TITLE 50 STATE BOARD OF TAX COMMISSIONERS

Proposed Rule
LSA Document #01-305

DIGEST

Amends 50 IAC 2.3-1-1 to extend the date that county assessors may select and publish a specific set of guidelines to be used for the assessment of real property for the 2002 general reassessment. Effective 30 days after filing with the secretary of state.

50 IAC 2.3-1-1

SECTION 1. 50 IAC 2.3-1-1, AS ADDED AT 24 IR 3015, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 2.3-1-1 Applicability, provisions, and procedures
Authority: IC 4-22-2-21; IC 6-1.1-4-26; IC 6-1.1-31; IC 6-1.1-35-1
Affected: IC 5-3-1; IC 6-1.1-4; IC 6-1.1-15; IC 6-1.1-31-5; IC 6-1.1-31-6

Sec. 1. (a) This article applies to the assessment of all real property under IC 6-1.1-4.

(b) All real property assessed after February 28, 2002, must be assessed in accordance with the 2002 Real Property Assessment Manual, incorporated by reference under section 2 of this rule.

(c) In addition to the requirements established in the 2002 Real Property Assessment Manual and to fully address the requirements of IC 6-1.1-31-6, the county assessor must select a set of more specific guidelines to be applied by assessing officials in connection with the assessment of real property in their county. These guidelines must:

(1) contain provisions for the determination of true tax value following the instructions in the section of the 2002 Real Property Assessment Manual entitled "Approval of Mass Appraisal Methods"; and

(2) be approved by the state board of tax commissioners.

The state board of tax commissioners has approved the provisions contained in the "Real Property Assessment Guidelines for 2002–Version 'A'" dated May 10, 2001, incorporated by reference under section 2 of this rule. Other real property assessment guidelines proposed by a county must be submitted to, and approved by, the state board of tax commissioners before they may be used for the assessment of real property in that county.

(d) The purpose of this rule is to accurately determine "True Tax Value" as defined in the 2002 Real Property Assessment Manual, not to mandate that any specific assessment method be followed. The intent of the state board of tax commissioners is that any individual assessment is to be deemed accurate if it is a reasonable measure of "True Tax Value" as defined in the 2002 Real Property Assessment Manual. No technical failure to comply with the procedures of a specific assessing method violates this rule so long as the individual assessment is a reasonable measure of "True Tax Value", and failure to comply with the Real Property Assessment Guidelines for 2002–Version 'A' or other guidelines approved under subsection (c) does not in itself show that the assessment is not a reasonable measure of "True Tax Value".

(e) After July 1, 2001, and before ~~August~~ **November** 1, 2001, the county assessor shall make the selection required under subsection (c). The method selected under subsection (c) must be used by all the assessing officials within the county, will serve as the appropriate method for calculating an assessment that is appealed under IC 6-1.1-15, and govern throughout the effective period of the 2002 reassessment. No method, other than the method selected by the county assessor under subsection (c), may be used for the assessment of real property under IC 6-1.1-4 within the county. Before ~~August~~ **November** 1, 2001, the county assessor shall publish the selected method in accordance with IC 5-3-1 and notify the state board of tax commissioners, in writing, of the selection.

(f) If the county assessor elects, pursuant to IC 6-1.1-31-5, to consider additional factors not provided for in this rule or the manual incorporated herein by reference, the county assessor shall submit a written request for approval of such factors by the state board of tax commissioners, at least sixty (60) days before the assessments are made, and no later than January 1, 2002. *(State Board of Tax Commissioners; 50 IAC 2.3-1-1; filed May 23, 2001, 4:01 p.m.: 24 IR 3015)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 27, 2001 at 10:00 a.m., at the Indiana Government Center-North, 100 North Senate Avenue, Room 1058, Indianapolis, Indiana the State Board of Tax Commissioners will hold a public hearing on the proposed rule to amend the date by which county assessors must select specific guidelines for the 2002 general reassessment. Parties interested in participating in the public hearing are encouraged to attend and submit written statements expressing their specific or general concerns, any suggested additions or revisions, and any documentation which may serve to support, clarify or supplement their concerns, suggestions, or proposed revisions. The State Board of Tax Commissioners also encourages any interested party who has concerns, suggestions, or proposed revisions to contact Kurt Barrow, Director, Assessment Division, State Board of Tax Commissioners, at (317) 232-3762. Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 1058 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Jon Laramore
Chairman
State Board of Tax Commissioners

TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION

Proposed Rule
LSA Document #01-374

DIGEST

Amends 105 IAC 9-4 concerning current categories for business logo signs and adds qualifications for a new category of business logo signs. It will also add a fee for seasonal installation and removal of closed panels, a requirement of compliance checks and notice of violations, and the consideration of available space when locating signs. The rule will also make other substantive and technical changes for spacing requirements for signs and will establish a timeframe for conformance with the spacing requirements. Effective 30 days after filing with the secretary of state.

105 IAC 9-4-4
105 IAC 9-4-5
105 IAC 9-4-6
105 IAC 9-4-7
105 IAC 9-4-8
105 IAC 9-4-9
105 IAC 9-4-10
105 IAC 9-4-11
105 IAC 9-4-12
105 IAC 9-4-13

SECTION 1. 105 IAC 9-4-4 IS AMENDED TO READ AS FOLLOWS:

105 IAC 9-4-4 Definitions
Authority: IC 8-23-2-6
Affected: IC 9-21-4-5

Sec. 4. ~~As used in~~ **The following definitions apply throughout** this rule:

~~(1) "Business sign" means a separately attached sign mounted on specific information panels to show the brand, symbol, trademark, or name, or combination of these, for a motorist service available at or near an interchange.~~

(1) "Business facility" means a business operating in one (1) or more of the areas of service permitted for installation of specific service signs and meeting the criteria for installation of a logo panel.

(2) "CLOSED panel" means a panel imprinted with the word CLOSED that may be installed over a logo panel to indicate the seasonal closing of a business.

~~(2)~~ **(3)** "Contractor" means the individual, partnership, firm, corporation, or combination of same contracting with the department for performance of prescribed work.

~~(3)~~ **(4)** "Department" means the Indiana department of transportation.

~~(4)~~ **(5)** "Freeway" means a divided highway for through traffic with full control of access.

~~(5)~~ **(6)** "Full control of access" means the condition where the right of owners or occupants of abutting land or other persons, to access light, air, or view in connection with a highway is fully controlled. Full control is exercised to give preference to through traffic by providing access connections only with selected public roads and by prohibiting crossings at grade or direct private driveway connections.

(7) "Interstate system" means the federally designated system of interstate highways with full control of access.

(8) "Logo panel" is a business sign and means a separately attached sign mounted on specific service signs to show the brand, symbol, trademark, or name, or combination of these, for a motorist service available at or near an interchange.

(9) "Miniature logo panel" means a reduced size duplicate of the logo panel installed on the specific service sign in advance of the interchange that is installed on the specific service ramp sign.

(10) "Primary applicant" means a business facility requesting a logo panel that meets the highest standard for the specific service.

(11) "Secondary applicant" means a business facility requesting a logo panel that meets a reduced standard for the specific service. Contracts for secondary applicants may be for a shorter period than for primary applicants.

(12) "Specific service ramp sign" means a reduced size specific service sign installed on an interchange ramp to indicate distance and direction to a service facility not readily visible from the ramp intersection with the intersecting roadway.

~~(6)~~ **(13)** "Specific ~~information panels"~~ **service sign" is a specific information panel and** means a rectangular sign panel with the following:

(A) The words "GAS", "FOOD", "LODGING", ~~or~~ "CAMPING", **or "ATTRACTION".**

(B) Directional information.

(C) One (1) or more ~~business signs.~~ **logo panels.**

(Indiana Department of Transportation; 105 IAC 9-4-4; filed Aug 13, 1984, 2:54 p.m.: 7 IR 2326; filed Mar 2, 1988, 10:55 a.m.: 11 IR 2330; filed Jan 8, 1992, 12:00 p.m.: 15 IR 698) NOTE: Transferred from Department of Highways (120 IAC 4-5-4) to Indiana Department of Transportation (105 IAC 9-4-4) by P.L.112-1989, SECTION 5, effective July 1, 1989.

SECTION 2. 105 IAC 9-4-5 IS AMENDED TO READ AS FOLLOWS:

105 IAC 9-4-5 Costs; rental fee
Authority: IC 8-23-2-6
Affected: IC 9-21-4-5

Sec. 5. (a) The ~~specific service applicant~~ **business facility** or the department's contractor shall bear all costs of manufacturing, installation, and maintenance relating to their respective ~~business sign,~~ **logo panel and miniature logo panel,** including theft, vandalism, or damage for any reason.

(b) The ~~specific service applicant~~ **business facility** shall pay a rental fee to the department or its authorized contractor.

(c) Business facilities that operate on a seasonal basis shall pay a fee for installation and subsequent removal of

CLOSED panels or removal and reinstallation of logo panels.

~~(c) The rental fee~~ **(d) Fees** will be established or approved jointly by the department and the Indiana department of commerce. *(Indiana Department of Transportation; 105 IAC 9-4-5; filed Aug 13, 1984, 2:54 p.m.: 7 IR 2326; errata, 7 IR 2546; filed Mar 2, 1988, 10:55 a.m.: 11 IR 2331; filed Jan 8, 1992, 12:00 p.m.: 15 IR 699) NOTE: Transferred from Department of Highways (120 IAC 4-5-5) to Indiana Department of Transportation (105 IAC 9-4-5) by P.L.112-1989, SECTION 5, effective July 1, 1989.*

SECTION 3. 105 IAC 9-4-6 IS AMENDED TO READ AS FOLLOWS:

105 IAC 9-4-6 Installation of panels; violations
Authority: IC 8-23-2-6
Affected: IC 9-21-4-5

Sec. 6. (a) Installation of a ~~business sign~~ **logo panel** shall be done by the department or its authorized contractor.

(b) The department, or its contractor, shall monitor business facilities on a regular basis, and may conduct random inspections, to assure continued compliance with the conditions of this rule.

(c) The department, or its contractor, shall notify any business facility found not in compliance with any condition of this rule and request compliance within a reasonable time period. Upon reinspection, if the business facility is not in compliance, the business facility shall be deemed in violation of this rule. After two (2) findings of noncompliance with subsequent return to compliance with the same condition of this rule, finding a third noncompliance shall be deemed a violation of a condition of this rule.

~~(b)~~ **(d)** The department, or its contractor, may remove ~~or place closed panels on,~~ any ~~business sign~~ **logo panel** for violation of any of the conditions of this rule.

(e) A business facility whose logo panel is removed for a violation of any condition of this rule may file as a new primary or secondary applicant. No preference will be granted for the prior installation of a logo panel. *(Indiana Department of Transportation; 105 IAC 9-4-6; filed Aug 13, 1984, 2:54 p.m.: 7 IR 2327; errata, 7 IR 2546; filed Mar 2, 1988, 10:55 a.m.: 11 IR 2331; filed Jan 8, 1992, 12:00 p.m.: 15 IR 699) NOTE: Transferred from Department of Highways (120 IAC 4-5-6) to Indiana Department of Transportation (105 IAC 9-4-6) by P.L.112-1989, SECTION 5, effective July 1, 1989.*

SECTION 4. 105 IAC 9-4-7 IS AMENDED TO READ AS FOLLOWS

105 IAC 9-4-7 Location of specific service signs; general requirements
Authority: IC 8-23-2-6
Affected: IC 9-21-2; IC 9-21-4-5

Sec. 7. (a) ~~Business signs on specific information panels~~ **When the spacing requirements in section 10 of this rule can be met, specific service signs** may be erected along the interstate system and other freeways, except at the following locations:

(1) At an interchange where motorists cannot conveniently reenter the freeway and continue in the same direction of travel.

(2) Freeway to freeway interchanges.

(3) Interchanges where ~~business~~ **specific service** signs are inappropriate due to safety considerations.

(b) The specific ~~information panels~~ **service signs** should be located so as to:

(1) take advantage of natural terrain; ~~to~~

(2) have the least impact on the scenic environment; and ~~to~~

(3) avoid visual conflict with other signs within the highway right-of-way.

Unprotected **specific service** sign ~~panel~~ supports located within the clear zone shall be of a breakaway design.

(c) In the direction of traffic **flow,** successive specific ~~information panels~~ **service signs** shall be those for **"ATTRACTION",** "CAMPING", "LODGING", "FOOD", and "GAS" in that order.

(d) The department will designate, by official action, interchanges where ~~business~~ **specific service** signs may not be erected due to safety considerations. *(Indiana Department of Transportation; 105 IAC 9-4-7; filed Aug 13, 1984, 2:54 p.m.: 7 IR 2327; filed Jan 8, 1992, 12:00 p.m.: 15 IR 699) NOTE: Transferred from Department of Highways (120 IAC 4-5-7) to Indiana Department of Transportation (105 IAC 9-4-7) by P.L.112-1989, SECTION 5, effective July 1, 1989.*

SECTION 5. 105 IAC 9-4-8 IS AMENDED TO READ AS FOLLOWS:

105 IAC 9-4-8 Specific information permitted
Authority: IC 8-23-2-6
Affected: IC 9-21-2; IC 9-21-4-5

Sec. 8. ~~(a) Each business identified on a specific information panel must give written assurance to the state, or the contractor, of its conforming with all applicable laws concerning the provisions of public accommodations without regard to race, religion, color, sex, or national origin, and must not be in breach of that assurance.~~

~~(b)~~ **(a)** The types of services signs permitted are "GAS", "FOOD", "LODGING", ~~and~~ "CAMPING", **and "ATTRAC-**

TION" and only one (1) type of service per ~~business sign.~~ **logo panel.** To qualify for display on a specific ~~information panel,~~ **service sign**, the service facility must meet the requirements outlined in section 13 of this rule.

~~(c)~~ **(b)** The number of specific ~~information panels~~ **service signs** permitted is limited to a maximum of one (1) for each type of service **up to a maximum of four (4) specific service signs** along an approach to an interchange. The number of ~~business signs~~ **logo panels** permitted on a specific ~~information panel~~ **service sign** is specified in section 11 of this rule. *(Indiana Department of Transportation; 105 IAC 9-4-8; filed Aug 13, 1984, 2:54 p.m.: 7 IR 2327; filed Mar 2, 1988, 10:55 a.m.: 11 IR 2332; filed Jan 8, 1992, 12:00 p.m.: 15 IR 699) NOTE: Transferred from Department of Highways (120 IAC 4-5-8) to Indiana Department of Transportation (105 IAC 9-4-8) by P.L.112-1989, SECTION 5, effective July 1, 1989.*

SECTION 6. 105 IAC 9-4-9 IS AMENDED TO READ AS FOLLOWS:

105 IAC 9-4-9 Size and design; composition; general specifications

Authority: IC 8-9.5-4-8
Affected: IC 9-21-4

Sec. 9. (a) The specific ~~information panels~~ **service signs** shall have a blue **reflectorized** background with a white reflectorized border. The size of the specific ~~information panels~~ **service signs** shall not exceed the minimum size necessary to accommodate the maximum number of ~~business signs~~ **logo panels** permitted using the required legend height and the interline and edge spacing of current standards of the Indiana Manual on Uniform Traffic Control Devices.

(b) ~~Business signs~~ **Logo panels** shall have a blue background with white legend and border, except where standard business ~~signs~~ **identification symbols or trademarks** provide a background color. Signs shall be manufactured from sheet aluminum **(eighty-thousandths** (.080) ~~inches~~ **inch** thick) with reflective sheeting. The principal legend should be at least equal in height to the directional legend on the **specific service** sign panel. Where business identification symbols or trademarks are used for a ~~business sign,~~ **logo panel,** the border may be omitted. The symbol or trademark shall be reproduced in the color and general design consistent with customary use, and any integral legend shall be in proportionate size. Messages, symbols, or trademarks which resemble any official traffic control device or tend to direct traffic are prohibited. The vertical and horizontal spacing between ~~business signs~~ **logo panels** on ~~sign panels~~ **specific service signs** shall not exceed eight (8) inches and twelve (12) inches respectively.

(c) All directional arrows and all letters and numbers used in the name of the type of service and the directional legend shall be white and reflectorized. *(Indiana Department of Transportation; 105 IAC 9-4-9; filed Aug 13, 1984, 2:54 p.m.: 7 IR 2327; errata, 7 IR 2546)* NOTE: *Transferred from Department of Highways (120 IAC 4-5-9) to Indiana Department of Transportation (105 IAC 9-4-9) by P.L.112-1989, SECTION 5, effective July 1, 1989.*

SECTION 7. 105 IAC 9-4-10 IS AMENDED TO READ AS FOLLOWS:

105 IAC 9-4-10 Location of signs; special requirements

Authority: IC 8-23-2-6
Affected: IC 9-21-2; IC 9-21-4-5

Sec. 10. (a) Except as provided in section 11(c) of this rule, a separate **specific service** sign ~~panel~~ must be provided for each type of service upon which ~~business signs~~ **logo panels** are displayed.

(b) The specific ~~information panels~~ **service signs** should be erected between **eight hundred (800) feet beyond the end of the last entrance taper of** the previous interchange and eight hundred (800) feet minimum in advance of the exit ~~direction sign~~ **lane taper,** or the general motorist service sign if present, at the interchange from which the services are available. **When longitudinal space permits, all specific service signs should be installed before the one (1) mile exit panel.** There should **normally** be at least eight hundred (800) feet spacing between the signs, **and at least eight hundred (800) feet visibility to a sign installed beyond a sight obstruction.** Excessive spacing should be avoided.

(c) Specific service signs existing at the time this rule is adopted and not meeting these spacing requirements may remain in place for the remainder of their normal service life but no longer than fifteen (15) years from adoption of this rule. At the end of the service life or at some time before the fifteen (15) years limit is reached, signs not complying with these spacing requirements should be removed or relocated in compliance with these requirements.

(d) When available space or other restrictions limit the number of specific service signs that may be installed approaching an interchange, the order of preference for choosing services to be displayed shall be "GAS", "FOOD", "LODGING", "CAMPING", "ATTRACTION".

~~(c)~~ **(e)** At single-exit interchanges, where service facilities having a ~~business sign~~ **logo panel** are not visible from the ramp terminal, ~~miniature directional business sign panels~~ **specific service ramp signs** must be installed at the ramp terminal as follows:

(1) ~~Directional sign panels~~ **Specific service ramp signs** must include the distance and the directional arrow to the service facility.

(2) The installation of ~~miniature directional business sign panels~~ **specific service ramp signs** shall be at the expense of the business facility.

(3) The miniature ~~business sign~~ **logo panels installed on specific service ramp signs** must be ~~a duplicate of the corresponding specific business sign along the main roadway but reduced in size to~~ eighteen (18) inches high by twenty-four (24) inches wide. ~~The design of this sign must be approved by the department~~.

(4) The miniature ~~business sign~~ **logo panel** on the ~~directional~~ **specific service ramp** sign ~~panel~~ will be installed after receipt of the miniature ~~business sign~~ **logo panel** from the business facility.

(5) Miniature ~~business signs,~~ **logo panels,** if required, must accompany the specific ~~business signs~~ **logo panel** before any installations are made.

(Indiana Department of Transportation; 105 IAC 9-4-10; filed Aug 13, 1984, 2:54 p.m.: 7 IR 2328; errata, 7 IR 2546; filed Mar 2, 1988, 10:55 a.m.: 11 IR 2332; filed Jan 8, 1992, 12:00 p.m.: 15 IR 700) NOTE: Transferred from Department of Highways (120 IAC 4-5-10) to Indiana Department of Transportation (105 IAC 9-4-10) by P.L.112-1989, SECTION 5, effective July 1, 1989.

SECTION 8. 105 IAC 9-4-11 IS AMENDED TO READ AS FOLLOWS:

105 IAC 9-4-11 Design; special requirements

Authority: IC 8-23-2-6
Affected: IC 9-21-4

Sec. 11. (a) At single-exit interchanges, the name of the type of service followed by the exit number shall be displayed in one (1) line above the ~~business signs,~~ **logo panels,** or, as an alternate, the exit number may be placed above the specific ~~information panel~~ **service sign** and the type of ~~service(s)~~ **service or services** should be displayed in one (1) line above the ~~business signs.~~ **logo panels.** At unnumbered interchanges, the directional legend "NEXT RIGHT (LEFT)" shall be substituted for the exit number. The specific ~~information panel~~ **service sign** shall be limited to six (6) ~~business signs~~ **logo panels** for "GAS", "FOOD", "LODGING", ~~and~~ "CAMPING", **and "ATTRACTION".**

(b) At double-exit interchanges, the specific ~~information panels~~ **service signs** shall consist of two (2) sections, one (1) for each exit. The top section shall display the ~~business signs~~ **logo panels** for the first exit, and the lower section shall display the ~~business signs~~ **logo panels** for the second exit. The name of the type of service followed by the exit number shall be displayed in a line above the ~~business signs~~ **logo panels** in each section. At unnumbered interchanges, the legend "NEXT RIGHT (LEFT)" and "SECOND RIGHT (LEFT)" shall be substituted for the exit numbers. Where a type of motorist service is to be signed for at only one (1) exit, one (1) section of the specific ~~information panel~~ **service sign** may be omitted, or a single-exit interchange sign may be used. The number of ~~business signs~~ **logo panels** on the **specific service** sign ~~panel~~ (total of both sections) shall be limited to six (6) for "GAS", "FOOD", "LODGING", ~~and~~ "CAMPING", **and "ATTRACTION".**

(c) At remote rural interchanges, where ~~not more than two (2)~~ **the number of** qualified **business** facilities are ~~available for each of two (2) or more types of services, business signs~~ **limited, or at interchanges where longitudinal space limits the number of specific service signs that may be installed, logo panels** for **two (2) or** three (3) types of services may be displayed on the same **specific service** sign. ~~panel. Not more than three (3) business signs for each type of service shall be displayed in combination on a panel.~~ **The permitted combinations are:**

(1) Up to two (2) logo panels for up to three (3) types of services.

(2) Up to three (3) logo panels for two (2) types of services.

(3) Up to four (4) logo panels for one (1) type of service and up to two (2) logo panels for one (1) other type of service.

The name of each type of service shall be displayed above its respective ~~business sign(s),~~ **logo panel or panels,** and the exit number shall be displayed above the names of the types of services. At unnumbered interchanges, the legend "NEXT RIGHT (LEFT)" shall be substituted for the exit number. ~~Business signs~~ **Logo panels** should not be combined on a ~~panel~~ **specific service sign** when it is anticipated that additional service facilities will become available in the near future. When it becomes necessary to display ~~a fourth business sign~~ **more logo panels** for a type of service displayed in combination, the ~~business signs~~ **logo panels** involved shall then be displayed in compliance with ~~subsection~~ **subsections** (a) through (b).

(d) The normal orientation for specific service signs is with the longer dimension horizontal. At locations with extreme conditions, such as narrow right-of-way or steep slopes, where a horizontal installation is not practical, the longer dimension may be installed vertical with sections appropriate to the vertical orientation. The left section shall be for the first exit of a double-exit interchange and the right section for the second exit.

(e) When a specific service sign is divided into sections, a section may not be extended left or right, up or down to encroach into the area of another section. Specific service signs not in compliance with this provision at the time this rule is adopted may remain in place until the earlier of:

(1) the end of the normal service life of the sign; or

(2) a logo panel in the section with the extension is removed so that sections that comply may be established.

(Indiana Department of Transportation; 105 IAC 9-4-11; filed Aug 13, 1984, 2:54 p.m.: 7 IR 2328; filed Mar 2, 1988, 10:55 a.m.: 11 IR 2332; filed Mar 30, 1990, 3:30 p.m.: 13 IR 1390) NOTE: Transferred from Department of Highways (120 IAC 4-

5-11) to Indiana Department of Transportation (105 IAC 9-4-11) by P.L.112-1989, SECTION 5, effective July 1, 1989.

SECTION 9. 105 IAC 9-4-12 IS AMENDED TO READ AS FOLLOWS:

105 IAC 9-4-12 Size; special requirements
Authority: IC 8-23-2-6
Affected: IC 9-21-4

Sec. 12. (a) Each ~~business sign~~ **logo panel** displayed on the "GAS" specific ~~information panel~~ **service sign** shall be contained within a forty-eight (48) inch wide and thirty-six (36) inch high rectangular background area, including border.

(b) Each ~~business sign~~ **logo panel** on the "FOOD", "LODGING", ~~and~~ "CAMPING", **and "ATTRACTION"** specific ~~information panels~~ **service signs** shall be contained within a sixty (60) inch wide and thirty-six (36) inch high rectangular background area, including border.

(c) All letters used in the name of the type of service and the directional legend shall be ten (10) inch capital letters. Numbers shall be ten (10) inches in height. *(Indiana Department of Transportation; 105 IAC 9-4-12; filed Aug 13, 1984, 2:54 p.m.: 7 IR 2329) NOTE: Transferred from Department of Highways (120 IAC 4-5-12) to Indiana Department of Transportation (105 IAC 9-4-12) by P.L.112-1989, SECTION 5, effective July 1, 1989.*

SECTION 10. 105 IAC 9-4-13 IS AMENDED TO READ AS FOLLOWS:

105 IAC 9-4-13 Qualification for logo panels
Authority: IC 8-23-2-6
Affected: IC 9-21-4

Sec. 13. (a) In addition to the specific requirements in this section, each applicant must hold valid licenses, permits, and/or approvals required of the facility by any appropriate governmental agency. **Each business identified on a specific service sign must give written assurance to the state, or the contractor, of its conforming with all applicable laws concerning the provisions of public accommodations without regard to race, religion, color, sex, disability, or ancestry, and must not be in breach of that assurance.**

(b) To qualify as ~~a primary~~ **an** applicant for a "GAS" ~~business sign,~~ **logo panel,** a business **facility** must establish the following:

(1) Provide vehicle services including fuel, oil, tire repair, and water. It is permissible for a subcontractor to provide tire repair service on the premises of the ~~primary~~ applicant **within one (1) hour of notification or for the applicant to have printed directions to a tire repair facility open for business the same hours as the applicant within one (1) mile of the applicant business facility.**

(2) Provide **modern** public restroom facilities and drinking water.

