IR 56)
71 IAC 8	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 8-5-7	A	02-96		*ER (25 IR 2538)
71 IAC 8-11-3	A	02-96		*ER (25 IR 2538)
71 IAC 8.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 8.5-3-1	A	01-322		*ER (25 IR 121)
71 IAC 8.5-3-2	A	01-322		*ER (25 IR 121)
71 IAC 8.5-4-5	A	01-322		*ER (25 IR 121)
71 IAC 8.5-4-8	N	02-250		*ER (26 IR 57)
71 IAC 8.5-5-2	N	02-250		*ER (26 IR 57)
71 IAC 8.5-10-5	A	01-322		*ER (25 IR 122)
71 IAC 8.5-10-6	A	02-250		*ER (26 IR 58)
71 IAC 9	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 10	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 11	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 12	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 12-2-15	A	01-410		*ER (25 IR 1189)
	A	02-251		*ER (26 IR 58)
	A	02-282		*ER (26 IR 394)
71 IAC 12-2-17	R	01-410		*ER (25 IR 1190)
71 IAC 12-2-18	A	01-410		*ER (25 IR 1190)
71 IAC 12-2-19	A	01-410		*ER (25 IR 1190)
	A	02-251		*ER (26 IR 59)
				*ERR (26 IR 382)
71 IAC 12-2-20	N	01-410		*ER (25 IR 1190)
	A	02-282		*ER (26 IR 395)
71 IAC 13.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 13.5-1-1	A	01-322		*ER (25 IR 122)
71 IAC 13.5-2-1	A	01-322		*ER (25 IR 122)
71 IAC 14.5	RA	01-38	24 IR 3788	**25 IR 899**
71 IAC 14.5-1-1	N	01-322		*ER (25 IR 123)
	A	01-411		*ER (25 IR 1190)
71 IAC 14.5-1-2	A	01-411		*ER (25 IR 1191)
71 IAC 14.5-1-3	A	02-97		*ER (25 IR 2538)
71 IAC 14.5-2-1	N	01-322		*ER (25 IR 123)
	A	01-411		*ER (25 IR 1191)
71 IAC 14.5-2-2	A	02-97		*ER (25 IR 2539)
71 IAC 14.5-3-2	A	02-97		*ER (25 IR 2539)
71 IAC 14.5-3-3	A	02-97		*ER (25 IR 2539)

TITLE 80 STATE FAIR COMMISSION

80 IAC 1	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 2	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 3	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 4	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 4-3-3	A	02-200	26 IR 420	
80 IAC 4-3-5	A	02-200	26 IR 420	
80 IAC 5	RA	01-126	24 IR 3789	**25 IR 528**
80 IAC 6	RA	01-126	24 IR 3789	**25 IR 528**

TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION

105 IAC 1	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 2	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 3	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 4	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 5	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 5-10-1	A	01-390	25 IR 1673	**25 IR 4051**
105 IAC 5-10-2	A	01-390	25 IR 1674	**25 IR 4052**
105 IAC 6-1	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 6-2	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 7	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 9	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 9-2-1	A	02-231	26 IR 421	
105 IAC 9-4-4	A	01-374	25 IR 836	**25 IR 2438**
105 IAC 9-4-5	A	01-374	25 IR 836	**25 IR 2438**
105 IAC 9-4-6	A	01-374	25 IR 837	**25 IR 2439**
105 IAC 9-4-7	A	01-374	25 IR 837	**25 IR 2439**
105 IAC 9-4-8	A	01-374	25 IR 837	**25 IR 2439**
105 IAC 9-4-9	A	01-374	25 IR 838	**25 IR 2440**
105 IAC 9-4-10	A	01-374	25 IR 838	**25 IR 2440**
105 IAC 9-4-11	A	01-374	25 IR 839	**25 IR 2441**
105 IAC 9-4-12	A	01-374	25 IR 840	**25 IR 2442**
105 IAC 9-4-13	A	01-374	25 IR 840	**25 IR 2442**
105 IAC 10	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 11	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 12	RA	01-234	25 IR 184	**25 IR 899**
105 IAC 12-1-6	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-9	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-10	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-12	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-13	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-14	A	00-248	24 IR 3664	**25 IR 366**
105 IAC 12-1-16	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-20	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-20.1	N	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-21	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-23	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-24	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-25	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-1-26	A	00-248	24 IR 3665	**25 IR 367**
105 IAC 12-2-4	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-6	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-7	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-9	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-14	A	00-248	24 IR 3666	**25 IR 368**
105 IAC 12-2-16	A	00-248	24 IR 3666	**25 IR 369**
105 IAC 12-3-1	A	00-248	24 IR 3667	**25 IR 369**
105 IAC 12-3-2	A	00-248	24 IR 3667	**25 IR 369**
105 IAC 12-3-3	R	00-248	24 IR 3670	**25 IR 372**
105 IAC 12-3-4	A	00-248	24 IR 3667	**25 IR 370**
105 IAC 12-3-5	A	00-248	24 IR 3668	**25 IR 370**
105 IAC 12-3-7	A	00-248	24 IR 3668	**25 IR 370**
105 IAC 12-3-8	A	00-248	24 IR 3669	**25 IR 371**
105 IAC 12-4-1	A	00-248	24 IR 3669	**25 IR 371**
105 IAC 12-4-3	A	00-248	24 IR 3669	**25 IR 371**
105 IAC 12-4-4	A	00-248	24 IR 3669	**25 IR 371**
105 IAC 12-4-6	A	00-248	24 IR 3670	**25 IR 372**

TITLE 130 INDIANA PORT COMMISSION

130 IAC 1	RA	01-319	25 IR 185	**25 IR 900**
	R	01-395	25 IR 1683	*ARR (25 IR 2523)
				*CPH (25 IR 2542)
				*AROC (25 IR 3884)
				25 IR 3712
130 IAC 2	N	01-395	25 IR 1674	*ARR (25 IR 2523)
				*CPH (25 IR 2542)
				*AROC (25 IR 3884)
				25 IR 3703
130 IAC 3	N	01-395	25 IR 1676	*ARR (25 IR 2523)
				*CPH (25 IR 2542)
				*AROC (25 IR 3884)
				25 IR 3705
130 IAC 4	N	01-395	25 IR 1679	*ARR (25 IR 2523)
				*CPH (25 IR 2542)
				*AROC (25 IR 3884)
				25 IR 3708

TITLE 135 INDIANA TRANSPORTATION FINANCE AUTHORITY

135 IAC 2	RA	02-175	25 IR 4219	**26 IR 882**
135 IAC 2-1-1	A	02-171	25 IR 4138	
135 IAC 2-2-1	A	02-171	25 IR 4140	
135 IAC 2-2-3	A	02-171	25 IR 4140	
135 IAC 2-2-5	A	02-171	25 IR 4140	
135 IAC 2-2-10	A	02-171	25 IR 4141	
135 IAC 2-2-12	A	02-171	25 IR 4141	
135 IAC 2-3-1	A	02-171	25 IR 4141	
135 IAC 2-3-2	A	02-171	25 IR 4141	
135 IAC 2-4-1	A	02-171	25 IR 4141	
135 IAC 2-4-4	A	02-171	25 IR 4142	
135 IAC 2-5-1	A	02-171	25 IR 4142	
135 IAC 2-5-2	A	02-171	25 IR 4142	
135 IAC 2-6-1	A	02-171	25 IR 4148	
135 IAC 2-7-1	A	02-171	25 IR 4148	
135 IAC 2-7-3	A	02-171	25 IR 4148	
135 IAC 2-7-7	A	02-171	25 IR 4148	
135 IAC 2-7-11	A	02-171	25 IR 4149	
135 IAC 2-7-15	A	02-171	25 IR 4149	
135 IAC 2-7-18	A	02-171	25 IR 4149	
135 IAC 2-7-19	R	02-171	25 IR 4151	
135 IAC 2-7-20	A	02-171	25 IR 4149	
135 IAC 2-7-23	A	02-171	25 IR 4149	
135 IAC 2-8-1	A	02-171	25 IR 4149	
135 IAC 2-8-3	A	02-171	25 IR 4150	
135 IAC 2-8-5	A	02-171	25 IR 4150	
135 IAC 2-8-7	A	02-171	25 IR 4150	
135 IAC 2-8-11	A	02-171	25 IR 4150	
135 IAC 2-10-1	A	02-171	25 IR 4151	
135 IAC 2-10-2	A	02-171	25 IR 4151	
135 IAC 3	RA	02-175	25 IR 4219	**26 IR 882**

TITLE 140 BUREAU OF MOTOR VEHICLES

140 IAC 1-1-7	RA	01-75	24 IR 2862	**25 IR 900**
140 IAC 1-1-11	RA	01-75	24 IR 2863	**25 IR 901**
140 IAC 1-2-2	RA	01-75	24 IR 2864	**25 IR 902**
140 IAC 1-2-3	RA	01-75	24 IR 2864	**25 IR 902**
140 IAC 1-4.5-4	RA	01-75	24 IR 2865	**25 IR 902**
140 IAC 1-4.5-6	RA	01-75	24 IR 2865	**25 IR 903**
140 IAC 1-4.5-10	RA	01-75	24 IR 2866	**25 IR 903**
140 IAC 1-5-3	RA	01-75	24 IR 2871	**25 IR 909**
140 IAC 1-8-1	RA	01-75	24 IR 2872	**25 IR 910**
140 IAC 2-4-3	RA	01-77	24 IR 2873	**25 IR 910**
140 IAC 2-4-4	RA	01-77	24 IR 2873	**25 IR 910**
140 IAC 2-4-9	RA	01-77	24 IR 2874	**25 IR 911**
140 IAC 3-3-6	RA	01-79	24 IR 2875	**25 IR 911**
140 IAC 3.5-2-4	RA	01-81	24 IR 2877	**25 IR 912**
140 IAC 3.5-2-9	RA	01-81	24 IR 2878	**25 IR 913**
140 IAC 3.5-2-11	RA	01-81	24 IR 2879	**25 IR 914**
140 IAC 3.5-2-13	RA	01-81	24 IR 2879	**25 IR 914**
140 IAC 3.5-2-15	RA	01-81	24 IR 2879	**25 IR 914**
140 IAC 4-1-4	RA	01-83	24 IR 2881	**25 IR 915**
140 IAC 4-1-5	RA	01-83	24 IR 2881	**25 IR 915**
140 IAC 4-1-11	RA	01-83	24 IR 2881	**25 IR 916**
140 IAC 4-1-13	RA	01-83	24 IR 2882	**25 IR 916**
140 IAC 4-3-1	RA	01-83	24 IR 2883	**25 IR 917**
140 IAC 5-1-2	RA	01-85	24 IR 2884	**25 IR 918**
140 IAC 5-1-3	RA	01-85	24 IR 2884	**25 IR 918**
140 IAC 5-1-4	RA	01-85	24 IR 2885	**25 IR 919**
140 IAC 6-1-7	RA	01-87	24 IR 2886	**25 IR 920**
140 IAC 7-2-5	RA	01-89	24 IR 2888	**25 IR 920**
140 IAC 7-2-6	RA	01-89	24 IR 2888	**25 IR 920**
140 IAC 7-3-5	RA	01-89	24 IR 2888	**25 IR 921**
140 IAC 7-3-9	RA	01-89	24 IR 2889	**25 IR 921**
140 IAC 7-3-10	RA	01-89	24 IR 2889	**25 IR 921**
140 IAC 7-3-11	RA	01-89	24 IR 2889	**25 IR 922**
140 IAC 7-3-13	RA	01-89	24 IR 2890	**25 IR 922**
140 IAC 7-3-17	RA	01-89	24 IR 2890	**25 IR 922**
140 IAC 8-1-1	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-1-2	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-1-3	RA	01-118	24 IR 3209	**25 IR 923**
140 IAC 8-2-1	RA	01-118	24 IR 3210	**25 IR 924**
140 IAC 8-2-2	RA	01-118	24 IR 3210	**25 IR 924**
140 IAC 8-2-3	RA	01-118	24 IR 3211	**25 IR 925**
140 IAC 8-2-4	RA	01-118	24 IR 3211	**25 IR 925**
140 IAC 8-3-1.1	RA	01-118	24 IR 3215	**25 IR 929**
140 IAC 8-3-2	RA	01-118	24 IR 3220	**25 IR 929**
140 IAC 8-3-3	RA	01-118	24 IR 3215	**25 IR 935**
140 IAC 8-3-4	RA	01-118	24 IR 3216	**25 IR 930**
140 IAC 8-3-5	RA	01-118	24 IR 3216	**25 IR 930**
140 IAC 8-3-6	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-7	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-8	RA	01-118	24 IR 3216	**25 IR 930**
140 IAC 8-3-9	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-10	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-11	RA	01-155	24 IR 3221	**25 IR 202**
140 IAC 8-3-12	RA	01-118	24 IR 3216	**25 IR 931**
140 IAC 8-3-13	RA	01-118	24 IR 3217	**25 IR 931**
140 IAC 8-3-14	RA	01-118	24 IR 3217	**25 IR 931**
140 IAC 8-3-15	RA	01-118	24 IR 3217	**25 IR 931**
140 IAC 8-3-16	RA	01-118	24 IR 3217	**25 IR 932**
140 IAC 8-3-17	RA	01-118	24 IR 3218	**25 IR 932**
140 IAC 8-3-18	RA	01-118	24 IR 3218	**25 IR 932**
140 IAC 8-3-19	RA	01-118	24 IR 3218	**25 IR 933**
140 IAC 8-3-20	RA	01-118	24 IR 3219	**25 IR 933**
140 IAC 8-3-21	RA	01-118	24 IR 3219	**25 IR 933**
140 IAC 8-3-22	RA	01-118	24 IR 3219	**25 IR 933**
140 IAC 8-3-23	RA	01-118	24 IR 3219	**25 IR 934**
140 IAC 8-3-24	RA	01-118	24 IR 3219	**25 IR 934**
140 IAC 8-3-25	RA	01-118	24 IR 3220	**25 IR 934**
140 IAC 8-3-26	RA	01-118	24 IR 3220	**25 IR 934**
140 IAC 8-3-27	RA	01-118	24 IR 3220	**25 IR 935**

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

170 IAC 1-1.1-1	A	01-9	24 IR 1690	*ARR (24 IR 3653)
			24 IR 4055	*CPH (25 IR 403)
				25 IR 1875
170 IAC 4-1-26	A	02-44	25 IR 2751	**26 IR 328**
170 IAC 4-4.1-9				*ERR (25 IR 2521)
170 IAC 7-1.1-1	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-2	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-3	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-4	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-5	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-6	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-7	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-8	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-9	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-10	R	00-34	23 IR 2035	*ARR (24 IR 1671)
				*AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**

170 IAC 7-1.1-11	R	00-34	23 IR 2035	*ARR (24 IR 1671) *AWR (25 IR 107)
	R	01-341	25 IR 1945	**25 IR 4065**
170 IAC 7-1.1-12	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-13	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-14	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-15	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-16	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-17	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-18	R	00-213	24 IR 716	*AWR (25 IR 107)
	R	01-342	25 IR 1954	**25 IR 4074**
170 IAC 7-1.1-19	A	01-236	25 IR 135	**25 IR 2209**
170 IAC 7-1.2	N	00-34	23 IR 2025	*ARR (24 IR 1671) *AWR (25 IR 107)
	N	01-341	25 IR 1933	**25 IR 4053** *ERR (26 IR 382)
170 IAC 7-1.3	N	00-213	24 IR 707	*AWR (25 IR 107)
	N	01-342	25 IR 1946	**25 IR 4066** *ERR (26 IR 382)

TITLE 205 INDIANA CRIMINAL JUSTICE INSTITUTE

205 IAC 1	RA	01-219	25 IR 185	*CPH (25 IR 831) **25 IR 3462**
205 IAC 2	RA	01-219	25 IR 185	*CPH (25 IR 831) **25 IR 3462**

TITLE 210 DEPARTMENT OF CORRECTION

210 IAC 1	RA	01-292	25 IR 186	**25 IR 1269**
210 IAC 1-6-1	A	01-358	25 IR 1200	*ARR (25 IR 4114) *SPE
	A	02-259	26 IR 817	
210 IAC 1-6-2	A	01-358	25 IR 1201	*ARR (25 IR 4114) *SPE
	A	02-259	26 IR 818	
210 IAC 1-6-3	R	01-358	25 IR 1212	*ARR (25 IR 4114) *SPE
	R	02-259	26 IR 829	
210 IAC 1-6-4	A	01-358	25 IR 1201	*ARR (25 IR 4114) *SPE
	A	02-259	26 IR 818	
210 IAC 1-6-5	A	01-358	25 IR 1202	*ARR (25 IR 4114) *SPE
	A	02-259	26 IR 819	
210 IAC 1-6-6	A	01-358	25 IR 1203	*ARR (25 IR 4114) *SPE
	A	02-259	26 IR 820	
210 IAC 1-6-7	A	01-358	25 IR 1204	*ARR (25 IR 4114) *SPE
	A	02-259	26 IR 821	
210 IAC 1-10	N	01-358	25 IR 1204	*ARR (25 IR 4114) *SPE
	N	02-259	26 IR 821	
210 IAC 2	RA	01-292	25 IR 186	**25 IR 1269**
210 IAC 3	RA	01-292	25 IR 186	**25 IR 1269**
210 IAC 5	RA	01-292	25 IR 186	**25 IR 1269**
210 IAC 5-1-1	A	01-358	25 IR 1206	*ARR (25 IR 4114) *SPE
	A	02-259	26 IR 823	
210 IAC 5-1-2	A	01-358	25 IR 1207	*ARR (25 IR 4114) *SPE
	A	02-259	26 IR 824	
210 IAC 5-1-3	A	01-358	25 IR 1207	*ARR (25 IR 4114) *SPE
	A	02-259	26 IR 824	
210 IAC 5-1-4	A	01-358	25 IR 1210	*ARR (25 IR 4114) *SPE
	A	02-259	26 IR 827	
210 IAC 6-1-1	A	02-173	25 IR 4152	
210 IAC 6-2-1	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-2	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-3	A	02-173	25 IR 4152	
210 IAC 6-2-4	A	02-173	25 IR 4152	
210 IAC 6-2-5	A	02-173	25 IR 4152	
210 IAC 6-2-6	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-7	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-8	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-9	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-10	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-11	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-12	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-13	A	02-173	25 IR 4152	
210 IAC 6-3-1	A	02-173	25 IR 4152	
210 IAC 6-3-2	A	02-173	25 IR 4153	
210 IAC 6-3-3	A	02-173	25 IR 4153	
210 IAC 6-3-4	A	02-173	25 IR 4154	
210 IAC 6-3-5	A	02-173	25 IR 4155	
210 IAC 6-3-6	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-3-7	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-3-8	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-3-9	A	02-173	25 IR 4155	
210 IAC 6-3-10	A	02-173	25 IR 4155	
210 IAC 6-3-11	A	02-173	25 IR 4155	
210 IAC 6-3-12	RA	02-174	25 IR 4219	**26 IR 882**

TITLE 220 PAROLE BOARD

220 IAC 1.1	RA	01-291	25 IR 186	**25 IR 935**

TITLE 240 STATE POLICE DEPARTMENT

240 IAC 1-4-1	RA	01-185	24 IR 4204	**25 IR 935**
240 IAC 1-4-2	RA	01-185	24 IR 4204	**25 IR 935**
240 IAC 1-4-4	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-4-5	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-4-18	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-4-22	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-1	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-2	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-3	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-4	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-5	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-6	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-7.1	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-8	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 1-5-23	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 3	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 5	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 6	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 7	RA	01-185	24 IR 4204	**25 IR 936**
240 IAC 7-1-6	RA	02-139	25 IR 3882	**26 IR 546**

TITLE 250 LAW ENFORCEMENT TRAINING BOARD

250 IAC 1-1.1	RA	02-149	25 IR 3882	
250 IAC 1-2	RA	02-149	25 IR 3882	
250 IAC 1-3-1	RA	02-149	25 IR 3882	
250 IAC 1-3-3	RA	02-149	25 IR 3882	
250 IAC 1-3-6	RA	02-149	25 IR 3882	
250 IAC 1-3-7	RA	02-149	25 IR 3882	
250 IAC 1-3-8	RA	02-149	25 IR 3882	
250 IAC 1-3-9	RA	02-149	25 IR 3882	
250 IAC 1-3-10	RA	02-149	25 IR 3882	
250 IAC 1-3-11	RA	02-149	25 IR 3882	
250 IAC 1-3-12	RA	02-149	25 IR 3882	
250 IAC 1-3-13	RA	02-149	25 IR 3882	
250 IAC 1-5	RA	02-149	25 IR 3882	

250 IAC 1-5.l	RA	02-149	25 IR 3882	
250 IAC 1-5.2	RA	02-149	25 IR 3882	
250 IAC 1-5.3	RA	02-149	25 IR 3882	
250 IAC 1-5.4	RA	02-149	25 IR 3882	
250 IAC 1-5.5	RA	02-149	25 IR 3882	
250 IAC 1-6-1	RA	02-149	25 IR 3882	
250 IAC 1-6-2	RA	02-149	25 IR 3882	
250 IAC 1-6-3	RA	02-149	25 IR 3882	
250 IAC 1-6-4	RA	02-149	25 IR 3882	
250 IAC 1-6-5	RA	02-149	25 IR 3882	
250 IAC 1-6-6	RA	02-149	25 IR 3882	
250 IAC 1-7	RA	02-149	25 IR 3882	

TITLE 260 STATE DEPARTMENT OF TOXICOLOGY

260 IAC 1.1-2-3	RA	02-77	25 IR 2853	**25 IR 4221**
260 IAC 1.1-3-1	RA	02-77	25 IR 2853	**25 IR 4221**

TITLE 270 ADJUTANT GENERAL

270 IAC 1	RA	01-320	25 IR 186	**25 IR 1269**

TITLE 312 NATURAL RESOURCES COMMISSION

312 IAC 2	RA	02-72	25 IR 3461	**26 IR 546**
312 IAC 2-3-3	A	01-124	24 IR 4057	**25 IR 1542**
312 IAC 2-4-3	A	01-359	25 IR 1214	**25 IR 3046**
312 IAC 2-4-9.5	N	01-295	25 IR 842	**25 IR 3045**
312 IAC 3	RA	02-72	25 IR 3461	**26 IR 546**
312 IAC 3-1-1	A	02-2	25 IR 2552	**26 IR 7**
312 IAC 3-1-2	A	01-124	24 IR 4057	**25 IR 1543**
	A	02-2	25 IR 2553	**26 IR 8**
312 IAC 3-1-3	A	01-124	24 IR 4058	**25 IR 1543**
	A	02-2	25 IR 2553	**26 IR 8**
312 IAC 3-1-8	A	02-2	25 IR 2553	**26 IR 8**
312 IAC 3-1-14	A	01-124	24 IR 4058	**25 IR 1543**
	A	02-2	25 IR 2554	**26 IR 9**
312 IAC 3-1-18	A	01-124	24 IR 4058	**25 IR 1544**
	A	02-2	25 IR 2554	**26 IR 9**
312 IAC 5-6-6	A	01-293	25 IR 3239	
	A	02-162	25 IR 4165	
312 IAC 5-9-2	A	01-283	25 IR 1213	**25 IR 3044**
312 IAC 5-9-4	N	01-282	25 IR 1212	**25 IR 3044**
312 IAC 8-1-4	A	01-124	24 IR 4059	**25 IR 1544**
	A	01-412	25 IR 1954	**25 IR 3713**
312 IAC 8-2-2	A	01-34	24 IR 4055	
312 IAC 8-2-3	A	01-412	25 IR 1955	**25 IR 3714**
312 IAC 8-2-6	A	01-34	24 IR 4056	**25 IR 1074**
	A	01-412	25 IR 1956	**25 IR 3715**
312 IAC 8-2-8	A	01-412	25 IR 1957	**25 IR 3715**
312 IAC 8-2-11	A	01-412	25 IR 1957	**25 IR 3716**
312 IAC 8-5-3	A	01-34	24 IR 4056	**25 IR 1074**
312 IAC 9-2-7	R	01-359	25 IR 1217	**25 IR 3049**
312 IAC 9-2-13	A	02-68	25 IR 2751	
312 IAC 9-3-2	A	01-102	24 IR 3671	**25 IR 1528**
312 IAC 9-3-3	A	01-102	24 IR 3672	**25 IR 1530**
312 IAC 9-3-4	A	01-102	24 IR 3673	**25 IR 1530**
312 IAC 9-3-5	A	01-102	24 IR 3673	**25 IR 1531**
312 IAC 9-3-7	A	01-102	24 IR 3674	**25 IR 1532**
312 IAC 9-3-8	A	01-102	24 IR 3675	**25 IR 1532**
312 IAC 9-3-19	A	01-359	25 IR 1214	**25 IR 3046**
312 IAC 9-4-11	A	01-102	24 IR 3675	**25 IR 1533**
312 IAC 9-4-14	A	01-102	24 IR 3677	**25 IR 1535**
	A	01-359	25 IR 1214	**25 IR 3046**
312 IAC 9-5-4	A	01-359	25 IR 1215	**25 IR 3047**
312 IAC 9-5-7	A	01-102	24 IR 3677	**25 IR 1535**
312 IAC 9-6-1	A	01-359	25 IR 1215	**25 IR 3047**
312 IAC 9-6-3	A	01-102	24 IR 3679	**25 IR 1537**
312 IAC 9-6-6	A	01-102	24 IR 3679	**25 IR 1537**
312 IAC 9-6-9	A	01-359	25 IR 1216	**25 IR 3048**
312 IAC 9-7-2	A	01-102	24 IR 3680	**25 IR 1537**
				*ERR (25 IR 2254)
312 IAC 9-7-3	A	01-102	24 IR 3681	**25 IR 1539**
312 IAC 9-7-6	A	01-102	24 IR 3681	**25 IR 1539**
312 IAC 9-7-12	A	01-102	24 IR 3682	**25 IR 1540**
312 IAC 9-7-13	A	01-102	24 IR 3682	**25 IR 1540**
312 IAC 9-7-17	A	01-102	24 IR 3682	**25 IR 1540**
312 IAC 9-7-18	A	01-102	24 IR 3683	**25 IR 1541**
312 IAC 9-9-4	A	01-359	25 IR 1217	**25 IR 3049**
312 IAC 9-10-6	A	02-68	25 IR 2752	
312 IAC 9-10-11	A	01-444	25 IR 2551	**26 IR 692**
312 IAC 9-10-17	A	01-102	24 IR 3683	**25 IR 1541**
312 IAC 10-3-1				*ERR (25 IR 1644)
312 IAC 10-5-4	A	01-124	24 IR 4060	**25 IR 1545**
				*ERR (25 IR 2521)
312 IAC 10-5-8	A	01-124	24 IR 4061	**25 IR 1546**
				*ERR (25 IR 1906)
312 IAC 11-2-17	A	01-124	24 IR 4062	**25 IR 1547**
312 IAC 11-4-4	A	01-124	24 IR 4062	**25 IR 1547**
312 IAC 13-4-1	A	01-106	24 IR 3102	**25 IR 708**
312 IAC 13-6-2	A	01-106	24 IR 3102	**25 IR 709**
312 IAC 16-3-2	A	02-73	25 IR 4156	
312 IAC 16-3.5	N	02-73	25 IR 4158	
312 IAC 16-4-1	A	02-73	25 IR 4158	
312 IAC 16-4-2	A	02-73	25 IR 4159	
312 IAC 16-4-5	A	02-73	25 IR 4159	
312 IAC 18	RA	02-72	25 IR 3461	**26 IR 546**
312 IAC 18-3-12	A	01-360	25 IR 1217	**25 IR 3049**
312 IAC 22.5	N	01-361	25 IR 2283	**25 IR 4074**
				*ERR (26 IR 383)
312 IAC 23-3-5	N	01-91	24 IR 3670	**25 IR 708**
312 IAC 25				*ERR (25 IR 106)
				*ERR (25 IR 1182)
312 IAC 25-1-45.5	N	02-104	25 IR 4160	
312 IAC 25-1-60.5	N	02-104	25 IR 4160	
312 IAC 25-4-43	A	02-104	25 IR 4160	
312 IAC 25-4-47	A	02-104	25 IR 4161	
312 IAC 25-4-85	A	02-104	25 IR 4162	
312 IAC 25-4-93	A	02-104	25 IR 4163	
312 IAC 25-6-12.5	N	02-104	25 IR 4164	
312 IAC 25-6-76.5	N	02-104	25 IR 4164	
312 IAC 26-1-13	A	01-124	24 IR 4062	**25 IR 1547**
312 IAC 26-2-3	A	01-124	24 IR 4062	**25 IR 1548**
				*ERR (25 IR 2521)
312 IAC 26-3-4	A	01-124	24 IR 4063	**25 IR 1548**
312 IAC 26-4-5	A	01-124	24 IR 4063	**25 IR 1549**