(3) Be in continuous operation with a minimum of **the following:**

(A) Sixteen (16) hours a day for seven (7) days a week **for a primary applicant.**

(B) Twelve (12) hours a day for seven (7) days a week for a secondary applicant.

(4) Provide a public telephone.

(5) Be located within two (2) miles of the interchange and be on, or readily visible from, the intersecting crossroad.

(c) To qualify as ~~a primary~~ **an** applicant for a "FOOD" ~~business sign,~~ **logo panel,** a business **facility** must establish the following:

~~(1) Open on or before 8:30 a.m.~~

~~(2) Provide twelve (12) hours of service a day and serve three (3) meals a day, seven (7) days a week, with a minimum seating capacity of twenty-five (25) persons.~~

~~(3)~~ **(1)** Provide **modern** public restroom facilities.

~~(4)~~ **(2)** Provide a public telephone.

~~(5)~~ **(3)** Be located within three (3) miles of the interchange and be on, or readily visible from, the intersecting crossroad.

(4) Provide a minimum seating capacity of twenty-five (25) persons.

(5) Provide meals a minimum of six (6) days per week. If applicable, the day of the week the business facility is not in operation shall be shown on or below the logo panel.

(6) Provide meal services a minimum of:

(A) twelve (12) hours operation for three (3) meals a day opening at or before 8:30 a.m. for a primary applicant; and

(B) two (2) meals per day for secondary applicant.

(d) To qualify as ~~a primary~~ **an** applicant for a "LODGING" ~~business sign,~~ **logo panel,** a business must establish the following:

(1) Provide a minimum of ten (10) separate sleeping units **with modern sanitary facilities.**

(2) Provide a public telephone.

(3) Have gasoline and food available within one (1) mile of the facility, between the facility and the interchange, or within the respective limits stipulated in subsections (b) and (c).

(4) Be located within three (3) miles of the interchange and be on, or readily visible from, the intersecting crossroad.

(e) To qualify as ~~a primary~~ **an** applicant for a "CAMPING" ~~business sign,~~ **logo panel,** a business **facility** must establish the following:

(1) Provide adequate waste disposal.

(2) Provide **modern sanitary facilities, including** an adequate number of toilets, ~~and~~ lavatories, **and showers** for ~~camper parking~~ **camping sites'** capacity.

(3) Provide running water, ~~with showers~~ **drinking water,** and electricity.

(4) Provide a minimum ~~of fifty (50) overnight camper~~ **number of camping** sites:

(A) fifty (50) for primary applicant; and

(B) twenty-five (25) for secondary applicant.

(5) Be located within fifteen (15) miles of the interchange.

(6) Provide a public telephone.

(7) Provide ~~twelve (12) month~~ **continuous months of** operation ~~or provide for "Closed" panels overlaying the business sign during the seasonal closing. The closed panel will be fabricated and erected at the applicant's expense. Posting of the closed panel, and subsequent removal, will be limited to a one (1) time per year basis.~~ **as follows:**

(A) Twelve (12) months for primary applicant.

(B) Six (6) months for secondary applicant. The secondary applicant shall provide for "Closed" panels during the months of closure. Posting of the closed panel, and subsequent removal, will be limited to one (1) time per year. Alternatively, the months of operation may be posted on or below the logo panel.

(8) Provide adequate trailblazing from the interchange to the facility.

(f) To qualify as ~~a secondary~~ **an** applicant for ~~a "GAS" business sign,~~ **an "ATTRACTION" logo panel,** a business **facility** must establish the following:

~~(1) Provide vehicle services including fuel, oil, tire repair, and water. It is permissible for a subcontractor to provide tire repair service on the premises of the secondary applicant.~~

~~(2) Provide public restroom facilities and drinking water.~~

~~(3) Be in continuous operation for a minimum of twelve (12) hours a day for seven (7) days a week.~~

~~(4) Provide a public telephone.~~

~~(5) Be located within two (2) miles of the interchange and be on, or readily visible from, the intersecting crossroad.~~

(1) Be of regional significance.

(2) Have adequate off-street parking for normal visitor demand.

(3) Provide modern public restroom facilities and drinking water.

(4) Provide a public telephone.

(5) Be located within fifteen (15) miles of the interchange.

(6) Provide adequate trailblazing from the interchange to the facility.

(7) Be one (1) or more of the following:

(A) Amusement park. A commercially operated park enterprise that supplies refreshments and various forms and devices for entertainment.

(B) Business district/main street community. The central business district of a community or an area within a community that has been officially designated as a main street community by the Indiana department of commerce. To qualify for this type of signage at an exit, there must be more than one (1) exit from the highway to access the community.

(C) Education center. A facility that is of outstanding educational value and conducts tours on a regularly scheduled basis throughout the year.

(D) Golf course. Eighteen (18) hole minimum United States Golf Association regulation governed. Secondary applicant is the only applicant status available for golf course regardless of operation times outlined in subdivision (8).

(E) Historical site. A structure, district, or site listed on the Indiana Register of Historic Sites and Structures or the National Register of Historic Places as being of historical significance and is open to the public.

(F) Museum. An organized and permanent institution, with professional staff, essentially educational or aesthetic in purpose, that owns or utilizes tangible objects, cares for them, and exhibits them to the public on some regular schedule.

(G) Religious site. A shrine, grotto, or similar type site that is of a unique religious nature.

(H) Resort/ski area/marina. A facility with those recreational amenities normally present at a facility that is the main focal point of a vacation and is situated to take advantage of a natural, historic, or recreational attraction.

(I) U-pick/orchard/farmer's market. An established area or facility where consumers can purchase consumer picked or prepicked fresh Indiana grown food directly from Indiana producers.

(J) Winery. A facility that produces wine from grapes or other fruit and maintains a tasting room, sales, and tours.

(K) Botanical/zoological facility. A facility that houses and maintains a collection of unique living animals or plants and is open to the public.

(8) Have regularly scheduled operation for a minimum of the following:

(A) Eight (8) hours per day, seven (7) days per week all year for primary applicant.

(B) Six (6) hours per day for five (5) days per week for eight (8) continuous months per year for secondary applicant. If applicable, the day or days of the week the business facility is not in operation shall be shown on or below the logo panel. The secondary applicant shall provide for "Closed" panels during the months of closure. Posting of the closed panel, and subsequent removal, will be limited to one (1) time per year. Alternatively, the months of operation may be posted on or below the logo panel.

~~(g) To qualify as a secondary applicant for a "FOOD" business sign, a business must establish the following:~~

~~(1) Serve two (2) meals a day, seven (7) days a week, with a minimum seating capacity of twenty-five (25) persons.~~

~~(2) Provide public restroom facilities.~~

~~(3) Provide a public telephone.~~

~~(4) Be located within three (3) miles of the interchange and be on, or readily visible from, the intersecting crossroad.~~

~~(h)~~ **(g)** The department or its contractor will enter into contracts with primary applicants for the use of space on specific ~~information panels.~~ **service signs.** If space remains available on ~~"GAS"~~ ~~and "FOOD"~~ ~~information panels~~ **specific service signs** after primary applicants have been ~~contacted,~~ **contracted,** the department or its contractor may enter into contracts with secondary applicants for use of the remaining space. *(Indiana Department of Transportation; 105 IAC 9-4-13; filed Aug 13, 1984, 2:54 p.m.: 7 IR 2329; errata, 7 IR 2546; filed Mar 2, 1988, 10:55 a.m.: 11 IR 2333; filed Oct 5, 1993, 5:00 p.m.: 17 IR 173) NOTE: Transferred from Department of Highways (120 IAC 4-5-13) to Indiana Department of Transportation (105 IAC 9-4-13) by P.L.112-1989, SECTION 5, effective July 1, 1989.*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 15, 2002 at 10:00 a.m., at the Indiana Department of Transportation, Indiana Government Center-North, 100 North Senate Avenue, Room 730, Indianapolis, Indiana the Indiana Department of Transportation will hold a public hearing on proposed amendments concerning current categories for business logo signs and adding qualifications for a new category of business logo signs. The amendments will also add a fee for seasonal installation and removal of closed panels, a requirement of compliance checks and notice of violations, and the consideration of available space when locating signs. Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 730 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

J. Bryan Nicol
Commissioner
Indiana Department of Transportation

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #01-295

DIGEST

Adds 312 IAC 2-4-9.5 to establish reporting requirements for fishing tournament license holders. Effective 30 days after filing with the secretary of state.

312 IAC 2-4-9.5

SECTION 1. 312 IAC 2-4, AS ADDED AT 24 IR 3930, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

312 IAC 2-4-9.5 Reporting
Authority: IC 14-10-2-4; IC 14-15-7-3
Affected: IC 14

Sec. 9.5. In addition to the terms of the license and the requirements otherwise set forth in this rule, the department may require a fishing tournament license holder to keep and report, on a department form, legible and accurate records of the following:

(1) Tournament name.
(2) Name, address, and telephone number of the license holder.
(3) Tournament date or dates, including starting time and ending time.
(4) Target fish species.
(5) Name of any waterway fished.
(6) Number of boats and number of participants.
(7) Individual or team catch statistics for each species of fish taken, including the following:
(A) The numbers and lengths of fish weighed-in.
(B) The numbers and lengths of fish caught and released.

(Natural Resources Commission; 312 IAC 2-4-9.5)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 8, 2002 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed new rules to establish reporting requirements for fishing tournament license holders. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael Kiley
Chairman
Natural Resources Commission

TITLE 329 SOLID WASTE MANAGEMENT BOARD

Proposed Rule
LSA Document #01-289

DIGEST

Amends 329 IAC 3.1-1-7 to achieve consistency with federal hazardous waste management regulations by incorporating by reference changes to the federal hazardous waste management regulations at 40 CFR 260 through 40 CFR 270, published in the Federal Register from July 10, 2000, through May 16, 2001. Amends 329 IAC 3.1-7-2 to be consistent with IC 13-22-4-3.1 by removing a provision that requires generators to enter waste handling codes on the Uniform Hazardous Waste Manifest. Amends 329 IAC 3.1-9-2 and 329 IAC 3.1-10-2 to be consis-

tent with Public Law 143-2000 by removing provisions that require permitted treatment, storage, and disposal facilities to send copies of hazardous waste manifests to IDEM. Repeals 329 IAC 3.1-4-9.1 and 329 IAC 3.1-4-17.1. Effective 30 days after filing with the secretary of state.

HISTORY

Findings and Determination of the Commissioner Pursuant to IC 13-14-9-8, Draft Rule, and Notice of First Public Hearing: September 1, 2001, Indiana Register (24 IR 4266).

Date of First Hearing: October 16, 2001.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

Because the commissioner has made a determination and has prepared written findings for this rule under IC 13-14-9-8, this rule is not subject to the third public comment period provisions of IC 13-14-9-4.5.

FISCAL ANALYSIS PREPARED BY THE LEGISLATIVE SERVICES AGENCY

LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
301 State House
(317) 232-9855
ADMINISTRATIVE RULE
FISCAL IMPACT STATEMENT

PROPOSED RULE: LSA Document #01-289
DATE PREPARED: Oct 26, 2001
STATE AGENCY: Department of Environmental Management
DATE RECEIVED: Sep 21, 2001
FISCAL ANALYST: Bernadette Bartlett
PHONE NUMBER: 232-9586

Digest of Proposed Rule: This rule amends 329 IAC 3.1-1-7 to achieve consistency with federal hazardous waste management regulations by incorporating by reference changes to the federal hazardous waste management regulations at 40 CFR 260 through 40 CFR 270, published in the Federal Register from July 10, 2000, through May 16, 2001. The rule amends 329 IAC 3.1-7-2 to be consistent with IC 13-22-4-3.1 by removing a provision that requires generators to enter waste handling codes on the Uniform Hazardous Waste Manifest. It also amends 329 IAC 3.1-9-2 and 329 IAC 3.1-10-2 to be consistent with Public Law 143-2000 by removing provisions that require permitted treatment, storage, and disposal facilities to send copies of hazardous waste manifests to the Indiana Department of Environmental Management (IDEM). It also repeals 329 IAC 3.1-4-9.1 and 329 IAC 3.1-4-17.1.

Governmental Entities: State: The rule will not result in a fiscal impact to the state.

Local: The rule will not have a fiscal impact on local governments.

Regulated Entities: The rule could result in a potential annual savings of an estimated $227,800 to $509,200 to regulated entities that generate hazardous waste in Indiana and to facilities in Indiana that treat, store, or dispose of hazardous waste. The potential savings are listed below.

This rule adds gas turbines to the list of approved burners for comparable/syngas fuel burners. The U.S. Environmental Protection Agency (EPA) estimated annual national savings ranging from $3M to $13 M. If facilities in Indiana exist that could take advantage of the rule, the facilities could save an estimated 2% of the national savings, or $60,000 to $260,000 annually. By adding gas turbines, the rule expands the types of fuel that could be burned which could also relieve facilities of costs associated with disposing of the fuel through methods other than burning.

The rule increases flexibility for facilities that manage low-level mixed waste (radioactive hazardous waste). Seven generators reported low-level mixed waste in Indiana. EPA estimated a national savings of $4.1M to $5.9 M. If Indiana represents 2% of the national average, savings to facilities in Indiana would equal $82,000 to $118,000. Facilities could save permitting expenses associated with complying with two regulatory acts: the Atomic Energy Act and the Resource Conservation and Recovery Act (RCRA). Facilities would no longer be subject to RCRA.

With respect to the Hazardous Waste Identification Rule revisions, EPA estimates national savings at $4.3 M to $6.6 M, or $85,800 to $131,200 for Indiana. This provision expands disposal opportunities and eliminates certain permitting requirements.

Information Sources: U.S. Environmental Protection Agency, and Steve Mojonnier, Office of Land Quality, IDEM, 317.233.1655.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On October 16, 2001, the solid waste management board (board) conducted the first public hearing/board meeting concerning development of amendments to 329 IAC 3.1. No comments were made at the first hearing.

329 IAC 3.1-1-7
329 IAC 3.1-4-9.1
329 IAC 3.1-4-17.1
329 IAC 3.1-7-2
329 IAC 3.1-9-2
329 IAC 3.1-10-2

SECTION 1. 329 IAC 3.1-1-7, AS AMENDED AT 24 IR 2431, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-1-7 Incorporation by reference

Authority: IC 13-19-3-1; IC 13-22-4
Affected: IC 13-14-8; 40 CFR 260.11

Sec. 7. (a) When incorporated by reference in this article, references to 40 CFR 260 through 40 CFR 270 and 40 CFR 273 shall mean the version of that publication revised as of July 1, ~~1999.~~ **2001.** When used in 40 CFR 260 through 40 CFR 270 and 40 CFR 273, as incorporated in this article, references to federally incorporated publications shall mean that version of the publication as specified at 40 CFR 260.11. The following publications are also incorporated by reference:

(1) 40 CFR 146 (1995).

(2) 40 CFR 60, Appendix A (1995).

~~(3) Amendments to 40 CFR 260, 40 CFR 261, 40 CFR 264, 40 CFR 265, 40 CFR 268, 40 CFR 270, and 40 CFR 273 published in the Federal Register on July 6, 1999, at 64 FR 36487 through 64 FR 36490.~~

~~(4) Amendments to 40 CFR 260, 40 CFR 261, 40 CFR 264, 40 CFR 265, 40 CFR 266, 40 CFR 270, and 40 CFR 271 published in the Federal Register on September 30, 1999, at 64 FR 53070 through 64 FR 53077.~~

~~(5) Amendments to 40 CFR 261, 40 CFR 262, and 40 CFR 268 published in the Federal Register on October 20, 1999, at 64 FR 56470 through 64 FR 56472.~~

~~(6) Amendments to 40 CFR 261 and 40 CFR 266 published~~

~~in the Federal Register on November 19, 2000, at 64 FR 63212 through 64 FR 63213.~~
~~(7) Amendments to 40 CFR 262 published in the Federal Register on March 8, 2000, at 65 FR 12397 through 12398.~~
~~(8) Amendments to 40 CFR 261 and 40 CFR 268 published in the Federal Register on March 17, 2000, at 65 FR 14474 through 14475.~~
~~(9) Amendments to 40 CFR 270 published in the Federal Register on May 15, 2000, at 65 FR 30913.~~
~~(10) Amendments to 40 CFR 261 and 40 CFR 268 published in the Federal Register on June 8, 2000, at 65 FR 36366 through 36367.~~

(b) Federal regulations that have been incorporated by reference do not include any later amendments than those specified in the incorporation citation in subsection (a). Sales of the Code of Federal Regulations are handled by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The telephone number for the Government Printing Office is (202) 512-1800. The incorporated materials are available for public review at the offices of the department of environmental management.

(c) Where exceptions to incorporated federal regulations are necessary, these exceptions will be noted in the text of the rule. In addition, all references to administrative stays are deleted.

(d) Cross-references within federal regulations that have been incorporated by reference shall mean the cross-referenced provision as incorporated in this rule with any indicated additions and exceptions.

(e) The incorporation of federal regulations as state rules does not negate the requirement to comply with federal provisions which may be effective in Indiana which are not incorporated in this article or are retained as federal authority. *(Solid Waste Management Board; 329 IAC 3.1-1-7; filed Jan 24, 1992, 2:00 p.m.: 15 IR 909; filed Oct 23, 1992, 12:00 p.m.: 16 IR 848; filed May 6, 1994, 5:00 p.m.: 17 IR 2061; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3353; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1111; filed Oct 31, 1997, 8:45 a.m.: 21 IR 947; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2739; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; filed Mar 6, 2000, 8:02 a.m.: 23 IR 1637; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2431)*

SECTION 2. 329 IAC 3.1-7-2, AS AMENDED AT 24 IR 2431, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-7-2 Exceptions and additions; generator standards

Authority: IC 13-14-8; IC 13-22-2-4
Affected: IC 13-22-2; 40 CFR 262

Sec. 2. Exceptions and additions to federal standards for generators are as follows:

(1) Delete 40 CFR 262.12(a) and substitute "A generator who has not received an EPA identification number may obtain one by applying on forms provided by the commissioner. Upon receipt of the completed forms, an EPA identification number will be assigned.".
(2) In addition to the requirements of 40 CFR 262, Subpart B and the appendix to 40 CFR 262, the generator shall enter the EPA hazardous waste number ~~and handling code~~ for each waste on the Uniform Hazardous Waste Manifest **(EPA Form 8700-22)** as follows:

(A) ~~The EPA hazardous waste number for each waste must be entered on the manifest as follows:~~

~~(i) For characteristic hazardous waste,~~ Enter the four (4) digit EPA hazardous waste number from 40 CFR 261 ~~Subpart C,~~ that identifies the waste in item "I" of the manifest form **or item "R" of the continuation sheet (EPA Form 8700-22A).**

~~(ii) For listed hazardous waste, enter the four (4) digit EPA hazardous waste number from 40 CFR 261, Subpart D, that identifies the waste in item "I" of the manifest form.~~

~~(iii) Where a hazardous waste contains more than one (1) listed waste, or where more than one (1) hazardous waste characteristic applies to the waste, enter each of the applicable EPA waste numbers that identify the waste. When entering multiple EPA hazardous waste numbers, enter the EPA hazardous waste number that identifies the most distinctive or most hazardous property of the waste in item "I". Enter the remaining EPA hazardous waste numbers, up to four (4) for each waste, in item "J".~~

~~(iv)~~ **(B)** If ~~a~~ waste has more than four ~~(4)~~ additional **multiple** EPA hazardous waste numbers ~~associated with it, enter the words "multiple coded" or "multi-coded" instead of the additional codes for that waste~~ **apply, enter the hazardous waste numbers as follows:**

(i) Enter the one (1) EPA hazardous waste number that identifies the most distinctive or most hazardous property of the waste in item "I" of the manifest form or item "R" of the continuation sheet.

(ii) The remaining EPA hazardous waste numbers may be entered in item "J" **of the manifest form or item "S" of the continuation sheet**.

~~(v)~~ **(C)** For nonhazardous or unregulated waste that may be included in the shipment, enter "NONE" in item "I".

~~(B) The handling code for each waste must be entered in item "K" of the manifest form as follows:~~

~~(i) Enter the three (3) character handling code from 40 CFR 264, Appendix I, Table 2 that most closely represents the method used at the facility designated in accordance with 40 CFR 262.20(b) to treat, store, dispose, or recover each hazardous waste identified on the manifest.~~

~~(ii) If multiple methods are used, the code that most closely reflects the ultimate disposition of the waste at the facility must be entered.~~

~~(iii) If clarification is necessary, enter this information in~~

~~item 15 or item 32 on the continuation sheet, EPA Form 8700-22A~~.

(3) Delete 40 CFR 262.41 dealing with biennial reporting and substitute section 14 of this rule.

(4) In 40 CFR 262.42(a)(2), delete "in the Region in which the generator is located".

(5) Delete 40 CFR 262.43 dealing with additional reporting and substitute section 15 of this rule.

(6) In 40 CFR 262.53 and 40 CFR 262.54, references to the "EPA" are retained. A copy of the notification of intent to export, which must be submitted to the EPA, must also be submitted to the Office of Land Quality, Indiana Department of Environmental Management, P.O. Box 7035, Indianapolis, Indiana 46207-7035.

(7) Exception reports required from primary exporters pursuant to 40 CFR 262.55 must be filed with the Regional Administrator of the EPA and the commissioner.

(8) Delete 40 CFR 262.56 dealing with annual reports for exports and substitute section 16 of this rule.

(9) In 40 CFR 262.57(b), the reference to the "administrator" is retained. The commissioner may also request extensions of record retention times for hazardous waste export records.

(Solid Waste Management Board; 329 IAC 3.1-7-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 925; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3355; filed Jan 3, 2000, 10:00 a.m.: 23 IR 1098; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2432)

SECTION 3. 329 IAC 3.1-9-2, AS AMENDED AT 24 IR 2433, SECTION 4, IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-9-2 Exceptions and additions; final permit standards

Authority: IC 13-14-8; IC 13-22-2-4
Affected: IC 13-14-10; IC 13-22-2; IC 13-30-3; 40 CFR 264

Sec. 2. Exceptions and additions to federal final permit standards are as follows:

(1) Delete 40 CFR 264.1(a) dealing with scope of the permit program and substitute the following: The purpose of this rule is to establish minimum standards which define the acceptable management of hazardous waste at final state permitted facilities.

(2) In 40 CFR 264.4 dealing with imminent hazard action, delete "7003 of RCRA" and insert "IC 13-30-3 and IC 13-14-10".

(3) Reports to the state required at 40 CFR 264.56(d) shall be communicated immediately to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206-6015, (317) 233-7745, or (888) 233-7745 (toll-free in Indiana). In addition to the requirements of this rule, all requirements for spill reporting under 327 IAC 2-6.1 shall be complied with.

(4) The written spill report required by 40 CFR 264.56(j) must also include information deemed necessary by the commissioner or the commissioner's authorized agent to carry out the purpose and intent of 327 IAC 2-6.1.

~~(5) In addition to the requirements at 40 CFR 264.71 dealing with use of the manifest system, the owner or operator, or the owner's or operator's agent, must send one (1) copy of each manifest received with a hazardous waste shipment to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, IN 46206-6015 within five (5) working days after receiving the manifest.~~

~~(6)~~ **(5)** In 40 CFR 264.75 dealing with the biennial report, delete "EPA form 8700-13B" and insert "forms provided by the commissioner".

~~(7)~~ **(6)** In 40 CFR 264.76 dealing with unmanifested waste reports, delete "The unmanifested waste report must be submitted on EPA form 8700-13B".

~~(8)~~ **(7)** In 40 CFR 264.77 regarding additional reports, insert after the first sentence in (c), "Ground water data for laboratory analytical results and field parameters must be submitted as follows:

(A) Two (2) paper copies on the most current form prescribed by the ~~department~~ **commissioner**.

(B) In addition to the paper copies required in **clause** (A), an electronic report in a format prescribed by the ~~department.~~ **commissioner.**

(d) The commissioner may request other information, as required by Subparts F, K through N, and AA through CC of this part, be submitted in an electronic format as prescribed by the commissioner.".

~~(9)~~ **(8)** Delete 40 CFR 264, Subpart H dealing with financial requirements and substitute 329 IAC 3.1-15.

~~(10)~~ **(9)** Exceptions and additions to the standards for tank systems in 40 CFR 264, Subpart J are under section 3 of this rule.

~~(11)~~ **(10)** In 40 CFR 264.221(e)(2)(i)(C), delete "permits under RCRA Section 3005(c)" and insert "with final state permits".

~~(12)~~ **(11)** Delete 40 CFR 264.301(l).

~~(13)~~ **(12)** Delete 40 CFR 264, Appendix VI.

~~(14)~~ **(13)** In 40 CFR 264.316(b), delete "(49 CFR Parts 178 and 179)" and substitute "(49 CFR Part 178)".

~~(15)~~ **(14)** In 40 CFR 264.316(f), delete "fiber drums" and substitute "nonmetal containers".

(Solid Waste Management Board; 329 IAC 3.1-9-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 935; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3356; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3365; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1112; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2741; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 22, 2001, 9:46 a.m.: 24 IR 1617; errata filed Mar 19, 2001, 10:31 a.m.: 24 IR 2470; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2433)

SECTION 4. 329 IAC 3.1-10-2, AS AMENDED AT 24 IR 2434, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-10-2 Exceptions and additions; interim status standards

Authority: IC 13-14-8; IC 13-22-2-4
Affected: IC 4-21.5; IC 13-14-10; IC 13-22-2; IC 13-30-3; 40 CFR 265

Sec. 2. Exceptions and additions to federal interim status standards are as follows:

(1) In 40 CFR 265.1(a) dealing with scope of the permit, delete "national" and insert "state".

(2) In 40 CFR 265.1(b), delete "section 3005 of RCRA" and insert "329 IAC 3.1-13" in both places where it occurs.

(3) Delete 40 CFR 265.1(c)(4).

(4) In 40 CFR 265.4 dealing with imminent hazard action, delete "7003 of RCRA" and insert "IC 13-30-3 and IC 13-14-10".

(5) Reports to the state required at 40 CFR 265.56(d) shall be communicated immediately to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206-6015, (317) 233-7745, or (888) 233-7745 (toll-free in Indiana). In addition to the requirements of this rule, all requirements for spill reporting under 327 IAC 2-6.1 shall be complied with.

(6) The written spill report required by 40 CFR 265.56(j) must also include information deemed necessary by the commissioner or the commissioner's authorized agent to carry out the purpose and intent of 327 IAC 2-6.1.

~~(7) In addition to the requirements at 40 CFR 265.71 dealing with use of the manifest system, the owner or operator, or the owner's or operator's agent, must send one (1) copy of each manifest received with a hazardous waste shipment to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, IN 46206-6015 within five (5) working days after receiving the manifest.~~

~~(8)~~ **(7)** In 40 CFR 265.75 dealing with the biennial report, delete "EPA form 8700-13B" and insert "form provided by the commissioner".

~~(9)~~ **(8)** In 40 CFR 265.76 dealing with unmanifested waste reports, delete "The unmanifested waste report must be submitted on EPA form 8700-13B".

~~(10)~~ **(9)** In 40 CFR 265.77 regarding additional reports, insert, after the first sentence in (c), "Ground water data for laboratory analytical results and field parameters must be submitted as follows:

(A) Two (2) paper copies on the most current form prescribed by the department.

(B) In addition to the paper copies required in (A), an electronic report in a format prescribed by the department.".

~~(11)~~ **(10)** In 40 CFR 265.77 regarding additional reports, insert, after the first sentence in (d), "The commissioner may request other information as required by Subparts AA through CC of this part be submitted in an electronic format as prescribed by the commissioner.".

~~(12)~~ **(11)** In 40 CFR 265.90 dealing with ground water monitoring requirements, delete all references to effective date.

~~(13)~~ **(12)** Delete 40 CFR 265.112(d)(3)(ii) and substitute: "Issuance of a judicial decree or final order under section 3008 of RCRA, judiciary decree under IC 13-30-3, or final administrative order under IC 4-21.5 to cease receiving hazardous waste or close".

(13) Delete 40 CFR 265.118(e)(2) and substitute the language in subdivision (11).

(14) Delete 40 CFR 265, Subpart H dealing with financial requirements and substitute 329 IAC 3.1-14.

(15) In 40 CFR 265.191(a), the January 12, 1988, deadline date for integrity assessments shall only apply to existing interim status or permitted tank systems that are underground and cannot be entered for inspection. Integrity assessments shall be completed on all remaining tank systems by December 20, 1989.

(16) In 40 CFR 265.191(c), delete "July 14, 1986" and insert "June 20, 1988".

(17) In 40 CFR 265.193(a), delete all references to deadline dates for secondary containment for existing systems and substitute the dates specified in 329 IAC 3.1-9-3(c)(1) through 329 IAC 3.1-9-3(c)(8).

(18) In 40 CFR 265.301(d)(2)(i)(B) dealing with the definition of the term "underground source of drinking water", delete "144.3 of this chapter" and insert "40 CFR 270.2".

(19) In 40 CFR 265.301(d)(2)(i)(C), delete "RCRA Section 3005(c)" and insert "329 IAC 3.1-13".

(20) In 40 CFR 265.314(g)(2) dealing with the definition of the term "underground source of drinking water", delete "144.3 of this chapter" and insert "40 CFR 270.2".

(21) In 40 CFR 265.316(b), delete "(49 CFR Parts 178 and 179)" and substitute "(49 CFR Part 178)".

~~(21)~~ **(22)** In 40 CFR 265.316(f), delete "fiber drums" and substitute "nonmetal containers".

~~(22)~~ **(23)** Delete 40 CFR 265.430(b) and substitute the following: The requirements of this subpart apply to owners and operators of wells used to dispose of hazardous waste which are classified as Class I and Class IV in section 3 of this rule.

(Solid Waste Management Board; 329 IAC 3.1-10-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 937; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3357; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3365; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1113; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2742; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 22, 2001, 9:46 a.m.: 24 IR 1617; errata filed Mar 19, 2001, 10:31 a.m.: 24 IR 2470; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2434)

SECTION 5. THE FOLLOWING ARE REPEALED: 329 IAC 3.1-4-9.1; 329 IAC 3.1-4-17.1.

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 19, 2002 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Solid Waste Management Board will hold a public hearing on amendments to the rules for the hazardous waste management program at 329 IAC 3.1.

Persons attending this hearing should ask at the Conference Center Information Desk if any changes to the conference room where this hearing will be held may have been made since publication of this notice.

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 amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed at 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 Steve Mojonnier, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or dial (800) 451-6027 in Indiana, press "0" and ask for extension 3-1655.

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) 234-1208 (V) or (317) 233-6565 (TT). Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Department of Environmental Management Central File Room, Indiana Government Center-North, 100 North Senate Avenue, Room 1201 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Mary Beth Tuohy
Assistant Commissioner
Office of Land Quality

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule
LSA Document #01-303

DIGEST

Amends 405 IAC 5-24-4 to add a state maximum allowable cost schedule to the Medicaid reimbursement methodology for legend drugs. Effective 30 days after filing with the secretary of state.

405 IAC 5-24-4

SECTION 1. 405 IAC 5-24-4, AS AMENDED AT 25 IR 60, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-24-4 Reimbursement for legend 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

Sec. 4. (a) The office shall reimburse pharmacy providers for covered legend drugs at the lowest of the following:

(1) The estimated acquisition cost (EAC) of the drug as of the date of dispensing, plus any applicable Medicaid dispensing fee.

(2) The maximum allowable cost (MAC) of the drug as determined by the Health Care Financing Administration under 42 CFR 447.332 as of the date of dispensing, plus any applicable Medicaid dispensing fee.

(3) The state maximum allowable cost (MAC) of the drug as determined by the office as of the date of dispensing, plus any applicable Medicaid dispensing fee.

~~(3)~~ **(4)** The provider's submitted charge, representing the provider's usual and customary charge for the drug, as of the date of dispensing.

(b) For purposes of this section, the Indiana Medicaid EAC is eighty-seven percent (87%) of the average wholesale price for each National Drug Code according to the Medicaid contractor's drug database file.

(c) The state MAC is equal to the average actual acquisition cost per drug adjusted by a multiplier of at least 1.0. The actual acquisition cost will be determined using pharmacy invoices and other information that the office determines is necessary. The purpose of the multiplier is to ensure that the applicable state MAC rate is sufficient to allow reasonable access by providers to the drug at or below the established state MAC rate.

(d) OMPP will review state MAC rates on an ongoing basis, and adjust the rates as necessary to reflect prevailing market conditions and ensure reasonable access by providers to drugs at or below the applicable state MAC rate.

(e) Pharmacies and providers that are enrolled in the Indiana health coverage programs (IHCP) are required, as a condition of participation, to make available and submit to the OMPP or its designee acquisition cost information, product availability information, or other information deemed necessary by the OMPP for the efficient operation of the pharmacy benefit within the IHCP in the format requested by the OMPP or its designee. Providers will not be reimbursed for this information and will submit information to the OMPP or its designee within thirty (30) days following a request for such information unless the OMPP or its designee grants an extension upon written request of the pharmacy or provider. *(Office of the Secretary of Family and Social Services; 405 IAC 5-24-4; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3345; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Aug 29, 2001, 9:50 a.m.: 25 IR 60 [NOTE: On October 9, 2001, the Marion Superior Court issued an Order in Cause No. 49D05-0109-CP-1480, enjoining the Family and Social Services Administration from implementing LSA Document #01-22(F), published at 25 IR 60.])*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 27, 2001 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 reimbursement methodology for legend drugs reimbursed by the Indiana Medicaid program.

In accordance with the public notice requirements established at 42 CFR 447.205, the Indiana Family and Social Services Administration publishes this notice of proposed amendments to the Indiana Health Coverage programs ("Medicaid") reimbursement methodology for covered legend drugs.

The proposed amendments add an additional payment limitation for legend drugs reimbursed by the Medicaid program. Currently, Medicaid reimburses at the lower of:

(1) The estimated acquisition cost of the drug as of the date of dispensing, plus any applicable Medicaid dispensing fee;

(2) The maximum allowable cost (MAC) of the drug as determined by the Centers for Medicare and Medicaid Services (formerly the Health Care Financing Administration) under 42 CFR 447.332 as of the date of dispensing, plus any applicable Medicaid dispensing fee;

(3) The provider's submitted charge, representing the provider's usual and customary charge for the drug, as of the date of dispensing.

This change will add a fourth limitation: The state maximum allowable cost (MAC) of the drug as determined by the office as of the date of dispensing, plus any applicable dispensing fee.

The Office of Medicaid Policy and Planning (OMPP) has developed a State MAC fee schedule as required by Public Law 291-2001, Section 155 as enacted by the 2001 Indiana General Assembly. The State MAC is equal to the average acquisition cost per drug, increased by a multiplier of at least 1.0. The OMPP will adjust the State MAC limits as necessary to comport with changes in product availability.

The adoption of the State MAC, as described above, is estimated to decrease payments for covered legend drugs provided by pharmacies by approximately $20 million annually. This change is being made in response to Public Law 291-2001 and the rapidly escalating expenditures for Medicaid covered legend drugs and as another in a series of cost containment initiatives that are intended to assist the agency to cover increasing costs in the Medicaid program that otherwise would exceed available appropriations. The change in reimbursement methodology will be effective after approval by the Centers for Medicare and Medicaid Services of the state plan amendments and the completion of changes to the Indiana Administrative Code.

Copies of this notice and the proposed rule will be 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. Copies of this notice, the proposed rule, and the pending Medicaid State Plan Amendment are now available on the Internet at www.mslcindy.com/pharmacy. Interested parties without Internet access may obtain copies by contacting Myers and Stauffer at (317) 846-9521 or (800) 877-6927. Written comments concerning these proposed amendments should be directed to: Marc Shirley, 402 West Washington Street, Rm. W382, P.O. Box 7083, Indianapolis, Indiana 46207-7083. Correspondence should be identified in the following manner: "COMMENTS RE: PROPOSED RULE FOR THE STATE DRUG MAXIMUM ALLOWABLE COST (MAC), LSA DOCUMENT 01-303." The written comments may be reviewed by contacting OMPP and the above address.

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

NOTE: Under P.L.215-2001, SECTION 54, the name of the Division of Mental Health is changed to Division of Mental Health and Addiction, effective July 1, 2001.

Proposed Rule
LSA Document #01-299

DIGEST

Adds 440 IAC 7.5 concerning residential living facilities which are certified by the division of mental health and addiction for individuals with a psychiatric disorder or an addiction. Repeals 431 IAC 2.1, 431 IAC 5, 431 IAC 6, and 440 IAC 7. Effective 30 days after filing with the secretary of state.

431 IAC 2.1
431 IAC 5
431 IAC 6
440 IAC 7
440 IAC 7.5

SECTION 1. 440 IAC 7.5 IS ADDED TO READ AS FOLLOWS:

ARTICLE 7.5. RESIDENTIAL LIVING FACILITIES FOR INDIVIDUALS WITH PSYCHIATRIC DISORDERS OR ADDICTIONS

Rule 1. Definitions

440 IAC 7.5-1-1 Definitions

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-7-2-40.6; IC 12-17.4; IC 12-21-2-3; IC 12-21-2-7; IC 12-22-2-3; IC 12-23-17; IC 12-24-12-2; IC 12-24-12-10; IC 12-24-19-2; IC 12-26; IC 16-36-1; IC 23-17; IC 30-5-5-16; 42 U.S.C. 300x-2(c)

Sec. 1. The following definitions apply throughout this article:

(1) "Addiction" means alcoholism or addiction to narcotic or other drugs, or addiction to gambling.

(2) "Addiction services provider" means an organization certified by the division to provide a structured facility designed for the treatment, care, and rehabilitation of individuals addicted to alcohol or drugs.

(3) "Agency" means:

(A) a community mental health center certified by the division under 440 IAC 4.1;

(B) a managed care provider certified by the division under 440 IAC 4.3;

(C) a residential care provider certified by the division under 440 IAC 6; or

(D) an addiction services provider with regular certification certified by the division under 440 IAC 4.4-2-3 that administers a residential living facility.

(4) "Alternative family for adults program" means a program that serves six (6) or fewer individuals who have a psychiatric disorder or addiction, or both, and who reside with an unrelated householder.

(5) "Apartment house" means any building or portion thereof that contains three (3) or more dwelling units and includes condominiums.

(6) "Case management" means goal oriented activities that locate, facilitate, provide access to, coordinate, or monitor the full range of basic human needs, treatment, and service resources for individual consumers. The term includes, where necessary and appropriate for the consumer, the following:

(A) Assessment of the consumer.

(B) Treatment planning.

(C) Crisis assistance.

(D) Providing access to and training the consumers to utilize basic community resources.

(E) Assistance in daily living.

(F) Assistance for the consumer to obtain services necessary for meeting basic human needs.

(G) Monitoring of the overall delivery of services.

(H) Assistance in obtaining the following:

(i) Rehabilitation services and vocational opportunities.

(ii) Respite care.

(iii) Transportation.

(iv) Education services.

(v) Health supplies and prescriptions.

(7) "Case manager" means an individual who provides case management activities.

(8) "Community mental health center" means a mental health facility that the division has certified as fulfilling the statutory and regulatory requirements to be a community mental health center.

(9) "Congregate living facility" means a supervised group living facility, a sub-acute living facility, a transitional living facility, or a semi-independent living facility for up to fifteen (15) individuals that is located in any building or portion thereof that contains facilities for living, sleeping, and sanitation, and includes facilities for eating and cooking, for occupancy by other than a family.

(10) "Consumer" is an individual with a psychiatric disorder or addiction, or both.

(11) "Continuum of care" means a range of required services provided by a community mental health center or a managed care provider. The term includes the following:

(A) Individualized treatment planning to increase consumer coping skills and symptom management, which may include any combination of services listed under this section.

(B) Twenty-four (24) hour a day crisis intervention.

(C) Case management to fulfill individual consumer needs, including assertive case management when indicated.

(D) Outpatient services, including the following:

(i) Intensive outpatient services.

(ii) Substance abuse services.
(iii) Counseling.
(iv) Treatment.
(E) Acute stabilization services, including detoxification services.
(F) Residential services.
(G) Day treatment.
(H) Family support services.
(I) Medication evaluation and monitoring.
(J) Services to prevent unnecessary and inappropriate treatment and hospitalization and the deprivation of a person's liberty.

(12) "Crisis intervention" means services in response to a psychiatric disorder or addiction emergency, either provided directly by the provider or made available by arrangement with a medical facility or an individual physician licensed under Indiana law.

(13) "Division" means the Indiana division of mental health and addiction or its duly authorized agent.

(14) "Dwelling unit" means any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation for not more than one (1) family.

(15) "Evacuation capability" means the ability of the occupants, residents, and staff, as a group, to evacuate the building. Evacuation capability is classified as follows:

(A) Prompt evacuation capability is equivalent to the capability of the general population when applying the requirements of this article.
(B) Slow evacuation is the capability of the group to evacuate the building in a timely manner, with some of the residents requiring assistance from the staff.
(C) Impractical evacuation capability occurs when the group, even with staff assistance, cannot reliably evacuate the building in a timely manner.

The evacuation capability of the residents and staff is a function of both the ability of the residents to evacuate and the assistance provided by the staff. Evacuation capability in all cases is based on the time of day or night when evacuation would be most difficult, that is, sleeping residents or fewer staff present.

(16) "Family" means an individual or two (2) or more persons related by blood or marriage or a group of ten (10) or less persons who need not be related by blood or marriage living together in a single dwelling unit.

(17) "Gatekeeper" means an agency identified in IC 12-24-12-2 or IC 12-24-12-10 that is actively involved in the evaluation and planning of treatment for an individual committed to a state institution beginning after the commitment through the planning of the individual's transition back into the community, including case management services for the individual in the community.

(18) "Household member" means any person living in the same physical residence as a consumer living in a residential living facility licensed or certified under this rule.

(19) "Householder" means the occupant owner or leaseholder of the residence used in the alternative family program.

(20) "Individualized treatment plan" means a written plan of care and intervention developed for an individual by a treatment team in collaboration with the individual and, when appropriate, the individual's family or guardian.

(21) "Legal representative" means:

(A) a health care representative appointed under IC 16-36-1;
(B) an attorney-in-fact for health care who was appointed by the resident when the resident was competent under IC 30-5-5-16;
(C) a court appointed guardian for health care decisions; or
(D) the resident's parent, adult sibling, adult child, or spouse who is acting as the resident's health care representative under IC 16-36-1 when no formal appointment of a health care representative has been made and the resident is unable to make health care decisions.

(22) "Managed care provider" means an organization:

(A) that:
(i) for mental health services, is defined under 42 U.S.C. 300x-2(c);
(ii) provides addiction services; or
(iii) provides children's mental health services;
(B) that has entered into a provider agreement with the division under IC 12-21-2-7 to provide a continuum of care as defined in IC 12-7-2-40.6 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) An organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.
(vii) A university or college.

(23) "Psychiatric disorder" means a mental disorder or disease. The term does not include the following:

(A) Mental retardation.
(B) A developmental disability.
(C) Alcoholism.
(D) Addiction to narcotic or other drugs.
(E) Addiction to gambling.

(24) "Representative payee" means a person appointed by:

(A) the United States Social Security Administration;
(B) the United States Office of Personnel Management;
(C) the United States Department of Veterans Affairs; or
(D) the United States Railroad Retirement Board;

to provide one (1) or more financial management services, in order to assist an individual who is receiving government benefits and is medically incapable of making responsible financial decisions.

(25) "Resident" means an individual who is living in a residential living facility.

(26) "Resident living allowance" is a sum of money paid to a consumer when that consumer's personal resources are not adequate to maintain the consumer in a therapeutic living environment.

(27) "Residential care provider" means a provider of residential care that has been certified by the division as one (1) of the following:
(A) A community mental health center.
(B) A managed care provider.
(C) A residential care provider.
(D) An addiction services provider with regular certification.

(28) "Residential director" means an individual whose primary responsibility is to administer and operate the residential facility.

(29) "Residential living facility" means:
(A) sub-acute stabilization facility;
(B) supervised group living facility;
(C) transitional residential services facility;
(D) semi-independent living facility defined under IC 12-22-2-3; and
(E) alternative family homes operated solely by resident householders under this rule.

(30) "Residential staff" or "staff" means all individuals who the agency employs or with whom the agency contracts to provide direct services to the residents in the residential living facility.

(31) "Respite care" means temporary residential care to provide:
(A) relief for a caregiver; or
(B) transition during a stressful situation.

(32) "Semi-independent living facility" means a facility:
(A) that is not licensed by another state agency and serves six (6) or fewer individuals with a psychiatric disorder or an addiction, or both, per residence who require only limited supervision; and
(B) in which the agency or its subcontractor:
(i) provides a resident living allowance to the resident; or
(ii) owns, leases, or manages the residence.

(33) "Sub-acute stabilization facility" means a twenty-four (24) hour facility for the treatment of psychiatric disorders or addictions, and which is more restrictive than a supervised group living facility, and less restrictive than an inpatient facility.

(34) "Supervised group living facility" means a residential facility that provides a therapeutic environment in a home-like setting to persons with a psychiatric disorder or addiction who need the benefits of a group living arrangement as post-psychiatric hospitalization intervention or as an alternative to hospitalization.

(35) "Therapeutic living environment" means a living environment:
(A) in which the staff and other residents contribute to the habilitation and rehabilitation of the resident; and
(B) that presents no physical or social impediments to the habilitation and rehabilitation of the resident.

(36) "Transitional residential facility" means a twenty-four (24) hour per day service that provides food, shelter, and other support services to individuals with a psychiatric disorder or addiction who are in need of a short term supportive residential environment.

(37) "Treatment team" minimally consists of the following:
(A) The resident.
(B) The resident's case manager.
(C) The appropriate staff of the residential facility.
(D) Persons from other agencies who design and provide a direct treatment service for the resident.
(E) If the resident has a legal representative, the team shall include the legal representative.

(Division of Mental Health and Addiction; 440 IAC 7.5-1-1)

Rule 2. Requirements for All Residential Living Facilities in This Article

440 IAC 7.5-2-1 General overview

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-7-2-70; IC 12-17.4-3; IC 12-20-17-2; IC 12-22-2-3; IC 12-22-2-11; IC 12-30-3; IC 16-28

Sec. 1. The following is a general overview of the requirements for residential facilities under this article:

CMHCs and MCPs ONLY			ALL AGENCIES		
ISSUE	SILP	AFA	TRS	SGL	SUB-ACUTE
Covers/affects	MCP/CMHC	MCP/CMHC	All	All	All
Licensed/cert. by	Agency	Agency	Agency	DMH	DMH
Certification time	24 months	24 months	24 mos.	3 years	3 years
Site accredited	No	No	15/less No–16+ Yes	Yes	Yes

Beds	**Maximum 6 Per residence**	**Max. 6 per house-holder**	**Max. 15 (can be waived)**	**10 single family 15 apt./congregate**	**Minimum 4 Maximum 15 (can be waived)**
Locked egress allowed	**No**	**No**	**No**	**No**	**Yes**
Floor plan	**No**	**No**	**No**	**Yes**	**Yes**
Space per consumer	**80' single**	**80' single**	**80' single**	**80' single**	**80' single**
Bed room in sq. feet	**60' multiple**	**60' multiple/2 max.**	**60' multiple**	**60' multiple**	**60' multiple**
Children of residents allowed?	**Yes**	**Yes**	**Yes**	**Yes**	**No**
Plumbing	**4 per toilet 6 per tub/shower**	**4 per toilet 6 per tub/shower**	**4 per toilet 6 per tub/shower**	**4 per toilet 6 per tub/shower**	**4 per toilet 6 per tub/shower**
Setting–House	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**
Apartment	**Yes**	**Yes**	**Yes**	**Yes**	**No**
Congregate	**Yes**	**No**	**Yes**	**Yes**	**Yes**
Mobile Home	**No unless waiver**	**No unless waiver**	**No**	**No**	**No**
Fire/safety Inspections by	**Local**	**Local, 4+, SFM**	**15/less Local with waiver, 16+ SFM**	**State Fire Marshal**	**State Fire Marshal**
PROGRAM					
Minimum oversight	**1 hour per week**	**2 hours per month**	**Less than 24 hours**	**24 hours**	**24 hours**
Residential living Allowance allowed	**Yes**	**Yes**	**Yes**	**Yes**	**No**
Length of stay limit	**No**	**No**	**No**	**No**	**Up to 1 year**
Medication rules	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**
TB test–resident	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**
Seclusion	**No**	**No**	**No**	**No**	**Yes**
Restraint–Chemical	**No**	**No**	**No**	**No**	**No**
Physical	**No**	**No**	**No**	**No**	**Yes**

Applies to both seriously mentally ill adults and persons with chronic addiction.

(Division of Mental Health and Addiction; 440 IAC 7.5-2-1)

440 IAC 7.5-2-2 Application of article

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-7-2-70; IC 12-17.4-3; IC 12-20-17-2; IC 12-22-2-3; IC 12-22-2-11; IC 12-30-3; IC 16-28

Sec. 2. (a) This rule applies to the following:

(1) Providers of residential living facilities, including:

(A) agencies; and

(B) alternative family householders.

(2) Residents of residential living facilities for individuals with psychiatric disorders or addictions.

(3) Children living with a resident in a residential facility.

(b) Residential living facilities include the following:

(1) The sub-acute stabilization facility.

(2) The supervised group living facility.

(3) The transitional residential facility.

(4) The semi-independent living facility.

(5) The alternative family for adults program.

(c) Certification under this article is not required if the facility is certified or licensed as one (1) of the following:

(1) A health facility licensed under IC 16-28.

(2) A county home established under IC 12-30.

(3) A residential child care establishment licensed under IC 12-17.4.

(4) Residential care facility licensed under IC 16-28.

(5) Shelters for homeless people established under IC 12-20-17-2.