TITLE 326 AIR POLLUTION CONTROL BOARD

326 IAC 1-1-3	A	01-215	24 IR 4065	**25 IR 3054**
326 IAC 1-1-3.5	N	01-215	24 IR 4065	**25 IR 3055**
326 IAC 1-2-20.5	N	01-215	24 IR 4065	**25 IR 3055**
326 IAC 1-2-48	A	01-215	24 IR 4065	**25 IR 3055**
326 IAC 1-2-82.5	N	00-267	24 IR 3107	*CPH (25 IR 124)
326 IAC 1-3-4	A	01-215	24 IR 4066	**25 IR 3055**
326 IAC 1-4-1	A	01-215	24 IR 4067	**25 IR 3056**
	A	02-88	25 IR 3240	
326 IAC 1-6-1	RA	00-44	24 IR 2752	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-2	RA	00-44	24 IR 2752	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-3	RA	00-44	24 IR 2753	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-4	RA	00-44	24 IR 2753	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-5	RA	00-44	24 IR 2753	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 1-6-6	RA	00-44	24 IR 2754	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 2-1.1-3	A	00-267	24 IR 3107	*CPH (25 IR 124)
				25 IR 1550
326 IAC 2-1.1-7	A	01-215	24 IR 4067	**25 IR 3057**

326 IAC 2-1.1-9.5	N	00-267	24 IR 3115	*CPH (25 IR 124) **25 IR 1557**
326 IAC 2-2-1	A	00-267	24 IR 3115	*CPH (25 IR 124) **25 IR 1557**
326 IAC 2-2-2	A	00-267	24 IR 3121	*CPH (25 IR 124) **25 IR 1564**
326 IAC 2-2-3	A	00-267	24 IR 3122	*CPH (25 IR 124) **25 IR 1564**
326 IAC 2-2-4	A	00-267	24 IR 3122	*CPH (25 IR 124) **25 IR 1565**
326 IAC 2-2-5	A	00-267	24 IR 3123	*CPH (25 IR 124) **25 IR 1566**
326 IAC 2-2-6	A	00-267	24 IR 3124	*CPH (25 IR 124) **25 IR 1567**
326 IAC 2-2-7	A	00-267	24 IR 3125	*CPH (25 IR 124) **25 IR 1568**
326 IAC 2-2-9	A	00-267	24 IR 3125	*CPH (25 IR 124) **25 IR 1568**
326 IAC 2-2-12	A	00-267	24 IR 3126	*CPH (25 IR 124) **25 IR 1569**
326 IAC 2-2-14	A	00-267	24 IR 3126	*CPH (25 IR 124) **25 IR 1569**
326 IAC 2-2.5	N	00-267		**††25 IR 1571**
326 IAC 2-3-1	A	00-137		**††25 IR 6** *ERR (25 IR 1183)
326 IAC 2-3-2	A	00-137		**††25 IR 11**
326 IAC 2-3-3	A	00-137		**††25 IR 12**
326 IAC 2-4.1-1	A	01-215	24 IR 4068	**25 IR 3058**
326 IAC 2-5.1-3	A	01-215	24 IR 4069	**25 IR 3059**
326 IAC 2-6-1	A	01-249	24 IR 3700	*CPH (24 IR 4012)
326 IAC 2-6-2	A	01-249	24 IR 3700	*CPH (24 IR 4012)
326 IAC 2-6-3	A	01-249	24 IR 3702	*CPH (24 IR 4012)
326 IAC 2-6-4	A	01-249	24 IR 3703	*CPH (24 IR 4012)
326 IAC 2-6-5	N	01-249	24 IR 3705	*CPH (24 IR 4012)
326 IAC 2-6.1-2	A	00-267	24 IR 3128	*CPH (25 IR 124) **25 IR 1572**
326 IAC 2-6.1-3	A	01-215	24 IR 4072	**25 IR 3062**
326 IAC 2-6.1-5	A	00-267	24 IR 3128	*CPH (25 IR 124) **25 IR 1572**
326 IAC 2-6.1-6	A	01-215	24 IR 4072	**25 IR 3062**
326 IAC 2-7-1	A	00-267	24 IR 3129	*CPH (25 IR 124) **25 IR 1573**
326 IAC 2-7-2	A	00-267	24 IR 3139	*CPH (25 IR 124) **25 IR 1584**
326 IAC 2-7-4	A	00-267	24 IR 3140	*CPH (25 IR 124) **25 IR 1585**
326 IAC 2-7-5	A	00-267	24 IR 3143	*CPH (25 IR 124) **25 IR 1588**
326 IAC 2-7-10.5	A	01-215	24 IR 4075	**25 IR 3065**
326 IAC 2-7-11	A	00-267	24 IR 3146	*CPH (25 IR 124) **25 IR 1591**
326 IAC 2-7-12	A	00-267	24 IR 3147	*CPH (25 IR 124) **25 IR 1591**
326 IAC 2-7-16	A	00-267	24 IR 3149	*CPH (25 IR 124) **25 IR 1593**
326 IAC 2-7-19	A	01-215	24 IR 4079	**25 IR 3069**
326 IAC 2-7-20	A	00-267	24 IR 3150	*CPH (25 IR 124) **25 IR 1594**
326 IAC 2-7-24	A	00-267	24 IR 3150	*CPH (25 IR 124) **25 IR 1595**
326 IAC 2-7-25	R	00-267	24 IR 3160	*CPH (25 IR 124) **25 IR 1604**
326 IAC 2-8-10	A	01-215	24 IR 4081	**25 IR 3071**
326 IAC 2-8-11.1	A	01-215	24 IR 4083	**25 IR 3072**
326 IAC 2-9-4	A	01-215	24 IR 4085	**25 IR 3075**
326 IAC 3-5-1	A	00-267	24 IR 3152	*CPH (25 IR 124) **25 IR 1596** *ERR (25 IR 1644)
326 IAC 4-1-4.1	A	02-88	25 IR 3240	
326 IAC 4-2-1	RA	00-44	24 IR 2754	*CPH (25 IR 2542) *CPH (25 IR 3208)
	A	00-267	24 IR 3153	*CPH (25 IR 124) **25 IR 1597**
326 IAC 4-2-2	RA	00-44	24 IR 2754	*CPH (25 IR 2542) *CPH (25 IR 3208)
326 IAC 5-1-1	A	00-267	24 IR 3153	*CPH (25 IR 124) **25 IR 1597**
326 IAC 6-1-1	A	99-218	24 IR 395	*ARR (24 IR 3071) **25 IR 710**
	A	00-267	24 IR 3154	*CPH (25 IR 124) **25 IR 1598**
				*ERR (25 IR 1644) *ERR (26 IR 383)
326 IAC 6-1-1.5	N	99-218	24 IR 395	*ARR (24 IR 3071) **25 IR 710**
326 IAC 6-1-2	A	99-218	24 IR 395	*ARR (24 IR 3071) **25 IR 710**
326 IAC 6-1-3	A	99-218	24 IR 397	*ARR (24 IR 3071) **25 IR 713**
326 IAC 6-1-4	A	99-218	24 IR 398	*ARR (24 IR 3071) **25 IR 713**
326 IAC 6-1-5	A	99-218	24 IR 398	*ARR (24 IR 3071) **25 IR 713**
326 IAC 6-1-6	A	99-218	24 IR 399	*ARR (24 IR 3071) **25 IR 714**
326 IAC 6-1-8.1	A	99-218	24 IR 399	*ARR (24 IR 3071) **25 IR 714**
326 IAC 6-1-9	A	99-218	24 IR 400	*ARR (24 IR 3071) **25 IR 715**
326 IAC 6-1-10.1	A	99-218	24 IR 401	*ARR (24 IR 3071) **25 IR 716**
	A	99-73	25 IR 1959	**25 IR 4077**
326 IAC 6-1-11.1	A	99-218	24 IR 425	*ARR (24 IR 3071) **25 IR 741**
326 IAC 6-1-11.2	A	99-218	24 IR 430	*ARR (24 IR 3071) **25 IR 746**
326 IAC 6-1-12	A	99-218	24 IR 432	*ARR (24 IR 3071) **25 IR 748**
326 IAC 6-1-13	A	99-218	24 IR 437	*ARR (24 IR 3071) **25 IR 754**
326 IAC 6-1-14	A	99-218	24 IR 439	*ARR (24 IR 3071) **25 IR 756**
	A	02-122	26 IR 98	*CPH (26 IR 811)
326 IAC 6-1-15	A	99-218	24 IR 440	*ARR (24 IR 3071) **25 IR 758**
326 IAC 6-1-16	A	99-218	24 IR 442	*ARR (24 IR 3071) **25 IR 759**
326 IAC 6-1-17	A	99-218	24 IR 443	*ARR (24 IR 3071) **25 IR 761**
326 IAC 6-1-18	A	99-218	24 IR 444	*ARR (24 IR 3071) **25 IR 762**
326 IAC 6-2-1	A	00-267	24 IR 3154	*CPH (25 IR 124) **25 IR 1598**
326 IAC 6-3-1	A	99-265	24 IR 2748	*CPH (24 IR 4012) *CPH (25 IR 1195) *CPH (25 IR 1668) **25 IR 3051**
326 IAC 6-3-1.5	N	99-265		**††25 IR 3052**
326 IAC 6-3-2	A	99-265	24 IR 2749	*CPH (24 IR 4012) *CPH (25 IR 1195) *CPH (25 IR 1668) **25 IR 3052**
326 IAC 6-4-1	RA	01-184	24 IR 2800	**25 IR 1605**
326 IAC 6-4-2	RA	01-184	24 IR 2800	**25 IR 1605**
326 IAC 6-4-3	RA	01-184	24 IR 2800	**25 IR 1605**
326 IAC 6-4-4	RA	01-184	24 IR 2801	**25 IR 1606**
326 IAC 6-4-5	RA	01-184	24 IR 2801	**25 IR 1606**
326 IAC 6-4-6	RA	01-184	24 IR 2801	**25 IR 1606**

326 IAC 6-4-7	RA	01-184	24 IR 2801	**25 IR 1606**
326 IAC 6-5-1	A	00-267	24 IR 3154	*CPH (25 IR 124)
				25 IR 1599
326 IAC 6-6-1	A	00-267	24 IR 3155	*CPH (25 IR 124)
				25 IR 1600
326 IAC 7-1.1-1	A	00-267	24 IR 3156	*CPH (25 IR 124)
				25 IR 1600
326 IAC 7-1.1-2	A	00-267	24 IR 3156	*CPH (25 IR 124)
				25 IR 1600
326 IAC 7-2-1				*ERR (25 IR 813)
326 IAC 7-3-1	A	00-267	24 IR 3156	*CPH (25 IR 124)
				25 IR 1600
326 IAC 8-1-1	A	00-267	24 IR 3156	*CPH (25 IR 124)
				25 IR 1601
326 IAC 8-1-2	A	01-251	25 IR 2754	
326 IAC 8-2-9	A	02-88	25 IR 3241	
326 IAC 8-4-7		98-40		*ERR (25 IR 1183)
326 IAC 8-4-9				*ERR (25 IR 1906)
326 IAC 8-7-1	RA	00-44	24 IR 2754	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-2	RA	00-44	24 IR 2755	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-3	RA	00-44	24 IR 2755	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-4	RA	00-44	24 IR 2756	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-5	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-6	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-7	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-8	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-9	RA	00-44	24 IR 2758	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-7-10	RA	00-44	24 IR 2759	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-8-2	A	01-215	24 IR 4087	**25 IR 3077**
326 IAC 8-8-3	A	01-215	24 IR 4087	**25 IR 3077**
326 IAC 8-8.1-2	A	01-215	24 IR 4087	**25 IR 3077**
326 IAC 8-8.1-3	A	01-215	24 IR 4088	**25 IR 3078**
326 IAC 8-9-1	RA	00-44	24 IR 2760	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-9-2	RA	00-44	24 IR 2760	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-9-3	RA	00-44	24 IR 2760	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-9-4	RA	00-44	24 IR 2761	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-9-5	RA	00-44	24 IR 2763	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-9-6	RA	00-44	24 IR 2765	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-1	RA	00-44	24 IR 2767	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-2	RA	00-44	24 IR 2767	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-3	RA	00-44	24 IR 2769	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-4	RA	00-44	24 IR 2770	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-5	RA	00-44	24 IR 2771	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-6	RA	00-44	24 IR 2771	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-7	RA	00-44	24 IR 2775	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-8	RA	00-44	24 IR 2775	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-9	RA	00-44	24 IR 2776	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 8-11-10	RA	00-44	24 IR 2777	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 9-1-1	RA	00-44	24 IR 2777	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 9-1-2	RA	00-44	24 IR 2777	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
	A	00-267	24 IR 3157	*CPH (25 IR 124)
				25 IR 1601
				*ERR (25 IR 1644)
326 IAC 10-0.5	N	98-235	24 IR 81	*AWR (25 IR 107)
326 IAC 10-1-1	A	98-235	24 IR 83	*AWR (25 IR 107)
	A	00-267	24 IR 3157	*CPH (25 IR 124)
				25 IR 1602
326 IAC 10-1-2	R	98-235	24 IR 91	*AWR (25 IR 107)
326 IAC 10-2	N	98-235	24 IR 84	*AWR (25 IR 107)
326 IAC 10-3	N	00-137	24 IR 2143	*CPH (24 IR 2722)
				25 IR 14
				*ERR (25 IR 1183)
326 IAC 10-4	N	00-137	24 IR 2146	*CPH (24 IR 2722)
				25 IR 18
				*ERR (25 IR 1183)
326 IAC 11-1-1	A	00-267	24 IR 3158	*CPH (25 IR 124)
				25 IR 1602
326 IAC 11-2-1	A	00-267	24 IR 3158	*CPH (25 IR 124)
				25 IR 1603
326 IAC 11-3-1	A	00-267	24 IR 3158	*CPH (25 IR 124)
				25 IR 1603
326 IAC 11-4-1	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1603
326 IAC 11-4-5	A	00-43	25 IR 2285	**26 IR 10**
326 IAC 11-5	R	99-177	25 IR 1984	**26 IR 10**
326 IAC 11-5-1	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1603
326 IAC 11-6-1	A	01-215	24 IR 4088	**25 IR 3078**
326 IAC 11-6-2	A	01-215	24 IR 4089	**25 IR 3079**
326 IAC 11-6-4	A	01-215	24 IR 4089	**25 IR 3079**
326 IAC 11-6-5	A	01-215	24 IR 4089	**25 IR 3079**
326 IAC 11-6-6	A	01-215	24 IR 4089	**25 IR 3079**
326 IAC 11-6-7	A	01-215	24 IR 4090	**25 IR 3080**
326 IAC 11-6-8	A	01-215	24 IR 4090	**25 IR 3080**
326 IAC 11-7-2	A	01-215	24 IR 4090	**25 IR 3080**
326 IAC 11-7-4	A	01-215	24 IR 4090	**25 IR 3081**
326 IAC 11-7-5	A	01-215	24 IR 4091	**25 IR 3081**
326 IAC 11-7-6	A	01-215	24 IR 4091	**25 IR 3081**
326 IAC 11-7-7	A	01-215	24 IR 4091	**25 IR 3081**
326 IAC 11-7-8	A	01-215	24 IR 4092	**25 IR 3082**
326 IAC 11-7-9	A	01-215	24 IR 4092	**25 IR 3082**
326 IAC 11-8	N	01-375	25 IR 1986	**25 IR 4100**
326 IAC 12-1-1	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1603
326 IAC 12-1-2	A	01-215	24 IR 4092	**25 IR 3083**
326 IAC 12-1-3	A	01-215	24 IR 4093	**25 IR 3083**
326 IAC 13-1.1-17.1	A	01-215	24 IR 4093	**25 IR 3083**
326 IAC 13-3-1	A	02-88	25 IR 3242	
326 IAC 14-1-3	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1604
326 IAC 14-2-1	A	01-215	24 IR 4093	**25 IR 3084**
326 IAC 15-1-1	A	00-267	24 IR 3159	*CPH (25 IR 124)
				25 IR 1604
326 IAC 17.1-1-2	A	01-215	24 IR 4094	**25 IR 3084**
326 IAC 18-2-1	RA	00-44	24 IR 2778	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-2	RA	00-44	24 IR 2778	*CPH (25 IR 2542)
				*CPH (25 IR 3208)

326 IAC 18-2-3	RA	00-44	24 IR 2779	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-4	RA	00-44	24 IR 2786	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-5	RA	00-44	24 IR 2786	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-6	RA	00-44	24 IR 2787	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-7	RA	00-44	24 IR 2787	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-8	RA	00-44	24 IR 2789	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-9	RA	00-44	24 IR 2789	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-10.1	RA	00-44	24 IR 2789	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-11	RA	00-44	24 IR 2790	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-12	RA	00-44	24 IR 2790	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-13	RA	00-44	24 IR 2790	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 18-2-14	RA	00-44	24 IR 2791	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 19-1	R	00-44	24 IR 2791	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
326 IAC 19-2-1	A	01-215	24 IR 4094	**25 IR 3085**
326 IAC 19-3-2	A	01-215	24 IR 4095	**25 IR 3085**
326 IAC 19-3-3	A	01-215	24 IR 4097	**25 IR 3088**
326 IAC 19-3-5	A	01-215	24 IR 4098	**25 IR 3088**
326 IAC 20-1-1	A	01-215	24 IR 4099	**25 IR 3089**
326 IAC 20-1-3	A	01-215	24 IR 4099	**25 IR 3089**
326 IAC 20-2-1	A	01-215	24 IR 4099	**25 IR 3090**
326 IAC 20-3-1	A	01-215	24 IR 4100	**25 IR 3090**
326 IAC 20-4-1	A	01-215	24 IR 4100	**25 IR 3090**
326 IAC 20-5-1	A	01-215	24 IR 4100	**25 IR 3091**
326 IAC 20-6-1	A	01-215	24 IR 4100	**25 IR 3091**
326 IAC 20-7-1	A	01-215	24 IR 4101	**25 IR 3091**
326 IAC 20-8-1	A	01-215	24 IR 4101	**25 IR 3092**
326 IAC 20-9-1	A	01-215	24 IR 4102	**25 IR 3092**
326 IAC 20-10-1	A	01-215	24 IR 4102	**25 IR 3093**
326 IAC 20-11-1	A	01-215	24 IR 4102	**25 IR 3093**
326 IAC 20-12-1	A	01-215	24 IR 4103	**25 IR 3093**
326 IAC 20-13-1	A	01-215	24 IR 4103	**25 IR 3093**
326 IAC 20-13-2	A	01-215	24 IR 4103	**25 IR 3094**
326 IAC 20-13-4	A	01-215	24 IR 4104	**25 IR 3094**
326 IAC 20-13-5	A	01-215	24 IR 4104	**25 IR 3095**
326 IAC 20-13-6	A	01-215	24 IR 4104	**25 IR 3095**
326 IAC 20-13-7	A	01-215	24 IR 4105	**25 IR 3096**
326 IAC 20-13-8	A	01-215	24 IR 4106	**25 IR 3097**
326 IAC 20-14-1	A	01-215	24 IR 4107	**25 IR 3098**
326 IAC 20-15-1	A	01-215	24 IR 4108	**25 IR 3098**
326 IAC 20-16-1	A	01-215	24 IR 4108	**25 IR 3099**
326 IAC 20-17-1	A	01-215	24 IR 4108	**25 IR 3099**
326 IAC 20-18-1	A	01-215	24 IR 4109	**25 IR 3099**
326 IAC 20-19-1	A	01-215	24 IR 4109	**25 IR 3099**
326 IAC 20-20-1	A	01-215	24 IR 4109	**25 IR 3100**
326 IAC 20-21-1	A	01-215	24 IR 4109	**25 IR 3100**
326 IAC 20-22-1	A	01-215	24 IR 4110	**25 IR 3101**
326 IAC 20-23-1	A	01-215	24 IR 4110	**25 IR 3101**
326 IAC 20-24-1	A	01-215	24 IR 4110	**25 IR 3101**
326 IAC 20-25-1	A	02-55	26 IR 92	*CPH (26 IR 811)
326 IAC 20-25-3	A	02-55	26 IR 92	*CPH (26 IR 811)
326 IAC 20-25-4	A	02-55	26 IR 94	*CPH (26 IR 811)
326 IAC 20-25-5	A	02-55	26 IR 94	*CPH (26 IR 811)
326 IAC 20-25-7	A	02-55	26 IR 95	*CPH (26 IR 811)
326 IAC 20-26-1	A	01-215	24 IR 4111	**25 IR 3101**
326 IAC 20-28				*ERR (25 IR 813)
326 IAC 20-30-1	A	01-215	24 IR 4111	**25 IR 3102**
326 IAC 20-31-1	A	01-215	24 IR 4111	**25 IR 3102**
326 IAC 20-32-1	A	01-215	24 IR 4112	**25 IR 3102**
326 IAC 20-33-1	A	01-215	24 IR 4112	**25 IR 3103**
326 IAC 20-34-1	A	01-215	24 IR 4112	**25 IR 3103**
326 IAC 20-35-1	A	01-215	24 IR 4112	**25 IR 3103**
326 IAC 20-36-1	A	01-215	24 IR 4113	**25 IR 3103**
326 IAC 20-37-1	A	01-215	24 IR 4113	**25 IR 3104**
326 IAC 20-38-1	A	01-215	24 IR 4113	**25 IR 3104**
326 IAC 20-39-1	A	01-215	24 IR 4114	**25 IR 3105**
326 IAC 20-40-1	A	01-215	24 IR 4114	**25 IR 3105**
326 IAC 20-41-1	A	01-215	24 IR 4114	**25 IR 3105**
326 IAC 20-42-1	A	01-215	24 IR 4114	**25 IR 3106**
326 IAC 20-43-1	A	01-215	24 IR 4115	**25 IR 3106**
326 IAC 20-44-1	A	01-215	24 IR 4115	**25 IR 3106**
326 IAC 20-45-1	A	01-215	24 IR 4115	**25 IR 3107**
326 IAC 20-46-1	A	01-215	24 IR 4115	**25 IR 3107**
326 IAC 20-47-1	A	01-215	24 IR 4116	**25 IR 3107**
326 IAC 20-48	N	02-55	26 IR 95	*CPH (26 IR 811)
326 IAC 21-1-1	A	01-215	24 IR 4116	**25 IR 3107**
326 IAC 23-2-4	A	01-215	24 IR 4116	**25 IR 3108**
326 IAC 23-2-7	A	01-215	24 IR 4118	**25 IR 3109**