(6) Domestic violence prevention and treatment centers as defined at IC 12-7-2-70.

(d) Residential living facilities must do the following:

(1) Provide appropriate supervision and activities that assist the resident in maintaining or acquiring skills necessary to live in the community.

(2) Assist the resident in identifying and applying for all benefits and public assistance for which the resident may be determined eligible.

(Division of Mental Health and Addiction; 440 IAC 7.5-2-2)

440 IAC 7.5-2-3 Administration

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2-3; IC 16-39; 42 CFR 2

Sec. 3. (a) Residential living facilities under this article must be administered by an agency certified by the division as a community mental health center, a managed care provider, a residential care provider, or an addiction services provider with a regular certification.

(b) The agency shall have a written facility description

that must be available to staff, residents, and members of the public. The description must include the following:

(1) Services offered by the facility.

(2) The resident populations to be served.

(3) Admissions, transfer, and discharge criteria.

(4) Facility goals, including staffing positions to accomplish these goals, and community resources that will be utilized to meet the residents' needs.

(5) Facility philosophy and treatment orientation.

(c) The agency is responsible for maintaining the administrative and supervisory structure required to provide and oversee residential living facilities.

(d) When an agency subcontracts with another entity to operate a facility, the subcontractor must meet the requirements of this article.

(e) A managed care provider or community mental health center must notify the division prior to the implementation of the contract when it subcontracts with another entity.

(f) Resident records are confidential under IC 16-39 and 42 CFR 2 and are the property of the agency or entity responsible for a resident's care.

(g) The division has the right to conduct an on-site inspection of any of the residential facilities described in this article. *(Division of Mental Health and Addiction; 440 IAC 7.5-2-3)*

440 IAC 7.5-2-4 Reporting
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2-3

Sec. 4. (a) The agency must notify the division prior to operating, building, or purchasing a facility that must be licensed or certified by the division under this article.

(b) The agency must notify the division regarding the following changes prior to making such changes:

(1) Proposed change in ownership.

(2) Proposed major changes in services offered, including the proposed closing of a facility.

(c) The agency shall report any of the following incidents to the division within one (1) working day:

(1) Any fire requiring a local fire department response.

(2) Any emergency rendering the residence temporarily or permanently uninhabitable.

(3) Any serious injury of a resident or household member requiring professional medical attention.

(4) A suicide attempt by a resident or household member.

(5) Any incident involving the resident or a household member requiring local police response.

(6) Suspected or alleged exploitation, neglect, or abuse of a resident or household member.

(7) The death of a resident or household member.

(d) If the division determines the reported allegations warrant an investigation, the division may conduct an investigation. The agency must fully cooperate with any investigation by the division or its agents.

(e) The division may make an on-site inspection of any residential facility certified or licensed under this article, including those facilities of subcontractors, at any time.

(f) The division may suspend the agency's license or certification for up to ninety (90) days if an agency fails to report one (1) of the events listed in subsection (c). Consequences of license suspension include the prohibition of new resident placement during the suspension. *(Division of Mental Health and Addiction; 440 IAC 7.5-2-4)*

440 IAC 7.5-2-5 Admissions
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2-3

Sec. 5. (a) The agency must have written policies and procedures that govern admissions in a residential living facility.

(b) The agency must assure that the services required by the individual's treatment plan can be appropriately provided by the facility or by contractual agreement.

(c) There shall be an orientation procedure for the resident that:

(1) specifies the arrangements and charges for housing, food, and professional services; and

(2) includes a written copy of the facility's statement of rules, resident rights and responsibilities, confidentiality, grievance procedures, and termination policy.

(d) Written documentation must be maintained in the resident's file that an explanation of the resident rights and responsibilities have been presented to the individual resident and that the resident understands these rights. *(Division of Mental Health and Addiction; 440 IAC 7.5-2-5)*

440 IAC 7.5-2-6 Resident rights and responsibilities
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-27; IC 16-39-2; 42 CFR 2

Sec. 6. (a) The agency shall have and enforce written policies regarding the rights and responsibilities of residents under IC 12-27 and this article.

(b) In addition to the rights and responsibilities listed in IC 12-27, the agency shall ensure that each resident:

(1) is in a safe environment and is free from abuse and neglect;

(2) is treated with consideration, respect, and full recognition of the resident's dignity and individuality;

(3) is free to communicate, associate, and meet privately

with persons of the resident's choice unless:
(A) it infringes on the rights of another resident; or
(B) the restriction of this right is a part of the resident's individual treatment plan;
(4) has the right to confidentiality concerning personal information under IC 16-39-2 and 42 CFR 2;
(5) is free to voice grievances and to recommend changes in the policies and services offered by the agency;
(6) is not required to participate in research projects;
(7) has the right to manage personal financial affairs or to seek assistance in managing them unless the resident has a representative payee or a court appointed guardian for financial matters;
(8) shall be informed about available legal and advocacy services, and may contact or consult legal counsel at the resident's own expense; and
(9) shall be informed of the division's toll free consumer service number.

(c) The division's toll free consumer service number shall be posted in a room used by all consumers in all supervised group living facilities, sub-acute facilities, and transitional residential facilities.

(d) The resident rights and responsibilities shall be reviewed with the consumer annually.

(e) The privacy of each resident shall be respected to the maximum extent feasible and shall, at a minimum, meet the following:
(1) Private space is available for conducting:
(A) intakes;
(B) assessments;
(C) individual, family, and, when provided, group counseling; and
(D) resident meetings.
(2) The agency shall establish written policies and procedures that specify how consumer privacy is maintained with regard to visitors and other nonfacility personnel.

(f) The agency shall assure that residents are paid in accordance with federal and state laws and regulations for all work that is of consequential economic benefit to the agency, except the following:
(1) Personal housekeeping tasks related directly to the resident's personal space and possessions.
(2) Shared responsibilities for regular household chores among a group of residents.

(g) Each resident is expected to do the following:
(1) Make every effort to respect and care for themselves, their clothing, and personal belongings.
(2) Respect the rights of the other residents and residential staff.
(3) Respect the personal belongings of other residents, as well as the property of the facility.
(4) Contribute to and participate in the formulation of their own treatment plans and work toward attaining treatment goals.
(5) Respect the privacy and confidentiality of other consumers.
(6) Adhere to the facility's rules presented to the resident in the resident orientation procedure.
(7) An adult consumer shall apply for all benefits and public assistance for which the consumer may be determined eligible as a condition of participation in a residential living facility.

(Division of Mental Health and Addiction; 440 IAC 7.5-2-6)

440 IAC 7.5-2-7 Resident finances

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 7. Each agency shall develop and implement written policies and procedures to protect the financial interests of the residents. These policies and procedures shall:
(1) provide financial counseling and training to all residents as needed;
(2) allow a resident's personal funds to be used to secure incidentals and personal and special need items;
(3) encourage residents to maintain savings and checking accounts in community financial institutions;
(4) enable residents to have their own money in their possession, unless the resident has a representative payee, a guardian for financial purposes, or the resident requests assistance in writing from the residential staff;
(5) establish specific policies regarding the agency acting as representative payee for the resident, including meeting the fiduciary duty owed to a resident by a representative payee;
(6) establish an accounting system and maintain a complete record of the disbursements and items purchased for the resident when a resident's funds are disbursed by the agency on behalf of the resident;
(7) provide that the financial record shall be available to the resident or to the resident's legal representative; and
(8) provide that staff persons shall not borrow or accept money or any thing of value from a resident.

(Division of Mental Health and Addiction; 440 IAC 7.5-2-7)

440 IAC 7.5-2-8 Resident health and treatment

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-22-2

Sec. 8. (a) An individualized treatment plan shall be developed and followed for each resident.
(1) The treatment team, with the active participation of the resident, shall design and implement a written, comprehensive individualized treatment plan in collaboration with the case manager and under the direction of the agency.

(A) A preliminary plan or a referral application indicating the desired treatment objectives must be completed prior to placement.

(B) A fully developed individual treatment plan shall be completed within the first thirty (30) days of enrollment.

(2) The individual treatment plan shall be reviewed at least every ninety (90) days.

(b) Each person admitted to a residential facility shall have written evidence of the following:

(1) The resident has had a physical examination:

(A) not more than six (6) months prior to admission; or

(B) within three (3) months after admission.

(2) A tuberculin skin test shall be completed and read within three (3) months prior to admission. If the individual has not had the tuberculin skin test within three (3) months prior to admission, the person may be admitted to the facility, but must have the test upon admission and it must be read within seventy-two (72) hours after the administration of the test.

(c) The agency must assist the resident to obtain medical and dental care.

(1) The facility shall have a written plan that outlines the procedures used to access and treat dental, pharmacological, optometric, audiological, psychiatric, and general medical care needs of residents, including at least an annual physical and dental exam.

(2) The plan shall include the following:

(A) Procedures for evaluating the resident's needs.

(B) Referral to appropriate health care providers, including choice of private practitioners.

(C) Assistance in obtaining insurance or other aid for the payment of fees for medical and dental services.

(D) Methods of training each resident to monitor the resident's own personal health, hygiene, and dental conditions.

(d) The agency shall have a written plan outlining procedures in cases of emergency or illness of staff, residents, or household member.

(e) Each resident shall be instructed in how to access physical emergency services and the agency's clinical emergency services. *(Division of Mental Health and Addiction; 440 IAC 7.5-2-8)*

440 IAC 7.5-2-9 Medication

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2

Sec. 9. (a) Agencies having residential living facilities shall establish and enforce written policies and procedures for the self-administration and monitoring of medication for residents.

(b) The written medication policies shall include the following:

(1) How the goal of self-medication for residents is to be achieved.

(2) For residents who are totally self-medicating, the agency must have a procedure for:

(A) monitoring the resident's use of medication;

(B) ensuring adequate supplies; and

(C) providing safe storage of medication.

(3) When assistance is required by the resident:

(A) how residents who need assistance with medication will receive it;

(B) how the agency will store medications for the residents; and

(C) how the agency will dispose of medications no longer needed or remaining after any expiration date.

(4) How monitoring will be implemented.

(5) What documentation is required regarding medication.

(c) The policies and procedures established in this section shall be:

(1) developed in consultation with a nurse, pharmacist, or physician; and

(2) approved by the agency.

(d) Each residential facility shall administer or monitor prescription medications with the direction of a physician. Nonprescription drugs as needed may be used by an adult resident unless the resident's physician specifies otherwise.

(e) Only staff who are authorized to administer medication under state law and in accordance with the requirements of the accrediting body may administer medication.

(f) The facility shall train all staff and householders about the following:

(1) Medications used by their residents.

(2) The purposes and functions of the medications.

(3) Major side effects and contraindications.

(4) Recognition of signs that medication is:

(A) not being taken;

(B) being misused; or

(C) ineffective.

(Division of Mental Health and Addiction; 440 IAC 7.5-2-9)

440 IAC 7.5-2-10 Nutrition

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2

Sec. 10. (a) The agency or its subcontractor shall develop and implement written policies and procedures for staff and for residents who require training regarding more independence for the resident in the following:

(1) Basic nutrition.

(2) Meal planning.

(3) Food purchasing and preparation.
(4) Food storage.
(5) Dish washing.
(6) Sanitation.
(7) Safety.

(b) In supervised group living facilities, transitional residential facilities, sub-acute facilities, and alternative families for adults, at least three (3) well-balanced meals shall be available for each day, with the exception that residents shall be encouraged to dine out occasionally, or to carry sack lunches for the periods of time when they are away from the facility.

(c) Deprivation of a meal or snack shall not be used as punishment for the infraction of a house rule or failure of the resident to carry out an aspect of the resident's treatment plan. *(Division of Mental Health and Addiction; 440 IAC 7.5-2-10)*

440 IAC 7.5-2-11 Environment
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 11. (a) The location of the residence shall provide opportunities for the resident to participate in community activities and have independent access to community services. The residence shall be:
(1) reasonably accessible to the agency as well as to medical, recreational, and shopping areas, by public or agency-arranged transportation; and
(2) located in a suitable residential setting, and the location, design, construction, and furnishings of each residence shall be:
(A) appropriate to the type of facility;
(B) as homelike as possible; and
(C) conducive to the achievement of optimal development by the residents.

(b) Except for sub-acute facilities, the residential facility shall not erect any sign that might set the facility apart from other residences in the area.

(c) The agency shall avoid the creation of nontherapeutic concentrations of residential facilities in any given area, including residential facilities not administered by this agency.

(d) Each facility shall have a policy concerning pets. Pets may be permitted in a facility but shall not be allowed to create a nuisance or safety hazard. Any pet housed in a facility shall have periodic veterinary examinations and required immunizations in accordance with state and local health regulations. *(Division of Mental Health and Addiction; 440 IAC 7.5-2-11)*

440 IAC 7.5-2-12 Physical requirements
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 12. (a) The living area shall meet the following requirements:
(1) The residence must be in good repair and free of hazards, such as the following:
(A) Loose or broken window glass.
(B) Loose or cracked floor coverings or ceilings.
(C) Holes in the walls.
(2) The residence must be kept free from flying insects by screens on all functional outside windows and doors or by other effective means.
(3) The resident's bedroom shall have at least one (1) window capable of being fully opened for escape and rescue purposes, and proper ventilation.

(b) The residence shall be clean, neat and orderly. The agency or its subcontractor shall ensure that the resident maintains cleanliness of the residence.

(c) The agency or its subcontractor shall provide for the comfort and safety of all occupants.

(d) All rooms used for eating, sleeping, and living shall be provided with adequate light and ventilation by means of windows as needed for safety purposes.

(e) The following shall not be used as a residence unless the division grants a waiver:
(1) Basement rooms or rooms below grade level.
(2) Attics and other areas originally intended for storage.
(3) Sleeping rooms in resident hotels or motels.

(f) The division may not grant a waiver unless the illumination, ventilation, temperature, and humidity control provide the same level of comfort as rooms not requiring a waiver, and if the room is below grade, at least one (1) direct exit to the outside must be provided.

(g) Bedrooms shall not be located in such a manner as to require the passage of a resident through the bedroom of another resident.

(h) A single occupancy bedroom for an adult must have eighty (80) square feet or more of floor space.

(i) A multiple occupancy bedroom must have sixty (60) square feet or more of floor space for each adult occupant.

(j) There must be at least one (1) toilet and lavatory for every four (4) residents, and one (1) tub or shower for every six (6) residents.

(k) The per person requirements of square footage and bathroom facilities do not apply to the following:

(1) A consumer with his or her children living with him or her in the facility.
(2) A sub-acute facility or a transitional residential facility that was given a waiver regarding the maximum number of residents prior to January 1, 2002, and is accredited by an accrediting agency approved by the division. This waiver is not transferable.

(l) Ceiling heights in bedrooms shall be a minimum of seven (7) feet, six (6) inches. If the bedroom has a suspended or sloping ceiling, the specified ceiling heights must be met in all areas used in computation of floor space.

(m) If a private water supply or sewage system is used, the residence shall comply with local regulations regarding sanitation. Evidence of compliance shall be provided by the landlord to the agency, or if the residence is a sub-acute facility or a supervised group living facility, to the division.

(n) There shall be cooking facilities and food storage areas.

(o) The food preparation and serving areas, including the structure, construction, and installation of equipment, shall be in sanitary condition and operating properly. Food storage areas shall be properly refrigerated and protected from contamination. Storage areas for nonfood supplies shall be separate from food storage areas. Appliances, fixtures, and equipment shall be adequate for sanitary washing and drying of dishes.

(p) The facility shall ensure that arrangements are made to allow residents to launder personal items and linens at least weekly. If laundry is done on the premises, equipment must be kept in working order. *(Division of Mental Health and Addiction; 440 IAC 7.5-2-12)*

440 IAC 7.5-2-13 Safety requirements
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2

Sec. 13. (a) The agency shall have written policies and procedures to ensure resident and staff safety.

(b) The policies and procedures regarding resident and staff safety must be given to all personnel and residents and be made available to others on request.

(c) The agency or its subcontractor shall demonstrate that it has provided each resident, householder, and staff member with life safety equipment as follows:
(1) There shall be an Underwriter's Laboratories approved battery operated smoke detector in good working order on each floor of a residence and in each bedroom unless another type of alarm or detector has been installed by the landlord to comply with a local ordinance.
(2) In the case of the visually impaired resident, the residence shall be equipped with audible life safety devices.
(3) In the case of the hearing impaired resident, the residence shall be equipped with visual life safety devices.
(4) A five (5) pound ABC multipurpose type extinguisher, or the equivalent, shall be located on each floor of the facility.
(5) In a sub-acute facility, a supervised group living facility, or a transitional residential facility, at least one (1) ten (10) pound ABC multipurpose type extinguisher shall be located in the kitchen.

(d) All sprinkler systems, fire hydrants, standpipe systems, fire alarm systems, portable fire extinguishers, smoke and heat detectors, and other fire protective or extinguishing systems or appliances shall be maintained in an operative condition at all times and shall be replaced or repaired where defective.

(e) Each resident, householder, and staff member shall be trained in procedures to be followed in the event of tornado, fire, gas leak, and other threats to life safety.

(f) Use of space heaters and unventilated fuel heaters is prohibited.

(g) Residential living facilities and operations shall conform to all applicable federal, state, or local health and safety codes, including the following:
(1) Fire protection.
(2) Building construction and safety.
(3) Sanitation.

(h) Residential living facilities shall maintain current documentation of compliance with all applicable codes.

(i) Every closet door latch shall be such that it can be opened from the inside in case of emergency.

(j) Every bathroom door shall be designed to permit the opening of the locked door from the outside in an emergency.

(k) No door with any means of egress shall be locked against egress when the building is occupied, except a sub-acute facility that meets the requirements of 440 IAC 7.5-4-7(e).

(l) The administration of the facility shall have a written posted plan for evacuation in case of fire and other emergencies.

(m) For all facilities, except semi-independent living facilities, fire evacuation drills shall be conducted monthly. The shift conducting the drill shall be alternated to include

each shift once a quarter. At least one (1) drill each year shall be conducted during sleeping hours. A tornado drill shall be conducted each spring for all staff and residents.

(n) Residents of semi-independent living facilities shall be trained to handle emergency evacuation situations.

(o) Where smoking is permitted, noncombustible safety-type ash trays or receptacles, for example, glass, ceramic, or metal, shall be provided.

(p) All combustible rubbish, oily rags, or waste material, when kept within a building or adjacent to a building, shall be securely stored in metal or metal-lined receptacles equipped with tight fitting covers or in rooms or vaults constructed of noncombustible materials. Dust and grease shall be removed from hoods above stoves and other equipment at least every six (6) months.

(q) No combustibles shall be stored within three (3) feet of furnaces or water heaters.

(r) The facility shall not use any type of solid fuel-burning appliance, except fireplaces.

(s) Fireplace safety requirements shall be as follows:
(1) If the fireplace is used, the chimney flue shall be cleaned annually and a written record of the cleaning retained.
(2) Glass doors, a noncombustible hearth, and grates shall be provided for each fireplace in use.
(3) Ashes from the fireplace shall be disposed of in a noncombustible covered receptacle. The receptacle shall then be placed on the ground and away from any building or combustibles.
(4) Proper fireplace tools shall be provided for each fireplace in use.

(t) The facility shall maintain all fuel-burning appliances in a safe operating condition. There shall be an annual inspection by a qualified inspector of all fuel-burning appliances.

(u) The gas and electric shutoffs shall be labeled and easily accessible in case of emergency. *(Division of Mental Health and Addiction; 440 IAC 7.5-2-13)*

440 IAC 7.5-2-14 Furnishings
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-22-2

Sec. 14. (a) The agency shall furnish and maintain the furnishings in a residence, or they shall assist the resident in acquiring and maintaining furnishings for the residence. The intent is to assure a private residence that is homelike, comfortable, sanitary, and promotes the dignity of the resident.

(1) If the agency elects to furnish the residence, the resident may be required to make a security deposit, sign an inventory, and agree to replace lost or damaged furnishings.
(2) Furnishings shall be in good repair and attractive.
(3) Residents shall be encouraged to purchase and display personal possessions and to enhance a homelike environment with items of their choice.
(4) The facility may not require residents to provide their own furniture. Furniture provided by the residents remains the property of the residents.

(b) Basic furnishings shall include, but are not limited to, the following:
(1) A dresser.
(2) Clothing storage.
(3) Bath towels.
(4) An individual bed that shall be furnished adequately with a clean mattress and clean bedding.
(5) A table and chairs for meals.
(6) A chair or couch.
(7) Lamps as needed.
(8) Adequate dishes, utensils, and cookware.

(c) In a sub-acute facility, a transitional residential facility, or a supervised group living facility, a television and radio shall be provided for the use of the residents who have expressed an interest. Television viewing must not be a substitute for other activities. *(Division of Mental Health and Addiction; 440 IAC 7.5-2-14)*

Rule 3. Requirements Specific for Managed Care Providers and Community Mental Health Centers

440 IAC 7.5-3-1 Continuum of care
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 1. A managed care provider or community mental health center that contracts with the division must assure that residential living facilities will function as part of the continuum of care. *(Division of Mental Health and Addiction; 440 IAC 7.5-3-1)*

440 IAC 7.5-3-2 Case management
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 2. At the time of admission to the facility and throughout the service period, each resident shall be assigned to a case manager who is employed by the managed care provider or community mental health center. *(Division of Mental Health and Addiction; 440 IAC 7.5-3-2)*

440 IAC 7.5-3-3 Resident living allowance
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 3. (a) Agencies that contract with the division may choose to provide a resident living allowance.

(b) An agency that provides a resident living allowance shall comply with the following:

(1) The resident living allowance shall not exceed five hundred twenty dollars ($520) per month, except in the first month in which the resident receives the resident living allowance.

(2) A resident is eligible to receive a resident living allowance if:

(A) the resident's income, less the income incentive, is less than two hundred percent (200%) of the federal poverty guideline;

(B) the resident has no more than one thousand five hundred dollars ($1,500) in liquid assets;

(C) the resident's other personal resources are inadequate to maintain the resident in a therapeutic living environment; and

(D) the allowance is authorized by the individual treatment plan.

(c) The agency may disburse a resident living allowance on behalf of the resident, in compliance with requirements of a representative payee. *(Division of Mental Health and Addiction; 440 IAC 7.5-3-3)*

440 IAC 7.5-3-4 Calculation of resident living allowance

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 4. Residents who are eligible to receive a resident living allowance shall have the amount computed by the following method:

(1) Subtract the income incentive from the resident's income and benefits.

(2) Subtract this difference from the resident's allowable expenses. This is the amount of the resident's living allowance, up to the cost of the resident's allowable expenses or the maximum of five hundred twenty dollars ($520) per month.

(Division of Mental Health and Addiction; 440 IAC 7.5-3-4)

440 IAC 7.5-3-5 Components of the resident's income and assets

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 5. (a) The following are considered the resident's income for purposes of the resident living allowance:

(1) Wages.

(2) Interest paid on accounts.

(3) Rental income.

(4) Interest or dividends paid on certificates, bonds, or securities.

(5) Cash benefits, including the following:

(A) Insurance payments.

(B) All entitlement programs from state or federal sources.

(C) Pensions from union or other employment.

(D) Routine cash gifts from family or others.

(b) The following are requirements concerning trusts:

(1) Routine distributions from a trust for the use of an individual or on behalf of the individual by the administrator of the trust shall be considered income to the individual.

(2) Lump sum distributions from a trust may be considered liquid assets.

(A) The conditions and terms of trusts shall be disclosed in full by providing a copy of the trust instrument to the agency in order to determine if the assets of the trust shall be available to meet the individual's obligation to pay for the cost of residential services.

(B) All distributions from the trust shall be reported to the agency by the trustee to determine if the distributions have created income or assets for purposes of this rule.

(c) The following are considered liquid assets for purposes of the resident living allowance program:

(1) The excess of life insurance policies with a cash surrender value of more than three thousand dollars ($3,000).

(2) Savings accounts.

(3) Checking accounts.

(4) Certificates of deposit.

(5) Securities.

(6) Bonds.

(7) The contents of safety deposit boxes held in the name of the individual, or in common, or jointly with others.

(d) Assets shall be valued at their current market value.

(e) Unless otherwise demonstrated, jointly held assets shall be equally prorated among all named owners. *(Division of Mental Health and Addiction; 440 IAC 7.5-3-5)*

440 IAC 7.5-3-6 Income incentive

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 6. Under the income incentive, the first sixteen dollars ($16) plus fifty percent (50%) of all wages over sixteen dollars ($16) earned during the month is not counted as income for purposes of figuring the resident living allowance. *(Division of Mental Health and Addiction; 440 IAC 7.5-3-6)*

440 IAC 7.5-3-7 Allowable expenses

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 7. (a) Allowable expenses for purposes of figuring the resident living allowance include the following:

(1) Rent for the certified residence.

(2) Utilities.

(3) Telephone; long distance charges related to the individual's treatment plan shall be included as an allowable expense.

(4) Household expenses, including the following:

(A) Food.

(B) Meals eaten out.

(C) Household cleaning supplies.

(D) Laundry supplies.

(5) Transportation to and from programs and activities specified in the individual's treatment plan.

(6) Medical insurance for non-Medicaid eligible individuals.

(7) Insurance as required by court order or state statute.

(8) Medical, dental, pharmacological, optometric, and audiological expenses that:

(A) are essential to maintain or increase the level of independent functioning of the resident; and

(B) cannot be paid for through:

(i) Medicaid;

(ii) Medicare;

(iii) private health insurance; or

(iv) other resources.