TITLE 327 WATER POLLUTION CONTROL BOARD

327 IAC 2-1-7	R	99-263	23 IR 871	*CPH (24 IR 3658)
				25 IR 1882
327 IAC 2-1.5-9	R	99-263	23 IR 871	*CPH (24 IR 3658)
				25 IR 1882
327 IAC 2-11	N	99-263	23 IR 865	*CPH (24 IR 3658)
				25 IR 1876
				*ERR (25 IR 1906)
327 IAC 5-2-9	A	00-136	26 IR 427	
327 IAC 5-2.1	N	00-136	26 IR 427	
327 IAC 5-4-6	A	01-96	26 IR 845	
327 IAC 7-1	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-1	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-2	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-3	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-4	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-5	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-2-7	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-3	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-1	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-2	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-3	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-4	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-5	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-6	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-7	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-8	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-10	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-4-11	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-5	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-6	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-7	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7-8	R	01-429	25 IR 1241	**25 IR 3739**
327 IAC 7.1	N	01-429	25 IR 1221	**25 IR 3717**
				*ERR (25 IR 4113)
327 IAC 8-2-1	A	00-266	24 IR 3706	**25 IR 1075**
	A	01-348	26 IR 101	*CPH (26 IR 812)
327 IAC 8-2-2	A	00-266	24 IR 3710	**25 IR 1079**
327 IAC 8-2-4	A	00-266	24 IR 3710	**25 IR 1079**
327 IAC 8-2-4.1	A	00-266	24 IR 3711	**25 IR 1080**
327 IAC 8-2-5	A	01-348	26 IR 105	*CPH (26 IR 812)
327 IAC 8-2-5.1	A	00-266	24 IR 3716	**25 IR 1084**
327 IAC 8-2-5.3	A	00-266	24 IR 3718	**25 IR 1086**
	A	01-348	26 IR 107	*CPH (26 IR 812)
327 IAC 8-2-5.5	A	00-266	24 IR 3720	**25 IR 1089**
327 IAC 8-2-6	R	01-348	26 IR 152	*CPH (26 IR 812)
327 IAC 8-2-7	A	00-266	24 IR 3723	**25 IR 1092**

327 IAC 8-2-8.4	A	00-266	24 IR 3724	**25 IR 1092**
				*ERR (25 IR 2254)
327 IAC 8-2-8.5	A	01-348	26 IR 109	*CPH (26 IR 812)
327 IAC 8-2-10.2	A	00-266	24 IR 3726	**25 IR 1094**
				*ERR (25 IR 2254)
327 IAC 8-2-13	A	00-266	24 IR 3727	**25 IR 1096**
				*ERR (25 IR 2254)
	A	01-348	26 IR 110	*CPH (26 IR 812)
327 IAC 8-2-14	A	00-266	24 IR 3728	**25 IR 1096**
327 IAC 8-2-15	R	00-266	24 IR 3755	**25 IR 1123**
327 IAC 8-2-16	R	00-266	24 IR 3755	**25 IR 1123**
				*ERR (25 IR 2254)
327 IAC 8-2-17	R	00-266	24 IR 3755	**25 IR 1123**
				*ERR (25 IR 2254)
327 IAC 8-2-18	R	00-266	24 IR 3755	**25 IR 1123**
327 IAC 8-2-20	A	00-266	24 IR 3729	**25 IR 1097**
327 IAC 8-2-29	R	01-348	26 IR 152	*CPH (26 IR 812)
327 IAC 8-2-30	A	01-348	26 IR 110	*CPH (26 IR 812)
327 IAC 8-2-31	A	01-348	26 IR 111	*CPH (26 IR 812)
327 IAC 8-2-37	A	00-111	24 IR 1062	**25 IR 764**
				*ERR (25 IR 813)
				*ERR (25 IR 2254)
327 IAC 8-2-38	A	00-111	24 IR 1068	**25 IR 770**
				*ERR (25 IR 813)
				*ERR (25 IR 2254)
327 IAC 8-2-39	A	00-111	24 IR 1071	**25 IR 772**
327 IAC 8-2-40	A	00-111	24 IR 1072	**25 IR 774**
				*ERR (25 IR 2254)
327 IAC 8-2-41	A	00-111	24 IR 1074	**25 IR 776**
327 IAC 8-2-43	A	00-111	24 IR 1076	**25 IR 778**
327 IAC 8-2-44	A	00-111	24 IR 1077	**25 IR 779**
				*ERR (25 IR 813)
				*ERR (25 IR 2254)
327 IAC 8-2-46	A	00-111	24 IR 1082	**25 IR 783**
				*ERR (25 IR 813)
				*ERR (25 IR 2254)
327 IAC 8-2-48	N	01-348	26 IR 111	*CPH (26 IR 812)
327 IAC 8-2.1-3	A	00-266	24 IR 3729	**25 IR 1098**
	A	01-348	26 IR 112	*CPH (26 IR 812)
327 IAC 8-2.1-4	A	01-348	26 IR 114	*CPH (26 IR 812)
327 IAC 8-2.1-6	A	00-266	24 IR 3732	**25 IR 1100**
	A	01-348	26 IR 115	*CPH (26 IR 812)
327 IAC 8-2.1-7	N	00-266	24 IR 3741	**25 IR 1109**
327 IAC 8-2.1-8	N	00-266	24 IR 3741	**25 IR 1110**
	A	01-348	26 IR 121	*CPH (26 IR 812)
327 IAC 8-2.1-9	N	00-266	24 IR 3742	**25 IR 1110**
327 IAC 8-2.1-10	N	00-266	24 IR 3743	**25 IR 1111**
327 IAC 8-2.1-11	N	00-266	24 IR 3744	**25 IR 1112**
327 IAC 8-2.1-12	N	00-266	24 IR 3745	**25 IR 1113**
327 IAC 8-2.1-13	N	00-266	24 IR 3745	**25 IR 1113**
				*ERR (25 IR 2254)
327 IAC 8-2.1-14	N	00-266	24 IR 3746	**25 IR 1114**
327 IAC 8-2.1-15	N	00-266	24 IR 3746	**25 IR 1114**
327 IAC 8-2.1-16	N	00-266	24 IR 3746	**25 IR 1114**
				*ERR (25 IR 2254)
	A	01-348	26 IR 122	*CPH (26 IR 812)
327 IAC 8-2.1-17	N	00-266	24 IR 3750	**25 IR 1118**
				*ERR (25 IR 2254)
	A	01-348	26 IR 126	*CPH (26 IR 812)
327 IAC 8-2.5	N	01-348	26 IR 133	*CPH (26 IR 812)
327 IAC 8-2.6	N	01-348	26 IR 146	*CPH (26 IR 812)
327 IAC 15-13	N	01-96	26 IR 847	
327 IAC 16	N	00-235	24 IR 512	*CPH (24 IR 1686)
				*ARR (24 IR 3071)
				*CPH (24 IR 3098)
				*ARR (25 IR 385)
				25 IR 1883

TITLE 328 UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE BOARD

328 IAC 1-1-1	A	00-135	24 IR 2501	**25 IR 787**
328 IAC 1-1-2	A	00-135	24 IR 2501	**25 IR 787**
328 IAC 1-1-3	A	00-135	24 IR 2501	**25 IR 787**
328 IAC 1-1-3.1	N	00-135	24 IR 2501	**25 IR 788**
328 IAC 1-1-4	A	00-135	24 IR 2502	**25 IR 787**
328 IAC 1-1-5	R	00-135	24 IR 2514	**25 IR 803**
328 IAC 1-1-5.1	N	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-6	A	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-7	A	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-8	A	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-8.5	N	00-135	24 IR 2502	**25 IR 788**
328 IAC 1-1-9	A	00-135	24 IR 2502	**25 IR 789**
328 IAC 1-1-10	A	00-135	24 IR 2503	**25 IR 789**
328 IAC 1-1-11	R	00-135	24 IR 2514	**25 IR 803**
328 IAC 1-2-1	A	00-135	24 IR 2503	**25 IR 789**
328 IAC 1-2-2	A	00-135	24 IR 2503	**25 IR 789**
328 IAC 1-2-3	A	00-135	24 IR 2503	**25 IR 789**
328 IAC 1-3-1	A	00-135	24 IR 2503	**25 IR 790**
328 IAC 1-3-2	A	00-135	24 IR 2504	**25 IR 790**
328 IAC 1-3-3	A	00-135	24 IR 2504	**25 IR 790**
				*ERR (25 IR 2254)
328 IAC 1-3-4	A	00-135	24 IR 2505	**25 IR 792**
328 IAC 1-3-5	A	00-135	24 IR 2505	**25 IR 792**
				*ERR (25 IR 2255)
328 IAC 1-3-6	A	00-135	24 IR 2511	**25 IR 798**
328 IAC 1-4-1	A	00-135	24 IR 2511	**25 IR 799**
328 IAC 1-5-1	A	00-135	24 IR 2512	**25 IR 801**
328 IAC 1-5-2	A	00-135	24 IR 2513	**25 IR 801**
328 IAC 1-5-3	N	00-135	24 IR 2513	**25 IR 802**
328 IAC 1-6-1	A	00-135	24 IR 2513	**25 IR 802**
328 IAC 1-6-2	A	00-135	24 IR 2513	**25 IR 802**
328 IAC 1-7-1	A	00-135	24 IR 2514	**25 IR 802**
328 IAC 1-7-2	A	00-135	24 IR 2514	**25 IR 803**
328 IAC 1-7-3	A	00-135	24 IR 2514	**25 IR 803**
328 IAC 2	R	00-135	24 IR 2514	**25 IR 803**

TITLE 329 SOLID WASTE MANAGEMENT BOARD

329 IAC 3.1-1-7				*ERR (25 IR 813)
	A	01-289	25 IR 843	**25 IR 3111**
329 IAC 3.1-4-9.1	R	01-289	25 IR 847	**25 IR 3114**
329 IAC 3.1-4-17.1	R	01-289	25 IR 847	**25 IR 3114**
329 IAC 3.1-6-6	N	00-255	24 IR 2516	**25 IR 372**
329 IAC 3.1-7-2	A	01-289	25 IR 844	**25 IR 3112**
329 IAC 3.1-9-2	A	01-289	25 IR 845	**25 IR 3112**
329 IAC 3.1-10-2	A	01-289	25 IR 846	**25 IR 3113**
329 IAC 7-2-6	A	00-173	24 IR 2803	**25 IR 1124**
329 IAC 7-11-1	A	00-173	24 IR 2803	**25 IR 1124**
329 IAC 7-11-2	A	00-173	24 IR 2804	**25 IR 1125**
329 IAC 7-11-3	A	00-173	24 IR 2804	**25 IR 1125**
329 IAC 10-1-4	A	00-185	26 IR 432	
329 IAC 10-1-4.5	N	00-185	26 IR 433	
329 IAC 10-2-6	R	00-185	26 IR 511	
329 IAC 10-2-11	A	00-185	26 IR 433	
329 IAC 10-2-29	R	00-185	26 IR 511	
329 IAC 10-2-33	R	00-185	26 IR 511	
329 IAC 10-2-41	A	00-185	26 IR 433	
329 IAC 10-2-41.1	A	00-185	26 IR 434	
329 IAC 10-2-53	R	00-185	26 IR 511	
329 IAC 10-2-60	R	00-185	26 IR 511	
329 IAC 10-2-63.5	N	00-185	26 IR 434	
329 IAC 10-2-64	A	00-185	26 IR 434	
329 IAC 10-2-66.1	N	00-185	26 IR 434	
329 IAC 10-2-66.2	N	00-185	26 IR 434	
329 IAC 10-2-66.3	N	00-185	26 IR 434	
329 IAC 10-2-69	A	00-185	26 IR 435	
329 IAC 10-2-74	A	00-185	26 IR 435	
329 IAC 10-2-75	A	00-185	26 IR 435	

329 IAC 10-2-75.1	N	00-185	26 IR 435
329 IAC 10-2-76	R	00-185	26 IR 511
329 IAC 10-2-96	A	00-185	26 IR 435
329 IAC 10-2-97.1	A	00-185	26 IR 435
329 IAC 10-2-99	A	00-185	26 IR 436
329 IAC 10-2-100	A	00-185	26 IR 436
329 IAC 10-2-105.3	N	00-185	26 IR 436
329 IAC 10-2-106	A	00-185	26 IR 436
329 IAC 10-2-109	A	00-185	26 IR 436
329 IAC 10-2-111.5	N	00-185	26 IR 436
329 IAC 10-2-112	A	00-185	26 IR 436
329 IAC 10-2-121.1	A	00-185	26 IR 437
329 IAC 10-2-127	R	00-185	26 IR 511
329 IAC 10-2-128	R	00-185	26 IR 511
329 IAC 10-2-132.2	N	00-185	26 IR 437
329 IAC 10-2-132.3	N	00-185	26 IR 437
329 IAC 10-2-142.5	N	00-185	26 IR 437
329 IAC 10-2-147.2	N	00-185	26 IR 437
329 IAC 10-2-149	R	00-185	26 IR 511
329 IAC 10-2-158	A	00-185	26 IR 437
329 IAC 10-2-165.5	N	00-185	26 IR 438
329 IAC 10-2-172.5	N	00-185	26 IR 438
329 IAC 10-2-177	R	00-185	26 IR 511
329 IAC 10-2-181.2	N	00-185	26 IR 438
329 IAC 10-2-181.5	N	00-185	26 IR 438
329 IAC 10-2-181.6	N	00-185	26 IR 438
329 IAC 10-2-187.5	N	00-185	26 IR 438
329 IAC 10-2-203	R	00-185	26 IR 511
329 IAC 10-2-205	R	00-185	26 IR 511
329 IAC 10-3-1	A	00-185	26 IR 438
329 IAC 10-3-2	A	00-185	26 IR 439
329 IAC 10-3-3	A	00-185	26 IR 439
329 IAC 10-6-4	A	00-185	26 IR 440
329 IAC 10-10-1	A	00-185	26 IR 440
329 IAC 10-10-2	A	00-185	26 IR 440
329 IAC 10-11-2.1	A	00-185	26 IR 440
329 IAC 10-11-2.5	A	00-185	26 IR 441
329 IAC 10-11-5.1	A	00-185	26 IR 443
329 IAC 10-11-6	A	00-185	26 IR 443
329 IAC 10-12-1	A	00-185	26 IR 443
329 IAC 10-13-1	A	00-185	26 IR 445
329 IAC 10-13-5	A	00-185	26 IR 445
329 IAC 10-13-6	A	00-185	26 IR 446
329 IAC 10-14-1	A	00-185	26 IR 446
329 IAC 10-15-1	A	00-185	26 IR 447
329 IAC 10-15-2	A	00-185	26 IR 448
329 IAC 10-15-5	A	00-185	26 IR 449
329 IAC 10-15-8	A	00-185	26 IR 450
329 IAC 10-15-12	N	00-185	26 IR 451
329 IAC 10-16-1	A	00-185	26 IR 452
329 IAC 10-16-8	A	00-185	26 IR 453
329 IAC 10-17-2	A	00-185	26 IR 453
329 IAC 10-17-7	A	00-185	26 IR 454
329 IAC 10-17-9	A	00-185	26 IR 456
329 IAC 10-17-12	A	00-185	26 IR 457
329 IAC 10-17-18	A	00-185	26 IR 458
329 IAC 10-19-1	A	00-185	26 IR 458
329 IAC 10-20-3	A	00-185	26 IR 459
329 IAC 10-20-8	A	00-185	26 IR 460
329 IAC 10-20-11	A	00-185	26 IR 461
329 IAC 10-20-12	A	00-185	26 IR 462
329 IAC 10-20-13	A	00-185	26 IR 463
329 IAC 10-20-20	A	00-185	26 IR 463
329 IAC 10-20-24	A	00-185	26 IR 464
329 IAC 10-20-26	A	00-185	26 IR 464
329 IAC 10-20-28	A	00-185	26 IR 464
329 IAC 10-21-1	A	00-185	26 IR 465
329 IAC 10-21-2	A	00-185	26 IR 468
329 IAC 10-21-4	A	00-185	26 IR 474
329 IAC 10-21-6	A	00-185	26 IR 477
329 IAC 10-21-7	A	00-185	26 IR 479
329 IAC 10-21-8	A	00-185	26 IR 480
329 IAC 10-21-9	A	00-185	26 IR 481
329 IAC 10-21-10	A	00-185	26 IR 482
329 IAC 10-21-13	A	00-185	26 IR 484
329 IAC 10-21-15	A	00-185	26 IR 488
329 IAC 10-21-16	A	00-185	26 IR 488
329 IAC 10-22-2	A	00-185	26 IR 493
329 IAC 10-22-3	A	00-185	26 IR 494
329 IAC 10-22-5	A	00-185	26 IR 494
329 IAC 10-22-6	A	00-185	26 IR 494
329 IAC 10-22-7	A	00-185	26 IR 495
329 IAC 10-22-8	A	00-185	26 IR 496
329 IAC 10-23-2	A	00-185	26 IR 496
329 IAC 10-23-3	A	00-185	26 IR 497
329 IAC 10-23-4	A	00-185	26 IR 498
329 IAC 10-24-4	A	00-185	26 IR 499
329 IAC 10-29-1	A	00-185	26 IR 499
329 IAC 10-30-4	A	00-185	26 IR 500
329 IAC 10-37-4	A	00-185	26 IR 501
329 IAC 10-39-1	A	00-185	26 IR 501
329 IAC 10-39-2	A	00-185	26 IR 502
329 IAC 10-39-3	A	00-185	26 IR 508
329 IAC 10-39-7	A	00-185	26 IR 509
329 IAC 10-39-9	A	00-185	26 IR 509
329 IAC 10-39-10	A	00-185	26 IR 510
329 IAC 11-1-1			*ERR (25 IR 2741)
329 IAC 11-1-2			*ERR (25 IR 2741)
329 IAC 11-1-4			*ERR (25 IR 2741)
329 IAC 11-2-1			*ERR (25 IR 2741)
329 IAC 11-2-5			*ERR (25 IR 2741)
329 IAC 11-2-7			*ERR (25 IR 2741)
329 IAC 11-2-9			*ERR (25 IR 2741)
329 IAC 11-2-26			*ERR (25 IR 2741)
329 IAC 11-2-39			*ERR (25 IR 2741)
329 IAC 11-3-1			*ERR (25 IR 2741)
329 IAC 11-4-4			*ERR (25 IR 2741)
329 IAC 11-9-1	A	01-207	24 IR 3162 **25 IR 1126**
329 IAC 11-9-2	A	01-207	24 IR 3163 **25 IR 1126**
			*ERR (25 IR 1906)
			*ERR (25 IR 2255)
329 IAC 11-9-3	A	01-207	24 IR 3164 **25 IR 1128**
329 IAC 11-9-4	A	01-207	24 IR 3165 **25 IR 1128**
329 IAC 11-9-5	A	01-207	24 IR 3165 **25 IR 1129**
329 IAC 11-10-1			*ERR (25 IR 2741)
329 IAC 11-11-1	A	01-207	24 IR 3166 **25 IR 1129**
329 IAC 11-11-2	A	01-207	24 IR 3166 **25 IR 1130**
329 IAC 11-11-3	A	01-207	24 IR 3166 **25 IR 1130**
329 IAC 11-11-4	A	01-207	24 IR 3167 **25 IR 1130**
329 IAC 11-11-5	A	01-207	24 IR 3167 **25 IR 1130**
329 IAC 11-11-6	A	01-207	24 IR 3167 **25 IR 1131**
329 IAC 11-14-1	A	01-207	24 IR 3167 **25 IR 1131**
329 IAC 11-15-1			*ERR (25 IR 2741)
329 IAC 11-15-3			*ERR (25 IR 2741)
329 IAC 11-15-5			*ERR (25 IR 2741)
329 IAC 11-17-1			*ERR (25 IR 2741)
329 IAC 11-21-1			*ERR (25 IR 2741)
329 IAC 11-21-2			*ERR (25 IR 2741)

TITLE 345 INDIANA STATE BOARD OF ANIMAL HEALTH

345 IAC 1-3-1.5	A	01-413	25 IR 1996
345 IAC 1-3-3	A	02-107	25 IR 4170
345 IAC 1-3-4	A	02-107	25 IR 4171
345 IAC 1-3-8	R	02-107	25 IR 4182
345 IAC 1-3-11	A	02-107	25 IR 4171
345 IAC 1-3-12	A	02-107	25 IR 4172
345 IAC 1-3-13	A	02-107	25 IR 4172
345 IAC 1-3-14	A	02-107	25 IR 4173

345 IAC 1-3-15	A	02-107	25 IR 4173	
345 IAC 1-3-16	R	02-107	25 IR 4182	
345 IAC 1-3-16.5	N	02-107	25 IR 4174	
345 IAC 1-3-30	A	01-413	25 IR 1997	**26 IR 345**
			25 IR 2774	
345 IAC 1-4-1	R	01-391	25 IR 1995	**25 IR 3742**
345 IAC 1-4-2	N	01-391	25 IR 1995	**25 IR 3742**
345 IAC 1-4-3	N	01-391	25 IR 1995	**25 IR 3742**
345 IAC 1-5-1	A	01-1	24 IR 2805	**25 IR 374**
345 IAC 1-5-2	A	01-1	24 IR 2806	**25 IR 375**
345 IAC 1-5-3	A	01-1	24 IR 2806	**25 IR 375**
345 IAC 1-6-1	R	01-37	24 IR 4121	**25 IR 1608**
345 IAC 1-6-1.5	N	01-37	24 IR 4120	**25 IR 1607**
345 IAC 1-6-2	A	01-37	24 IR 4120	**25 IR 1607**
345 IAC 1-6-3	A	01-37	24 IR 4120	**25 IR 1607**
345 IAC 2-6-8	A	01-333	25 IR 1989	**25 IR 3740**
345 IAC 2-7-1	A	01-413	25 IR 1998	**26 IR 346**
			25 IR 2775	
345 IAC 2-7-3	A	01-413	25 IR 1999	**26 IR 347**
			25 IR 2776	
345 IAC 2-7-4	A	01-413	25 IR 2000	**26 IR 348**
			25 IR 2777	
345 IAC 2-7-5	A	01-413	25 IR 2001	**26 IR 349**
			25 IR 2778	
345 IAC 3-5.1-1.2	A	02-107	25 IR 4175	
345 IAC 3-5.1-1.5	A	02-107	25 IR 4176	
345 IAC 3-5.1-2	A	02-107	25 IR 4176	
345 IAC 3-5.1-3	A	02-107	25 IR 4176	
345 IAC 3-5.1-3.5	N	02-107	25 IR 4177	
345 IAC 3-5.1-4	A	02-107	25 IR 4177	
345 IAC 3-5.1-6	A	02-107	25 IR 4177	
345 IAC 3-5.1-7	A	02-107	25 IR 4178	
345 IAC 3-5.1-8.5	A	02-107	25 IR 4179	
345 IAC 3-5.1-8.7	A	02-107	25 IR 4180	
345 IAC 3-5.1-8.8	R	02-107	25 IR 4182	
345 IAC 3-5.1-8.9	R	02-107	25 IR 4182	
345 IAC 3-5.1-9	R	02-107	25 IR 4182	
345 IAC 3-5.1-10	A	02-107	25 IR 4181	
345 IAC 3-5.1-12	R	02-107	25 IR 4182	
345 IAC 3-5.1-14	R	02-107	25 IR 4182	
345 IAC 3-5.1-15	R	02-107	25 IR 4182	
345 IAC 5-1-3	R	01-333	25 IR 1990	**25 IR 3742**
345 IAC 5-1-4	R	01-333	25 IR 1990	**25 IR 3742**
345 IAC 7-3.5-1	R	01-166	24 IR 4125	
345 IAC 7-3.5-2	A	01-166	24 IR 4122	**25 IR 1609**
345 IAC 7-3.5-3	A	01-166	24 IR 4123	**25 IR 1610**
345 IAC 7-3.5-5	A	01-166	24 IR 4123	**25 IR 1610**
345 IAC 7-3.5-5.5	N	01-166	24 IR 4124	**25 IR 1611**
345 IAC 7-3.5-6	A	01-166	24 IR 4124	**25 IR 1611**
345 IAC 7-3.5-8	A	01-166	24 IR 4125	**25 IR 1612**
345 IAC 7-3.5-8.5	N	01-166	24 IR 4125	**25 IR 1612**
345 IAC 7-3.5-13	A	01-333	25 IR 1989	**25 IR 3740**
345 IAC 7-3.5-14	A	01-333	25 IR 1990	**25 IR 3741**
345 IAC 7-5-1	A	02-126	25 IR 4182	
345 IAC 7-5-2.1	N	02-126	25 IR 4183	
345 IAC 7-5-2.5	A	02-126	25 IR 4183	
345 IAC 7-5-3	R	02-126	25 IR 4187	
345 IAC 7-5-4	R	02-126	25 IR 4187	
345 IAC 7-5-5	R	02-126	25 IR 4187	
345 IAC 7-5-6	A	02-126	25 IR 4184	
345 IAC 7-5-7	A	02-126	25 IR 4184	
345 IAC 7-5-8	R	02-126	25 IR 4187	
345 IAC 7-5-9	A	02-126	25 IR 4184	
345 IAC 7-5-11	A	02-126	25 IR 4185	
345 IAC 7-5-15.1	A	02-126	25 IR 4185	
345 IAC 7-5-16	R	02-126	25 IR 4187	
345 IAC 7-5-16.1	R	02-126	25 IR 4187	
345 IAC 7-5-21	R	02-126	25 IR 4187	
345 IAC 7-5-22	A	02-126	25 IR 4186	
345 IAC 7-5-24	A	02-126	25 IR 4186	
345 IAC 7-5-25.7	R	02-126	25 IR 4187	
345 IAC 7-5-26	R	02-126	25 IR 4187	
345 IAC 7-5-27	R	02-126	25 IR 4187	
345 IAC 7-5-28	A	02-126	25 IR 4186	
345 IAC 7-7-1.5	N	01-377	25 IR 1991	*ARR (25 IR 3770)
			25 IR 4166	**26 IR 693**
345 IAC 7-7-2	A	01-377	25 IR 1991	*ARR (25 IR 3770)
			25 IR 4166	**26 IR 694**
345 IAC 7-7-3	A	01-377	25 IR 1992	*ARR (25 IR 3770)
			25 IR 4167	**26 IR 694**
345 IAC 7-7-3.5	N	01-377	25 IR 1993	*ARR (25 IR 3770)
			25 IR 4168	**26 IR 695**
345 IAC 7-7-4	A	01-377	25 IR 1993	*ARR (25 IR 3770)
			25 IR 4168	**26 IR 695**
345 IAC 7-7-5	A	01-377	25 IR 1993	*ARR (25 IR 3770)
			25 IR 4168	**26 IR 696**
345 IAC 7-7-6	R	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 7-7-7	A	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 7-7-8	R	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 7-7-9	R	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 7-7-10	A	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 8-2-1.1	A	01-392	25 IR 2758	**26 IR 329**
345 IAC 8-2-1.5	N	01-392	25 IR 2760	**26 IR 331**
345 IAC 8-2-1.7	N	01-392	25 IR 2760	**26 IR 331**
345 IAC 8-2-1.9	N	01-392	25 IR 2761	**26 IR 332**
345 IAC 8-2-2	A	01-392	25 IR 2762	**26 IR 333**
345 IAC 8-2-3	A	01-392	25 IR 2764	**26 IR 335**
345 IAC 8-2-3.5	N	01-392	25 IR 2766	**26 IR 337**
345 IAC 8-2-4	A	01-392	25 IR 2767	**26 IR 338**
345 IAC 8-3-1	A	01-392	25 IR 2769	**26 IR 340**
345 IAC 8-3-2	A	01-392	25 IR 2770	**26 IR 341**
345 IAC 8-3-3	N	01-392	25 IR 2770	
345 IAC 8-3-4	N	01-392	25 IR 2771	
345 IAC 8-3-9	N	01-392		**††26 IR 341**
				*ERR (26 IR 793)
345 IAC 8-3-10	N	01-392		**††26 IR 342**
				*ERR (26 IR 793)
345 IAC 8-4-1	A	01-392	25 IR 2771	**26 IR 342**
345 IAC 9-2.1-1	A	02-127	25 IR 4187	
345 IAC 10-2.1-1	A	02-127	25 IR 4188	

TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA

355 IAC 4-0.5	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-1	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-2	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-2-1	A	01-71	24 IR 2807	**25 IR 376**
355 IAC 4-2-2	A	01-71	24 IR 2807	**25 IR 376**
355 IAC 4-2-3	A	01-71	24 IR 2807	**25 IR 376**
355 IAC 4-2-4	R	01-71	24 IR 2809	**25 IR 378**
355 IAC 4-2-5	A	01-71	24 IR 2808	**25 IR 377**
355 IAC 4-2-6	A	01-71	24 IR 2808	**25 IR 377**
355 IAC 4-2-7	N	01-71	24 IR 2808	**25 IR 377**
355 IAC 4-2-8	N	01-71	24 IR 2808	**25 IR 377**
355 IAC 4-3	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-4	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-5	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 4-6	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 5	RA	01-48	24 IR 3221	**25 IR 1269**
355 IAC 5-1-1	A	01-294	25 IR 435	**25 IR 2212**
355 IAC 5-1-1.5	N	01-294	25 IR 435	**25 IR 2212**
355 IAC 5-1-2	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-1-3	A	01-294	25 IR 435	**25 IR 2212**
355 IAC 5-1-4	A	01-294	25 IR 436	**25 IR 2213**

355 IAC 5-1-5	A	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-6	A	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-7.5	N	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-10	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-1-11	A	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-13	A	01-294	25 IR 436	**25 IR 2213**
355 IAC 5-1-14	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-1-15	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-2-2	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-2-3	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-2-4	A	01-294	25 IR 437	**25 IR 2214**
355 IAC 5-2-5	A	01-294	25 IR 437	**25 IR 2215**
355 IAC 5-2-6	A	01-294	25 IR 438	**25 IR 2215**
355 IAC 5-2-7	A	01-294	25 IR 438	**25 IR 2215**
355 IAC 5-2-8	A	01-294	25 IR 438	**25 IR 2215**
355 IAC 5-2-9	A	01-294	25 IR 438	**25 IR 2215**
355 IAC 5-2-10	A	01-294	25 IR 438	**25 IR 2216**
355 IAC 5-2-11	A	01-294	25 IR 438	**25 IR 2216**
355 IAC 5-2-12	A	01-294	25 IR 439	**25 IR 2216**
355 IAC 5-2-13	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-3-1	A	01-294	25 IR 439	**25 IR 2216**
355 IAC 5-3-2	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-4-1	A	01-294	25 IR 440	**25 IR 2217**
355 IAC 5-4-2	A	01-294	25 IR 440	**25 IR 2217**
355 IAC 5-4-3	A	01-294	25 IR 440	**25 IR 2218**
355 IAC 5-4-4	A	01-294	25 IR 441	**25 IR 2218**
355 IAC 5-4-5	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-4-6	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-4-7	A	01-294	25 IR 441	**25 IR 2218**
355 IAC 5-4-8	A	01-294	25 IR 442	**25 IR 2219**
355 IAC 5-4-9	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-5-1	A	01-294	25 IR 442	**25 IR 2219**
355 IAC 5-5-2	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-6	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-7	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 5-8-1	A	01-294	25 IR 442	**25 IR 2219**
355 IAC 5-8-2	R	01-294	25 IR 442	**25 IR 2220**
355 IAC 6	N	01-335	25 IR 443	*ARR (25 IR 1907) **25 IR 2444** *ERR (25 IR 2521)

TITLE 357 INDIANA PESTICIDE REVIEW BOARD

357 IAC 1-1	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-3	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-4	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-5	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-6	RA	01-49	24 IR 3222	**25 IR 936**
357 IAC 1-7	RA	01-49	24 IR 3222	**25 IR 936**

TITLE 360 STATE SEED COMMISSIONER

360 IAC 1	RA	01-233	25 IR 519	**25 IR 1269**

TITLE 365 CREAMERY EXAMINING BOARD

365 IAC 2-1-4	*ERR (25 IR 384)
365 IAC 2-1-6	*ERR (25 IR 384)
365 IAC 2-1-13	*ERR (25 IR 384)
365 IAC 2-1-14	*ERR (25 IR 384)
365 IAC 2-1-19	*ERR (25 IR 384)
365 IAC 2-1-22	*ERR (25 IR 384)
365 IAC 2-2-1	*ERR (25 IR 384)

TITLE 370 STATE EGG BOARD

370 IAC 1-1	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-1-1	A	01-419	26 IR 153	
370 IAC 1-1-2	A	01-419	26 IR 153	
370 IAC 1-1-3	A	01-419	26 IR 153	
370 IAC 1-1-4	A	01-419	26 IR 153	
370 IAC 1-1-5	A	01-419	26 IR 153	
370 IAC 1-2	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-2-1	A	01-419	26 IR 154	
370 IAC 1-2-2	A	01-419	26 IR 154	
370 IAC 1-2-3	N	01-419	26 IR 154	
370 IAC 1-3	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-3-1	A	01-419	26 IR 154	
370 IAC 1-3-2	A	01-419	26 IR 154	
370 IAC 1-3-3	A	01-419	26 IR 154	
370 IAC 1-3-4	A	01-419	26 IR 155	
370 IAC 1-4	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-4-1	A	01-419	26 IR 155	
370 IAC 1-4-2	A	01-419	26 IR 155	
370 IAC 1-4-3	A	01-419	26 IR 156	
370 IAC 1-5	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-5-1	A	01-419	26 IR 156	
370 IAC 1-6	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-6-1	A	01-419	26 IR 156	
370 IAC 1-8	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-8-1	A	01-419	26 IR 156	
370 IAC 1-9	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-9-1	A	01-419	26 IR 156	
370 IAC 1-10	RA	01-317	25 IR 187	**25 IR 937**
370 IAC 1-10-1	A	01-419	26 IR 156	
370 IAC 1-10-2	A	01-419	26 IR 157	

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

405 IAC 1-8-3	A	00-249	24 IR 1381	*NRA (24 IR 3097)
405 IAC 1-9	R	00-249	24 IR 1386	*NRA (24 IR 3097) **25 IR 59**
405 IAC 1-10	R	00-249	24 IR 1386	*NRA (24 IR 3097) **25 IR 59**
405 IAC 1-10.5-1	A	00-249	24 IR 1382	*NRA (24 IR 3097) **25 IR 55**
405 IAC 1-10.5-2	A	00-249	24 IR 1382	*NRA (24 IR 3097) **25 IR 55**
405 IAC 1-10.5-3	A	00-249	24 IR 1384	*NRA (24 IR 3097) **25 IR 57** *ERR (25 IR 1906)
405 IAC 1-10.5-4	A	00-249	24 IR 1386	*NRA (24 IR 3097) **25 IR 59**
405 IAC 1-11	R	00-249	24 IR 1386	*NRA (24 IR 3097) **25 IR 59**
405 IAC 1-12-1	A	02-16	25 IR 2791	*NRA (25 IR 4128) **26 IR 718**
405 IAC 1-12-2	A	01-420	25 IR 1690	*NRA (25 IR 2541) **25 IR 3121**
	A	02-16	25 IR 2791	*NRA (25 IR 4128) **26 IR 718**
405 IAC 1-12-4	A	02-16	25 IR 2793	*NRA (25 IR 4128) **26 IR 720**
405 IAC 1-12-5	A	01-420	25 IR 1691	*NRA (25 IR 2541) **25 IR 3123**
	A	02-16	25 IR 2794	*NRA (25 IR 4128) **26 IR 721**
405 IAC 1-12-6	A	02-16	25 IR 2795	*NRA (25 IR 4128) **26 IR 722**
405 IAC 1-12-7	A	02-16	25 IR 2796	*NRA (25 IR 4128) **26 IR 723**
405 IAC 1-12-8	A	02-16	25 IR 2796	*NRA (25 IR 4128) **26 IR 723**
405 IAC 1-12-9	A	01-420	25 IR 1693	*NRA (25 IR 2541) **25 IR 3124**
	A	02-16	25 IR 2797	*NRA (25 IR 4128) **26 IR 724**

405 IAC 1-12-12	A	02-16	25 IR 2797	*NRA (25 IR 4128)
				26 IR 724
405 IAC 1-12-13	A	02-16	25 IR 2798	*NRA (25 IR 4128)
				26 IR 725
405 IAC 1-12-14	A	02-16	25 IR 2799	*NRA (25 IR 4128)
				26 IR 726
405 IAC 1-12-15	A	02-16	25 IR 2799	*NRA (25 IR 4128)
				26 IR 726
405 IAC 1-12-16	A	02-16	25 IR 2800	*NRA (25 IR 4128)
				26 IR 727
405 IAC 1-12-17	A	02-16	25 IR 2801	*NRA (25 IR 4128)
				26 IR 728
405 IAC 1-12-19	A	02-16	25 IR 2802	*NRA (25 IR 4128)
				26 IR 729
405 IAC 1-12-22	A	01-420	25 IR 1693	*NRA (25 IR 2541)
				25 IR 3125
405 IAC 1-12-24	A	01-172	24 IR 3179	*NRA (25 IR 401)
				25 IR 381
	A	02-16	25 IR 2802	*NRA (25 IR 4128)
				26 IR 730
405 IAC 1-12-26	A	02-16	25 IR 2803	*NRA (25 IR 4128)
				26 IR 730
405 IAC 1-14.5-13	A	02-144	25 IR 3826	*NRA (26 IR 415)
405 IAC 1-14.5-14	A	02-144	25 IR 3827	*NRA (26 IR 415)
405 IAC 1-14.5-15	A	02-144	25 IR 3827	*NRA (26 IR 415)
405 IAC 1-14.6-2	A	00-277	24 IR 3169	*ARR (24 IR 3992)
			24 IR 4126	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2462
	A	02-13	25 IR 2779	*NRA (26 IR 61)
				26 IR 707
405 IAC 1-14.6-3	A	00-277	24 IR 3172	*ARR (24 IR 3992)
			24 IR 4128	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2465
405 IAC 1-14.6-4	A	00-277	24 IR 3172	*ARR (24 IR 3992)
			24 IR 4129	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2465
	A	02-13	25 IR 2782	*NRA (26 IR 61)
				26 IR 709
405 IAC 1-14.6-5	A	00-277	24 IR 3174	*ARR (24 IR 3992)
			24 IR 4131	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2467
405 IAC 1-14.6-6	A	00-277	24 IR 3175	*ARR (24 IR 3992)
			24 IR 4131	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2468
	A	02-13	25 IR 2784	*NRA (26 IR 61)
				26 IR 712
405 IAC 1-14.6-7	A	00-277	24 IR 3175	*ARR (24 IR 3992)
			24 IR 4132	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2468
	A	02-13	25 IR 2785	*NRA (26 IR 61)
				26 IR 712
405 IAC 1-14.6-9	A	00-277	24 IR 3176	*ARR (24 IR 3992)
			24 IR 4133	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2470
	A	02-13	25 IR 2786	*NRA (26 IR 61)
				26 IR 714
405 IAC 1-14.6-12	A	02-13	25 IR 2787	*NRA (26 IR 61)
				26 IR 715
405 IAC 1-14.6-16	A	02-13	25 IR 2788	*NRA (26 IR 61)
				26 IR 716
405 IAC 1-14.6-20	A	00-277	24 IR 3177	*ARR (24 IR 3992)
			24 IR 4134	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2470
405 IAC 1-14.6-22	A	02-13	25 IR 2788	*NRA (26 IR 61)
				26 IR 716
405 IAC 1-15-1	A	00-277	24 IR 4134	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2471
405 IAC 1-15-5	A	00-277	24 IR 3178	*ARR (24 IR 3992)
			24 IR 4135	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2471
405 IAC 1-15-6	A	00-277	24 IR 3178	*ARR (24 IR 3992)
			24 IR 4135	*AROC (25 IR 533)
				*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2471
405 IAC 1-16-2	A	02-214	26 IR 158	
405 IAC 1-16-4	A	02-214	26 IR 159	
405 IAC 1-18	N	01-304	25 IR 138	*NRA (25 IR 1666)
				25 IR 2476
405 IAC 1-18-2	A	02-121	25 IR 3243	*NRA (26 IR 61)
405 IAC 1-18-3	R	02-121	25 IR 3243	*NRA (26 IR 61)
405 IAC 1-19	N	02-184	26 IR 511	
405 IAC 1-20	N	02-184	26 IR 512	
405 IAC 2-3-1	R	01-206	24 IR 4139	*NRA (25 IR 1666)
				25 IR 2475
405 IAC 2-3-1.1	A	01-206	24 IR 4137	*NRA (25 IR 1666)
				25 IR 2472
405 IAC 2-3-1.2	N	01-175	24 IR 4136	*NRA (25 IR 1666)
				*ARR (25 IR 2256)
				*NRA (25 IR 2541)
				25 IR 2726
				*ERR (26 IR 35)
405 IAC 2-3-3	A	01-393	25 IR 1683	*NRA (25 IR 2541)
				*AROC (25 IR 3463)
				25 IR 3114
				*ERR (25 IR 3769)
405 IAC 2-3-17	A	02-234	26 IR 516	
405 IAC 2-3-21	A	02-234	26 IR 517	
405 IAC 2-3-23	N	02-45	25 IR 2555	*NRA (25 IR 3804)
				26 IR 731
405 IAC 2-8-1	A	02-87	25 IR 2804	*NRA (26 IR 61)
				26 IR 731
405 IAC 2-8-1.1	N	02-87	25 IR 2805	*NRA (26 IR 61)
				26 IR 732

405 IAC 2-9	N	01-393	25 IR 1684	*NRA (25 IR 2541)
				*AROC (25 IR 3463)
				25 IR 3115
				*ERR (25 IR 3769)
				*ERR (26 IR 35)
405 IAC 2-10	N	02-145	25 IR 3829	*NRA (26 IR 415)
405 IAC 4-1	RA	02-275	26 IR 544	
405 IAC 4-1-1				*ERR (26 IR 383)
405 IAC 5-2-17	A	01-58	24 IR 2518	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 378
405 IAC 5-3-4	A	01-58	24 IR 2519	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 378
405 IAC 5-3-10	A	01-22	24 IR 2180	*NRA (24 IR 4011)
				*NRA (25 IR 830)
				25 IR 1613
405 IAC 5-3-11	A	01-58	24 IR 2519	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 378
405 IAC 5-3-12	A	01-59	24 IR 2524	*NRA (24 IR 3657)
				25 IR 60
405 IAC 5-3-13	A	01-22	24 IR 2180	*NRA (24 IR 4011)
				*NRA (25 IR 830)
				25 IR 1613
405 IAC 5-7-1	A	01-58	24 IR 2519	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 378
405 IAC 5-8-3	A	01-58	24 IR 2519	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 379
405 IAC 5-12-1	A	02-49	25 IR 2555	*AROC (26 IR 884)
405 IAC 5-12-2	R	02-49	25 IR 2556	*AROC (26 IR 884)
405 IAC 5-12-3	A	02-49	25 IR 2556	*AROC (26 IR 884)
405 IAC 5-12-4	R	02-49	25 IR 2556	*AROC (26 IR 884)
405 IAC 5-12-5	R	02-49	25 IR 2556	*AROC (26 IR 884)
405 IAC 5-12-6	R	02-49	25 IR 2556	*AROC (26 IR 884)
405 IAC 5-12-7	R	02-49	25 IR 2556	*AROC (26 IR 884)
405 IAC 5-14-1	A	02-50	25 IR 2556	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 415)
405 IAC 5-14-2	A	02-140	25 IR 3823	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
	A	02-277	26 IR 864	
405 IAC 5-14-2.5	N	02-140	25 IR 3823	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
405 IAC 5-14-3	A	02-140	25 IR 3824	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
	A	02-277	26 IR 865	
405 IAC 5-14-4	A	02-140	25 IR 3824	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
405 IAC 5-14-6	A	02-140	25 IR 3824	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
	A	02-277	26 IR 865	
405 IAC 5-14-10	R	02-277	26 IR 866	
405 IAC 5-14-11	A	02-277	26 IR 865	
405 IAC 5-14-15	A	02-277	26 IR 865	
405 IAC 5-14-16	A	02-277	26 IR 866	
405 IAC 5-14-17	A	02-277	26 IR 866	
405 IAC 5-14-18	A	02-277	26 IR 866	
405 IAC 5-19-1	A	01-301	25 IR 3811	*NRA (26 IR 809)
405 IAC 5-19-3	A	02-207	26 IR 514	
405 IAC 5-19-7	A	01-58	24 IR 2521	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 379
405 IAC 5-19-10	A	01-58	24 IR 2521	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 379
405 IAC 5-20-8	A	01-59	24 IR 2524	*NRA (24 IR 3657)
				25 IR 61
				*ERR (25 IR 1184)
405 IAC 5-23-4	A	01-58	24 IR 2521	*ARR (24 IR 3992)
405 IAC 5-23-5	A	01-58	24 IR 2522	*ARR (24 IR 3992)
405 IAC 5-24-4	A	01-22	24 IR 2180	*NRA (24 IR 4011)
				25 IR 60
				*NRA (25 IR 830)
	A	01-303	25 IR 847	*NRA (25 IR 2276)
				*ARR (25 IR 2523)
	A	01-372	25 IR 1242	*NRA (25 IR 2276)
				*ARR (25 IR 2523)
				*NRA (25 IR 2541)
				25 IR 2727
				*ERR (26 IR 35)
405 IAC 5-24-6	A	01-22	24 IR 2181	*NRA (24 IR 4011)
				25 IR 60
				*NRA (25 IR 830)
	A	01-372	25 IR 1242	*NRA (25 IR 2276)
				*ARR (25 IR 2523)
				*NRA (25 IR 2541)
				25 IR 2727
405 IAC 5-24-7	A	02-141	25 IR 3825	*NRA (26 IR 62)
				26 IR 732
405 IAC 5-24-8.5	N	01-22	24 IR 2181	*NRA (24 IR 4011)
				*NRA (25 IR 830)
				25 IR 1613
405 IAC 5-24-8.6	N	01-22		††**25 IR 1614**
				*ERR (25 IR 2255)
405 IAC 5-24-11	N	01-22		††**25 IR 1614**
405 IAC 5-24-12	N	01-22		††**25 IR 1614**
405 IAC 5-24-13	N	02-207	26 IR 515	
405 IAC 5-29-1	A	01-58	24 IR 2522	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 380
405 IAC 5-31-4	A	02-207	26 IR 515	
405 IAC 5-31-8	A	01-214	24 IR 3756	*NRA (25 IR 401)
				*ARR (25 IR 814)
				*NRA (25 IR 1666)
				25 IR 2475
405 IAC 5-34-1	A	02-214	26 IR 159	
405 IAC 5-34-2	A	02-214	26 IR 159	
405 IAC 5-34-3	A	02-214	26 IR 160	
405 IAC 5-34-4	A	02-214	26 IR 160	
405 IAC 5-34-4.1	N	02-214	26 IR 162	
405 IAC 5-34-4.2	N	02-214	26 IR 162	
405 IAC 5-34-5	A	02-214	26 IR 162	
405 IAC 5-34-6	A	02-214	26 IR 162	
405 IAC 5-34-7	A	02-214	26 IR 163	
405 IAC 5-34-12	A	01-302	25 IR 138	*NRA (25 IR 1666)
				25 IR 2476
405 IAC 5-37-3	A	01-58	24 IR 2523	*ARR (24 IR 3992)
				*NRA (24 IR 4011)
				*NRA (25 IR 401)
				25 IR 380
405 IAC 6-2-3	A	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 697

405 IAC 6-2-5	A	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 697**
405 IAC 6-2-5.3	N	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 697**
405 IAC 6-2-5.5	N	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 697**
405 IAC 6-2-9	A	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 698**
405 IAC 6-2-12	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 698**
405 IAC 6-2-12.5	N	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 698**
405 IAC 6-2-14	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 698**
405 IAC 6-2-16.5	N	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 698**
405 IAC 6-2-18	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 698**
405 IAC 6-2-20	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 698**
405 IAC 6-2-20.5	N	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 699**
405 IAC 6-2-21	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 699**
405 IAC 6-2-22.5	N	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 699**
405 IAC 6-3-2	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 699**
405 IAC 6-3-3	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 699**
405 IAC 6-4-2	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 699**
405 IAC 6-5-1	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 700**
405 IAC 6-5-2	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 700**
405 IAC 6-5-3	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 700**
405 IAC 6-5-4	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 701**
405 IAC 6-5-5	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 701**
405 IAC 6-5-6	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 701**
405 IAC 6-6-2	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 701**
405 IAC 6-6-3	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 701**
405 IAC 6-6-4	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 702**
405 IAC 6-8	N	01-373	25 IR 3818	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 702**
405 IAC 6-9	N	01-373	25 IR 3818	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 702**
405 IAC 7	N	02-234	26 IR 518	

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407 IAC 2-2-5	A	02-85	25 IR 2805	**25 IR 4103**
407 IAC 2-3-1	A	02-85	25 IR 2806	**25 IR 4103** *ERR (26 IR 383)
407 IAC 2-3-2	A	02-85	25 IR 2806	**25 IR 4103**