(9) Personal care expenses, including:

(A) clothing;

(B) hair care;

(C) personal hygiene supplies; and

(D) other items that are essential to the resident's participation in the program.

(10) Current psychiatric, rehabilitative, or habilitative services, including residential supervision and case management, specified in the individualized treatment plan.

(11) Start up costs, including residence and utility deposits or purchase of basic furnishings specified in this article.

(12) Court ordered child support payments may be included upon demonstration to the agency of the nature and amount of the payment.

(13) Monthly deposit in an emergency fund.

(b) For rent, utilities, and telephone, the individual's share shall be determined by equitably prorating monthly rent among all occupants, excluding the minor dependents of those occupants who are also living in the residence. *(Division of Mental Health and Addiction; 440 IAC 7.5-3-7)*

440 IAC 7.5-3-8 Emergency fund
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 8. (a) In addition to the one thousand five hundred dollars ($1,500) in liquid assets allowed the resident receiving a resident living allowance, the agency may establish an emergency fund of not more than one thousand five hundred dollars ($1,500) for each individual to provide money for unexpected or unusual costs associated with assuring the maintenance of the person in the program.

(b) The individual's use of this fund must be for a specific item or service, and the purpose shall be reviewed and approved by the individual's treatment team. *(Division of Mental Health and Addiction; 440 IAC 7.5-3-8)*

Rule 4. Sub-Acute and Supervised Group Living Facilities

440 IAC 7.5-4-1 Application
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2-3; IC 12-22-2-11; IC 12-28-4

Sec. 1. All agencies that operate a facility or that holds itself out as operating a sub-acute stabilization facility described in IC 12-22-2-3(1) or a supervised group living facility described in IC 12-22-2-3(2) shall be subject to this rule. *(Division of Mental Health and Addiction; 440 IAC 7.5-4-1)*

440 IAC 7.5-4-2 Certification required
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2-3; IC 12-22-2-11; IC 12-28-4

Sec. 2. A sub-acute facility or a supervised group living facility must be certified by the division in order to operate. *(Division of Mental Health and Addiction; 440 IAC 7.5-4-2)*

440 IAC 7.5-4-3 Transfer of certification
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2-3; IC 12-22-2-11; IC 12-28-4

Sec. 3. A facility certified under this article may not transfer its certification to another facility site or to another legal entity. *(Division of Mental Health and Addiction; 440 IAC 7.5-4-3)*

440 IAC 7.5-4-4 Certification procedure
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2-3; IC 12-22-2-11; IC 12-28-4

Sec. 4. (a) An application for the certification of a sub-acute facility or a supervised group living facility shall be submitted to the division in the following circumstances:

(1) The agency intends to operate a facility.

(2) The agency with an existing certification proposes to change the type of service or type of facility.

(3) A facility has changed ownership or management.

(b) The applicant shall file the following:

(1) A statement that the agency is applying to be a residential care provider.

(2) A residential care provider application.

(3) A statement that the agency applying for certification is a community mental health center, a managed care provider, or an addiction services provider with regular certification.

(4) A certificate from the local zoning authority to occupy and operate a sub-acute facility or supervised group living facility on the site.
(5) A plan of operation, which shall include the following:
(A) A description of the facility and its location, including floor plans.
(B) Corporate or partnership structure of the agency.
(C) The provision of the following:
(i) Twenty-four (24) hour supervision.
(ii) Services provided under the supervision of a physician licensed to practice medicine in Indiana.
(iii) Sufficient staffing to carry out treatment plans and provide consumer and staff safety.
(D) A facility description, as required at 440 IAC 7.5-2-3.
(6) Information verified by the state fire marshal indicating whether the facility's operation is in compliance with the applicable fire and life safety standards set forth in 440 IAC 7.5-8, 440 IAC 7.5-9, or 440 IAC 7.5-10.
(7) The complete accreditation report by an accrediting body approved by the division.

(c) The division shall approve the certification of a facility under this rule if the division determines that the facility meets the requirements in this article.

(d) The certification shall expire ninety (90) days after the expiration of the agency's accreditation. *(Division of Mental Health and Addiction; 440 IAC 7.5-4-4)*

440 IAC 7.5-4-5 Facility closure
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-22-2

Sec. 5. (a) The agency must initiate a new application for certification in the following circumstances:
(1) Relocation of the residents to a new facility.
(2) Reopening a closed sub-acute or supervised group living facility.

(b) The applicant shall notify the division and any agency with the responsibility to place residents, in writing, ninety (90) days in advance of closure, except where the sub-acute facility is closed or no longer able to house the residents due to an emergency or due to final action by the division revoking or denying renewal of the certificate.

(c) When there is an emergency so severe as to render a sub-acute facility or supervised group living facility uninhabitable, evacuation of the residents shall take place immediately and notice shall be given by telephone to any agency responsible for the placement of residents immediately and to the division no later than the first business day following the day of the emergency. *(Division of Mental Health and Addiction; 440 IAC 7.5-4-5)*

440 IAC 7.5-4-6 Revocation of certification
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2-3; IC 12-22-2-11; IC 12-28-4

Sec. 6. (a) The division shall revoke certification issued under this rule if the division's investigation finds any of the following conditions:
(1) Failure to comply with this rule.
(2) A condition that, under the standards for accreditation, would cause the accrediting agency to revoke the accreditation.
(3) Conduct or practice in the operations of the facility that is found by the division to be detrimental to the welfare of the residents.
(4) The physical safety of the clients or staff of the agency is compromised by a physical or sanitary condition of the facility.
(5) Violation of a federal or state statute, rule, or regulation in the course of the operation of the facility.

(b) When a license is revoked the division shall inform the residents and the general public. *(Division of Mental Health and Addiction; 440 IAC 7.5-4-6)*

440 IAC 7.5-4-7 Requirements specific to a sub-acute facility
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-17.4-3; IC 12-21-2-3; IC 12-22-2-3; IC 12-24-12; IC 12-25; IC 12-28; IC 12-30-3; IC 16-28

Sec. 7. (a) A sub-acute stabilization facility is a facility in which an agency provides twenty-four (24) hour supervised treatment for psychiatric disorders or addictions, or both, that is less restrictive than an inpatient facility and more restrictive than a supervised group living facility.

(b) A sub-acute stabilization facility serves at least four (4) and not more than fifteen (15) individuals.

(c) The director of the division may waive the resident limitations for a sub-acute stabilization facility.

(d) A sub-acute stabilization facility may function as one (1) or both of the following:
(1) A crisis care or respite care facility:
(A) that serves people in need of short term respite care or short term crisis care; and
(B) the length of stay shall not exceed forty-five (45) days.
(2) Rehabilitative facility:
(A) that serves people who have a need for treatment of psychiatric disorders or addictions; and
(B) the length of stay in a rehabilitative facility shall not exceed one (1) year. The division director may waive the one (1) year limitation.

(e) A sub-acute facility may be a house or congregate living facility.

(f) A sub-acute may be a locked or secure facility if it complies with the applicable rules of the fire prevention and building safety commission. *(Division of Mental Health and Addiction; 440 IAC 7.5-4-7)*

440 IAC 7.5-4-8 Requirements specific to a supervised group living facility
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3

Sec. 8. (a) A supervised group living facility is a residential facility in which an agency provides twenty-four (24) hour supervision for residents with a psychiatric disorder or an addiction, or both.

(b) A supervised group living facility serves up to ten (10) consumers in a single family dwelling and up to fifteen (15) consumers in a apartment or congregate living setting.

(c) No supervised group living facility shall be licensed by the division if it is within one thousand (1,000) feet of another SGL licensed under this article unless the facility was approved by the division prior to October 1, 1984.

(d) The division may waive the one thousand (1,000) foot limitation for particular homes. Such waivers shall conform to the intent of the rule, which is to avoid the creation of nontherapeutic concentrations of residential facilities in any given area; and once given, will remain as long as the facility is licensed as a supervised group living facility.

(e) A supervised group living facility may be an apartment, house, or congregate facility. *(Division of Mental Health and Addiction; 440 IAC 7.5-4-8)*

Rule 5. Transitional Residential Facilities for Individuals with a Psychiatric Disorder or an Addiction

440 IAC 7.5-5-1 Transitional residential facility
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3

Sec. 1. (a) A transitional residential facility must meet all of the following requirements:

(1) The facility serves fifteen (15) or fewer persons with a psychiatric disorder or an addiction, or both. The limit of fifteen (15) persons does not include children of the consumers.

(2) The persons served require a time limited supportive residential environment.

(3) The persons' individual treatment plans are overseen by:

(A) a community mental health center;

(B) a certified residential care provider;

(C) a managed care provider; or

(D) an addiction services provider with regular certification.

(b) The division director may waive the limitation of fifteen (15) or fewer persons.

(c) In order for the limitation to be waived, the transitional residential facility must be accredited by an accrediting agency approved by the division.

(d) If a waiver is granted, the agency shall have an inspection conducted by the office of the state fire marshal to determine whether the facility's operation is in compliance with the applicable fire and life safety standards set forth in 440 IAC 7.5-8, 440 IAC 7.5-9, or 440 IAC 7.5-10.

(e) If a waiver is granted, the waiver will remain as long as the residence is accredited and operated by the agency.

(f) A transitional residential facility may be an apartment, house, or congregate facility.

(g) A transitional residential facility shall have evidence of compliance with local health and safety codes. *(Division of Mental Health and Addiction; 440 IAC 7.5-5-1)*

440 IAC 7.5-5-2 Administration
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3

Sec. 2. (a) The transitional residential facility shall be operated by an agency under this rule. The agency is responsible for maintaining the administrative and supervisory structure required to provide and oversee the transitional residential services facility.

(b) Transitional residential programs shall be conducted in residences that are certified by the agency every two (2) years, in accordance with the requirements of this article.

(c) The agency shall establish and follow written certification policies and procedures that are approved by the division.

(d) A copy of the certification form shall be kept by the agency.

(e) The transitional residential facility shall provide activities that assist the individual in maintaining or acquiring skills necessary to live in the community.

(f) Each resident shall be assigned a case manager to provide case management services. *(Division of Mental Health and Addiction; 440 IAC 7.5-5-2)*

Rule 6. Semi-Independent Living Program for Individuals with Psychiatric Disorders or Addictions

440 IAC 7.5-6-1 Application
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2-3; IC 12-24-12

Sec. 1. (a) This rule applies to the following:

(1) All managed care providers or community mental health centers that provide semi-independent living facilities.

(2) Consumers in these facilities who have a psychiatric disorder or an addiction, or both.

(3) Residents of these facilities.

(b) A semi-independent living facility shall meet all of the following requirements:

(1) Each facility has six (6) or fewer consumers.

(2) The persons served require less than twenty-four (24) hour supervision.

(3) The persons' individual treatment plans are overseen by:

(A) a community mental health center; or

(B) a managed care provider.

(4) At least one (1) of the following applies:

(A) A resident living allowance is provided to at least one (1) of the residents.

(B) The facility is owned, operated, leased, or managed by the agency or its subcontractor.

(5) There is no maximum length of time an individual can remain in a semi-independent living program. The appropriate length of stay shall be determined with each individual consumer, based on the individual treatment plan.

(Division of Mental Health and Addiction; 440 IAC 7.5-6-1)

440 IAC 7.5-6-2 Administration

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2-3; IC 12-24-12

Sec. 2. (a) The semi-independent living facility shall be administered by an agency under contract with the division. The agency is responsible for maintaining the administrative and supervisory structure required to provide and oversee the semi-independent living facility.

(b) Semi-independent living facilities shall be conducted in residences that are certified every two (2) years by the agency in accordance with the requirements of this article.

(c) The agency shall establish and follow written certification policies and procedures that are approved by the division.

(d) A copy of the certification form shall be kept by the agency.

(e) The semi-independent living facility shall provide adequate supervision, including, but not limited to, activities that assist the individual in maintaining or acquiring skills necessary to live in the community, including the following:

(1) Personal contacts and activities with the resident.

(2) The required minimum hours of direct contact with a resident shall be one (1) hour weekly. The actual number of hours of supervisory time shall be determined by the individual needs of the resident.

(f) Staff of the agency shall visit each residence in a time frame specified by each resident's individual treatment plan.

(g) Staff and the resident shall determine whether the living environment is conducive to the resident's achievement of optimal development. *(Division of Mental Health and Addiction; 440 IAC 7.5-6-2)*

440 IAC 7.5-6-3 Environment

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2-3

Sec. 3. (a) Residents in semi-independent living facilities shall reside in residences with no more than six (6) persons. The actual capacity of a residence shall be determined after evaluation of the facility in accordance with standards established in this rule. A single building may have up to twenty-five (25) semi-independent living facility residences or up to twenty-five percent (25%) of a building occupied by semi-independent living facility residences, whichever is greater.

(b) A semi-independent living facility may be an apartment or house.

(c) A semi-independent living facility shall comply with local health and safety codes.

(d) The agency shall apply to the division for a waiver, setting forth the justification to allow an individual to reside in a mobile home as a semi-independent living facility.

(e) Mobile homes or manufactured housing constructed after 1984 must meet the standards of the federal Department of Housing and Urban Development "Manufactured Home Construction and Safety Standards".

(f) No mobile home that was manufactured before 1985 may serve as a semi-independent living facility. This requirement may not be waived. *(Division of Mental Health and Addiction; 440 IAC 7.5-6-3)*

Rule 7. Alternative Family for Adults Program for Individuals with Psychiatric Disorders or Addictions

440 IAC 7.5-7-1 Application

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2

Sec. 1. (a) This rule applies to all managed care providers and community mental health centers that provide an

alternative family for adults program and residents of those programs.

(b) An alternative family for adults program shall meet all of the following requirements:

(1) The program serves six (6) or fewer residents with a psychiatric disorder or addiction living with a householder who is not an immediate relative (spouse, child, parent, grandparent, grandchild, or spouse of those listed).

(2) The householder is certified by the agency to care for the residents in accordance with their individual treatment plans.

(c) A copy of the certificate shall be kept on the premises of the residence, and a copy shall be kept by the agency. *(Division of Mental Health and Addiction; 440 IAC 7.5-7-1)*

440 IAC 7.5-7-2 Administration
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2

Sec. 2. (a) The alternative family for adults program shall be administered by a managed care provider or a community mental health center.

(b) The agency shall provide the following supervision:

(1) Staff of the agency shall visit each household at least monthly when residents are present to assure that the living environment is healthy, safe, and supportive.

(2) The required minimum hours of supervision with each alternative family for adults resident and householder shall be two (2) hours monthly, but the actual number of hours of supervisory time shall be determined by the agency, based on the needs of the residents and alternative family householder.

(3) Supervision shall include direct contact with the householder when the residents are not present as well as individual contacts with each resident when the householder is not present.

(4) Supervision shall include other personal contacts and activities with the householder and residents to maintain the adults in the residence and to assure residents' satisfaction with the program.

(c) The agency shall provide directly or by arrangement with others, a minimum of twelve (12) hours in-service training annually for householders as well as ten (10) hours preservice and on-the-job training for new householders.

(d) The agency shall establish a minimum payment to the householder for each resident.

(e) The agency may choose to exceed that minimum as a difficulty of care payment or as additional payment for meritorious performance. *(Division of Mental Health and Addiction; 440 IAC 7.5-7-2)*

440 IAC 7.5-7-3 Householder
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2

Sec. 3. (a) The agency shall certify individuals as alternative family for adults householders for a period of two (2) years.

(b) A householder may be recertified by the agency every two (2) years.

(c) An alternative family for adults householder shall meet the following standards:

(1) Be at least twenty-one (21) years of age.

(2) Be a resident of the community and general geographic area for at least six (6) months prior to application.

(3) Demonstrate stable life relationships through employment, relationships in the community, family ties, and in the individual's current roles and responsibilities.

(4) Be financially stable.

(5) Have good communication and interpersonal skills and the ability to empathize with persons with psychiatric disorders.

(6) Be in good health as documented annually by a physician's statement.

(7) Have a valid driver's license, a safe driving history according to the agency policy, and comply with Indiana's automobile insurance liability requirements, if the householder is responsible for transporting residents.

(8) Have completed the preservice training program provided by the agency.

(9) In the professional opinion of the agency, be capable and willing to provide a safe and therapeutic environment for the residents.

(d) The agency shall demonstrate that nutritional training has been provided to householders, including the following:

(1) The agency shall have a written nutrition training plan for householders approved by a dietitian.

(2) Staff and householders shall have access to a dietitian to discuss specific resident nutritional issues.

(e) The agency shall verify and consider the criminal history of an applicant who applies to be an alternative family for adults householder. The agency shall use a criminal records check and other methods of verification in the process.

(f) The status of being a certified alternative family for adults householder does not entitle the alternative family to have an adult placed with it. Such placements are at the discretion of the agency.

(g) The alternative family may decline to accept a specific adult solely on the grounds that the alternative family is unable to meet the individual's needs.

(h) The agency shall enter into a written agreement with each alternative family for adults householder covering the terms and conditions of the householder's participation in the alternative family for adults program. The agreement shall cover the following:

(1) Program participation requirements, duties, and responsibilities of the householder in the program.

(2) Householder rights.

(3) Any restrictions on the householder's activities that are necessary conditions of participation in the program.

(i) In the event that the alternative family householder determines that it is unable to meet the needs of the individual placed with them, the alternative family householder shall notify the agency, in writing, thirty (30) days before the relocation of the adult. *(Division of Mental Health and Addiction; 440 IAC 7.5-7-3)*

440 IAC 7.5-7-4 The residence
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2

Sec. 4. (a) Alternative family for adults program shall be conducted in the principal place of residence of the alternative family householder and may be in a house or an apartment.

(b) The agency shall apply to the division for a waiver, setting forth the justification to operate an alternative family for adults program in a mobile home.

(c) Mobile homes or manufactured housing constructed after 1984 must meet the standards of the federal Department of Housing and Urban Development "Manufactured Home Construction and Safety Standards".

(d) No alternative family for adults program may be operated in a mobile home that was manufactured before 1985. This requirement may not be waived.

(e) If private pay boarders not related to the householder are residing with the family, the total number of alternative family residents and private pay boarders shall not exceed eight (8) persons.

(f) Any alternative family household with four (4) or more individuals, excluding the immediate family of the householder, shall be inspected by the office of the state fire marshal and must meet the fire and life safety requirements set forth at 440 IAC 7.5-8 or 440 IAC 7.5-9. *(Division of Mental Health and Addiction; 440 IAC 7.5-7-4)*

Rule 8. Fire and Life Safety Standards for Facilities Located in Apartment Buildings for Persons with a Psychiatric Disorder or an Addiction

440 IAC 7.5-8-1 Scope
Authority: IC 12-21-2-3
Affected: IC 12-22-2

Sec. 1. Facilities located in apartment buildings for persons with a psychiatric disorder or addicted individuals shall achieve a classification of prompt evacuation capability, as defined in 431 IAC 4-1-5, and shall comply with:

(1) the Indiana building code under the provisions of 675 IAC 13 in effect at the time of the initial application for licensure with the division or at the time of the initial certification by the agency; or

(2) the Indiana building rehabilitation standard, 675 IAC 12-8, for the rehabilitation of older structures.

(Division of Mental Health and Addiction; 440 IAC 7.5-8-1)

440 IAC 7.5-8-2 Application
Authority: IC 12-21-2-3
Affected: IC 12-22-2

Sec. 2. (a) The level of evacuation capabilities of the residents as a group by the procedures described in Appendix F of the National Fire Protection Association, 101, Life Safety Code, 1985 Edition shall be determined for persons with a psychiatric disorder or addiction by the agency.

(b) On the basis of this evaluation under subsection (a), a facility shall be classified as one (1) of the following:

(1) Prompt.

(2) Slow.

(3) Impractical.

(Division of Mental Health and Addiction; 440 IAC 7.5-8-2)

440 IAC 7.5-8-3 Adoption by reference
Authority: IC 12-21-2-3
Affected: IC 12-22-2

Sec. 3. (a) Those certain documents being titled the NFPA 101, Appendix F of the Life Safety Code, 1985 Edition, published by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, and as listed in this article, are hereby adopted by reference, subject to the listed amendments, and made part of this article as if fully set out herein.

(b) Within the standards adopted under subsection (a), "authority having jurisdiction" means the division.

(c) Publications referenced within the documents adopted in subsection (a), unless specifically adopted by reference in this article, are deemed to be accepted practice and supplementary to these documents. *(Division of Mental Health and Addiction; 440 IAC 7.5-8-3)*

Rule 9. Fire and Life Safety Standards for One and Two Family Dwellings for Persons with a Psychiatric Disorder or an Addiction

440 IAC 7.5-9-1 Scope
Authority: IC 12-21-2-3
Affected: IC 12-22-2

Sec. 1. (a) All one (1) and two (2) family dwellings licensed under 431 IAC 2.1 prior to January 18, 1996, shall:

(1) achieve a classification of prompt evacuation capability, as defined in 440 IAC 7.5-1, for one (1) and two (2) family dwellings for persons with a psychiatric disorder or addicted individuals; and

(2) comply with the Indiana one (1) and two (2) family dwelling code under the rules of the fire prevention and building safety commission or its predecessors.

(b) All one (1) and two (2) family dwellings licensed under 431 IAC 2.1 or under 440 IAC 7.5 after January 18, 1996, shall:

(1) achieve a classification of prompt evacuation capability, as defined in 440 IAC 7.5-1, for community residential facilities for persons with a psychiatric disorder or addicted individuals; and

(2) comply with:

(A) the Indiana one (1) and two (2) family dwelling code under the provisions of 675 IAC 14, which is in effect at the time of initial application for licensure with the division or at the time of the initial certification by the agency; or

(B) the Indiana building rehabilitation standard, 675 IAC 12-8, for the rehabilitation of older structures.

(Division of Mental Health and Addiction; 440 IAC 7.5-9-1)

440 IAC 7.5-9-2 Application
Authority: IC 12-21-2-3
Affected: IC 12-22-2

Sec. 2. (a) The level of evacuation capabilities of the residents as a group by the procedures described in Appendix F of the National Fire Protection Association, 101, Life Safety Code, 1985 Edition shall be determined by the agency.

(b) On the basis of this evaluation under subsection (a), a facility shall be classified as one (1) of the following:

(1) Prompt.

(2) Slow.

(3) Impractical.

(Division of Mental Health and Addiction; 440 IAC 7.5-9-2)

440 IAC 7.5-9-3 Adoption by reference
Authority: IC 12-21-2-3
Affected: IC 12-22-2

Sec. 3. (a) The document titled the NFPA 101, Appendix F of the Life Safety Code, 1985 Edition, published by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, and as listed in this article, are hereby adopted by reference, subject to the listed amendments, and made part of this article as if fully set out herein.

(b) Within the standards adopted under subsection (a), "authority having jurisdiction" means the division.

(c) Publications referenced within the documents adopted in subsection (a), unless specifically adopted by reference in this article, are deemed to be accepted practice and supplementary to these documents. *(Division of Mental Health and Addiction; 440 IAC 7.5-9-3)*

Rule 10. Fire and Life Safety Standards for Congregate Living Facilities for Persons with a Psychiatric Disorder or an Addiction

440 IAC 7.5-10-1 Scope
Authority: IC 12-21-2-3
Affected: IC 12-22-2

Sec. 1. (a) All congregate living facilities shall not be located in or connected to buildings that have any other use or occupancy.

(b) All congregate living facilities shall achieve a classification of prompt evacuation capability and shall comply with the rules of the fire prevention and building safety commission that apply to a congregate residence under the provisions of 675 IAC 13 that are in effect at the time of application for licensure with the division, or at the time of the initial certification by the agency, whichever is later. *(Division of Mental Health and Addiction; 440 IAC 7.5-10-1)*

440 IAC 7.5-10-2 Application
Authority: IC 12-21-2-3
Affected: IC 12-22-2

Sec. 2. (a) The agency shall determine the level of evacuation capabilities of the residents as a group by the procedures described in Appendix F of the National Fire Protection Association, Life Safety Code, 1985 Edition.

(b) On the basis of this evaluation under subsection (a), a facility shall be classified as one (1) of the following:

(1) Prompt.

(2) Slow.

(3) Impractical.

(Division of Mental Health and Addiction; 440 IAC 7.5-10-2)

SECTION 2. THE FOLLOWING ARE REPEALED: 431 IAC 2.1; 431 IAC 5; 431 IAC 6; 440 IAC 7.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 27, 2001 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 1, Indianapolis, Indiana the Division of Mental Health and Addiction will hold a public hearing on proposed new rules concerning residential living facilities for individuals with psychiatric disorders or addictions. 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 440 DIVISION OF MENTAL HEALTH AND ADDICTION

NOTE: Under P.L.215-2001, SECTION 54, the name of the Division of Mental Health is changed to Division of Mental Health and Addiction, effective July 1, 2001.

Proposed Rule
LSA Document #01-356

DIGEST

Amends 440 IAC 6 concerning the certification of residential care providers to make technical changes to the existing rule to conform to current state law and to clarify the requirements of residential care providers. Effective 30 days after filing with the secretary of state.

440 IAC 6-1-1	**440 IAC 6-2-5**
440 IAC 6-2-1	**440 IAC 6-2-6**
440 IAC 6-2-2	**440 IAC 6-2-7**
440 IAC 6-2-3	**440 IAC 6-2-8**
440 IAC 6-2-4	**440 IAC 6-2-9**

SECTION 1. 440 IAC 6-1-1 IS AMENDED TO READ AS FOLLOWS:

440 IAC 6-1-1 Definitions
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-7-2-40.6; IC 12-21-2-7; IC 12-22-2; IC 23-17

Sec. 1. The following definitions apply throughout this article:

(1) "Annual assessment" means a written summary of a residential provider's successes and failures in achieving the fiscal and clinical goals established by the governing board.

(2) "Certification" means the process used by the division to document a residential care provider's compliance with the statutory and regulatory requirements for operation as a residential care provider, including the issuance of a certificate if the residential care provider is found to comply with the requirements in this article.

(3) "Conflict of interest" means activity of an individual (usually related to work or ownership) that is or runs the risk of being an oppositional interest to another interest or activity of the same individual thereby jeopardizing the ability of the individual to act in the best interest of one (1) of the activities.

(4) "Consumer" means a primary consumer.

(5) "Division" means the division of mental health **and addiction.**

(6) "Managed care provider" means an organization:

(A) that:

(i) for mental health services, is defined under 42 U.S.C. 300x-2(c); ~~or~~

(ii) provides addiction services; **or**

(iii) provides children's mental health services;

(B) that has entered into a provider agreement with the division under IC 12-21-2-7 to provide a continuum of care as defined in IC 12-7-2-40.6 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.

(7) "Primary consumer" means an individual who has received or is receiving mental health **or addiction** services.

(8) "Residential care provider" means an organization that the division has certified as fulfilling the statutory and regulatory requirements to be a residential care provider.

(9) "Secondary consumer" means a family member, guardian, or health care decision maker for a primary consumer.

(10) "Strategic plan" means a written summary of the governing board's future goals and objectives for the organization that provides a time-specified and systematic approach towards implementation, achievement, and methods of evaluation of the accomplishment of the stated goals and objectives.

~~(11) "Supervised group living facility" means a facility licensed by the community residential facility council as a supervised group living facility.~~

(Division of Mental Health and Addiction; 440 IAC 6-1-1; filed Dec 11, 1995, 3:00 p.m.: 19 IR 1100; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235)

SECTION 2. 440 IAC 6-2-1 IS AMENDED TO READ AS FOLLOWS:

440 IAC 6-2-1 Scope
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-7-2-127; IC 12-21-2-7; IC 12-22-2

Sec. 1. (a) Community mental health centers, which are certified by the division under 440 IAC 4.1, are deemed to also be certified as residential care providers.

(b) Entities certified by the division as managed care providers ~~for individuals with mental illness~~ **under 440 IAC 4.3** are deemed to also be certified as residential care providers.

(c) Entities certified by the division as having a regular certification as addiction services providers under 440 IAC 4.4-2-3 are deemed to also be certified as residential care providers. *(Division of Mental Health and Addiction; 440 IAC 6-2-1; filed Dec 11, 1995, 3:00 p.m.: 19 IR 1104; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2379; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235)*

SECTION 3. 440 IAC 6-2-2 IS AMENDED TO READ AS FOLLOWS:

440 IAC 6-2-2 Certification by the division
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-7; IC 12-22-2

Sec. 2. (a) Before ~~the division~~ **an entity** may ~~recommend to the community residential facilities council that an entity be granted a license to~~ operate a supervised group living facility, **a semi-independent living program, a sub-acute stabilization facility, a transitional residential facility, or an alternative family for adults program,** the entity ~~managing the facility~~ must be **certified by the division as one (1) of the following:**

(1) A managed care provider.
(2) A community mental health center.
(3) An addiction services provider with a regular certification. ~~or~~
(4) ~~certified by the division~~ **A residential care provider** under this article.

~~(b) Before the division may contract with an entity to provide a semi-independent group living program, a sub-acute stabilization setting, or an alternative families for adults program, that entity must be:~~

~~(1) a managed care provider;~~
~~(2) a community mental health center;~~
~~(3) an addiction services provider with a regular certification; or~~
~~(4) certified by the division under this article.~~

(b) A residential care provider must apply separately for certification or licensure of the specific facility they intend to operate.

(c) An organization that has applied for certification or has been certified must provide information related to services as requested by the division and must participate in the division's quality assurance program. An organization must respond to a request from the division as fully as it is capable. Failure to comply with a request from the division may result in the ~~refusal~~ **denial** or ~~suspension~~ **termination** of an organization's certification.

(d) When an organization has demonstrated compliance with all applicable laws and regulations, including the specific criteria in this article, a certificate shall be issued and shall be posted in a conspicuous place in the facility open to ~~clients~~ **consumers** and the public. *(Division of Mental Health and Addiction; 440 IAC 6-2-2; filed Dec 11, 1995, 3:00 p.m.: 19 IR 1101; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2379; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235)*

SECTION 4. 440 IAC 6-2-3 IS AMENDED TO READ AS FOLLOWS:

440 IAC 6-2-3 Organizational standards and requirements
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-7; IC 12-22-2

Sec. 3. (a) The organization 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 governing board shall meet the following criteria:
(1) The governing board shall be composed of at least five (5) individuals.
(2) At least one (1) member shall be a primary or secondary consumer.
(3) At least one (1) member shall be licensed by the health professions bureau as a physician or health services professional in psychology.

(d) The governing board shall meet on a regular basis. The duties of the governing board include the following:
(1) Employ a chief executive officer for the organization. The chief executive officer shall have at least a master's degree and shall have demonstrated managerial experience in the mental health care or related field. ~~An individual employed as a chief executive officer in an organization as of January 1, 1995, shall be considered as meeting this qualification.~~
(2) Evaluate the chief executive officer. Evaluations must be conducted at least every other year.
(3) Establish and enforce prudent business and fiscal policies for the organization.
(4) Develop and enforce written policies governing organization operations.
(5) Develop and implement an ongoing strategic plan that identifies the priorities of the governing board and utilizes community input and consumer assessment of programs and services offered.
(6) Assure that minutes of all meetings are maintained and accurately reflect the actions taken.
(7) Develop and enforce policies and procedures regarding conflict of interest by both governing board members and organization employees.

(8) Conduct an annual assessment, including the following:
(A) A review of the business practices of the organization to ensure that:
(i) appropriate risk management procedures are in place;
(ii) prudent financial practices occur;
(iii) there is an attempt to maximize revenue generation; and
(iv) professional practices are maintained in regard to information systems, accounts receivable, and accounts payable.
Deficiencies in the center's business practices shall be identified and a plan of corrective action implemented.
(B) A review of the programs of the organization, assessing whether the programs are well utilized, cost effective, and clinically effective. Deficiencies in the organization's current program practices shall be identified and a plan of corrective action implemented.

(e) The organization shall employ or contract for a professional services director who is licensed as a physician or health service professional in psychology and who is not the same person as the chief executive officer. *(Division of Mental Health and Addiction; 440 IAC 6-2-3; filed Dec 11, 1995, 3:00 p.m.: 19 IR 1101; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235)*

SECTION 5. 440 IAC 6-2-4 IS AMENDED TO READ AS FOLLOWS:

440 IAC 6-2-4 Certification
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-7; IC 12-22-2

Sec. 4. (a) Before commencing services, an applicant for certification as a residential care provider shall file an application with the division. The application shall contain the following:
(1) A description of the organizational structure and mission of the applicant.
(2) A description of services to be provided and how the organization will provide them.
(3) A list of governing board members and executive staff.
(4) Proof of general liability insurance coverage in the minimum amount of five hundred thousand dollars ($500,000) for bodily injury and property damage.
(5) A copy of the applicant's procedures to ensure protection of resident rights and confidentiality.
(6) ~~A balance sheet of assets and liabilities~~ **The most recent audit** of the residential care provider, which shall be prepared by an independent certified public accountant.
(7) Copies of the current professional health provider license of a board member and the professional services director.

(b) When the division determines that:
(1) an application is satisfactory; **and**
~~(2) the proposed services are necessary; and~~
~~(3)~~ **(2)** the applicant has sufficient administrative and financial capacity to fulfill its proposed mission;

the division shall issue ~~regular~~ certification to the applicant. ~~Regular~~ Certification ~~is valid for~~ **shall expire** twenty-four (24) months, **after the issuance of the certification or, for an entity that is accredited, ninety (90) days after the expiration of the entity's accreditation.** *(Division of Mental Health and Addiction; 440 IAC 6-2-4; filed Dec 11, 1995, 3:00 p.m.: 19 IR 1102; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235)*

SECTION 6. 440 IAC 6-2-5 IS AMENDED TO READ AS FOLLOWS:

440 IAC 6-2-5 Maintenance of certification
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-7; IC 12-22-2

Sec. 5. Maintenance of certification is dependent upon the following:
(1) The organization shall purchase and maintain general liability insurance in the minimum amount of five hundred thousand dollars ($500,000) for bodily injury and property damage.
(2) An audit of the financial operations of the organization shall be performed annually by an independent certified public accountant.
(3) The organization shall have written policies and enforce these policies to support and protect the fundamental human, civil, constitutional, and statutory rights of each ~~client.~~ **consumer.** The organization shall give a written statement of rights to each ~~client,~~ **consumer,** and, in addition, the organization shall document that organization staff provides an oral explanation of these rights to each ~~client.~~ **consumer.**
(4) The organization shall maintain compliance with required health, fire, and safety codes as prescribed by federal and state law.
(5) The organization shall comply with federal and state law regarding residential care providers.
(6) The residential care provider shall meet all the requirements regarding the specific facility for which they are certified or licensed.
(Division of Mental Health and Addiction; 440 IAC 6-2-5; filed Dec 11, 1995, 3:00 p.m.: 19 IR 1102; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235)

SECTION 7. 440 IAC 6-2-6 IS AMENDED TO READ AS FOLLOWS:

440 IAC 6-2-6 Notification of changes
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-7; IC 12-22-2

Sec. 6. An organization must notify the division, in writing, of any of the following:
(1) Change in the location of the organization's operational site.
(2) Change in the president or treasurer of the governing board.

(3) Change in the chief executive officer of the organization or professional services director.
(4) Substantial change in the primary program focus.
(5) The initiation of bankruptcy proceedings.
(6) The documented violation of health, fire, or safety codes as prescribed by federal and state law.
(7) The documented violation of the rights of an individual ~~being treated for mental illness under IC 12-27.~~ **who is a client of the residential provider.**

(Division of Mental Health and Addiction; 440 IAC 6-2-6; filed Dec 11, 1995, 3:00 p.m.: 19 IR 1102; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235)

SECTION 8. 440 IAC 6-2-7 IS AMENDED TO READ AS FOLLOWS:

440 IAC 6-2-7 Renewal of certification
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-7; IC 12-22-2

Sec. 7. (a) An organization shall submit a request for recertification, including the following:
(1) Proof of liability insurance in the amount required by the division.
(2) Proof of compliance with applicable health, fire, and safety codes as prescribed by federal and state law.
(3) Copy of the most recent annual audit and the management letter.
(4) Copies of current professional health provider license of a board member and the professional services director.

(b) The division may require the applicant to resolve any problems identified by the division before the division issues a renewal certificate.

(c) When a request for renewed certification is deemed to be complete by the division and the applicant has taken any action that is deemed necessary by the division, the division shall issue a new certification. The renewed certification shall expire twenty-four (24) months after the issuance of a renewal certification by the division **or, for an entity that is accredited, ninety (90) days after the expiration of the entity's accreditation**. *(Division of Mental Health and Addiction; 440 IAC 6-2-7; filed Dec 11, 1995, 3:00 p.m.: 19 IR 1103; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235)*

SECTION 9. 440 IAC 6-2-8 IS AMENDED TO READ AS FOLLOWS:

440 IAC 6-2-8 Termination of certification
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-7; IC 12-22-2

Sec. 8. The division may ~~suspend~~ **terminate** certification issued under this article upon the division's investigation and determination of the following:
(1) A substantive change in the operation of the organization.
(2) Failure to comply with this article.
(3) That the physical safety of the ~~clients~~ **consumers** or staff of the organization is compromised by a physical or sanitary condition of the organization or of a physical facility of the organization.
(4) Violation of a federal or state statute, rule, or regulation in the course of the operation of the organization **or its facilities.**

(Division of Mental Health and Addiction; 440 IAC 6-2-8; filed Dec 11, 1995, 3:00 p.m.: 19 IR 1103; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235)

SECTION 10. 440 IAC 6-2-9 IS AMENDED TO READ AS FOLLOWS:

440 IAC 6-2-9 Notification of termination
Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-7; IC 12-22-2

Sec. 9. ~~(a) Upon suspension of the organization's certification, the division shall so notify the community residential facility council.~~

~~(b)~~ The division shall notify the Indiana department of administration that the organization's certification has been ~~suspended or~~ terminated so that any other state agency having a contract with the organization may be notified of the division's ~~suspension or~~ termination of the organization's certification. *(Division of Mental Health and Addiction; 440 IAC 6-2-9; filed Dec 11, 1995, 3:00 p.m.: 19 IR 1103; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 27, 2001 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 1, Indianapolis, Indiana the Division of Mental Health and Addiction will hold a public hearing on proposed amendments concerning the certification of residential care providers to make technical changes to the existing rule to conform to current state law and to clarify the requirements of residential care providers. 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 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

Proposed Rule
LSA Document #01-334

DIGEST

Adds 460 IAC 2-5 to create and specify standards of conduct and performance specific to educational settings for interpreters to persons who are deaf or hard of hearing in the state of Indiana. It provides requirements to be met to become certified by the state of Indiana as an interpreter to persons who are deaf or hard of hearing in educational settings. Effective 30 days after filing with the secretary of state.

460 IAC 2-5

SECTION 1. 460 IAC 2-5 IS ADDED TO READ AS FOLLOWS:

Rule 5. Interpreter Standards for the Deaf and Hard of Hearing in an Educational Setting

460 IAC 2-5-1 Scope
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-12-7-5
Affected: IC 12-12-7

Sec. 1. (a) This rule establishes state certification standards for behavior, competency, and proficiency in interpretation, transliteration, and oral transliteration in a public or private primary or secondary school setting.

(b) This rule applies to a person who:
(1) applies for state certification;
(2) works in a public or private school in grades preschool through secondary school in Indiana with a deaf or hard of hearing student; and
(3) is hired as an interpreter or transliterator.
This includes any interpreter/transliterator who uses American Sign Language, or who uses any code or method of communication used by deaf or hard of hearing students including, but not limited to, cued speech, signed English, signing exact English, seeing essential English, conceptually accurate signed English (CASE) or oral methods of communication.

(c) This rule does not apply to certified teachers with endorsement to teach deaf children unless the person is hired by a public or private school to work as an interpreter/transliterator. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 2-5-1)*

460 IAC 2-5-2 Definitions
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-12-7-5
Affected: IC 12-12-7

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

(b) "ASL" means American Sign Language.

(c) "BIS" means board of interpreter standards.

(d) "CEU" means continuing education unit.

(e) "Code of ethics" means the rules of professional behavior for interpreters and transliterators approved by the board of interpreter standards.

(f) "Cued speech" means a system for visual representation of spoken language using eight (8) handshapes and four (4) hand locations near the face to supplement speech.

(g) "DDARS" means the division of disability, aging, and rehabilitative services.

(h) "Deaf or hard of hearing person" means the persons for and between whom the interpreter is facilitating communication and includes both hearing and deaf consumers.

(i) "DHHS" means deaf and hard of hearing services.

(j) "Educational interpreter" means a person who is able to perform conventional interpreting or transliterating, together with required skills for working in the educational setting.

(k) "EIPA" means educational interpreter performance assessment.

(l) "Hard of hearing" means a person who has mild to moderate hearing loss.

(m) "Hearing impaired" means an educational label that is used to refer to all deaf and hard of hearing students.

(n) "Individualized education program" or "IEP" means a document developed by a case conference committee that identifies educational goals and objectives needed to appropriately address the educational needs of a student with a disability.

(o) "Interpreter" means interpreters, transliterators, and oral transliterators and includes a person who works with a deaf or hard of hearing child or otherwise hearing impaired student to facilitate communication by rendering the complete message for the student and others because they do not share the same language and culture.

(p) "Interpreting" means the process of conveying a message from one (1) language into another.

(q) "Manually coded English" means a signed message that attempts to convey the meaning of the English speaker while maintaining the English form and word order.

(r) "NAD" means National Association of the Deaf.

(s) "New interpreter" means an interpreter who has no proof of work as an interpreter in a school setting.

(t) "Oral transliteration" means the process of understanding the speech and/or mouth movements of deaf, hard of hearing, or otherwise hearing impaired persons and repeating the message in spoken English and includes the process of paraphrasing/ transliterating a message spoken in English to a more visible form with natural lip movements so a deaf or hard of hearing person can read the lips of the oral transliterator.

(u) "RID" means Registry of Interpreters for the Deaf.

(v) "SEE II" means Signing Exact English II.

(w) "Setting" means the context within which an interpreting assignment takes place.

(x) "Signed English" means a system devised as a semantic representation of English where ASL signs are used in English word order with fourteen (14) sign makers being added to represent a portion of the inflectional system of English.

(y) "State certification" means certified by DHHS.

(z) "TECUnit" means Testing, Evaluation, and Certification Unit, Inc., an organization that certifies cued speech transliterators.

(aa) "Transliteration" refers to the process of conveying information from a spoken English message to an invented code that is signed or vice versa. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 2-5-2)*

460 IAC 2-5-3 Registration requirements
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-12-7-5
Affected: IC 12-12-7

Sec. 3. In order to receive state certification as an interpreter, working interpreters/transliterators in Indiana must be registered with DHHS in the manner prescribed by DHHS. DHHS is the agency responsible for standards related to sign language interpreters in Indiana and has been designated as the agency to make the determination that an interpreter can be certified to interpret in an educational setting. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 2-5-3)*

460 IAC 2-5-4 Certificate
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-12-7-5
Affected: IC 12-12-7

Sec. 4. After being certified by the state, an interpreter shall be issued a certificate signed by the DHHS deputy director and DDARS director evidencing such certification. An interpreter shall also be issued an identification card signed by the DHHS deputy director and DDARS director, a copy of which the interpreter shall present when requested as proof of certification. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 2-5-4)*

460 IAC 2-5-5 Certification requirements for new interpreters and transliterators
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-12-7-5
Affected: IC 12-12-7

Sec. 5. (a) In addition to any other requirements that a school district or school corporation establishes, to receive certification as an interpreter, a person who interprets/ transliterates in a public or private school in Indiana working with a deaf or hard of hearing student is required to have the appropriate national certification or performance assessment score listed in subsection (b). This section applies to all new interpreters and transliterators after July 1, 2010.

(b) The five (5) types of certificates and corresponding requirements include the following:

(1) American Sign Language	**Hold the RID certificate of interpretation (CI) or the NAD Level IV or V for educational situations requiring an ASL/English interpreter.**
(2) Manually coded English (MCE) (unspecified MCE)	**Hold the RID certificate of transliteration (CT) for educational situations requiring transliteration.**
(3) Oral transliteration	**Hold the RID oral transliteration certificate (OTC) for educational situations requiring an oral transliterator. This certificate requires a special written and performance exam.**
(4) Cued speech	**Hold certification from TECUnit and pass the RID written generalist test for educational situations requiring a cued speech transliterator.**
(5) Signing exact English (SEE II)	**Pass the educational interpreter performance assessment (EIPA) instrument specific to SEE II at level 3.5 and pass the RID written generalist test. These are the requirements for educational situations needing a SEE II transliterator.**

(c) Interpreters or transliterators holding applicable

national certifications must maintain these certifications in good standing in order to maintain their certification by the state, including fulfilling continuing education requirements.

(d) An interpreter or transliterator certified by the state shall renew the certification every two (2) years in the manner prescribed by DHHS. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 2-5-5)*

460 IAC 2-5-6 Certificate requirements for practicing interpreters and transliterators

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-12-7-5
Affected: IC 12-12-7

Sec. 6. (a) To receive state certification as an interpreter or transliterator, an individual who has documentation proving paid work as an educational interpreter prior to July 1, 2010, shall meet the following criteria:

(1) Beginning July 1, 2002, the interpreter or transliterator must earn annually one (1) CEU of skill development in the type of interpreting or transliterating that corresponds to the certificate held by the interpreter.

(2) Beginning July 1, 2002, the interpreter or transliterator must earn annually one (1) CEU from one (1) of the following seven (7) content areas:

(A) Deaf culture and history.
(B) Language development and acquisition in children.
(C) Child development.
(D) Foundations in interpreting theory and practice.
(E) Code of ethics for educational interpreters.
(F) Principles and practices of special education.
(G) Audiological issues for students and adults.

(b) An interpreter or transliterator certified by the state shall renew such certification every two (2) years in the manner prescribed by DHHS.

(c) After July 1, 2010, a newly hired interpreter or transliterator cannot use this section in later years to qualify. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 2-5-6)*

460 IAC 2-5-7 Limited state certification requirements for graduates of interpreter training programs

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-12-7-5
Affected: IC 12-12-7

Sec. 7. (a) To receive limited state certification as an interpreter or transliterator, an individual who has a degree in sign language interpreting from an accredited institution after July 1, 2010, may meet each of the following criteria to hold a limited certificate:

(1) When granted the limited certificate, the interpreter/transliterator must earn annually one (1) CEU of skill development in the type of interpreting/transliterating that corresponds to the limited certificate held by the interpreter/transliterator.

(2) When granted the limited certificate, the interpreter/transliterator must annually earn one (1) CEU from one (1) of the following seven (7) content areas:

(A) Deaf culture and history.
(B) Language development and acquisition in children.
(C) Child development.
(D) Foundations in interpreting theory and practice.
(E) Code of ethics for educational interpreters.
(F) Principles and practices of special education.
(G) Audiological issues for students and adults.

(3) The interpreter or transliterator must apply for and pass the RID written generalist test for the limited certificate.

(b) The interpreter or transliterator can renew the limited certificate each year for up to five (5) years in the manner prescribed by DHHS.

(c) A person may use this section for only the first five (5) years immediately following graduation from an accredited sign language interpreter preparation program. There shall be no renewals or extensions of this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 2-5-7)*

460 IAC 2-5-8 Interpreter code of ethics

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-12-7-5
Affected: IC 12-12-7

Sec. 8. (a) To maintain state certification as an interpreter or transliterator, an individual must follow the ethical standards taken from the RID code of ethics. Interpreters and transliterators shall:

(1) keep all assignment-related information strictly confidential;

(2) render the message faithfully, always conveying the content and spirit of the speaker, using language most readily understood by the person whom they serve;

(3) not counsel, advise, or interject personal opinions;

(4) accept assignments using discretion with regard to skill, setting, and the consumers involved;

(5) request compensation for services in a professional and judicious manner;

(6) function in a manner appropriate to the situation;

(7) strive to further knowledge and skills through participation in workshops, professional meetings, interaction with professional colleagues, and reading of current literature in the field; and

(8) strive to maintain high professional standards in compliance with the code of ethics.

(b) Questions by consumers, interpreters, and transliterators relating to interpreting these ethical standards in an educational setting can be answered by contacting DHHS. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 2-5-8)*

460 IAC 2-5-9 Grievances
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-12-7-5
Affected: IC 12-12-7

Sec. 9. The grievance committee created under 460 IAC 2-3-13 shall have jurisdiction over grievances arising out of this rule, and any grievances shall be referred to that committee. All grievance procedures, actions, enforcement, discipline, and appeals shall be handled according to the provisions of 460 IAC 2-3-15 through 460 IAC 2-3-20. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 2-5-9)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 9, 2002 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Room W451 Conference Room A, Indianapolis, Indiana the Division of Disability, Aging, and Rehabilitative Services will hold a public hearing on a proposed new rule concerning standards of conduct and performance specific to educational settings for interpreters to persons who are deaf or hard of hearing in the state of Indiana. An interpreter will be present at the hearing. If another accommodation is required to allow an individual with a disability to participate in this meeting, please contact Kevin Wild at (317) 233-2582 at least forty-eight (48) hours prior to the meeting. 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.

Karen Davis
General Counsel
Division of Disability, Aging, and Rehabilitative Services

TITLE 610 DEPARTMENT OF LABOR

Proposed Rule
LSA Document #01-340

DIGEST

Adds 610 IAC 4-6 concerning the rules for reporting and recording work related injuries and illnesses, pursuant to the revised federal rules for reporting and recording work related injuries and illnesses found in 29 CFR 1904. Repeals 610 IAC 4-4. Effective 30 days after filing with the secretary of state.

610 IAC 4-4
610 IAC 4-6

SECTION 1. 610 IAC 4-6 IS ADDED TO READ AS FOLLOWS:

Rule 6. Recording and Reporting Occupational Injuries and Illnesses

610 IAC 4-6-1 Purpose
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 1. (a) The purpose of this rule is to require employers to record and report work related fatalities, injuries, and illnesses.

(b) Recording or reporting a work related injury, illness, or fatality does not mean that:
(1) the employer or employee was at fault;
(2) an Indiana or federal Occupational Safety and Health Act (OSHA) rule has been violated; or
(3) the employee is eligible for workers' compensation or other benefits.

(c) All employers covered by the Indiana Occupational Safety and Health Act (IOSHA) (IC 22-8-1.1 et seq.) are covered by this rule. Sections 2 through 4 of this rule describe which employers do not have to keep OSHA injury and illness records unless Indiana occupational safety and health administration (IOSHA), the federal Occupational Safety and Health Administration (OSHA), or the Bureau of Labor Statistics (BLS) informs them in writing that they must keep records. Under sections 2 through 4 of this rule, employers with ten (10) or fewer employees and business establishments in certain industry classifications are partially exempt from keeping OSHA injury and illness records.