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410 IAC 1-2.3				*ERR (25 IR 106)
410 IAC 5-10.1	RA	01-240	25 IR 187	**25 IR 1270**
410 IAC 6-2	R	02-142	25 IR 4197	*CPH (26 IR 812)
410 IAC 6-2.1	N	02-142	25 IR 4188	*CPH (26 IR 812)
410 IAC 6-7	R	01-243	25 IR 2015	**25 IR 3757** *AROC (25 IR 3884)
410 IAC 6-7.1	N	01-243	25 IR 2002	**25 IR 3743** *ERR (25 IR 3769) *AROC (25 IR 3884) *ERR (26 IR 36)
410 IAC 6-7.2	N	01-243	25 IR 2007	**25 IR 3749** *ERR (25 IR 3769) *AROC (25 IR 3884) *ERR (26 IR 36)
410 IAC 7-21	N	01-7	24 IR 2809	**25 IR 1615** *ERR (25 IR 1644) *AROC (25 IR 1734)
410 IAC 15-1.5-4	A	02-43	26 IR 164	
410 IAC 15-1.5-5	A	02-43	26 IR 166	
410 IAC 15-1.5-8	A	01-169	25 IR 154	**25 IR 1135**
410 IAC 15-1.7-1	A	01-169	25 IR 156	**25 IR 1137**
410 IAC 15-2.5-7	A	01-168	25 IR 152	**25 IR 1133**
410 IAC 15-2.7-1	A	01-168	25 IR 153	**25 IR 1134**
410 IAC 16.2-1-0.5	R	02-89	25 IR 3276	
410 IAC 16.2-1-1	R	02-89	25 IR 3276	
410 IAC 16.2-1-2	R	02-89	25 IR 3276	
410 IAC 16.2-1-2.1	R	02-89	25 IR 3276	
410 IAC 16.2-1-2.2	R	02-89	25 IR 3276	
410 IAC 16.2-1-3	R	02-89	25 IR 3276	
410 IAC 16.2-1-3.5	R	02-89	25 IR 3276	
410 IAC 16.2-1-5	R	02-89	25 IR 3276	
410 IAC 16.2-1-6	R	02-89	25 IR 3276	
410 IAC 16.2-1-6.5	R	02-89	25 IR 3276	
410 IAC 16.2-1-7	R	02-89	25 IR 3276	
410 IAC 16.2-1-8	R	02-89	25 IR 3276	
410 IAC 16.2-1-9	R	02-89	25 IR 3276	
410 IAC 16.2-1-10.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-10.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-11	R	02-89	25 IR 3277	
410 IAC 16.2-1-12.5	R	02-89	25 IR 3277	
410 IAC 16.2-1-14	R	02-89	25 IR 3277	
410 IAC 16.2-1-14.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-14.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-15	R	02-89	25 IR 3277	
410 IAC 16.2-1-15.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-15.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-15.3	R	02-89	25 IR 3277	

410 IAC 16.2-1-16	R	02-89	25 IR 3277	
410 IAC 16.2-1-17	R	02-89	25 IR 3277	
410 IAC 16.2-1-18	R	02-89	25 IR 3277	
410 IAC 16.2-1-18.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-18.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-19	R	02-89	25 IR 3277	
410 IAC 16.2-1-19.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-20	R	02-89	25 IR 3277	
410 IAC 16.2-1-21	R	02-89	25 IR 3277	
410 IAC 16.2-1-22	R	02-89	25 IR 3277	
410 IAC 16.2-1-22.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-22.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-23	R	02-89	25 IR 3277	
410 IAC 16.2-1-24	R	02-89	25 IR 3277	
410 IAC 16.2-1-25	R	02-89	25 IR 3277	
410 IAC 16.2-1-26	R	02-89	25 IR 3277	
410 IAC 16.2-1-26.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-27	R	02-89	25 IR 3277	
410 IAC 16.2-1-27.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-28	R	02-89	25 IR 3277	
410 IAC 16.2-1-29	R	02-89	25 IR 3277	
410 IAC 16.2-1-29.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-30	R	02-89	25 IR 3277	
410 IAC 16.2-1-31	R	02-89	25 IR 3277	
410 IAC 16.2-1-31.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-32	R	02-89	25 IR 3277	
410 IAC 16.2-1-32.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-32.2	R	02-89	25 IR 3277	
410 IAC 16.2-1-33	R	02-89	25 IR 3277	
410 IAC 16.2-1-34	R	02-89	25 IR 3277	
410 IAC 16.2-1-35	R	02-89	25 IR 3277	
410 IAC 16.2-1-36	R	02-89	25 IR 3277	
410 IAC 16.2-1-37	R	02-89	25 IR 3277	
410 IAC 16.2-1-38	R	02-89	25 IR 3277	
410 IAC 16.2-1-39	R	02-89	25 IR 3277	
410 IAC 16.2-1-39.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-41.1	R	02-89	25 IR 3277	
410 IAC 16.2-1-42	R	02-89	25 IR 3277	
410 IAC 16.2-1-44	R	02-89	25 IR 3277	
410 IAC 16.2-1-45	R	02-89	25 IR 3277	
410 IAC 16.2-1-46	R	02-89	25 IR 3277	
410 IAC 16.2-1-47	R	02-89	25 IR 3277	
410 IAC 16.2-1-48	R	02-89	25 IR 3277	
410 IAC 16.2-1.1	N	02-89	25 IR 3244	
410 IAC 16.2-3.1-21				*ERR (25 IR 2522)
410 IAC 16.2-5-0.5	N	02-89	25 IR 3252	
410 IAC 16.2-5-1.1	A	02-89	25 IR 3252	
410 IAC 16.2-5-1.2	A	02-89	25 IR 3254	
410 IAC 16.2-5-1.3	A	02-89	25 IR 3259	
410 IAC 16.2-5-1.4	A	02-89	25 IR 3261	
410 IAC 16.2-5-1.5	A	02-89	25 IR 3263	
410 IAC 16.2-5-1.6	A	02-89	25 IR 3265	
410 IAC 16.2-5-1.7	R	02-89	25 IR 3277	
410 IAC 16.2-5-2	A	02-89	25 IR 3269	
410 IAC 16.2-5-3	R	02-89	25 IR 3277	
410 IAC 16.2-5-4	A	02-89	25 IR 3270	
410 IAC 16.2-5-5	R	02-89	25 IR 3277	
410 IAC 16.2-5-5.1	N	02-89	25 IR 3271	
410 IAC 16.2-5-6	A	02-89	25 IR 3272	
410 IAC 16.2-5-7	R	02-89	25 IR 3277	
410 IAC 16.2-5-7.1	N	02-89	25 IR 3274	
410 IAC 16.2-5-8	R	02-89	25 IR 3277	
410 IAC 16.2-5-8.1	N	02-89	25 IR 3274	
410 IAC 16.2-5-9	R	02-89	25 IR 3277	
410 IAC 16.2-5-10	R	02-89	25 IR 3277	
410 IAC 16.2-5-11	R	02-89	25 IR 3277	
410 IAC 16.2-5-11.1	N	02-89	25 IR 3275	
410 IAC 16.2-5-12	N	02-89	25 IR 3276	
410 IAC 17-1.1	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-2	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-3	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-4	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-5	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-6	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-7	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-8	R	01-159	25 IR 151	**25 IR 2490**
410 IAC 17-9	N	01-159	25 IR 140	**25 IR 2477**
				*ERR (25 IR 2522)
410 IAC 17-10	N	01-159	25 IR 143	**25 IR 2481**
410 IAC 17-11	N	01-159	25 IR 144	**25 IR 2482**
410 IAC 17-12	N	01-159	25 IR 145	**25 IR 2483**
410 IAC 17-13	N	01-159	25 IR 148	**25 IR 2486**
410 IAC 17-14	N	01-159	25 IR 149	**25 IR 2487**
				*ERR (25 IR 2522)
410 IAC 17-15	N	01-159	25 IR 151	**25 IR 2489**
410 IAC 17-16	N	01-159	25 IR 151	**25 IR 2489**
410 IAC 21-3	N	01-280	25 IR 2016	**25 IR 3757**
410 IAC 23-1	R	01-339	25 IR 2020	**25 IR 3761**
410 IAC 23-2	N	01-339	25 IR 2018	**25 IR 3759**

TITLE 412 INDIANA HEALTH FACILITIES COUNCIL

412 IAC 2	N	01-281	25 IR 1244	**25 IR 2728**
				*ERR (26 IR 36)
412 IAC 2-1-1	A	02-41	25 IR 4198	
412 IAC 2-1-2.1	N	02-41	25 IR 4198	
412 IAC 2-1-2.2	N	02-41	25 IR 4198	
412 IAC 2-1-6	A	02-41	25 IR 4199	
412 IAC 2-1-8	A	02-41	25 IR 4199	
412 IAC 2-1-10	N	02-41	25 IR 4199	
412 IAC 2-1-11	N	02-41	25 IR 4200	
412 IAC 2-1-12	N	02-41	25 IR 4200	
412 IAC 2-1-13	N	02-41	25 IR 4200	
412 IAC 2-1-14	N	02-41	25 IR 4200	

TITLE 431 COMMUNITY RESIDENTIAL FACILITIES COUNCIL

431 IAC 1.1	RA	00-298	24 IR 1948	**25 IR 528**
431 IAC 1.1-1-2	A	01-422	25 IR 1694	**25 IR 3126**
				*ERR (26 IR 36)
431 IAC 2.1	RA	00-298	24 IR 1948	**25 IR 528**
	R	01-299	25 IR 866	*NRA (25 IR 2745)
				25 IR 3145
431 IAC 3.1	RA	00-298	24 IR 1948	**25 IR 528**
431 IAC 4	RA	00-298	24 IR 1948	**25 IR 528**
431 IAC 5	RA	00-298	24 IR 1948	**25 IR 528**
	R	01-299	25 IR 866	*NRA (25 IR 2745)
				25 IR 3145
431 IAC 6	RA	00-298	24 IR 1948	**25 IR 528**
	R	01-299	25 IR 866	*NRA (25 IR 2745)
				25 IR 3145

TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

440 IAC 1-1.5	R	02-42	25 IR 3289	*NRA (26 IR 62)
				26 IR 745
440 IAC 1.5	N	02-42	25 IR 3277	*NRA (26 IR 62)
				26 IR 733
440 IAC 4-3-1	A	02-218	26 IR 519	
440 IAC 4.1-2-1	A	02-218	26 IR 519	
440 IAC 4.1-2-4	A	02-218	26 IR 520	
440 IAC 4.1-2-5	A	02-218	26 IR 521	
440 IAC 4.1-2-9	A	02-218	26 IR 521	
440 IAC 4.1-3	N	02-218	26 IR 522	
440 IAC 4.4-1-1	A	01-263	25 IR 157	**25 IR 2220**
440 IAC 4.4-2-1	A	01-263	25 IR 158	**25 IR 2221**
440 IAC 4.4-2-2	A	01-263	25 IR 158	**25 IR 2221**
440 IAC 4.4-2-3	A	01-263	25 IR 159	**25 IR 2222**
440 IAC 4.4-2-3.5	N	01-263	25 IR 159	**25 IR 2222**
440 IAC 4.4-2-4	A	01-263	25 IR 160	**25 IR 2223**
440 IAC 4.4-2-4.5	N	01-263	25 IR 160	**25 IR 2223**

440 IAC 4.4-2-5	A	01-263	25 IR 161	**25 IR 2224**
440 IAC 4.4-2-6	A	01-263	25 IR 162	**25 IR 2225**
440 IAC 4.4-2-7	A	01-263	25 IR 162	**25 IR 2225**
440 IAC 4.4-2-8	A	01-263	25 IR 162	**25 IR 2225**
440 IAC 4.4-2-9	A	01-263	25 IR 163	**25 IR 2226**
440 IAC 4.4-2-11	N	01-263	25 IR 163	**25 IR 2226**
440 IAC 5-1-1	A	02-105	25 IR 3289	*NRA (26 IR 62) **26 IR 745**
440 IAC 5-1-2	A	02-105	25 IR 3290	*NRA (26 IR 62) **26 IR 746**
440 IAC 5-1-3.5	N	02-105	25 IR 3290	*NRA (26 IR 62) **26 IR 747**
440 IAC 6-1-1	A	01-356	25 IR 867	*NRA (25 IR 2745) **25 IR 3145**
440 IAC 6-2-1	A	01-356	25 IR 867	*NRA (25 IR 2745) **25 IR 3146**
440 IAC 6-2-2	A	01-356	25 IR 868	*NRA (25 IR 2745) **25 IR 3146**
440 IAC 6-2-3	A	01-356	25 IR 868	*NRA (25 IR 2745) **25 IR 3147**
440 IAC 6-2-4	A	01-356	25 IR 869	*NRA (25 IR 2745) **25 IR 3147**
440 IAC 6-2-5	A	01-356	25 IR 869	*NRA (25 IR 2745) **25 IR 3148**
440 IAC 6-2-6	A	01-356	25 IR 869	*NRA (25 IR 2745) **25 IR 3148**
440 IAC 6-2-7	A	01-356	25 IR 870	*NRA (25 IR 2745) **25 IR 3148**
440 IAC 6-2-8	A	01-356	25 IR 870	*NRA (25 IR 2745) **25 IR 3149**
440 IAC 6-2-9	A	01-356	25 IR 870	*NRA (25 IR 2745) **25 IR 3149**
440 IAC 7	R	01-299	25 IR 866	*NRA (25 IR 2745) **25 IR 3145**
440 IAC 7-2-16	R	01-357	25 IR 2024	*NRA (25 IR 3207) **25 IR 3765**
440 IAC 7-2-17	R	01-357	25 IR 2024	*NRA (25 IR 3207) **25 IR 3765**
440 IAC 7-2-18	R	01-357	25 IR 2024	*NRA (25 IR 3207) **25 IR 3765**
440 IAC 7.5	N	01-299	25 IR 849	*NRA (25 IR 2745) **25 IR 3127**
440 IAC 9-2-4	N	01-53	24 IR 3757	*NRA (25 IR 401) **25 IR 1138**
440 IAC 9-2-5	N	01-53	24 IR 3757	*NRA (25 IR 401) **25 IR 1138**
440 IAC 9-2-6	N	01-53	24 IR 3758	*NRA (25 IR 401) **25 IR 1138**
440 IAC 9-2-7	N	01-357	25 IR 2020	*NRA (25 IR 3207) **25 IR 3762**
440 IAC 9-2-8	N	01-357	25 IR 2022	*NRA (25 IR 3207) **25 IR 3763**
440 IAC 9-2-9	N	01-357	25 IR 2023	*NRA (25 IR 3207) **25 IR 3764**
440 IAC 9-2-10	N	02-106	25 IR 4201	
440 IAC 9-2-11	N	02-106	25 IR 4202	
440 IAC 9-2-12	N	02-106	25 IR 4203	
440 IAC 9-2-13	N	02-265	26 IR 867	

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

460 IAC 1-1-1	RA	00-299	24 IR 1949	**25 IR 1270**
460 IAC 1-1-2	RA	00-299	24 IR 1949	**25 IR 1270**
460 IAC 1-1-3	RA	00-299	24 IR 1949	**25 IR 1271**
460 IAC 1-1-4	RA	00-299	24 IR 1949	**25 IR 1271**
460 IAC 1-1-5	RA	00-299	24 IR 1949	**25 IR 1272**
460 IAC 1-1-6	RA	00-299	24 IR 1949	**25 IR 1273**
460 IAC 1-1-7	RA	00-299	24 IR 1949	**25 IR 1273**
460 IAC 1-1-8	RA	00-299	24 IR 1949	**25 IR 1274**
460 IAC 1-1-9	RA	00-299	24 IR 1949	**25 IR 1274**
460 IAC 1-1-10	RA	00-299	24 IR 1949	**25 IR 1274**
460 IAC 1-1-11	RA	00-299	24 IR 1949	**25 IR 1275**
460 IAC 1-1-12	RA	00-299	24 IR 1949	**25 IR 1276**
460 IAC 1-1-13	RA	00-299	24 IR 1949	**25 IR 1276**
460 IAC 1-1-14	RA	00-299	24 IR 1949	**25 IR 1276**
460 IAC 1-1-15	RA	00-299	24 IR 1949	**25 IR 1277**
460 IAC 1-1-16	RA	00-299	24 IR 1949	**25 IR 1277**
460 IAC 1-2-1	RA	00-300	24 IR 1956	**25 IR 1278**
460 IAC 1-2-2	RA	00-300	24 IR 1956	**25 IR 1278**
460 IAC 1-2-3	RA	00-300	24 IR 1956	**25 IR 1278**
460 IAC 1-2-4	RA	00-300	24 IR 1956	**25 IR 1279**
460 IAC 1-2-5	RA	00-300	24 IR 1956	**25 IR 1279**
460 IAC 1-2-6	RA	00-300	24 IR 1956	**25 IR 1280**
460 IAC 1-2-7	RA	00-300	24 IR 1956	**25 IR 1280**
460 IAC 1-2-8	RA	00-300	24 IR 1956	**25 IR 1280**
460 IAC 1-2-9	RA	00-300	24 IR 1956	**25 IR 1281**
460 IAC 1-2-10	RA	00-300	24 IR 1956	**25 IR 1281**
460 IAC 1-2-11	RA	00-300	24 IR 1956	**25 IR 1281**
460 IAC 1-2-12	RA	00-300	24 IR 1956	**25 IR 1282**
460 IAC 1-3-3	RA	02-262	26 IR 544	
460 IAC 1-3-6	RA	02-262	26 IR 544	
460 IAC 1-3-7	RA	02-262	26 IR 544	
460 IAC 1-3-12	RA	02-262	26 IR 544	
460 IAC 1-3.6	N	00-286	24 IR 3759	**25 IR 1140**
460 IAC 1-4	RA	00-301	24 IR 1961	**25 IR 528**
460 IAC 1-5	RA	00-301	24 IR 1961	**25 IR 528**
460 IAC 1-6	RA	00-301	24 IR 1961	**25 IR 528**
460 IAC 1-8	N	01-337	25 IR 2557	**26 IR 350**
460 IAC 2-1	R	00-215	24 IR 2545	*NRA (24 IR 4011) **25 IR 82**
460 IAC 2-3-1	A	02-9	25 IR 2286	**26 IR 747**
460 IAC 2-3-2	A	02-9	25 IR 2286	**26 IR 747**
460 IAC 2-3-3	A	02-9	25 IR 2287	**26 IR 748**
460 IAC 2-4	N	00-215	24 IR 2526	*NRA (24 IR 4011) **25 IR 62** *ERR (25 IR 1645)
460 IAC 2-5	N	01-334	25 IR 871	*NRA (25 IR 1925) **25 IR 3765**
460 IAC 3.5-2-1	A	01-204	25 IR 163	*NRA (25 IR 1666) **25 IR 2226**
460 IAC 5-1-13	A	02-151	26 IR 524	
460 IAC 6	N	02-46	25 IR 3832	**26 IR 749** *AROC (26 IR 883)
460 IAC 7	N	02-210	26 IR 525	

TITLE 470 DIVISION OF FAMILY AND CHILDREN

470 IAC 2-5-1	RA	01-60	24 IR 2571	*NRA (25 IR 401) **25 IR 1281**
470 IAC 2-5-2	RA	01-60	24 IR 2572	*NRA (25 IR 401) **25 IR 1284**
470 IAC 2-5-3	RA	01-60	24 IR 2572	*NRA (25 IR 401) **25 IR 1284**
470 IAC 2-5-4	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-5	RA	01-60	24 IR 2572	*NRA (25 IR 401) **25 IR 1284**
470 IAC 2-5-6	RA	01-60	24 IR 2573	*NRA (25 IR 401) **25 IR 1285**
470 IAC 2-5-7	RA	01-60	24 IR 2573	*NRA (25 IR 401) **25 IR 1285**
470 IAC 2-5-8	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-9	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**
470 IAC 2-5-10	RA	01-60	24 IR 2574	*NRA (25 IR 401) **25 IR 1286**
470 IAC 2-5-11	R	01-60	24 IR 2576	*NRA (25 IR 401) **25 IR 1288**

470 IAC 2-5-12	RA	01-60	24 IR 2574	*NRA (25 IR 401)
				25 IR 1286
470 IAC 2-5-13	RA	01-60	24 IR 2574	*NRA (25 IR 401)
				25 IR 1286
470 IAC 2-5-14	RA	01-60	24 IR 2575	*NRA (25 IR 401)
				25 IR 1287
470 IAC 2-5-15	RA	01-60	24 IR 2575	*NRA (25 IR 401)
				25 IR 1287
470 IAC 2-5-16	R	01-60	24 IR 2576	*NRA (25 IR 401)
				25 IR 1288
470 IAC 2-5-17	R	01-60	24 IR 2576	*NRA (25 IR 401)
				25 IR 1288
470 IAC 2-5-18	R	01-60	24 IR 2576	*NRA (25 IR 401)
				25 IR 1288
470 IAC 2-5-19	R	01-60	24 IR 2576	*NRA (25 IR 401)
				25 IR 1288
470 IAC 2-5-20	RA	01-60	24 IR 2576	*NRA (25 IR 401)
				25 IR 1288
470 IAC 2-5-21	R	01-60	24 IR 2576	*NRA (25 IR 401)
				25 IR 1288
470 IAC 2-5-22	RA	01-60	24 IR 2576	*NRA (25 IR 401)
				25 IR 1288
470 IAC 3-4.1	R	01-205	24 IR 4181	*AWR (25 IR 2524)
470 IAC 3-4.2	R	01-205	24 IR 4181	*AWR (25 IR 2524)
470 IAC 3-4.7	N	01-205	24 IR 4140	*AWR (25 IR 2524)
470 IAC 3-10-1	RA	01-61	24 IR 2577	*NRA (24 IR 3097)
				25 IR 202
470 IAC 3-10-2	RA	01-61	24 IR 2577	*NRA (24 IR 3097)
				25 IR 202
470 IAC 3-10-3	RA	01-61	24 IR 2577	*NRA (24 IR 3097)
				25 IR 202
470 IAC 3-10-5	RA	01-61	24 IR 2577	*NRA (24 IR 3097)
				25 IR 202
470 IAC 3-10-6	RA	01-61	24 IR 2577	*NRA (24 IR 3097)
				25 IR 202
470 IAC 3-10-7	RA	01-61	24 IR 2577	*NRA (24 IR 3097)
				25 IR 202
470 IAC 3-10-8	RA	01-61	24 IR 2577	*NRA (24 IR 3097)
				25 IR 202
470 IAC 3.1-12-2	A	02-74	26 IR 167	
470 IAC 3.1-12-7	N	02-74	26 IR 168	
470 IAC 8.1-2-12	A	02-152	26 IR 530	
470 IAC 10.1-1-2	A	01-173	24 IR 3760	
470 IAC 10.2	N	01-174	24 IR 3762	
470 IAC 11.1-1-5	A	02-203	26 IR 169	

TITLE 480 VIOLENT CRIME COMPENSATION DIVISION

480 IAC 1-1-1	A	01-194	25 IR 164	*CPH (25 IR 831)
480 IAC 1-1-2	A	01-194	25 IR 164	*CPH (25 IR 831)
480 IAC 1-1-3	A	01-194	25 IR 165	*CPH (25 IR 831)
480 IAC 1-1-4.1	A	01-194	25 IR 165	*CPH (25 IR 831)
480 IAC 1-1-5	A	01-194	25 IR 165	*CPH (25 IR 831)
480 IAC 1-1-6	A	01-194	25 IR 166	*CPH (25 IR 831)
480 IAC 1-1-7	A	01-194	25 IR 167	*CPH (25 IR 831)
480 IAC 1-1-8	A	01-194	25 IR 167	*CPH (25 IR 831)
480 IAC 1-1-9	A	01-194	25 IR 167	*CPH (25 IR 831)
480 IAC 1-1-10	A	01-194	25 IR 169	*CPH (25 IR 831)
480 IAC 1-2-1	A	01-194	25 IR 169	*CPH (25 IR 831)
480 IAC 1-2-2	A	01-194	25 IR 169	*CPH (25 IR 831)
480 IAC 1-2-3	A	01-194	25 IR 170	*CPH (25 IR 831)

TITLE 511 INDIANA STATE BOARD OF EDUCATION

511 IAC 1-1	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-2.5	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-3	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-6-1	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-6-5	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-7	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 1-8	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 2-5	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 3	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-1	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-5	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-6	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 4-4-7	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 5-1-2	A	02-67	25 IR 2807	**26 IR 786**
511 IAC 5-1-3.5	A	02-67	25 IR 2807	**26 IR 787**
511 IAC 5-1-5	A	02-67	25 IR 2807	**26 IR 787**
511 IAC 5-1-6	A	02-67	25 IR 2807	**26 IR 787**
511 IAC 5-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 5-2-1	A	01-203	24 IR 3768	**25 IR 1147**
511 IAC 5-2-3	A	01-203	24 IR 3769	**25 IR 1148**
	A	02-170	25 IR 4204	
511 IAC 5-2-4	A	01-162	24 IR 3764	**25 IR 1147**
	A	02-170	25 IR 4205	
511 IAC 6-2	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6-2-1	R	01-212	24 IR 3777	**25 IR 2239**
511 IAC 6-6	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6-7-6.5	A	02-177	25 IR 4205	
511 IAC 6-7-9	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6-8-4	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6-10	RA	01-164	24 IR 3790	**25 IR 937**
511 IAC 6.1-0.5	N	01-212	24 IR 3769	**25 IR 2231**
511 IAC 6.1-1-1	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3770	**25 IR 2231**
511 IAC 6.1-1-2	A	01-212	24 IR 3770	**25 IR 2231**
511 IAC 6.1-1-3	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3771	**25 IR 2233**
511 IAC 6.1-1-4	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3772	**25 IR 2233**
511 IAC 6.1-1-5	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3772	**25 IR 2233**
511 IAC 6.1-1-6	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3773	**25 IR 2234**
511 IAC 6.1-1-7	A	01-212	24 IR 3773	**25 IR 2235**
511 IAC 6.1-1-8	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3773	**25 IR 2235**
511 IAC 6.1-1-9	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3774	**25 IR 2235**
511 IAC 6.1-1-10	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-1-11	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3774	**25 IR 2235**
511 IAC 6.1-1-11.5	A	01-212	24 IR 3774	**25 IR 2236**
				*ERR (26 IR 36)
511 IAC 6.1-1-12	RA	01-164	24 IR 3790	**25 IR 938**
	R	01-212	24 IR 3777	**25 IR 2239**
511 IAC 6.1-1-13	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3775	**25 IR 2236**
511 IAC 6.1-1-13.5	A	01-212	24 IR 3775	**25 IR 2236**
511 IAC 6.1-1-14	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3775	
511 IAC 6.1-1-15	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3775	**25 IR 2237**
511 IAC 6.1-2-1	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3775	**25 IR 2237**
511 IAC 6.1-2-3	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-2-4	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-2-5	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-2-6	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3776	**25 IR 2237**
511 IAC 6.1-3	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-3-1	A	01-212	24 IR 3776	**25 IR 2237**
511 IAC 6.1-4	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-4-1	A	01-212	24 IR 3777	**25 IR 2238**
511 IAC 6.1-5-0.5	RA	01-164	24 IR 3790	**25 IR 938**