(d) Sections 5 through 14 of this rule describe the work related injuries and illnesses that an employer must enter into the OSHA records and explains the OSHA forms that employers must use to record work related fatalities, injuries, and illnesses.

(e) Under section 8 of this rule, IOSHA believes most significant injuries and illnesses will result in one (1) of the criteria listed in section 8(a) of this rule. However, there are some significant injuries, such as a punctured eardrum or a fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. OSHA believes that cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses, and must be recorded at the initial diagnosis even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case. *(Department of Labor; 610 IAC 4-6-1)*

610 IAC 4-6-2 Partial exemption for employers with 10 or fewer employees

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 2. (a) Basic requirement for partial exemptions based on the number of employees are as follows:

(1) If an employer had ten (10) or fewer employees at all times during the last calendar year, that employer does not need to keep Occupational Safety and Health Administration (OSHA) injury and illness records unless federal OSHA, the Indiana occupational safety and health administration (IOSHA), or the Bureau of Labor Statistics informs the employer in writing that the employer must keep records under section 24 or 25 of this rule. However, as required by section 23 of this rule, all employers covered by the Indiana Occupational Safety and Health Act must report to IOSHA any workplace incident that results in a fatality or the hospitalization of three (3) or more employees.

(2) If an employer had more than ten (10) employees at any time during the last calendar year, that employer must keep OSHA injury and illness records unless that employer's establishment is classified as a partially exempt industry under section 3 of this rule.

(b) This section shall be implemented as follows:

(1) The partial exemption for size is based on the number of employees in the entire company.

(2) To determine if an employer is exempt because of size, the employer needs to determine the company's peak employment during the last calendar year. If the employer had no more than ten (10) employees at any time in the last calendar year, then the company qualifies for the partial exemption for size.

(Department of Labor; 610 IAC 4-6-2)

610 IAC 4-6-3 Partial exemption for establishments in certain industries

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 3. (a) Basic requirements for partial exemptions for establishments in certain industries are as follows:

(1) If an employer's business establishment is classified in a specific low hazard retail, service, finance, insurance, or real estate industry, as described in subsection (b), that employer does not need to keep Occupational Safety and Health Administration (OSHA) injury and illness records unless the government asks the employer to keep the records under section 24 or 25 of this rule.

(2) Employer's with the following Standard Industrial Classification (SIC) codes do not need to keep OSHA injury and illness records unless the government asks the employer to keep the records under section 24 or 25 of this rule:

(A) 525x Hardware Stores.
(B) 542x Meat and Fish Markets.
(C) 544x Candy, Nut, and Confectionary Stores.
(D) 545x Dairy Products Stores.
(E) 546x Retail Bakeries.
(F) 549x Miscellaneous Food Stores.
(G) 551x New and Used Car Dealers.
(H) 552x Used Car Dealers.
(I) 554x Gasoline Service Stations.
(J) 557x Motorcycle Dealers.
(K) 56xx Apparel and Accessory Stores.
(L) 573x Radio, Television, and Computer Stores.
(M) 58xx Eating and Drinking Places.
(N) 591x Drug Stores and Proprietary Stores.
(O) 592x Liquor Stores.
(P) 594x Miscellaneous Shopping Goods Stores.
(Q) 599x Retail Stores Not Elsewhere Classified.
(R) 60xx Depository Institutions, Banks, and Savings Institutions.
(S) 61xx Nondepository Institutions.
(T) 62xx Security and Commodity Brokers.
(U) 63xx Insurance Carriers.
(V) 64xx Insurance Agents, Brokers, and Services.
(W) 653x Real Estate Agents and Managers.
(X) 654x Title Abstract Offices.
(Y) 67xx Holding and Other Investment Offices.
(Z) 722x Photographic Studios, Portrait.
(AA) 723x Beauty Shops.
(BB) 724x Barber Shops.
(CC) 725x Shoe Repair and Shoeshine Parlors.
(DD) 726x Funeral Service and Crematories.
(EE) 729x Miscellaneous Personal Services.
(FF) 731x Advertising Services.
(GG) 732x Credit Reporting and Collection Services.
(HH) 733x Mailing, Reproduction, and Stenographic Services.
(II) 737x Computer and Data Processing Services.
(JJ) 738x Miscellaneous Business Services.
(KK) 764x Reupholstery and Furniture Repair.
(LL) 78xx Motion Pictures.
(MM) 791x Dance Studios, Schools, and Halls.
(NN) 792x Producers, Orchestras, Entertainers.
(OO) 793x Bowling Centers.
(PP) 801x Offices and Clinics of Medical Doctors.
(QQ) 802x Offices and Clinics of Dentists.
(RR) 803x Offices of Osteopathic.
(SS) 804x Offices of Other Health Practitioners.
(TT) 807x Medical and Dental Laboratories.
(UU) 809x Health and Allied Services Not Elsewhere Classified.
(VV) 81xx Legal Services.
(WW) 82xx Educational Services, Schools, Colleges, Universities, and Libraries.
(XX) 832x Individual and Family Services.
(YY) 835x Child Day Care Services.

(ZZ) 839x Social Services Not Elsewhere Classified.
(AAA) 841x Museums and Art Galleries.
(BBB) 86xx Membership Organizations.
(CCC) 87xx Engineering, Accounting, Research, Management, and Related Services.
(DDD) 899x Services Not Elsewhere Classified.

However, all employers must report to the Indiana occupational safety and health administration any workplace incident that results in a fatality or the hospitalization of three (3) or more employees (see section 23 of this rule).

(3) If one (1) or more of an employer's establishments are classified in a nonexempt industry, that employer must keep OSHA injury and illness records for all of such establishments unless the employer is partially exempted because of size under section 2 of this rule.

(b) Implementation for partial exemption for establishments in certain industries shall be as follows:

(1) The partial industry classification exemption applies only to business establishments in the retail, services, finance, insurance, or real estate industries (SICs 52xx–89xx). Business establishments classified in the:
(A) agriculture;
(B) mining;
(C) construction;
(D) manufacturing;
(E) transportation;
(F) communication;
(G) electric, gas, or sanitary services; or
(H) wholesale trade;
are not eligible for the partial industry classification exemption.

(2) The partial industry classification exemption applies to individual business establishments. If an employer has several business establishments engaged in different classes of business activities, some of the employer's establishments may be required to keep records, while others may be exempt.

(3) Employers determine their SIC code by using the Standard Industrial Classification Manual, Executive Office of the President, Office of Management and Budget. Employers may contact the Indiana occupational safety and health administration office for help in determining the SIC.

(Department of Labor; 610 IAC 4-6-3)

610 IAC 4-6-4 Keeping records for more than one agency

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 4. (a) If an employer creates records to comply with another government agency's injury and illness record keeping requirements, the Indiana occupational safety and health administration (IOSHA) will consider those records as meeting the record keeping requirements in this rule if the federal Occupational Safety and Health Administration (OSHA) accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information that this rule requires the employer to record. Employers may contact IOSHA for help in determining whether the records kept meet IOSHA's requirements.

(b) All employers, including those partially exempted by reason of company size or industry classification, must report to IOSHA any workplace incident that results in a fatality or the hospitalization of three (3) or more employees (see section 23 of this rule). *(Department of Labor; 610 IAC 4-6-4)*

610 IAC 4-6-5 Recording criteria

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 5. (a) Each employer required by this rule to keep records of fatalities, injuries, and illnesses must record each fatality, injury, and illness that:

(1) is work related;
(2) is a new case; and
(3) meets one (1) or more of the general recording criteria listed in section 8 of this rule or the application to specific cases of sections 9 through 13 of this rule.

(b) The following sections of this rule address each topic:

(1) Section 6 of this rule addresses the determination of work relatedness.
(2) Section 7 of this rule addresses the determination of a new case.
(3) Section 8 of this rule addresses general recording criteria.
(4) Sections 9 through 13 of this rule address additional criteria for cases including:
(A) needlestick and sharps injury cases;
(B) tuberculosis cases;
(C) hearing loss cases;
(D) medical removal cases; and
(E) musculoskeletal disorder cases.

(c) If no employee has experienced an injury or illness, no record is required. If an employee has experienced an injury or an illness, but the injury or illness is not work related, then the employer is not required to record the injury or illness. If an employee has experienced a work related injury or illness, and the injury or illness is not a new case, the employer is required to update the previously recorded injury or illness entry if necessary. If an employee experiences a work related injury or illness and the injury or illness is a new case, the employer should consult section 8 of this rule and determine if general recording criteria are met. If so, the employer is required to record the injury or illness. *(Department of Labor; 610 IAC 4-6-5)*

610 IAC 4-6-6 Determination of work relatedness

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 6. (a) Basic requirements for determining work relatedness are that employers must consider an injury or illness to be work related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a preexisting injury or illness. Work relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in subsection (b)(2) specifically applies.

(b) Implementation of this section is as follows.

(1) The work environment is defined as the establishment and other locations where one or more employees are working or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of his or her work.

(2) An injury or illness occurring in the work environment that falls under one (1) of the following exceptions is not work related, and therefore is not recordable:

(A) At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee.

(B) The injury or illness involves signs or symptoms that surface at work but result solely from a nonwork related event or exposure that occurs outside the work environment.

(C) The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity, such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.

(D) The injury or illness is solely the result of an employee eating, drinking, or preparing food or drink for personal consumption (whether brought on the employer's premises or brought in). For example, if the employee is injured by choking on a sandwich while in the employer's establishment, the case would not be considered work related. However, if the employee is made ill by ingesting food that has been contaminated by workplace contaminants (such as lead), or gets food poisoning from food supplied by the employer, the case is considered work related.

(E) The injury or illness is solely the result of an employee doing personal tasks, unrelated to their employment, at the establishment outside of the employee's assigned working hours.

(F) The injury or illness is solely the result of personal grooming, self medication for a nonwork related condition, or is intentionally self-inflicted.

(G) The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.

(H) The illness is the common cold or flu. However, contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work related if the employee is infected at work.

(I) The illness is a mental illness. Mental illness will not be considered work related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (including psychiatrist, psychologist, psychiatric nurse) stating that the employee has a mental illness that is work related.

(3) If it is not obvious whether the precipitating event or exposure occurred in the work environment or occurred away from work, the employer must evaluate the employee's work duties and environment to decide whether or not one (1) or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a preexisting condition.

(4) A preexisting injury or illness has been significantly aggravated, for purposes of Occupational Safety and Health Administration (OSHA) injury and illness record keeping, when an event or exposure in the work environment results in any of the following:

(A) Death, provided that the preexisting injury or illness would likely not have resulted in death but for the occupational event or exposure.

(B) Loss of consciousness, provided that the preexisting injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.

(C) One (1) or more days away from work, days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.

(D) Medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.

(5) An injury or illness is a preexisting condition if it resulted solely from a nonwork related event or exposure that occurred outside the work environment.

(6) Injuries and illnesses that occur while an employee is on travel status are work related if, at the time of the injury or illness, the employee was engaged in work activities in the interest of the employer. Examples of such activities include travel to and from customer contacts, conducting job tasks, and entertaining or being entertained to transact, discuss, or promote business (work related entertainment includes only entertainment

activities being engaged in at the direction of the employer). Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if they meet one (1) of the following exceptions:

(A) If the employee while traveling has taken up temporary residence (for example, in a hotel, motel, inn, or other paid lodging) for one (1) or more days, the employer must evaluate the employee's activities in the same manner as the employer must evaluate the activities of a nontraveling employee. When the employee checks into the temporary residence, the employee has left the work environment. When the employee begins work each day, the employee reenters the work environment. The employer does not need to consider injuries or illnesses work related if they occur while the employee is commuting between the temporary residence and the job location.

(B) If the employee has taken a detour for personal reasons. Injuries or illnesses are not considered work related if they occur while the employee is on a personal detour from a reasonably direct route of travel.

(7) Injuries and illnesses that occur while an employee is working at home, including work in a home office, will be considered work related if the injury or illness occurs while the employee is performing work for pay or compensation in the home, and the injury or illness is directly related to the performance of work rather than to the general home environment or setting. For example, if an employee:

(A) drops a box of work documents and injures his or her foot, the case is considered work related;

(B) has a fingernail that is punctured by a needle from a sewing machine used to perform garment work at home, becomes infected and requires medical treatment, the injury is considered work related;

(C) is injured because he or she trips on the family dog while rushing to answer a work phone call, the case is not considered work related; or

(D) is working at home and is electrocuted because of faulty home wiring, the injury is not considered work related.

(Department of Labor; 610 IAC 4-6-6)

610 IAC 4-6-7 Determination of new cases

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 7. (a) Employers must consider an injury or illness to be a new case if either of the following occur:

(1) The employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body.

(2) The employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the sign or symptoms to reappear.

(b) Implementation for determination of new cases is as follows:

(1) For occupational illnesses where the signs or symptoms may recur or continue in the absence or an exposure in the workplace, the case must only be recorded once. Examples may include occupational cancer, asbestosis, byssinosis, and silicosis.

(2) When an episode or recurrence was caused by an event or exposure in the workplace, the incident must be treated as a new case.

(3) Employers are not required to seek the advice of a physician or other licensed health care professional. However, if an employer does seek such advice, the employer must follow the physician or other licensed health care professional's recommendation about whether the case is a new case or a recurrence. If the employer receives recommendations from two (2) or more physicians or other licensed health care professionals, the employer must decide which recommendation is the most authoritative (best documented, best reasoned, or most authoritative), and record the case based upon that recommendation.

(Department of Labor; 610 IAC 4-6-7)

610 IAC 4-6-8 General recording criteria

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 8. (a) Employers must consider an injury or illness to meet the general recording criteria, and therefore to be recordable, if it results in any of the following:

(1) Death.
(2) Days away from work.
(3) Restricted work or transfer to another job.
(4) Medical treatment beyond first aid.
(5) Loss of consciousness.

Employers must also consider a case to meet the general recording criteria if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

(b) Implementation for general recording criteria is as follows:

(1) A work related injury or illness must be recorded if it results in one (1) or more of the following:

(A) Death, see subdivision (2).

(B) Days away from work, see subdivision (3).

(C) Restricted work or transfer to another job, see subdivision (4).

(D) Medical treatment beyond first aid, see subdivision (5).

(E) Loss of consciousness, see subdivision (6).

(F) A significant injury or illness diagnosed by a physician or other licensed health care professional, see subdivision (7).

(2) Employers must record an injury or illness that results in death by entering a check mark on the Occupational Safety and Health Administration (OSHA) 300 Log in the space for cases resulting in death. Employers must also report any work related fatality to the Indiana occupational safety and health administration within eight (8) hours, as required by section 23 of this rule.

(3) When an injury or illness involves one (1) or more days away from work, you must record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, the employer must enter an estimate of the days that the employee will be away, and update the day count when the actual number of days is known. Requirements for counting days shall be as follows:

(A) Employers must begin counting days away on the day after the injury occurred or the illness began.

(B) Employers must record these injuries and illnesses on the OSHA 300 Log using the check box for cases with days away from work and enter the number of calendar days away recommended by the physician or other licensed health care professional. If a physician or other licensed health care professional recommends days away, the employer should encourage his or her employee to follow that recommendation. However, the days away must be recorded whether the injured or ill employee follows the physician or licensed health care professional's recommendation or not. If the employer receives recommendations from two (2) or more physicians or other licensed health care professionals, the employer may decide which recommendation is the most authoritative, and record the case based upon that recommendation.

(C) When a physician or other licensed heath care professional recommends that the worker return to work but the employee stays at home, the employer must end the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work.

(D) The employer must count the number of calendar days the employee was unable to work as a result of the injury or illness, regardless or whether or not the employee was scheduled to work on those days. Weekend days, holidays, vacation days, or other days off are included in the total number of days recorded if the employee would not have been able to work on those days because of a work related injury or illness.

(E) In cases in which a worker is injured or becomes ill on a Friday and reports to work on a Monday, and was not scheduled to work on the weekend, the employer must record this case only if the employer receives information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the weekend. If so, the employer must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate.

(F) In cases in which a worker is injured or becomes ill on the days before scheduled time off such as a holiday, a planned vacation, or a temporary plant closing, the employer must record a case of this type only if the employer receives information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the scheduled time off. If so, the employer must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate.

(G) The employer may "cap" the total days away at one hundred eighty (180) calendar days. The employer is not required to keep track of the number of calendar days away from work if the injury or illness resulted in more than one hundred eighty (180) calendar days away from work or days of job transfer or restriction. In such a case, entering one hundred eighty (180) in the total days away column will be considered adequate.

(H) If the employee leaves the employer's company for some reason unrelated to the injury or illness, such as retirement, a plant closing, or to take another job, the employer may stop counting days away from work or days of restriction/job transfer. If the employee leaves the employer's company because of the injury or illness, the employer must estimate the total number of days away or days of restriction/job transfer and enter the day count on the OSHA 300 Log.

(I) If a case occurs in one (1) year but results in days away during the next calendar year, the employer must only record the injury or illness once. The employer must enter the number of calendar days away for the injury or illness on the OSHA 300 Log for the year in which the injury or illness occurred. If the employee is still away from work because of the injury or illness when the employer prepares the annual summary, the employer shall estimate the total number of calendar days the employer expects the employee to be away from work, use this number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the one hundred eighty (180) day cap.

(4) When an injury or illness involves restricted work or job transfer but does not involve death or days way from work, the employer must record the injury or illness on the OSHA 300 Log by placing a check mark in the space

for job transfer or restriction and an entry of the number of restricted or transferred days in the restricted workdays column, based upon the following:

(A) Restricted work occurs when, as the result of a work related injury or illness:

(i) the employer keeps the employee from performing one (1) or more of the routine functions of his or her job, or from working the full workday that he or she would otherwise have been scheduled to work; or

(ii) a physician or other licensed health care professional recommends that the employee not perform one (1) or more of the routine functions of his or her job, or not work the full workday that he or she would otherwise have been scheduled to work.

(B) For record keeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week.

(C) Employers do not have to record restricted work or job transfers if the employer, or the physician or other licensed health care professional, imposes the restriction or transfer only for the day on which the injury occurred or the illness began.

(D) A recommended work restriction is recordable only if it affects one (1) or more of the employee's routine job functions. To determine whether this is the case, the employer must evaluate the restriction in light of the routine functions of the injured or ill employee's job. If the restriction from the employer or the physician or other licensed health care professional keeps the employee from:

(i) performing one (1) or more of his or her routine job functions; or

(ii) working the full workday that the injured or ill employee would otherwise have worked;

the employee's work has been restricted and the employer must record the case.

(E) A partial day of work is recorded as a day of job transfer or restriction for record keeping purposes, except for the day on which the injury occurred or the illness began.

(F) If the injured or ill worker produces fewer goods or services than he or she would have produced prior to the injury or illness, but otherwise performs all of the routine functions of his or her work, then the case is considered restricted work only if the worker does not perform all of the routine functions of his or her job or does not work the full shift that he or she would otherwise have worked.

(G) If the employer is not clear about the physician or other licensed health care professional's recommendation, the employer may ask that person whether the employee can do all of his or her routine job functions and work all of his or her normally assigned work shift. If the answer to both of these questions is "Yes", then the case does not involve a work restriction and does not have to be recorded as such. If the answer to one (1) or both of these questions is "No", the case involves restricted work and must be recorded as a restricted work case. If the employer is unable to obtain the additional information from the physician or other licensed health care professional who recommended the restriction, record the injury or illness as a case involving restricted work.

(H) If a physician or other licensed health care professional recommends a job restriction meeting IOSHA's definition, but the employee does all of his or her routine job functions anyway, the employer must record the injury or illness on the OSHA 300 Log as a restricted work case. If a physician or other licensed health care professional recommends a job restriction, the employer should ensure that the employee complies with that restriction. If the employer receives recommendations from two (2) or more physicians or other licensed health care professionals, the employer may decide which recommendation is the most authoritative, and record the case based upon that recommendation.

(I) If the employer assigns an injured or ill employee to a job other than his or her regular job for part of the day, the case involves transfer to another job. This does not include the day on which the injury or illness occurred.

(J) Both job transfer and restricted work cases are recorded in the same box on the OSHA 300 Log. For example, if the employer assigns, or a physician or other licensed health care professional recommends that the employer assign an injured or ill worker to his of her routine job duties for part of the day and to another job for the rest of the day, the injury or illness involves a job transfer. Employers must record an injury or illness that involves a job transfer by placing a check in the box for job transfer.

(K) The employer must count days of job transfer or restriction in the same way the employer counts days away from work, using subdivision (3)(A) through (3)(H). The only difference is that, if the employer permanently assigns the injured or ill employee to a job that has been modified or permanently changed in a manner that eliminates the routine functions the employee was restricted from performing, the employer may stop the day count when the modification is made permanent. The employer must count at least one (1) day of restricted work or job transfer for such cases.

(5) If a work related injury or illness results in medical treatment beyond first aid, the employer must record it on the OSHA 300 Log. If the injury or illness did not involve death, one (1) or more days away from work, one (1) or more days of restricted work, or one (1) or more days of job transfer, the employer shall enter a check mark in the box for cases where the employee received medical treatment but remained at work and was not transferred or restricted, based upon the following:

(A) As used in this rule, "medical treatment" means the management and care of a patient to combat disease or disorder. For purposes of this rule, the term does not include any of the following:

(i) Visits to a physician or other licensed health care professional solely for observation or counseling.

(ii) The conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes, for example, eye drops to dilate pupils.

(iii) "First aid" as defined in clause (B).

(B) As used in this rule, "first aid" means the following:

(i) Using a nonprescription medication at nonprescription strength (for medications available in both prescription and nonprescription form, a recommendation by a physician or other licensed health care professional to use a nonprescription medication at prescription strength is considered medical treatment for record keeping purposes).

(ii) Administering tetanus immunizations (other immunizations, such as hepatitis B vaccine or rabies vaccine, are considered medical treatment).

(iii) Cleaning, flushing, or soaking wounds on the surface of the skin.

(iv) Using wound coverings, such as bandages, Band-Aids™, or gauze pads, or using butterfly bandages or Steri-Strips™ (other wound closing devices such as sutures or staples, are considered medical treatment).

(v) Using hot or cold therapy.

(vi) Using any nonrigid means of support, such as elastic bandages, wraps, and nonrigid back belts (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for record keeping purposes).

(vii) Using temporary immobilization devices while transporting an accident victim, for example, splints, slings, neck collars, or backboards.

(viii) Drilling of a fingernail or toenail to relieve pressure or draining fluid from a blister.

(ix) Using eye patches.

(x) Removing foreign bodies from the eye using only irrigation or a cotton swab.

(xi) Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs, or other simple means.

(xii) Using finger guards.

(xiii) Using massages (physical therapy or chiropractic treatment are considered medical treatment for record keeping purposes).

(xiv) Drinking fluids for relief of heat stress.

(C) Clause (B) contains a complete list of all treatments considered first aid for purposes of this rule.

(D) IOSHA considers the treatments listed in clause (B) to be first aid regardless of the professional status of the person providing the treatment. Even when these treatments are provided by a physician or other licensed health care professional, they are considered first aid for the purposes of this rule. Similarly, IOSHA considers treatment beyond first aid to be medical treatment even when it is provided by someone other than a physician or other licensed health care professional.

(E) If a physician or other licensed health care professional recommends medical treatment, the employer should encourage the injured or ill employee to follow that recommendation. However, the employer must record the case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation.

(6) Employers must record a work related injury or illness if the worker becomes unconscious, regardless of the length of time the employee remains unconscious.

(7) Work related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of diagnosis by a physician or other licensed health care professional. These are "significant" diagnosed injuries or illnesses that are recordable even if they do not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

(Department of Labor; 610 IAC 4-6-8)

610 IAC 4-6-9 Recording criteria for needlestick and sharps injuries

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 9. (a) The employer must record all work related needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (as defined by 29 CFR 1910.1030). The employer must enter the case on the Occupational Safety and Health Administration (OSHA) 300 Log as an injury. To protect the employee's privacy, the employer may not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in section 14 of this rule).

(b) Implementation of needlestick and sharps injuries recording is as follows:

(1) As used in this rule, "other potentially infectious materials" has the meaning as set forth in the OSHA Bloodborne Pathogens standard at 29 CFR 1910.1030(b), including the following:

(A) Human bodily fluids, tissues, and organs.

(B) Other materials infected with the HIV or hepatitis B (HBV) virus, such as laboratory cultures or tissues from experimental animals.

(2) The employer must record cuts, lacerations, punctures, and scratches only if they are work related and involve contamination with another person's blood or

other potentially infectious material. If the cut, laceration, or scratch involves a clean object, or a contaminant other than blood or other potentially infectious material, the employer must record the case only if it meets one (1) or more of the recording criteria in section 8 of this rule.

(3) If an employer records an injury and the employee is later diagnosed with an infectious bloodborne disease, then the employer must update the classification of the case on the OSHA 300 Log if the case results in death, days away from work, restricted work, or job transfer. The employer must also update the description to identify the infectious disease and change the classification of the case from an injury to an illness.

(4) If one (1) of an employer's employees is splashed or exposed to blood or other potentially infectious material without being cut or scratched, the employer needs to record such an incident on the OSHA 300 Log as an illness if it:

(A) results in the diagnosis of a bloodborne illness, such as HIV, hepatitis B, or hepatitis C; or

(B) meets one (1) or more of the recording criteria in section 8 of this rule.