511 IAC 6.1-5-1	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-2.5	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-5	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-6	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-7	RA	01-164	24 IR 3790	**25 IR 938**
	A	01-212	24 IR 3777	**25 IR 2238**
511 IAC 6.1-5-8	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-5-9	N	01-212	24 IR 3777	**25 IR 2238**
511 IAC 6.1-5-10	N	01-212	24 IR 3777	**25 IR 2238**
511 IAC 6.1-5.1-1	A	01-33	24 IR 2182	*CPH (24 IR 2724) **25 IR 1141**
511 IAC 6.1-5.1-5	A	02-177	25 IR 4206	
	A	02-178	25 IR 4207	
511 IAC 6.1-5.1-9	A	01-33	24 IR 2182	*CPH (24 IR 2724) **25 IR 1141**
511 IAC 6.1-5.1-10.1	A	01-33	24 IR 2183	*CPH (24 IR 2724) **25 IR 1143**
511 IAC 6.1-5.1-11	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-6	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-7	R	01-212	24 IR 3777	**25 IR 2239**
511 IAC 6.1-7-2	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-8	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-9	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 6.1-10	RA	01-164	24 IR 3790	
511 IAC 6.2-4	N	00-163	24 IR 1915	**25 IR 82**
511 IAC 6.2-6	N	01-163	24 IR 3765	**25 IR 2227**
511 IAC 7-17-10	A	01-433	25 IR 1696	**25 IR 3149**
511 IAC 7-18-3	A	01-433	25 IR 1696	**25 IR 3150**
511 IAC 7-19-1	A	01-433	25 IR 1697	**25 IR 3150**
511 IAC 7-19-2	A	01-433	25 IR 1698	**25 IR 3152**
511 IAC 7-22-1	A	01-433	25 IR 1699	**25 IR 3153**
511 IAC 7-23-2	A	01-433	25 IR 1700	**25 IR 3154**
511 IAC 7-25-3	A	01-433	25 IR 1701	**25 IR 3155**
511 IAC 7-25-4	A	01-433	25 IR 1702	**25 IR 3156**
511 IAC 7-25-5	A	01-433	25 IR 1704	**25 IR 3158**
511 IAC 7-25-6	A	01-433	25 IR 1705	**25 IR 3158**
511 IAC 7-25-7	A	01-433	25 IR 1706	**25 IR 3159**
511 IAC 7-27-4	A	01-433	25 IR 1706	**25 IR 3160**
511 IAC 7-27-5	A	01-433	25 IR 1707	**25 IR 3161**
511 IAC 7-27-7	A	01-433	25 IR 1707	**25 IR 3161**
511 IAC 7-27-9	A	01-433	25 IR 1708	**25 IR 3162**
511 IAC 7-27-12	A	01-433	25 IR 1709	**25 IR 3163**
511 IAC 7-28-3	A	01-433	25 IR 1711	**25 IR 3164**
511 IAC 7-29-5	A	01-433	25 IR 1712	**25 IR 3165**
511 IAC 7-29-6	A	01-433	25 IR 1712	**25 IR 3166**
511 IAC 7-29-8	A	01-433	25 IR 1713	**25 IR 3167**
511 IAC 7-30-1	A	01-433	25 IR 1714	**25 IR 3168**
511 IAC 7-30-3	A	01-433	25 IR 1715	**25 IR 3169**
511 IAC 7-30-4	A	01-433	25 IR 1717	**25 IR 3171**
511 IAC 7-30-6	A	01-433	25 IR 1719	**25 IR 3173**
511 IAC 9	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 10-6	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 11	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 12	RA	01-164	24 IR 3790	**25 IR 938**
511 IAC 12-2-7	A	01-6	24 IR 1917	**25 IR 84**

TITLE 515 PROFESSIONAL STANDARDS BOARD

515 IAC 1	RA	01-97	24 IR 2892	**25 IR 529**
515 IAC 1-2-19	A	00-254	24 IR 1103	*CPH (25 IR 124) **25 IR 1148**
515 IAC 1-4-1	A	02-75	25 IR 4207	
515 IAC 1-4-2	A	02-75	25 IR 4208	
515 IAC 1-6	N	01-171	25 IR 2288	**25 IR 3174** *ERR (26 IR 36)
515 IAC 2	RA	01-97	24 IR 2892	**25 IR 529**
515 IAC 3	N	02-7	25 IR 2290	**25 IR 3176** *ERR (26 IR 37)
515 IAC 4	N	02-8	25 IR 2292	*ARR (25 IR 3183) *ARR (25 IR 3770)
515 IAC 5	N	02-80	25 IR 2808	

TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY

540 IAC 1-1-3	A	01-428	25 IR 2024	*ARR (25 IR 3183) **25 IR 4104**
540 IAC 1-1-4	A	01-428	25 IR 2024	*ARR (25 IR 3183) **25 IR 4104**
540 IAC 1-1-6	A	01-428	25 IR 2025	*ARR (25 IR 3183) **25 IR 4104**
540 IAC 1-1-7	A	01-428	25 IR 2025	*ARR (25 IR 3183) **25 IR 4104**
540 IAC 1-1-7.5	N	01-428	25 IR 2025	*ARR (25 IR 3183) **25 IR 4105**
540 IAC 1-1-9	A	01-428	25 IR 2025	*ARR (25 IR 3183) **25 IR 4105**
540 IAC 1-1-10.5	N	01-428	25 IR 2025	*ARR (25 IR 3183) **25 IR 4105**
540 IAC 1-1-11.5	A	01-428	25 IR 2025	*ARR (25 IR 3183) **25 IR 4105**
540 IAC 1-1-11.6	N	01-428	25 IR 2025	*ARR (25 IR 3183) **25 IR 4105**
540 IAC 1-1-12	A	01-428	25 IR 2026	*ARR (25 IR 3183) **25 IR 4105**
540 IAC 1-1-13	A	01-428	25 IR 2026	*ARR (25 IR 3183) **25 IR 4105**
540 IAC 1-1-14	A	01-428	25 IR 2026	*ARR (25 IR 3183) **25 IR 4106**
540 IAC 1-1-16	A	01-428	25 IR 2026	*ARR (25 IR 3183) **25 IR 4106**
540 IAC 1-1-16.5	N	01-428	25 IR 2026	*ARR (25 IR 3183) **25 IR 4106**
540 IAC 1-3-2	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-5-1	A	01-428	25 IR 2026	*ARR (25 IR 3183) **25 IR 4106**
540 IAC 1-5-2	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-6-1	A	01-428	25 IR 2027	*ARR (25 IR 3183) **25 IR 4106**
540 IAC 1-6-2	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-7-1	A	01-428	25 IR 2027	*ARR (25 IR 3183) **25 IR 4106**
540 IAC 1-7-2	A	01-428	25 IR 2027	*ARR (25 IR 3183) **25 IR 4107**
540 IAC 1-7-3	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-8-1	A	01-428	25 IR 2027	*ARR (25 IR 3183) **25 IR 4107**
540 IAC 1-8-2	A	01-428	25 IR 2027	*ARR (25 IR 3183) **25 IR 4107**
540 IAC 1-8-3.5	N	01-428	25 IR 2027	*ARR (25 IR 3183) **25 IR 4107**
540 IAC 1-8-4	A	01-428	25 IR 2027	*ARR (25 IR 3183) **25 IR 4107**
540 IAC 1-8-5	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-8-6	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-8-7	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-9-1	A	01-428	25 IR 2028	*ARR (25 IR 3183) **25 IR 4107**
540 IAC 1-9-2	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-9-2.5	N	01-428	25 IR 2028	*ARR (25 IR 3183) **25 IR 4108**
540 IAC 1-9-2.6	N	01-428	25 IR 2028	*ARR (25 IR 3183) **25 IR 4108**
540 IAC 1-9-2.7	N	01-428	25 IR 2028	*ARR (25 IR 3183) **25 IR 4108**

540 IAC 1-9-3	A	01-428	25 IR 2028	*ARR (25 IR 3183) **25 IR 4108**
540 IAC 1-10-1	A	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4108**
540 IAC 1-10-1.5	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-10-1.6	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-10-3	R	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-10-4	N	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**
540 IAC 1-12-2	A	01-428	25 IR 2029	*ARR (25 IR 3183) **25 IR 4109**

TITLE 550 BOARD OF TRUSTEES OF THE INDIANA STATE TEACHERS' RETIREMENT FUND

550 IAC 2-1	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-2	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-3	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-4	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-5	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-6	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-7	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-8	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 2-9	RA	01-287	25 IR 188	**25 IR 1731**
550 IAC 3	RA	01-287	25 IR 188	**25 IR 1731**

TITLE 560 INDIANA EDUCATION EMPLOYMENT RELATIONS BOARD

560 IAC 2	RA	01-119	24 IR 3222	**25 IR 529**

TITLE 570 INDIANA COMMISSION ON PROPRIETARY EDUCATION

570 IAC 1	RA	01-285	25 IR 519	**25 IR 1731**
570 IAC 1-14	N	02-233	26 IR 867	

TITLE 575 STATE SCHOOL BUS COMMITTEE

575 IAC 1-1-1	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-1-2	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-1-4	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-1-4.5	N	01-213	24 IR 3777	**25 IR 1150**
575 IAC 1-1-5	RA	01-165	24 IR 3791	**25 IR 938**
	A	01-213	24 IR 3778	**25 IR 1150**
575 IAC 1-2	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-2.5	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-3	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-4	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-1	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-2	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-5	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-6	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-7	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-8	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-9	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-10	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-5.5-11	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-7	RA	01-165	24 IR 3791	**25 IR 938**
575 IAC 1-8	N	01-140	24 IR 3180	**25 IR 1149**

TITLE 585 STATE STUDENT ASSISTANCE COMMISSION

585 IAC 1-9-1	RA	01-147	24 IR 3792	**25 IR 1289**
585 IAC 1-9-2	RA	01-147	24 IR 3794	**25 IR 1291**
585 IAC 1-9-3	RA	01-147	24 IR 3792	**25 IR 1291**
585 IAC 1-9-4	RA	01-147	24 IR 3794	**25 IR 1292**
585 IAC 1-9-5	RA	01-147	24 IR 3795	**25 IR 1293**
585 IAC 1-9-6	RA	01-147	24 IR 3796	**25 IR 1293**
585 IAC 1-9-7	RA	01-147	24 IR 3797	**25 IR 1294**
585 IAC 1-9-8	RA	01-147	24 IR 3797	**25 IR 1295**
585 IAC 1-9-9	RA	01-147	24 IR 3798	**25 IR 1295**
585 IAC 1-9-10	RA	01-147	24 IR 3798	**25 IR 1295**
585 IAC 1-9-11	RA	01-147	24 IR 3798	**25 IR 1296**
585 IAC 1-9-13	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 1-9-14	RA	01-147	24 IR 3799	**25 IR 1296**
585 IAC 1-9-16	RA	01-147	24 IR 3801	
585 IAC 5-1-1	RA	01-147	24 IR 3801	**25 IR 1298**
585 IAC 5-2-2	RA	01-147	24 IR 3801	**25 IR 1298**
585 IAC 5-2-4	RA	01-147	24 IR 3802	
585 IAC 5-3-1	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-2	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-3	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-4	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-5	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-3-6	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 5-3-7	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-4-1	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 5-4-2	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-1	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-2	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-3	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-4	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-5	RA	01-147	24 IR 3791	**25 IR 529**
585 IAC 5-5-7	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-1	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-2	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 8-1-3	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-4	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 8-1-5	R	01-147	24 IR 3792	**25 IR 1303**
585 IAC 8-1-6	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 8-1-7	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-8	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-9	RA	01-147	24 IR 3802	**25 IR 1299**
585 IAC 8-1-10	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-1-10.1	RA	01-147	24 IR 3803	
585 IAC 8-1-11	RA	01-147	24 IR 3803	**25 IR 1300**
585 IAC 8-1-12	RA	01-147	24 IR 3803	**25 IR 1300**
585 IAC 8-1-13	RA	01-147	24 IR 3803	**25 IR 1300**
585 IAC 8-2-1	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-2	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-3	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-4	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-5	RA	01-147	24 IR 3804	**25 IR 1301**
585 IAC 8-2-6	RA	01-147	24 IR 3792	**25 IR 529**
585 IAC 8-2-7	RA	01-147	24 IR 3805	**25 IR 1302**
585 IAC 8-2-8	RA	01-147	24 IR 3805	**25 IR 1302**

TITLE 590 INDIANA LIBRARY AND HISTORICAL BOARD

590 IAC 1-1-0.5	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-1-0.6	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-1-1	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-1-2.5	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-2	R	01-208	24 IR 4206	**25 IR 1303**
590 IAC 1-2.5-1	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-2.5-2	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 1-2.5-3	RA	01-208	24 IR 4206	**25 IR 1304**
590 IAC 1-3	RA	01-208	24 IR 4205	**25 IR 1303**
590 IAC 4	N	01-108	24 IR 2826	**25 IR 1151**

TITLE 595 LIBRARY CERTIFICATION BOARD

595 IAC 1	R	01-108	24 IR 2831	**25 IR 1156**

TITLE 610 DEPARTMENT OF LABOR

610 IAC 4	RA	01-313	25 IR 188	**25 IR 1305**
610 IAC 4-4	R	01-340	25 IR 891	*ARR (25 IR 3770) **26 IR 370** *AROC (26 IR 547)
610 IAC 4-5-11				*ERR (25 IR 106)
610 IAC 4-6	N	01-340	25 IR 874	*ARR (25 IR 3770) **26 IR 353** *AROC (26 IR 547)

TITLE 615 BOARD OF SAFETY REVIEW

615 IAC 1-2	RA	01-314	25 IR 188	**25 IR 1305**
615 IAC 1-2-7				*ERR (25 IR 106)
615 IAC 1-2-8				*ERR (25 IR 106)
615 IAC 1-2-11				*ERR (25 IR 106)

TITLE 620 OCCUPATIONAL SAFETY STANDARDS COMMISSION

620 IAC 1-3	RA	01-315	25 IR 189	**25 IR 1305**

TITLE 631 WORKER'S COMPENSATION BOARD OF INDIANA

631 IAC 1-1-1	RA	01-182	24 IR 3807	*AWR (25 IR 1186)
631 IAC 1-1-1.1	N	01-424	25 IR 2030	
631 IAC 1-1-2	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-3	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-4	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-5	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-6	RA	01-178	24 IR 3806	**25 IR 1305**
631 IAC 1-1-7	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-8	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-9	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-10	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-11	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-12	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-13	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-14	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-15	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-16	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-17	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-18	RA	01-178	24 IR 3806	**25 IR 1306**
631 IAC 1-1-19	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-20	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-21	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-22	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-23	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-24	RA	01-182	24 IR 3807	*AWR (25 IR 1186)
631 IAC 1-1-24.1	N	01-424	25 IR 2030	
631 IAC 1-1-25	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-26	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-27	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-28	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-29	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-30	RA	01-178	24 IR 3807	**25 IR 1306**
631 IAC 1-1-31	RA	01-178	24 IR 3807	**25 IR 1306**

TITLE 646 DEPARTMENT OF WORKFORCE DEVELOPMENT

646 IAC 1	RA	01-11	24 IR 2579	**25 IR 203**
646 IAC 2	RA	01-11	24 IR 2579	**25 IR 203**
646 IAC 3	RA	01-11	24 IR 2579	**25 IR 203**
646 IAC 4	RA	01-11	24 IR 2579	**25 IR 203**

TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION

655 IAC 1-1	RA	00-302	24 IR 2579	*CPH (24 IR 3098)
				25 IR 203
				*ERR (26 IR 383)
655 IAC 1-1-1.1	A	01-121	24 IR 3181	*AROC (24 IR 3825)
				25 IR 1156
				*ERR (25 IR 1645)
655 IAC 1-1-4	A	01-121	24 IR 3182	*AROC (24 IR 3825)
				25 IR 1157
655 IAC 1-1-5.1	A	01-121	24 IR 3182	*AROC (24 IR 3825)
				25 IR 1157
655 IAC 1-1-7	A	01-121	24 IR 3184	*AROC (24 IR 3825)
				25 IR 1159
655 IAC 1-1-13	A	01-121	24 IR 3184	*AROC (24 IR 3825)
				25 IR 1160
655 IAC 1-2.1	RA	02-128	25 IR 3883	*CPH (26 IR 416)
655 IAC 1-2.1-2	A	01-121	24 IR 3185	*AROC (24 IR 3825)
				25 IR 1160
655 IAC 1-2.1-6	A	01-121	24 IR 3185	*AROC (24 IR 3825)
				25 IR 1161
655 IAC 1-2.1-6.1	N	01-121	24 IR 3185	*AROC (24 IR 3825)
				25 IR 1161
655 IAC 1-2.1-6.2	N	01-121	24 IR 3186	*AROC (24 IR 3825)
				25 IR 1161
655 IAC 1-2.1-6.3	N	01-121	24 IR 3186	*AROC (24 IR 3825)
				25 IR 1161
655 IAC 1-2.1-6.4	N	01-121	24 IR 3186	*AROC (24 IR 3825)
				25 IR 1162
655 IAC 1-2.1-7	A	01-121	24 IR 3186	*AROC (24 IR 3825)
				25 IR 1162
655 IAC 1-2.1-16	A	01-121	24 IR 3187	*AROC (24 IR 3825)
				25 IR 1162
655 IAC 1-2.1-17	A	01-121	24 IR 3187	*AROC (24 IR 3825)
				25 IR 1162
655 IAC 1-2.1-18	A	01-121	24 IR 3187	*AROC (24 IR 3825)
				25 IR 1162
655 IAC 1-2.1-19.1	N	01-121	24 IR 3187	*AROC (24 IR 3825)
				25 IR 1162
655 IAC 1-2.1-22	A	01-121	24 IR 3187	*AROC (24 IR 3825)
				25 IR 1163
				*ERR (25 IR 1645)
655 IAC 1-2.1-75	A	01-121	24 IR 3188	*AROC (24 IR 3825)
				25 IR 1163
655 IAC 1-2.1-75.1	N	01-121	24 IR 3188	*AROC (24 IR 3825)
				25 IR 1163
655 IAC 1-2.1-75.2	N	01-121	24 IR 3188	*AROC (24 IR 3825)
				25 IR 1164
655 IAC 1-2.1-75.3	N	01-121	24 IR 3188	*AROC (24 IR 3825)
				25 IR 1164
655 IAC 1-2.1-75.4	N	01-121	24 IR 3188	*AROC (24 IR 3825)
				25 IR 1164
655 IAC 1-2.1-75.5	N	01-121	24 IR 3189	*AROC (24 IR 3825)
				25 IR 1164
655 IAC 1-2.1-76	R	01-121	24 IR 3190	*AROC (24 IR 3825)
				25 IR 1166
655 IAC 1-2.1-76.1	N	01-121	24 IR 3189	*AROC (24 IR 3825)
				25 IR 1164
655 IAC 1-2.1-76.2	N	01-121	24 IR 3189	*AROC (24 IR 3825)
				25 IR 1165
655 IAC 1-2.1-76.3	N	01-121	24 IR 3189	*AROC (24 IR 3825)
				25 IR 1165
655 IAC 1-2.1-77	R	01-121	24 IR 3190	*AROC (24 IR 3825)
				25 IR 1166
655 IAC 1-2.1-78	R	01-121	24 IR 3190	*AROC (24 IR 3825)
				25 IR 1166
655 IAC 1-2.1-79	R	01-121	24 IR 3190	*AROC (24 IR 3825)
				25 IR 1166
655 IAC 1-2.1-80	R	01-121	24 IR 3190	*AROC (24 IR 3825)
				25 IR 1166
655 IAC 1-2.1-81	R	01-121	24 IR 3190	*AROC (24 IR 3825)
				25 IR 1166
655 IAC 1-2.1-82	R	01-121	24 IR 3190	*AROC (24 IR 3825)
				25 IR 1166
655 IAC 1-2.1-83	R	01-121	24 IR 3190	*AROC (24 IR 3825)
				25 IR 1166
655 IAC 1-2.1-84	R	01-121	24 IR 3190	*AROC (24 IR 3825)
				25 IR 1166
655 IAC 1-2.1-85	R	01-121	24 IR 3190	*AROC (24 IR 3825)
				25 IR 1166
655 IAC 1-2.1-86	R	01-121	24 IR 3190	*AROC (24 IR 3825)
				25 IR 1166
655 IAC 1-2.1-87	R	01-121	24 IR 3190	*AROC (24 IR 3825)
				25 IR 1166
655 IAC 1-2.1-93	N	01-121	24 IR 3189	*AROC (24 IR 3825)
				25 IR 1165
655 IAC 1-2.1-94	N	01-121	24 IR 3190	*AROC (24 IR 3825)
				25 IR 1165

655 IAC 1-2.1-95	N	01-121	24 IR 3190	*AROC (24 IR 3825)
				25 IR 1165
655 IAC 1-3	RA	00-302	24 IR 2579	*CPH (24 IR 3098)
				25 IR 203
655 IAC 1-4	RA	00-302	24 IR 2579	*CPH (24 IR 3098)
				25 IR 203

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

675 IAC 12	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 12-3-2	A	01-250	25 IR 461	*ARR (25 IR 2523)
				25 IR 2731
675 IAC 12-3-3	A	01-250	25 IR 462	*ARR (25 IR 2523)
				25 IR 2732
675 IAC 12-3-4	A	01-250	25 IR 462	*ARR (25 IR 2523)
				25 IR 2732
675 IAC 12-3-5	A	01-250	25 IR 462	*ARR (25 IR 2523)
				25 IR 2733
675 IAC 12-3-6	A	01-250	25 IR 462	*ARR (25 IR 2523)
				25 IR 2733
675 IAC 12-3-7	A	01-250	25 IR 463	*ARR (25 IR 2523)
				25 IR 2733
675 IAC 12-3-8	A	01-250	25 IR 463	*ARR (25 IR 2523)
				25 IR 2733
675 IAC 12-3-10	A	01-250	25 IR 463	*ARR (25 IR 2523)
				25 IR 2734
675 IAC 12-3-12	A	01-250	25 IR 463	*ARR (25 IR 2523)
				25 IR 2734
675 IAC 12-3-13	N	02-90	25 IR 2573	
675 IAC 12-3-14	N	02-90	25 IR 2574	
675 IAC 13-1-8	A	00-261	24 IR 1925	**25 IR 1166**
	A	02-51	25 IR 2561	
675 IAC 13-1-9	A	00-261	24 IR 1929	**25 IR 1170**
675 IAC 13-1-10	A	00-261	24 IR 1932	**25 IR 1172**
	A	02-51	25 IR 2564	
675 IAC 13-1-21	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 13-1-22	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 13-1-23	R	00-290	24 IR 1936	*AWR (25 IR 107)
675 IAC 13-1-25	A	00-261	24 IR 1934	**25 IR 1174**
675 IAC 13-1-27	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 13-2.3	R	02-115	25 IR 3366	
675 IAC 13-2.3-102	A	00-261	24 IR 1935	**25 IR 1175**
675 IAC 13-2.3-103	A	00-261	24 IR 1935	**25 IR 1175**
675 IAC 13-2.4	N	02-115	25 IR 3291	
675 IAC 14-4.2-181.1	N	01-376		**††26 IR 11**
675 IAC 14-4.2-182.1	N	01-376	25 IR 1248	**26 IR 11**
675 IAC 14-4.2-185.1	N	01-376	25 IR 1248	**26 IR 11**
675 IAC 14-4.2-187	A	01-376	25 IR 1248	**26 IR 11**
675 IAC 14-4.2-187.1	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-187.2	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-187.3	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-187.4	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-190.1	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.2	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.3	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.4	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.5	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.1	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.2	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.3	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.4	N	01-376		**††26 IR 13**
675 IAC 14-4.2-191.5	N	01-376		**††26 IR 13**
675 IAC 14-4.2-192.1	N	01-376	25 IR 1250	**26 IR 13**
675 IAC 14-4.2-192.2	N	01-376	25 IR 1251	**26 IR 13**
675 IAC 14-4.2-192.3	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-192.4	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-192.5	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-192.6	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-193.1	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.2	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.3	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.4	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.5	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-194.1	N	01-376	25 IR 1251	**26 IR 15**
675 IAC 14-4.2-194.2	N	01-376	25 IR 1251	**26 IR 15**
675 IAC 14-4.2-194.3	N	01-376	25 IR 1251	**26 IR 15**
675 IAC 14-4.2-194.4	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 14-4.2-194.5	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 14-4.2-194.6	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 14-4.2-194.7	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 15-1	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 15-1-22	A	01-250	25 IR 464	*ARR (25 IR 2523)
				25 IR 2734
675 IAC 15-2	RA	01-209	24 IR 3808	**25 IR 1306**
675 IAC 17-1.5	R	01-376	25 IR 1255	**26 IR 19**
675 IAC 17-1.6	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 18-1.3	R	02-116	25 IR 3381	
675 IAC 18-1.4	N	02-116	25 IR 3366	
675 IAC 19-3	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 20	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 20-2-17	A	02-52	25 IR 2566	
675 IAC 20-2-20	A	02-52	25 IR 2566	
675 IAC 20-2-24	A	02-52	25 IR 2567	
675 IAC 20-2-26	A	02-52	25 IR 2567	
675 IAC 20-3-5	A	02-52	25 IR 2568	
675 IAC 20-3-6	A	02-52	25 IR 2568	
675 IAC 20-3-7	A	02-52	25 IR 2569	
675 IAC 21	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 21-1-1	A	01-430	25 IR 2031	*ARR (26 IR 38)
675 IAC 21-1-1.5	N	01-430	25 IR 2031	*ARR (26 IR 38)
675 IAC 21-1-2	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-2.1	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-3	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-3.1	A	01-430	25 IR 2032	*ARR (26 IR 38)
675 IAC 21-1-4	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-6	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-1-7	A	01-430	25 IR 2033	*ARR (26 IR 38)
675 IAC 21-1-9	A	01-430	25 IR 2033	*ARR (26 IR 38)
675 IAC 21-1-10	N	01-430	25 IR 2034	*ARR (26 IR 38)
675 IAC 21-2	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-3-1	A	01-430	25 IR 2034	*ARR (26 IR 38)
675 IAC 21-3-2	A	01-430	25 IR 2034	*ARR (26 IR 38)
675 IAC 21-4-1	A	01-430	25 IR 2037	*ARR (26 IR 38)
675 IAC 21-4-2	A	01-430	25 IR 2037	*ARR (26 IR 38)
675 IAC 21-5-1	A	01-430	25 IR 2039	*ARR (26 IR 38)
675 IAC 21-5-3	N	01-430	25 IR 2039	*ARR (26 IR 38)
675 IAC 21-6	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-7	R	01-430	25 IR 2042	*ARR (26 IR 38)
675 IAC 21-8	N	01-430	25 IR 2040	*ARR (26 IR 38)
675 IAC 22-2.2	R	02-117	25 IR 3442	
675 IAC 22-2.2-14	A	02-53	25 IR 2569	
675 IAC 22-2.2-19	R	00-261	24 IR 1935	**25 IR 1176**
675 IAC 22-2.2-20	R	00-261	24 IR 1935	**25 IR 1176**
675 IAC 22-2.2-104	A	01-19	24 IR 2546	**25 IR 1176**
675 IAC 22-2.2-134.5	N	01-19	24 IR 2546	**25 IR 1177**
675 IAC 22-2.2-145	A	01-19	24 IR 2546	**25 IR 1177**
675 IAC 22-2.2-221.5	N	01-19	24 IR 2547	**25 IR 1177**
675 IAC 22-2.2-245.2	N	01-19	24 IR 2547	**25 IR 1177**
675 IAC 22-2.2-245.5	N	01-19	24 IR 2547	**25 IR 1177**
675 IAC 22-2.2-338	A	01-19	24 IR 2547	**25 IR 1177**
675 IAC 22-2.2-365	A	01-19	24 IR 2547	**25 IR 1178**
675 IAC 22-2.2-365.2	N	01-19	24 IR 2548	**25 IR 1178**
675 IAC 22-2.2-369.5	N	01-19	24 IR 2548	**25 IR 1178**
675 IAC 22-2.2-373	A	01-19	24 IR 2548	**25 IR 1178**
675 IAC 22-2.2-412.5	N	01-19	24 IR 2548	**25 IR 1179**
675 IAC 22-2.2-443.5	N	01-19	24 IR 2548	**25 IR 1179**
675 IAC 22-2.2-499	A	01-19	24 IR 2548	**25 IR 1179**
675 IAC 22-2.2-535	A	00-261	24 IR 1935	**25 IR 1176**

675 IAC 22-2.2-536	A	00-261	24 IR 1935	**25 IR 1176**
675 IAC 22-2.3	N	02-117	25 IR 3382	
675 IAC 23	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 23-1-63	A	01-250	25 IR 464	*ARR (25 IR 2523)
				25 IR 2735
675 IAC 24	RA	00-303	24 IR 1962	**25 IR 530**
675 IAC 25	N	02-118	25 IR 3444	

TITLE 710 SECURITIES DIVISION

710 IAC 1-8	RA	01-107	24 IR 3223	**25 IR 203**
710 IAC 1-9	RA	01-107	24 IR 3223	**25 IR 203**
710 IAC 1-10	RA	01-107	24 IR 3223	**25 IR 203**
710 IAC 1-11	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-12	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-13	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-14	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-15	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-16	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-17	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-18	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-19	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-20	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 1-21	RA	01-107	24 IR 3223	**25 IR 204**
710 IAC 2	RA	02-4	25 IR 2314	**25 IR 3462**
710 IAC 3	RA	02-4	25 IR 2314	**25 IR 3462**

TITLE 750 DEPARTMENT OF FINANCIAL INSTITUTIONS

750 IAC 1-1-1	A	02-94		*ER (25 IR 2540)
750 IAC 3	RA	01-343		**25 IR 939**
750 IAC 6	RA	01-343		**25 IR 939**
750 IAC 7	RA	01-343		**25 IR 939**

TITLE 760 DEPARTMENT OF INSURANCE

760 IAC 1-1	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-3	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-5	RA	01-130	24 IR 3224	**25 IR 530**
	R	01-181	25 IR 472	*AWR (25 IR 815)
	R	01-399	25 IR 2582	*AROC (26 IR 183)
				*ARR (26 IR 38)
				26 IR 26
760 IAC 1-5.1	N	01-181	25 IR 465	*AWR (25 IR 815)
	N	01-399	25 IR 2575	*AROC (26 IR 183)
				*ARR (26 IR 38)
				26 IR 19
760 IAC 1-6.2	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-7	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-8	RA	01-130	24 IR 3224	**25 IR 530**
760 IAC 1-9	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-10	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-11	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-12	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-13	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-14	RA	01-130	24 IR 3224	**25 IR 531**
	R	01-181	25 IR 472	*AWR (25 IR 815)
	R	01-399	25 IR 2582	*AROC (26 IR 183)
				*ARR (26 IR 38)
				26 IR 26
760 IAC 1-15.1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-16.1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-18	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-19	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-20	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-21	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-23	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-24	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-27	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-31	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-32	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-33	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-34	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-35	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-36	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-37	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-38.1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-39	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-40	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-41	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-46	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-48	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-49	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-50-2	A	02-23	25 IR 2582	
760 IAC 1-50-3	A	02-23	25 IR 2582	
760 IAC 1-50-4	A	02-23	25 IR 2583	
760 IAC 1-50-5	A	02-23	25 IR 2583	
760 IAC 1-50-7	A	02-23	25 IR 2584	
760 IAC 1-50-13	A	02-23	25 IR 2584	
760 IAC 1-50-13.5	A	02-23	25 IR 2585	
760 IAC 1-51	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-52	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-53	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-54	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-55	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-56	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 1-59-1	A	02-124	26 IR 170	
760 IAC 1-59-2	A	02-124	26 IR 170	
760 IAC 1-59-3	A	02-124	26 IR 171	
760 IAC 1-59-4	A	02-124	26 IR 171	
760 IAC 1-59-5	A	02-124	26 IR 171	
760 IAC 1-59-6	A	02-124	26 IR 172	
760 IAC 1-59-7	A	02-124	26 IR 172	
760 IAC 1-59-8	A	02-124	26 IR 173	
760 IAC 1-59-9	A	02-124	26 IR 174	
760 IAC 1-59-10	A	02-124	26 IR 174	
760 IAC 1-59-11	A	02-124	26 IR 174	
760 IAC 1-59-12	A	02-124	26 IR 175	
760 IAC 1-59-13	R	02-124	26 IR 177	
760 IAC 1-59-14	A	02-124	26 IR 175	
760 IAC 1-67	N	01-94	24 IR 2832	**25 IR 85**
760 IAC 1-68	N	02-137	26 IR 531	*AROC (26 IR 883)
760 IAC 2-1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-2	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-3	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-4	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-5	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-6	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-7	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-8	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-9	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-10	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-10-1	A	01-93	24 IR 2832	**25 IR 382**
760 IAC 2-11	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-12	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-13	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-14	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-15	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-16	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-17	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-18	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-19	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 2-20	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-1	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-2	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-3	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-4	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-5	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-6	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-7	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-8	RA	01-130	24 IR 3224	**25 IR 531**

760 IAC 3-9	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-10	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-11	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-12	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-13	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-14	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-15	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-16	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-17	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-18	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-19	RA	01-130	24 IR 3224	**25 IR 531**
760 IAC 3-20	RA	01-130	24 IR 3224	**25 IR 531**

TITLE 762 INDIANA POLITICAL SUBDIVISION RISK MANAGEMENT COMMISSION

762 IAC 2	N	02-24	25 IR 2301	*ARR (25 IR 4114) **26 IR 27**

TITLE 804 BOARD OF REGISTRATION FOR ARCHITECTS AND LANDSCAPE ARCHITECTS

804 IAC 1.1-1-1	A	01-57	24 IR 4182	*CPH (25 IR 404) **25 IR 1903**
804 IAC 1.1-2-2	A	01-57	24 IR 4183	*CPH (25 IR 404) **25 IR 1904**
804 IAC 1.1-2-4.1	R	01-103	24 IR 4184	*CPH (25 IR 404) **25 IR 1905**
804 IAC 1.1-3-1	A	02-20	25 IR 3446	**26 IR 370** *ERR (26 IR 793)

TITLE 808 STATE BOXING COMMISSION

808 IAC 1-4-8	A	00-256	24 IR 3200	**25 IR 382**
808 IAC 2-1-9	A	00-256	24 IR 3200	**25 IR 382**
808 IAC 2-5-1	A	00-256	24 IR 3200	**25 IR 383**
808 IAC 2-6-1	A	02-120	25 IR 4210	
808 IAC 2-33-2	N	00-256	24 IR 3200	**25 IR 383**
808 IAC 4	R	01-104	24 IR 3201	**25 IR 383**

TITLE 812 INDIANA AUCTIONEER COMMISSION

812 IAC 2	RA	02-84	25 IR 2853	**25 IR 4221**
812 IAC 3	RA	02-84	25 IR 2853	**25 IR 4221**

TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS

820 IAC 4-4-5	A	01-345	25 IR 1720	**25 IR 3178**
820 IAC 4-4-14	A	01-345	25 IR 1721	**25 IR 3179**
820 IAC 6	RA	02-92	25 IR 2854	**25 IR 4221**
820 IAC 6-2-1	A	01-345	25 IR 1722	**25 IR 3180**

TITLE 825 INDIANA GRAIN INDEMNITY CORPORATION

825 IAC 1	RA	02-176	25 IR 4220	
825 IAC 1-1-5	R	02-179	25 IR 4211	
825 IAC 1-5-1	R	02-179	25 IR 4211	
825 IAC 1-5-2	R	02-179	25 IR 4211	

TITLE 828 STATE BOARD OF DENTISTRY

828 IAC 0.5-2-1	R	01-197	24 IR 4185	**25 IR 1181**
828 IAC 0.5-2-2	R	01-197	24 IR 4185	**25 IR 1181**
828 IAC 0.5-2-3	N	01-197	24 IR 4185	**25 IR 1180**
	A	02-114	25 IR 3452	**26 IR 376**
828 IAC 0.5-2-4	N	01-197	24 IR 4185	**25 IR 1181**
	A	02-114	25 IR 3453	**26 IR 376**
828 IAC 0.5-2-5	N	01-307	25 IR 1723	**25 IR 2736**
828 IAC 0.5-2-6	N	02-112	25 IR 3447	**26 IR 371**
828 IAC 1-1-2	A	01-241	25 IR 171	*CPH (25 IR 831) **25 IR 2239**
828 IAC 1-1-3	A	01-241	25 IR 171	*CPH (25 IR 831) **25 IR 2239**
828 IAC 1-1-4	R	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-1-6	A	01-241	25 IR 171	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-8	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-9	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-10	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-11	R	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-1-12	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2240**
828 IAC 1-1-18	A	01-241	25 IR 172	*CPH (25 IR 831) **25 IR 2241**
828 IAC 1-1-21	A	01-241	25 IR 174	*CPH (25 IR 831) **25 IR 2242**
828 IAC 1-1-23	A	01-241	25 IR 174	*CPH (25 IR 831) **25 IR 2242**
828 IAC 1-2-1	A	01-241	25 IR 174	*CPH (25 IR 831) **25 IR 2243**
828 IAC 1-2-2	A	01-241	25 IR 175	*CPH (25 IR 831) **25 IR 2243**
828 IAC 1-2-3	A	01-241	25 IR 175	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-4	R	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-2-6	A	01-241	25 IR 175	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-8	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-9	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-10	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-11	R	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-2-12	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2244**
828 IAC 1-2-14	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2245**
828 IAC 1-3-1	A	01-241	25 IR 176	*CPH (25 IR 831) **25 IR 2245**
	R	02-113	25 IR 3452	**26 IR 375**
828 IAC 1-3-1.1	N	02-113	25 IR 3450	**26 IR 373** *ERR (26 IR 383)
828 IAC 1-3-1.5	N	02-113	25 IR 3451	**26 IR 374**
828 IAC 1-3-2	A	02-113	25 IR 3452	**26 IR 375**
828 IAC 1-3-3	A	02-113	25 IR 3452	**26 IR 375**
828 IAC 1-3-4	A	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-3-5	A	01-241	25 IR 177	*CPH (25 IR 831) **25 IR 2246**
828 IAC 1-5-1	A	02-112	25 IR 3448	**26 IR 371**
828 IAC 1-5-1.5	N	02-112	25 IR 3448	**26 IR 371**
828 IAC 1-5-2	A	02-112	25 IR 3448	**26 IR 372**
828 IAC 1-5-2.5	N	02-112	25 IR 3449	**26 IR 372**
828 IAC 1-5-4	RA	01-193	24 IR 4207	**25 IR 1306**
828 IAC 1-5-5	RA	01-193	24 IR 4207	**25 IR 1307**
828 IAC 1-6-1	A	02-112	25 IR 3449	**26 IR 373**
828 IAC 1-7-1	A	02-114	25 IR 3453	**26 IR 376**
828 IAC 1-7-2	N	02-114	25 IR 3453	**26 IR 377**
828 IAC 4	N	01-307	25 IR 1723	**25 IR 2736**

TITLE 832 STATE BOARD OF FUNERAL AND CEMETERY SERVICE

832 IAC 2-1-2	A	02-147	26 IR 870	
832 IAC 3-2-2	RA	01-56	24 IR 3225	**25 IR 532**

TITLE 836 INDIANA EMERGENCY MEDICAL SERVICES COMMISSION

836 IAC 1	RA	01-40	24 IR 2580	
836 IAC 1-1-1	A	02-91	25 IR 2810	*CPH (25 IR 3807)
836 IAC 1-1-2	N	02-91	25 IR 2812	*CPH (25 IR 3807)
836 IAC 1-1-3	N	02-91	25 IR 2812	*CPH (25 IR 3807)
836 IAC 1-2-1	A	01-297	25 IR 488	**25 IR 2506**
	A	02-91	25 IR 2813	*CPH (25 IR 3807)
836 IAC 1-2-2	A	02-91	25 IR 2814	*CPH (25 IR 3807)
836 IAC 1-2-3	A	02-91	25 IR 2815	*CPH (25 IR 3807)
836 IAC 1-2-4	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 1-3-5	A	01-297	25 IR 489	**25 IR 2507**
	A	02-91	25 IR 2818	*CPH (25 IR 3807)
836 IAC 1-3-6	N	02-91	25 IR 2819	*CPH (25 IR 3807)
836 IAC 1-8-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 1-11-1	A	01-297	25 IR 490	**25 IR 2508**
	A	02-91	25 IR 2819	*CPH (25 IR 3807)
836 IAC 1-11-2	A	01-297	25 IR 491	**25 IR 2509**
	A	02-91	25 IR 2820	*CPH (25 IR 3807)
836 IAC 1-11-3	A	01-297	25 IR 492	**25 IR 2510**
836 IAC 1-11-4	A	02-91	25 IR 2821	*CPH (25 IR 3807)
836 IAC 1-11-5	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 2	RA	01-40	24 IR 2580	
836 IAC 2-1-1	A	02-91	25 IR 2821	*CPH (25 IR 3807)
836 IAC 2-2-1	A	01-297	25 IR 494	**25 IR 2512**
	A	02-91	25 IR 2824	*CPH (25 IR 3807)
836 IAC 2-4.1-2	A	01-297	25 IR 496	**25 IR 2514**
836 IAC 2-7.1-1	A	01-297	25 IR 497	**25 IR 2515**
	A	02-91	25 IR 2826	*CPH (25 IR 3807)
836 IAC 2-7.2	N	02-91	25 IR 2828	*CPH (25 IR 3807)
836 IAC 2-12-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 2-13-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 2-14-5	A	02-91	25 IR 2833	*CPH (25 IR 3807)
836 IAC 3	RA	01-40	24 IR 2580	
836 IAC 3-1-1	A	01-296	25 IR 472	**25 IR 2490**
836 IAC 3-2-1	A	01-296	25 IR 473	**25 IR 2491**
836 IAC 3-2-2	A	01-296	25 IR 475	**25 IR 2492**
836 IAC 3-2-3	A	01-296	25 IR 475	**25 IR 2493**
836 IAC 3-2-4	A	01-296	25 IR 476	**25 IR 2494**
	A	02-91	25 IR 2834	*CPH (25 IR 3807)
836 IAC 3-2-5	A	01-296	25 IR 478	**25 IR 2496**
	A	02-91	25 IR 2835	*CPH (25 IR 3807)
836 IAC 3-2-6	A	01-296	25 IR 479	**25 IR 2497**
836 IAC 3-2-7	A	01-296	25 IR 480	**25 IR 2498**
836 IAC 3-2-8	N	01-296	25 IR 480	**25 IR 2498**
	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 3-3-1	A	01-296	25 IR 480	**25 IR 2498**
836 IAC 3-3-2	A	01-296	25 IR 482	**25 IR 2499**
836 IAC 3-3-3	A	01-296	25 IR 482	**25 IR 2500**
836 IAC 3-3-4	A	01-296	25 IR 483	**25 IR 2501**
	A	02-91	25 IR 2836	*CPH (25 IR 3807)
836 IAC 3-3-5	A	01-296	25 IR 485	**25 IR 2503**
	A	02-91	25 IR 2837	*CPH (25 IR 3807)
836 IAC 3-3-6	A	01-296	25 IR 485	**25 IR 2503**
836 IAC 3-3-7	A	01-296	25 IR 486	**25 IR 2504**
836 IAC 3-3-8	N	01-296	25 IR 487	**25 IR 2505**
	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 3-4-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 3-5-1	A	01-296	25 IR 487	**25 IR 2505**
836 IAC 3-6-1	R	01-296	25 IR 487	**25 IR 2505**
836 IAC 4	RA	01-40	24 IR 2580	
836 IAC 4-1-1	A	02-91	25 IR 2838	*CPH (25 IR 3807)
836 IAC 4-2-1	A	02-91	25 IR 2840	*CPH (25 IR 3807)
836 IAC 4-2-2	A	02-91	25 IR 2841	*CPH (25 IR 3807)
836 IAC 4-2-5	R	02-91	25 IR 2848	*CPH (25 IR 3807)
836 IAC 4-3-2	A	02-91	25 IR 2841	*CPH (25 IR 3807)
836 IAC 4-4-1	A	02-91	25 IR 2842	*CPH (25 IR 3807)
836 IAC 4-5-2	A	02-91	25 IR 2843	*CPH (25 IR 3807)
836 IAC 4-6.1	N	02-91	25 IR 2843	*CPH (25 IR 3807)
836 IAC 4-7-2	A	02-91	25 IR 2844	*CPH (25 IR 3807)
836 IAC 4-7-3.5	N	01-297	25 IR 499	**25 IR 2517**
836 IAC 4-7.1	N	02-91	25 IR 2844	*CPH (25 IR 3807)
836 IAC 4-9-2.5	N	01-297	25 IR 499	**25 IR 2517**
836 IAC 4-9-3	A	02-91	25 IR 2847	*CPH (25 IR 3807)
836 IAC 4-10	N	01-297	25 IR 499	**25 IR 2517**
836 IAC 4-10-1	R	02-91	25 IR 2848	*CPH (25 IR 3807)

TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD

839 IAC 1-1-1	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-1-3.2	N	01-160	24 IR 4186	**25 IR 1633**
839 IAC 1-1-3.3	N	01-160	24 IR 4186	**25 IR 1633**
839 IAC 1-1-3.5	RA	01-158	25 IR 189	**25 IR 1308**
839 IAC 1-1-3.6	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-1-3.7	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-1-3.8	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-1-4	RA	01-158	25 IR 189	**25 IR 1308**
839 IAC 1-2-1	RA	01-158	25 IR 190	**25 IR 1308**
839 IAC 1-2-2	RA	01-158	25 IR 190	**25 IR 1308**
839 IAC 1-2-2.1	N	01-160	24 IR 4186	**25 IR 1633**
	A	02-271	26 IR 874	
839 IAC 1-2-3	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-2-4	R	01-160	24 IR 4186	**25 IR 1634**
839 IAC 1-2-5	RA	01-157	24 IR 4208	**25 IR 1307**
	A	02-271	26 IR 875	
839 IAC 1-3-1	RA	01-158	25 IR 190	**25 IR 1309**
839 IAC 1-3-2	RA	01-158	25 IR 191	
	A	02-270	26 IR 871	
839 IAC 1-3-2.5	RA	01-158	25 IR 191	**25 IR 1309**
839 IAC 1-3-3.5	RA	01-158	25 IR 192	**25 IR 1309**
839 IAC 1-3-4	RA	01-158	25 IR 192	**25 IR 1310**
839 IAC 1-3-4.5	RA	01-158	25 IR 193	**25 IR 1310**
839 IAC 1-3-5	N	01-160	24 IR 4186	**25 IR 1634**
839 IAC 1-4-4	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-4-5	RA	01-158	25 IR 193	
	A	02-270	26 IR 871	
839 IAC 1-4-6	RA	01-158	25 IR 193	**25 IR 1310**
839 IAC 1-4-7	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-5-1	RA	01-158	25 IR 193	**25 IR 1311**
	A	02-270	26 IR 872	
839 IAC 1-5-1.5	N	02-270	26 IR 874	
839 IAC 1-5-2	RA	01-158	25 IR 195	**25 IR 1313**
839 IAC 1-5-3	RA	01-158	25 IR 196	**25 IR 1313**
839 IAC 1-5-4	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-5-5	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-5-6	R	01-160	24 IR 4186	**25 IR 1634**
839 IAC 1-6-1	RA	01-158	25 IR 196	**25 IR 1313**
839 IAC 1-6-2	RA	01-158	25 IR 197	**25 IR 1314**
839 IAC 1-6-3	RA	01-158	25 IR 198	**25 IR 1316**
839 IAC 1-6-4	RA	01-156	24 IR 4207	**25 IR 939**
839 IAC 1-6-5	RA	01-158	25 IR 199	**25 IR 1316**
839 IAC 1-6-6	R	01-160	24 IR 4186	**25 IR 1634**

TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS

840 IAC 1-1-1	R	01-242	25 IR 526	**25 IR 2861**
840 IAC 1-1-2	RA	01-242	25 IR 520	**25 IR 2855**
840 IAC 1-1-3	RA	01-242	25 IR 520	**25 IR 2855**
840 IAC 1-1-4	RA	01-242	25 IR 521	**25 IR 2856**
	A	02-219	26 IR 540	
840 IAC 1-1-5	RA	01-242	25 IR 521	**25 IR 2856**
840 IAC 1-1-6	RA	01-242	25 IR 522	**25 IR 2857**
840 IAC 1-1-11	RA	01-242	25 IR 522	**25 IR 2857**
840 IAC 1-1-12	RA	01-242	25 IR 522	**25 IR 2857**
840 IAC 1-1-13	RA	01-242	25 IR 522	**25 IR 2857**
840 IAC 1-1-14	RA	01-242	25 IR 523	**25 IR 2858**
840 IAC 1-1-15	RA	01-242	25 IR 523	**25 IR 2858**
840 IAC 1-1-16	RA	01-242	25 IR 523	**25 IR 2858**

840 IAC 1-1-17	RA	01-242	25 IR 524	**25 IR 2859**
840 IAC 1-1-18	RA	01-242	25 IR 524	**25 IR 2859**
840 IAC 1-2-1	RA	01-242	25 IR 524	**25 IR 2859**
840 IAC 1-2-2	RA	01-242	25 IR 525	**25 IR 2860**
840 IAC 1-2-4	RA	01-242	25 IR 525	**25 IR 2860**
840 IAC 1-2-5	RA	01-242	25 IR 525	**25 IR 2861**
840 IAC 1-2-6	RA	01-242	25 IR 526	**25 IR 2861**
840 IAC 1-2-7	RA	01-242	25 IR 526	**25 IR 2861**
840 IAC 1-3-1	R	01-244	25 IR 500	**25 IR 1634**
840 IAC 1-3-2	N	01-244	25 IR 500	**25 IR 1634**

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

844 IAC 2.2-2-1	A	02-180	26 IR 177	
844 IAC 2.2-2-2	A	02-180	26 IR 178	
844 IAC 2.2-2-5	A	02-180	26 IR 179	
844 IAC 2.2-2-8	A	02-180	26 IR 179	
844 IAC 4-1-1	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-2-1	R	01-183	24 IR 3778	*CPH (25 IR 405) **25 IR 2246**
844 IAC 4-2-2	N	01-183	24 IR 3778	*CPH (25 IR 405) **25 IR 2246**
844 IAC 4-3	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-4.1-1	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-2	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-3.1	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-4.1	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-5	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-6	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-7	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-8	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-9	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-10	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-11	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.5	N	01-228	24 IR 4187	*CPH (25 IR 405) *SPE
	N	02-12	25 IR 2302	*CPH (25 IR 2746) **26 IR 28**
844 IAC 4-5-1	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-1	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-2	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-2.1	N	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	N	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-3	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-4	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-5	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-6	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-7	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-8	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-9	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-6-10	RA	01-312	25 IR 527	**25 IR 1732**
844 IAC 4-7-1	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-7-2	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-7-3	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-7-4	RA	01-220	25 IR 526	**25 IR 1731**
844 IAC 4-7-5	R	01-228	24 IR 4192	*CPH (25 IR 405) *SPE
	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 5	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-1	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-1-4	A	01-431	25 IR 3454	**26 IR 377**
844 IAC 6-2-1	R	01-245	25 IR 501	**25 IR 2247**
844 IAC 6-2-2	N	01-245	25 IR 501	**25 IR 2247**
844 IAC 6-3	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-3-5	A	01-432	25 IR 3455	**26 IR 378**
844 IAC 6-4	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-4-1	A	02-181	26 IR 541	
844 IAC 6-5	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-6	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 6-7	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 7	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 9-1-1	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-1	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-2	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-3	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-4	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-2-5	RA	01-120	24 IR 3809	**25 IR 1318**
844 IAC 9-2-6	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-3-1	RA	01-120	24 IR 3809	**25 IR 1318**
844 IAC 9-3-2	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-3-3	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-4-1	RA	01-120	24 IR 3810	**25 IR 1318**
844 IAC 9-4-2	RA	01-120	24 IR 3810	**25 IR 1319**
844 IAC 9-4-3	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-4-4	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-4-5	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-5-1	RA	01-120	24 IR 3810	**25 IR 1319**
844 IAC 9-5-2	R	01-120	24 IR 3811	**25 IR 1320**

844 IAC 9-6-1	RA	01-120	24 IR 3811	**25 IR 1319**
844 IAC 9-6-2	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 9-6-3	RA	01-120	24 IR 3811	**25 IR 1319**
844 IAC 9-6-4	RA	01-120	24 IR 3809	**25 IR 1317**
844 IAC 10-1	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 10-2-1	R	01-246	25 IR 501	**25 IR 2247**
844 IAC 10-2-2	N	01-246	25 IR 501	**25 IR 2247**
844 IAC 10-3	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 10-4	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 10-5	RA	01-170	24 IR 4209	**25 IR 1325**
844 IAC 11-1-1	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-1-2	RA	01-131	24 IR 3226	**25 IR 1320**
844 IAC 11-1-3	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-1-4	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-1-5	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-1-6	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-2-1	R	01-248	25 IR 179	**25 IR 1636**
844 IAC 11-2-1.1	N	01-248	25 IR 179	**25 IR 1635**
844 IAC 11-3-2	RA	01-131	24 IR 3226	**25 IR 1321**
844 IAC 11-3-3	RA	01-131	24 IR 3226	**25 IR 1321**
844 IAC 11-3-3.1	N	01-235	25 IR 178	**25 IR 1635**
844 IAC 11-3-4	RA	01-131	24 IR 3227	**25 IR 1321**
844 IAC 11-3-4.1	N	01-235	25 IR 178	**25 IR 1635**
844 IAC 11-4-1	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-2	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-3	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-4	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-5	RA	01-131	24 IR 3227	**25 IR 1322**
844 IAC 11-4-6	RA	01-131	24 IR 3228	**25 IR 1322**
844 IAC 11-4-7	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-4-8	RA	01-131	24 IR 3228	**25 IR 1323**
844 IAC 11-4-9	RA	01-41	24 IR 2892	**25 IR 532**
844 IAC 11-5-1	RA	01-131	24 IR 3228	**25 IR 1323**
844 IAC 11-5-3	RA	01-131	24 IR 3228	**25 IR 1323**
844 IAC 11-5-4	RA	01-131	24 IR 3229	**25 IR 1323**
844 IAC 11-5-5	RA	01-131	24 IR 3229	**25 IR 1324**
844 IAC 12-2-1	R	01-247	25 IR 502	**25 IR 2248**
844 IAC 12-2-2	N	01-247	25 IR 502	**25 IR 2248**
844 IAC 13	N	01-47	24 IR 2554	**25 IR 803**

TITLE 845 BOARD OF PODIATRIC MEDICINE

845 IAC 1-5-2	R	01-363	25 IR 3456	
845 IAC 1-5-2.1	N	01-363	25 IR 3455	
845 IAC 1-6-8	R	01-229	24 IR 4193	*ARR (25 IR 1185)
845 IAC 1-6-9	N	01-229	24 IR 4193	*ARR (25 IR 1185)

TITLE 846 BOARD OF CHIROPRACTIC EXAMINERS

846 IAC 1-4-7	RA	01-221	24 IR 4209	**25 IR 1325**

TITLE 848 INDIANA STATE BOARD OF NURSING

848 IAC 1-1-2.1	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 1-1-5	RA	01-127	24 IR 3231	**25 IR 1326**
848 IAC 1-1-6	RA	01-127	24 IR 3231	**25 IR 1326**
848 IAC 1-1-7	RA	01-127	24 IR 3232	**25 IR 1327**
848 IAC 1-1-8	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 1-1-10	RA	01-127	24 IR 3233	**25 IR 1328**
848 IAC 1-1-11	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 1-1-13	RA	01-127	24 IR 3233	**25 IR 1328**
848 IAC 1-1-14	RA	01-105	24 IR 2893	
848 IAC 1-1-15	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 1-2	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 2-1	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 2-2	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 2-3	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 3-1	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 3-2-1	RA	01-127	24 IR 3231	**25 IR 939**
848 IAC 3-2-2	RA	01-127	24 IR 3233	**25 IR 1328**
848 IAC 3-2-3	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-2-4	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-2-5	RA	01-127	24 IR 3233	**25 IR 1329**
848 IAC 3-2-6	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-2-7	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-2-8	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-3	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 3-4-1	R	01-127	24 IR 3234	**25 IR 1329**
848 IAC 4-1-1	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-1-2	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-1-3	RA	01-127	24 IR 3234	**25 IR 1329**
848 IAC 4-1-4	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-1-5	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-1-6	RA	01-127	24 IR 3234	**25 IR 1329**
848 IAC 4-2	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-3	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 4-4-1	R	01-127	24 IR 3234	**25 IR 1329**
848 IAC 5-1	RA	01-127	24 IR 3231	**25 IR 940**
848 IAC 5-2-1	RA	01-127	24 IR 3234	**25 IR 1329**

TITLE 852 INDIANA OPTOMETRY BOARD

852 IAC 1-1.1-4	A	02-131	25 IR 3869	
852 IAC 1-10-1	RA	01-253	25 IR 200	**25 IR 1732**
852 IAC 1-10-2	RA	01-253	25 IR 200	**25 IR 1732**
852 IAC 1-13-1	A	02-132	25 IR 3869	
852 IAC 1-13-2	A	02-132	25 IR 3870	
852 IAC 1-17	N	02-133	25 IR 3870	

TITLE 856 INDIANA BOARD OF PHARMACY

856 IAC 1-1	RA	01-150	24 IR 4210	**25 IR 1330**
				*ERR (25 IR 1645)
856 IAC 1-2-1	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-2-2	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-2-3	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-2-4	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-1	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-2	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-3	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-3.1-4	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-3.1-5	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-6	RA	01-150	24 IR 4211	**25 IR 1331**
856 IAC 1-3.1-7	RA	01-150	24 IR 4212	**25 IR 1332**
856 IAC 1-3.1-9	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-10	R	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-3.1-11	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-3.1-12	RA	01-150	24 IR 4212	**25 IR 1332**
856 IAC 1-3.1-13	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-4-1	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-4-2	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-4-4	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-5-1	R	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-7-1	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	**25 IR 532**
	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-7-2	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	**25 IR 532**
	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-7-3	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	**25 IR 532**
	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-7-4	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	**25 IR 532**
	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-7-5	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	
856 IAC 1-7-6	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	
856 IAC 1-7-7	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	
856 IAC 1-12	R	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-13-3	RA	01-150	24 IR 4210	**25 IR 1330**

856 IAC 1-13-4	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-15-1	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-20-1	RA	01-150	24 IR 4213	**25 IR 1333**
856 IAC 1-21-1	RA	01-150	24 IR 4214	**25 IR 1334**
856 IAC 1-23-1	RA	01-150	24 IR 4215	**25 IR 1335**
856 IAC 1-26-1	RA	01-150	24 IR 4215	**25 IR 1335**
856 IAC 1-27-1	RA	01-148	24 IR 3812	*AWR (25 IR 1186)
	A	01-434	25 IR 2042	**25 IR 2739**
856 IAC 1-28	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	
	R	01-298	25 IR 509	*AROC (25 IR 1734)
				25 IR 1643
856 IAC 1-28.1	RA	00-323	24 IR 1965	*ARR (24 IR 3992)
			24 IR 2581	
	N	01-298	25 IR 502	*AROC (25 IR 1734)
				25 IR 1636
856 IAC 1-29-1	RA	01-150	24 IR 4216	**25 IR 1337**
856 IAC 1-29-2	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-3	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-4	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-5	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-6	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-29-7	R	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-29-9	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-1	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-2	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-3	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-4	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-5	RA	01-150	24 IR 4217	**25 IR 1337**
856 IAC 1-30-6	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-7	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-8	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-9	RA	01-150	24 IR 4217	**25 IR 1337**
856 IAC 1-30-10	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-11	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-12	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-13	RA	01-150	24 IR 4217	**25 IR 1337**
856 IAC 1-30-14	RA	01-150	24 IR 4217	**25 IR 1338**
856 IAC 1-30-15	RA	01-150	24 IR 4218	**25 IR 1338**
856 IAC 1-30-16	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-17	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-30-18	RA	01-150	24 IR 4218	**25 IR 1338**
856 IAC 1-31	RA	01-150	24 IR 4210	**25 IR 1330**
856 IAC 1-32-1	RA	01-150	24 IR 4218	**25 IR 1339**
856 IAC 1-32-2	RA	01-150	24 IR 4219	**25 IR 1339**
856 IAC 1-32-3	RA	01-150	24 IR 4219	**25 IR 1339**
856 IAC 1-32-4	RA	01-150	24 IR 4219	**25 IR 1339**
856 IAC 1-33	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-34-1	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-34-2	RA	01-150	24 IR 4219	**25 IR 1340**
856 IAC 1-34-3	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-34-4	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-34-5	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-35	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-35-1	A	02-172	25 IR 4211	
856 IAC 1-35-4	A	02-172	25 IR 4212	
856 IAC 1-35-6	R	02-172	25 IR 4212	
856 IAC 1-36-1	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-2	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-3	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-4	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-5	RA	01-150	24 IR 4220	**25 IR 1340**
856 IAC 1-36-6	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-7	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-8	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 1-36-9	RA	01-150	24 IR 4211	**25 IR 1330**
856 IAC 2-1	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-2	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-1	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-2	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-3	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-4	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-5	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-6	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-7	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-8	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-9	RA	01-149	24 IR 3813	**25 IR 940**
856 IAC 2-3-10	R	01-151	24 IR 4223	**25 IR 1344**
856 IAC 2-3-11	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-12	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-13	RA	01-151	24 IR 4222	**25 IR 1342**
856 IAC 2-3-14	R	01-151	24 IR 4223	**25 IR 1344**
856 IAC 2-3-15	R	01-151	24 IR 4223	**25 IR 1344**
856 IAC 2-3-16	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-17	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-18	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-19	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-20	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-21	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-22	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-23	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-24	RA	01-151	24 IR 4222	**25 IR 1343**
856 IAC 2-3-25	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-26	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-27	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-28	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-29	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-30	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-31	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-32	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-33	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-34	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-3-35	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-4	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-5	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-1	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-2	RA	01-151	24 IR 4223	**25 IR 1343**
856 IAC 2-6-3	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-4	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-5	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-6	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-7	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-8	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-9	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-10	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-11	R	01-151	24 IR 4223	**25 IR 1344**
856 IAC 2-6-12	RA	01-151	24 IR 4223	**25 IR 1343**
856 IAC 2-6-13	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-14	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-15	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-16	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-17	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-6-18	RA	01-151	24 IR 4221	**25 IR 1341**
856 IAC 2-7	N	01-306	25 IR 3871	
856 IAC 3-2-2	RA	01-153	24 IR 3813	**25 IR 941**

TITLE 857 INDIANA OPTOMETRIC LEGEND DRUG PRESCRIPTION ADVISORY COMMITTEE

857 IAC 1-4-1	RA	02-78	25 IR 3883	**26 IR 546**
857 IAC 2-3-16	A	02-123	25 IR 3873	

TITLE 858 CONTROLLED SUBSTANCES ADVISORY COMMITTEE

858 IAC 2	RA	01-63	24 IR 4224	**25 IR 1344**

TITLE 860 INDIANA PLUMBING COMMISSION

860 IAC 1-1-2.1	A	01-425	25 IR 2309	*ARR (25 IR 2523)
			25 IR 2585	**25 IR 4109**
860 IAC 1-1-8	A	01-425	25 IR 2586	**25 IR 4110**

TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

864 IAC 1.1-2-2	A	01-405	25 IR 2848	**26 IR 379**
864 IAC 1.1-2-4	A	01-405	25 IR 2849	**26 IR 380**
864 IAC 1.1-12-1	A	01-405	25 IR 2850	**26 IR 380**

TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS

865 IAC 1-4-8	A	02-56	25 IR 3456	
865 IAC 1-11-1	A	01-426	25 IR 2043	*CPH (25 IR 2543) **25 IR 4110**
865 IAC 1-12-28	A	02-56	25 IR 3456	
865 IAC 1-13-5	A	01-426	25 IR 2044	*CPH (25 IR 2543) **25 IR 4111**

TITLE 868 STATE PSYCHOLOGY BOARD

868 IAC 1.1-3-1	RA	01-154	24 IR 3814	*CPH (25 IR 124) **25 IR 1344**
868 IAC 1.1-5-4	RA	01-154	24 IR 3814	*CPH (25 IR 124) **25 IR 1344**
868 IAC 1.1-5-7	RA	01-154	24 IR 3814	*CPH (25 IR 124) **25 IR 1344**
868 IAC 1.1-12-1	R	01-210	24 IR 4194	**25 IR 1181**
868 IAC 1.1-12-1.5	N	01-210	24 IR 4193	**25 IR 1181**
868 IAC 1.1-15-11	A	01-179	24 IR 3779	**25 IR 812**

TITLE 872 INDIANA BOARD OF ACCOUNTANCY

872 IAC 1-1-8	A	01-310	25 IR 891	*ARR (25 IR 2256) **25 IR 2518**
872 IAC 1-1-8.1	R	01-310	25 IR 893	*ARR (25 IR 2256) **25 IR 2520**
872 IAC 1-1-8.3	A	01-310	25 IR 892	*ARR (25 IR 2256) **25 IR 2519**
872 IAC 1-1-8.4	A	01-310	25 IR 892	*ARR (25 IR 2256) **25 IR 2519**
872 IAC 1-1-10	A	01-310	25 IR 893	*ARR (25 IR 2256) **25 IR 2520**

TITLE 876 INDIANA REAL ESTATE COMMISSION

876 IAC 1-1-3	A	00-260	24 IR 2848	**25 IR 101**
876 IAC 1-1-23	A	00-260	24 IR 2849	**25 IR 102**
	A	01-427	25 IR 3874	**26 IR 789**
876 IAC 1-1-24	A	00-260	24 IR 2849	**25 IR 102**
876 IAC 1-1-26	A	00-260	24 IR 2849	**25 IR 102**
876 IAC 1-4-2	A	01-427	25 IR 3874	**26 IR 789**
876 IAC 2-17-3	A	00-260	24 IR 2849	**25 IR 102**
876 IAC 3-2-4	A	02-148	25 IR 4213	
876 IAC 3-2-5	A	02-148	25 IR 4213	
876 IAC 3-2-7	A	02-148	25 IR 4213	
876 IAC 3-3-21	A	01-346	25 IR 2310	**25 IR 4111**
876 IAC 3-3-22	A	02-148	25 IR 4214	
876 IAC 3-6-2	A	01-403	25 IR 1726	**25 IR 3181**
876 IAC 3-6-3	A	01-403	25 IR 1727	**25 IR 3181**
876 IAC 3-6-9	A	02-148	25 IR 4214	
876 IAC 4-1-3	A	00-260	24 IR 2850	**25 IR 103**
	A	01-427	25 IR 3876	**26 IR 791**
876 IAC 4-2-1	A	00-260	24 IR 2850	**25 IR 103**
876 IAC 4-2-2	A	01-369	26 IR 180	**26 IR 788**
876 IAC 4-2-3	A	01-369	26 IR 180	**26 IR 788**
876 IAC 4-2-4	A	00-260	24 IR 2851	**25 IR 104**
876 IAC 4-2-5	A	00-260	24 IR 2851	**25 IR 104**
876 IAC 4-2-9	A	00-260	24 IR 2851	**25 IR 104**
	A	01-369	26 IR 180	**26 IR 788**

TITLE 880 SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD

880 IAC 1-1-1	RA	00-326	24 IR 2210	*CPH (24 IR 3658) **25 IR 1345**
880 IAC 1-1-2	RA	00-326	24 IR 2210	*CPH (24 IR 3658) **25 IR 1345**
880 IAC 1-1-3.1	RA	00-326	24 IR 2210	*CPH (24 IR 3658) **25 IR 1345**
880 IAC 1-1-5	RA	01-222	24 IR 4224	*CPH (24 IR 3658) **25 IR 1345**
880 IAC 1-1-6	RA	00-326	24 IR 2210	*CPH (24 IR 3658) **25 IR 1345**
880 IAC 1-1-7	RA	00-326	24 IR 2210	*CPH (24 IR 3658) **25 IR 1345**
880 IAC 1-2	RA	00-326	24 IR 2210	*CPH (24 IR 3658) **25 IR 1345**
	R	02-269	26 IR 879	
880 IAC 1-2.1	N	02-269	26 IR 876	
880 IAC 1-3.1	RA	00-326	24 IR 2210	*CPH (24 IR 3658) **25 IR 1345**

TITLE 888 INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS

888 IAC 1.1-3-2	RA	01-223	24 IR 4225	**25 IR 1346**
888 IAC 1.1-3-3	RA	01-321	25 IR 201	**25 IR 1733**
888 IAC 1.1-6-1	A	02-134	25 IR 3877	
888 IAC 1.1-6-3	A	02-135	25 IR 3878	
888 IAC 1.1-11	N	02-136	25 IR 3879	

TITLE 896 BOARD OF ENVIRONMENTAL HEALTH SPECIALISTS

896 IAC 1-3-2	RA	01-224	24 IR 4226	**25 IR 1346**

TITLE 898 INDIANA ATHLETIC TRAINERS BOARD

898 IAC 1-1-1.5	N	01-46	24 IR 2562	*CPH (24 IR 2724) **25 IR 104**
898 IAC 1-1-2.5	RA	01-44	24 IR 2588	*CPH (24 IR 2724) **25 IR 204**
898 IAC 1-1-3.5	RA	01-44	24 IR 2589	*CPH (24 IR 2724) **25 IR 204**
898 IAC 1-2-6	N	01-198	24 IR 4194	**25 IR 1643**
898 IAC 1-2-7	N	01-198	24 IR 4194	**25 IR 1643**
898 IAC 1-3-1	A	01-199	24 IR 4195	**25 IR 1347**
898 IAC 1-5-5	R	01-46	24 IR 2562	*CPH (24 IR 2724) **25 IR 105**

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

905 IAC 1-1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-3	RA	01-230	24 IR 3816	**25 IR 1347**
905 IAC 1-5.2-4	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-5	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-6	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-7	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-8	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-9	RA	01-230	24 IR 3816	**25 IR 1348**
905 IAC 1-5.2-10	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-11	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-12	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-13	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-14	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-15	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-16	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-5.2-17	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-7.1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-8-1	RA	01-230	24 IR 3817	**25 IR 1349**
905 IAC 1-8-2	RA	01-230	24 IR 3818	**25 IR 1349**
905 IAC 1-8-3	RA	01-230	24 IR 3818	**25 IR 1349**
905 IAC 1-8-4	RA	01-230	24 IR 3818	**25 IR 1350**
905 IAC 1-8-5	RA	01-230	24 IR 3818	**25 IR 1350**
905 IAC 1-8-6	RA	01-230	24 IR 3819	**25 IR 1350**

905 IAC 1-8-7	RA	01-230		*ERR (25 IR 1906)
905 IAC 1-9-5	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-10	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-11.1-1	RA	01-230	24 IR 3819	**25 IR 1350**
905 IAC 1-11.1-2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-12.1-2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-12.1-3	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-13	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-14	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-15.2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-15.3	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-16.1-1	RA	01-230	24 IR 3819	**25 IR 1350**
905 IAC 1-16.1-3	RA	01-230	24 IR 3816	**25 IR 1347**
905 IAC 1-17-2	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-17-3	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-17-4	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-18	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-20	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-21	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-23-1	RA	01-230	24 IR 3819	**25 IR 1351**
905 IAC 1-25	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-26	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-27-1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-27-2	RA	01-230	24 IR 3819	**25 IR 1351**
905 IAC 1-27-3	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-27-4	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-27-5	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-29-1	RA	01-230	24 IR 3820	**25 IR 1351**
905 IAC 1-29-2	RA	01-230	24 IR 3820	**25 IR 1351**
905 IAC 1-29-3	RA	01-230	24 IR 3820	**25 IR 1351**
905 IAC 1-29-4	RA	01-230	24 IR 3820	**25 IR 1352**
905 IAC 1-29-5	RA	01-230	24 IR 3816	**25 IR 1347**
905 IAC 1-29-6	RA	01-230	24 IR 3820	**25 IR 1352**
905 IAC 1-29-7	RA	01-230	24 IR 3820	**25 IR 1352**
905 IAC 1-29-8	RA	01-230	24 IR 3816	**25 IR 1347**
905 IAC 1-29.5	N	01-13	25 IR 509	
905 IAC 1-30	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-31	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-32.1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-33.1	RA	01-225	24 IR 3815	**25 IR 941**
905 IAC 1-34-1	RA	01-225	24 IR 3815	**25 IR 941**
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905 IAC 1-37	RA	01-225	24 IR 3816	**25 IR 941**
905 IAC 1-38	RA	01-225	24 IR 3816	**25 IR 941**
905 IAC 1-39	RA	02-272	26 IR 545	
905 IAC 1-40	RA	02-272	26 IR 545	
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905 IAC 1-51	N	01-261	25 IR 514	
905 IAC 1-52	N	01-262	25 IR 514	**25 IR 4112**
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910 IAC 1	RA	01-138	24 IR 3821	**25 IR 942**
910 IAC 2	RA	01-138	24 IR 3821	**25 IR 942**
TITLE 920 INDIANA WAR MEMORIALS COMMISSION				
920 IAC 1	RA	01-316	25 IR 201	**25 IR 1352**
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925 IAC 1	R	01-70	24 IR 3784	*ARR (25 IR 1185)
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925 IAC 2	N	01-70	24 IR 3779	*ARR (25 IR 1185)
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Revenue, Department of State

N	02-316	*ETR (26 IR 794)

Water Pollution Control Board

N	02-193	*ETR (25 IR 3778)

*Key:

A:	Amended Text
AGA:	Attorney General's Action
AROC:	Administrative Rules Oversight Committee Notice
ARR:	Agency Recalls Rule
AWR:	Agency Withdrew Rule
CPH:	Change in Public Hearing
DAG:	Disapproved by Attorney General
DG:	Disapproved by Governor
ER:	Emergency Rule
ERR:	Errata
ETR:	Emergency Temporary Rule
ETS:	Emergency Temporary Standard
GRAT:	Governor Requires Additional Time
N:	New Text
NRA:	Notice of Rule Adoption
OAC:	Objection to Errata
ON:	Other Notices of Administrative Action
R:	Repealed Text
RA:	Readopted Rule
SAC:	Solicitation of Advance Comment
SPE:	Statutory Period for Promulgation Expired
SPE-SE:	Statutory Period for Promulgation Expired; Signed After Expiration
††:	Renumbered or Added in Final Rule

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