(Department of Labor; 610 IAC 4-6-9)

610 IAC 4-6-10 Recording criteria for cases involving medical removal under OSHA standards

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 10. (a) If an employee is medically removed under the medical surveillance requirements of an Occupational Safety and Health Act (OSHA) standard, the employer must record the case on the OSHA 300 Log.

(b) The employer shall record cases involving medical removal as follows:

(1) The employer must enter each medical removal case on the OSHA 300 Log as either a case involving days away from work or a case involving restricted work activity, depending on how the employer decides to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, the employer must enter the case on the OSHA 300 Log by checking the "poisoning" column.

(2) Not all of OSHA's standards have medical removal provisions. Some OSHA standards, such as the standards covering bloodborne pathogens and noise, do not have medical removal provisions. Many OSHA standards that cover specific chemical substances have medical removal provisions. These standards include, but are not limited to, lead, cadmium, methylene chloride, formaldehyde, and benzene.

(3) The employer does not need to record the case on the OSHA 300 Log if the case involves voluntary medical removal before the medical removal levels required by an OSHA standard.

(Department of Labor; 610 IAC 4-6-10)

610 IAC 4-6-11 Recording criteria for cases involving occupational hearing loss

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 11. (a) Beginning on January 1, 2003, if an employee's hearing test (audiogram) reveals that a standard threshold shift (STS) has occurred, the employer must record the case on the Occupational Safety and Health Administration (OSHA) 300 Log by checking the "hearing loss" column.

(b) Beginning on January 1, 2003, implementation of this section shall be as follows:

(1) As used in this rule, "STS" has the meaning as set forth in the occupational noise exposure standard at 29 CFR 1910.95(c)(10)(i) as a change in hearing threshold, relative to the most recent audiogram for that employee, of an average of ten (10) decibels or more at two thousand (2,000), three thousand (3,000), and four thousand (4,000) hertz in one (1) or both ears.

(2) If the employee has never previously experienced a recordable hearing loss, the employer must compare the employee's current audiogram with that employee's baseline audiogram. If the employee has previously experienced a recordable hearing loss, the employer must compare the employee's current audiogram with the employee's revised baseline audiogram (the audiogram reflecting the employee's previous recordable hearing loss case).

(3) When comparing audiogram results, the employer may adjust the results for the employee's age when the audiogram was taken using Table F-1 or F-2, as appropriate, in Appendix F of 29 CFR 1910.95.

(4) If the employer retests the employee's hearing within thirty (30) days of the first test, and the retest does not confirm the STS, the employer is not required to record the hearing loss case on the OSHA 300 Log. If the retest confirms the STS, the employer must record the hearing loss illness within seven (7) calendar days of the retest.

(5) Hearing loss is presumed to be work related if the employee is exposed to noise in the workplace at an eight (8) hour time-weighted average of eighty-five (85) decibels or greater, or to a total noise dose of fifty percent (50%), as defined in 29 CFR 1910.95. For hearing loss cases where the employee is not exposed to this level of noise, the employer must use the criteria in section 6 of this rule to determine if the hearing loss is work related.

(6) If a physician or other licensed health care professional determines that the hearing loss is not work related or has not been significantly aggravated by occupational noise exposure, the employer is not required to consider the case work related or to record the case on the OSHA 300 Log.

(c) From January 1, 2002, until December 31, 2002, employers are required to record a work related hearing loss averaging 25 decibels or more at two thousand (2,000), three thousand (3,000), and four thousand (4,000) hertz in either ear on the OSHA 300 Log. The employer must use the employee's original baseline audiogram for comparison. When comparing audiogram results, the employer must use the employee's original baseline audiogram for comparison. The employer may make a correction for presbycusis (aging) by using the tables in Appendix F of 29 CFR 1910.95. *(Department of Labor; 610 IAC 4-6-11)*

610 IAC 4-6-12 Recording criteria for work related tuberculosis cases

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 12. (a) If any employee has been occupationally exposed to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, the employer must record the case on the Occupational Safety and Health Administration 300 Log by checking the "respiratory condition" column.

(b) Work related tuberculosis cases shall be recorded based on the following:

(1) The employer does not have to record a positive TB skin test result obtained at a preemployment physical because the employee was not occupationally exposed to a known case of active tuberculosis in the workplace.

(2) The employer may line-out or erase from the OSHA 300 Log a recorded TB case not caused by occupational exposure under the following circumstances:

(A) The worker is living in a household with a person who has been diagnosed with active TB.

(B) The public health department has identified the worker as a contact of an individual with a case of active TB unrelated to the workplace.

(C) A medical investigation shows that the employee's infection was caused by exposure to TB away from work or proves that the case was not related to the workplace TB exposure.

(Department of Labor; 610 IAC 4-6-12)

610 IAC 4-6-13 Recording criteria for cases involving work related musculoskeletal disorders

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 13. (a) Beginning January 1, 2003, if any employee experiences a recordable work related musculoskeletal disorder (MSD), the employer must record it on the Occupational Safety and Health Administration (OSHA) 300 Log by checking the "musculoskeletal disorder" column.

(b) Beginning January 1, 2003, cases involving musculoskeletal disorders shall be recorded based on the following:

(1) MSDs are disorders of the muscles, nerves, tendons, ligaments, joints, cartilage, and spinal discs. MSDs do not include disorders caused by slips, trips, falls, motor vehicle accidents, or other similar accidents. Examples of MSDs include the following:

(A) Carpal tunnel syndrome.
(B) Rotator cuff syndrome.
(C) De Quervain's disease.
(D) Trigger finger.
(E) Tarsal tunnel syndrome.
(F) Sciatica.
(G) Epicondylitis.
(H) Tendinitis.
(I) Raynaud's phenomenon.
(J) Carpet layers knee.
(K) Herniated spinal disc.
(L) Low back pain.

(2) There are no special criteria for determining which musculoskeletal disorders to record. An MSD case is recorded using the same process the employer would use for any other injury or illness. If a musculoskeletal disorder is work related, and is a new case, and meets one (1) or more of the general recording criteria, the employer must record the musculoskeletal disorder as follows:

(A) Use section 6 of this rule to determine if the MSD is work related.

(B) Use section 7 of this rule to determine if the MSD is a new case.

(C) Use the following to determine if the MSD meets one (1) or more of the general recording criteria:

(i) Section 8 (b)(3) of this rule for cases involving days away from work.

(ii) Section 8(b)(4) of this rule for cases involving restricted work or transfer to another job.

(iii) Section 8(b)(5) of this rule for cases involving medical treatment beyond first aid.

(3) The symptoms of an MSD are treated the same as symptoms for any other injury or illness. If an employee has pain, tingling, burning, numbness, or any other subjective symptom of an MSD, and the symptoms are work related, and the case is a new case that meets the recording criteria, the employer must record the case on the OSHA 300 Log as a musculoskeletal disorder.

(c) From January 1, 2002 until December 31, 2002, the employer is required to record work related injuries and illnesses involving the following:

(1) Muscles.
(2) Nerves.
(3) Tendons.
(4) Ligaments.

(5) Joints.
(6) Cartilage.
(7) Spinal discs.

The employer must record work related injuries and illnesses involving the items contained in this subsection in accordance with the requirements contained in sections 6, 7, and 14 of this rule. For entry (M) on the OSHA 300 Log, the employer must check either the entry for injury or "all other illnesses". *(Department of Labor; 610 IAC 4-6-13)*

610 IAC 4-6-14 Forms

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 14. (a) Employers must use Occupational Safety and Health Administration (OSHA) 300, 300-A, and 301 forms, or equivalent forms, for recordable injuries and illnesses. The OSHA 300 form is called the Log of Work Related Injuries and Illnesses, the 300-A is the Summary of Work Related Injuries and Illnesses, and the OSHA 301 form is called the Injury and Illness Incident Report.

(b) Employers shall use the forms based on the following:
(1) To complete the OSHA 300 Log, the employer must enter information about the employer's business at the top of the OSHA 300 Log, enter a one (1) or two (2) line description for each recordable injury or illness, and summarize this information on the OSHA 300-A at the end of the year.
(2) The employer must complete an OSHA 301 Incident Report form, or an equivalent form, for each recordable injury or illness entered on the OSHA 300 Log.
(3) The employer must enter each recordable injury or illness on the OSHA 300 Log and 301 Incident Report within seven (7) calendar days of receiving information that a recordable injury or illness has occurred.
(4) An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the OSHA 301 Incident Report, or supplement an insurance form by adding any additional information required by OSHA.
(5) Records may be kept by computer, provided the computer can produce equivalent forms when they are needed, as described under sections 20 and 24 of this rule.
(6) There are situations where employers do not put the employee's name on the forms for privacy reasons. If an employer has a privacy concern case, the employer may not enter the employee's name on the OSHA 300 Log. Instead, the employer must enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the OSHA 300 Log under section 20(b)(2) of this rule. The employer must keep a separate, confidential list of the case numbers and employee names for the employer's privacy concern cases so the employer can update the cases and provide the information to the government if asked to do so.
(7) The employer must consider the following injuries or illnesses to be privacy concern cases:
(A) An injury or illness to an intimate body part or the reproductive system.
(B) An injury or illness resulting from a sexual assault.
(C) Mental illnesses.
(D) HIV infection, hepatitis, or tuberculosis.
(E) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (see section 9 of this rule for definitions).
(F) Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log.
(G) Beginning January 1, 2003, musculoskeletal disorders are not considered privacy concern cases.
(H) This subdivision is a complete list of all injuries and illnesses considered privacy concern cases for purposes of this rule.
(8) If an employer has a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, the employer may use discretion in describing the injury or illness on both the OSHA 300 and 301 forms. The employer must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but the employer does not need to include details of an intimate or private nature. For example, a sexual assault case could be described as injury from assault, or an injury to a reproductive organ could be described as lower abdominal injury.
(9) If an employer decides to voluntarily disclose the Forms 300 and 301 to persons other than government representatives, employees, former employees, or authorized representatives (as required by sections 20 and 24 of this rule), the employer must remove or hide the employees' names and other personally identifying information, except for the following cases. The employer may disclose the forms with personally identifying information only to:
(A) an auditor or consultant hired by the employer to evaluate the safety and health program;
(B) the extent necessary for processing a claim for workers' compensation or other insurance benefits; and
(C) a public health authority or law enforcement agency for uses and disclosures for which consent, authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR 164.512.

(Department of Labor; 610 IAC 4-6-14)

610 IAC 4-6-15 Multiple business establishments
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 15. (a) Employers must keep a separate Occupational Safety and Health Administration (OSHA) 300 Log for each establishment that is expected to be in operation for one (1) year or longer.

(b) Implementation of the record keeping requirements for multiple business establishments is as follows:

(1) Employers must keep OSHA injury and illness records for short-term establishments, that is, establishments that will exist for less than one (1) year. However, the employer does not have to keep a separate OSHA 300 Log for each such establishment. The employer may keep one (1) OSHA 300 Log that covers all of the employer's short term establishments. The employer may also include the short term establishments' recordable injuries and illnesses on an OSHA 300 Log that covers short term establishments for individual company divisions or geographic regions.

(2) The employer may keep the records for an establishment at a headquarters or other central location if the employer can:

(A) transmit information about the injuries and illnesses from the establishment to the central location within seven (7) calendar days of receiving information that a recordable injury or illness has occurred; and

(B) produce and send the records from the central location to the establishment within the time frames required by sections 20 and 24 of this rule when the employer is required to provide records to a government representative, employees, former employees, or employee representatives.

(3) When recording cases for employees who work at several different locations or who do not work at any of an employer's establishments at all, the employer must link each of its employees with one (1) of its establishments for record keeping purposes. The employer must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment, or on an OSHA 300 Log that covers that employee's short term establishment.

(4) The following governs recording an injury or illness when an employee of one (1) of the employer's establishments is injured or becomes ill while visiting or working at another of the employer's establishments or while working away from any of the employer's establishments:

(A) If the injury or illness occurs at one (1) of the employer's establishments, the employer must record the injury or illness on the OSHA 300 Log of the establishment at which the injury or illness occurred.

(B) If the employee is injured or becomes ill and is not at one (1) of the employer's establishments, the employer must record the case on the OSHA 300 Log at the establishment at which the employee normally works.

(Department of Labor; 610 IAC 4-6-15)

610 IAC 4-6-16 Covered employees
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 16. (a) The employer must record on the Occupational Safety and Health Administration (OSHA) 300 Log the recordable injuries and illnesses of all employees on the employer's payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers. The employer must also record the recordable injuries and illnesses that occur to employees who are not on the employer's payroll if the employer supervises these employees on a day-to-day basis. If the employer's business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for record keeping purposes.

(b) Employee coverage is based on the following:

(1) If a self-employed person is injured or becomes ill while doing work at an employer's business, the employer does not need to record the injury or illness. Self-employed individuals are not covered by the Indiana occupational safety and health act (IOSHA) or this rule.

(2) The employer must record the injuries and illnesses of employees obtained from a temporary help service, leasing service, or supply service, if the employer supervises these employees on a day-to-day basis.

(3) When an injury or illness occurs to a contractor's employee at the employer's establishment, recording is governed by the following:

(A) If the contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness.

(B) If another employer supervises the contractor employee's work on a day-to-day basis, the supervising employer must record the injury or illness.

(4) The personnel supply service, temporary help service, employee leasing service, or contractor need not also record the injuries or illnesses occurring to temporary, leased, or contract employees that another employer supervises on a day-to-day basis. The employer and the temporary help service, employee leasing service, personnel supply service, or contractor should coordinate their efforts to make sure that each injury and illness is recorded only once, either on the employer's OSHA 300 Log (if the employer provides day-to-day supervision) or on the other employer's OSHA 300 Log (if that company provides day-to-day supervision).

(Department of Labor; 610 IAC 4-6-16)

610 IAC 4-6-17 Annual summary
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 17. (a) At the end of each calendar year, the employer must do the following:
(1) Review the Occupational Safety and Health Administration (OSHA) 300 Log to verify that the entries are complete and accurate, and make corrections to any deficiencies identified.
(2) Create an annual summary of injuries and illnesses recorded on the OSHA 300 Log.
(3) Certify the summary.
(4) Post the annual summary.

(b) Implementation of the annual summary requirements is as follows:
(1) The employer must review the OSHA 300 Log entries at the end of the year as extensively as necessary to make sure that they are complete and correct.
(2) To complete the annual summary, employers must do the following:
(A) Total the columns on the OSHA 300 Log (if the employer had no recordable cases, enter zeros for each column total).
(B) Enter the following:
(i) The calendar year covered.
(ii) The company's name.
(iii) The establishment name.
(iv) The establishment address.
(v) The annual average number of employees covered by the OSHA 300 Log.
(vi) The total hours worked by all employees covered by the OSHA 300 Log.
(C) If the employer is using an equivalent form other than the OSHA 300-A summary form, as permitted under section 7(b)(4) of this rule, the summary used must also include the employee access and employer penalty statements found on the OSHA 300-A Summary form.
(3) A company executive must certify that he or she has examined the OSHA 300 Log and that he or she reasonably believes, based on his or her knowledge of the process by which the information was recorded, that the annual summary is correct and complete.
(4) The company executive who certifies the log must be one (1) of the following persons:
(A) An owner of the company (only if the company is a sole proprietorship or partnership).
(B) An officer of the corporation.
(C) The highest ranking company official working at the establishment.
(D) The immediate supervisor of the highest ranking company official working at the establishment.
(5) The employer must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. The employer must ensure that the posted annual summary is not altered, defaced or covered by other material.
(6) The employer must post the summary no later than February 1 of the year following the year covered by the records and keep the posting in place until April 30.
(Department of Labor; 610 IAC 4-6-17)

610 IAC 4-6-18 Retention and updating
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 18. (a) Employers must save each of the following for five (5) years following the end of the calendar year that these records cover:
(1) The Occupational Safety and Health Administration (OSHA) 300 Log.
(2) The privacy case list (if one exists).
(3) The annual summary.
(4) The OSHA 301 Incident Report forms.

(b) The employer shall retain and update records as follows:
(1) During the five (5) year storage period, the employer must update the employer's stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, the employer must remove or line out the original entry and enter the new information.
(2) The employer is not required to update the annual summary, but may do so.
(3) The employer is not required to update the OSHA 301 Incident Reports, but may do so.
(Department of Labor; 610 IAC 4-6-18)

610 IAC 4-6-19 Change in business ownership
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 19. If an employer's business changes ownership, that employer is responsible for recording and reporting work related injuries and illnesses only for that period of the year during which that employer owned the establishment. The employer must transfer the records required under this rule to the new owner. The new owner must save all records of the establishment kept by the prior owner, as required by section 18 of this rule, but need not update or correct the records of the prior owner. *(Department of Labor; 610 IAC 4-6-19)*

610 IAC 4-6-20 Employee involvement
Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 20. (a) An employer's employees and their representatives must be involved in the record keeping system in the following ways:

(1) The employer must inform each employee of how he or she is to report an injury or illness to the employer.

(2) The employer must provide limited access to the employer's injury and illness records for the employees and their representatives.

(b) The employer must do the following to make sure that employees report work related injuries and illnesses to the employer:

(1) The employer must set up a way for employees to report work related injuries and illnesses promptly.

(2) The employer must tell each employee how to report work related injuries and illnesses to the employer.

(c) The employer's employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the Occupational Safety and Health Administration (OSHA) injury and illness records, with some limitations, pursuant to the following:

(1) An authorized employee representative is an authorized collective bargaining agent of employees.

(2) A personal representative of an employee or former employee is:

(A) any person that the employee or former employee designates as such, in writing; or

(B) the legal representative of a deceased or legally incapacitated employee or former employee.

(3) When an employee, former employee, personal representative, or authorized employee representative asks for copies of an employer's current or stored OSHA 300 Log for an establishment the employee or former employee has worked in, the employer must give the requester a copy of the relevant OSHA 300 Log by the end of the next business day.

(4) Removing the names of the employees or any other information from the OSHA 300 Log before the employer gives copies to an employee, former employee, or employee representative is prohibited. The employer must leave the names on the 300 Log. However, to protect the privacy of injured and ill employees, the employer may not record the employee's name on the OSHA 300 Log for certain privacy concern cases, as specified in section 14 of this rule.

(5) The employer must provide requested access to the OSHA 301 Incident Report in the following cases:

(A) When an employee, former employee, or personal representative asks for a copy of the OSHA 301 Incident Report describing an injury or illness to that employee or former employee, the employer must give the requester a copy of the OSHA 301 Incident Report containing that information by the end of the next business day.

(B) When an authorized employee representative asks for a copies of the OSHA 301 Incident Reports for an establishment where the agent represents employees under a collective bargaining agreement, the employer must give copies of those forms to the authorized employee representative within seven (7) calendar days. The employer is only required to give the authorized employee representative information from the OSHA 301 Incident Report section titled "Tell us about the case". The employer must remove all other information from the copy of the OSHA 301 Incident Report or the equivalent substitute form that it gives to the authorized employee representative.

(6) Charging for the copies is prohibited. The employer may not charge for these copies the first time they are provided. However, if one (1) of the designated persons asks for additional copies, the employer may assess a reasonable charge for retrieving and copying the records. *(Department of Labor; 610 IAC 4-6-20)*

610 IAC 4-6-21 Prohibition against discrimination

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-38.1

Sec. 21. Section 11(c) of the federal Occupational Safety and Health Act (OSHA), and IC 22-8-1.1-38.1, prohibit the employer from discriminating against an employee for reporting a work related fatality, injury, or illness. That provision of the Act also protects the employee who files a safety and health complaint, asks for access to the records required in this rule, or otherwise exercises any rights afforded by the OSHA. *(Department of Labor; 610 IAC 4-6-21)*

610 IAC 4-6-22 Variances from the record keeping rule

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 22. (a) If a private sector employer wishes to keep records in a different manner from the manner prescribed by this rule, the employer may submit a variance petition to the Assistant Secretary of Labor for Occupational Safety and Health, United States Department of Labor, Washington, D.C. 20210. The Indiana occupational safety and health administration (IOSHA) will recognize any variance issued by the federal Occupational Safety and Health Administration.

(b) A public sector employer who wishes to keep records in a different manner from the manner proscribed by this rule may submit a variance petition to the commissioner of the Indiana department of labor (commissioner). The employer can obtain a variance only if the employer shows that the alternative record keeping system:

(1) collects the same information as this rule requires;

(2) meets the purposes of the Indiana and federal Occupational Safety and Health Acts; and

(3) does not interfere with the administration of the Occupational Safety and Health Acts.

(c) Implementation of the rules governing variances is as follows:

(1) The employer must include the following items in the variance petition:

(A) Employer's name and address.

(B) The address or addresses of the business establishment or establishments involved.

(C) A description of why the employer is seeking a variance.

(D) A description of the different record keeping procedures the employer proposes to use.

(E) A description of how the proposed procedures will collect the same information as would be collected under this rule and achieve the purpose of the Acts.

(F) A statement that the employer has informed his or her employees of the petition by giving them or their authorized representative a copy of the petition and by posting a statement summarizing the petition in the same way as notices are posted under the federal Occupational Safety and Health Act, 29 CFR 1903.2(a). (610 IAC 4-3-2(a)).

(2) The commissioner will take the following steps to process the variance petition:

(A) The commissioner will offer the employer's employees and their authorized representatives an opportunity to submit written data, views, and arguments about the employer's variance petition.

(B) The commissioner may allow the public to comment on the variance petition by publishing the petition in the Indiana Register. If the petition is published, the notice will establish a public comment period and may include a schedule for a public meeting on the petition.

(C) After reviewing the variance petition and any comments from the employees and the public, the commissioner will decide whether or not the proposed record keeping procedures will meet the purposes of the Indiana Occupational Safety and Health Act, and will not otherwise interfere with that Act, and will provide the same information as this rule provides. If the employer's procedures meet the criteria, the commissioner will obtain the advice of the federal Occupational Safety and Health Administration (OSHA) concerning the petition. If federal OSHA declines to grant approval for the variance, such decision shall be binding on the commissioner.

(D) If the employer's procedures meet the criteria and are approved by federal OSHA, the commissioner may grant the variance subject to such conditions as he or she finds appropriate.

(E) If the commissioner grants an employer's variance petition, the Indiana occupational safety and health administration (IOSHA) will publish a notice in the Indiana Register to announce the variance. The notice will include the practices the variance allows the employer to use, any conditions that apply, and the reasons for allowing the variance.

(3) Use of proposed record keeping procedures during the application process is prohibited. If an employer applies for a variance, the employer may not use his or her proposed record keeping procedures while the commissioner is processing the variance petition. Alternative record keeping practices are only allowed after the variance is approved. Employers must comply with the requirements of this rule while the commissioner is reviewing the variance petition.

(4) The variance petition affects previous record keeping citations and penalties as follows. If an employer has already been cited by IOSHA for not following this rule, his or her variance petition will have no effect on the citation and penalty. In addition, the commissioner may elect not to review an employer's variance petition if it includes an element for which the employer has been cited and the citation is still under review by a court or the IOSHA Board of Safety Review.

(5) Revocation of the variance at a later date is permitted. The commissioner may revoke an employer's variance if he or she has good cause. The procedures for revoking a variance will follow the same process as outlined in subsection (b)(2). Except in cases of willfulness or where necessary for public safety, the commissioner will:

(A) notify the employer in writing of the facts or conduct that may warrant revocation of an employer's variance; and

(B) provide the employer, the employer's employees, and authorized employee representatives with an opportunity to participate in the revocation procedures.

(See sections 24 through 26 of this rule.) *(Department of Labor; 610 IAC 4-6-22)*

610 IAC 4-6-23 Reporting fatalities and multiple hospitalization incidents

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 23. (a) Within eight (8) hours after the death of any employee from a work related incident or the in-patient hospitalization of three (3) or more employees as a result of a work related incident, the employer must orally report the fatality/multiple hospitalization by telephone or in person to the Indiana occupational safety and health administration (IOSHA). The employer shall contact IOSHA by calling 1-317-232-2693. The employer may also use the federal Occupational Safety and Health Administration toll-free central telephone number, 1-800-321-OSHA (1-800-321-6742).

(b) The employer must report fatalities and multiple hospitalization incidents as follows:

(1) Reporting the incident by leaving a facsimile transmission or e-mail is prohibited. If IOSHA is closed and the employer cannot talk to a person at IOSHA, the employer must report the fatality or multiple hospitalization incident by calling 1-317-232-2693 or 1-800-321-OSHA.

(2) The employer must give IOSHA the following information for each fatality or multiple hospitalization incident:

(A) The establishment name.

(B) The location of the incident.

(C) The time of the incident.

(D) The number of fatalities or hospitalized employees.

(E) The names of any injured employees.

(F) The employer's contact person and his or her phone number.

(G) A brief description of the incident.

(3) The employer does not have to report all fatality or multiple hospitalization incidents resulting from a motor vehicle accident. If the motor vehicle accident occurs on a public street or highway, and does not occur in a construction work zone, the employer does not have to report the incident to IOSHA. However, these injuries must be recorded on the employer's OSHA injury and illness records, if the employer is required to keep such records.

(4) Reporting a fatality or multiple hospitalization incident that occurs on a commercial or public transportation system is not required. Employers do not have to call IOSHA to report a fatality or multiple hospitalization incident if it involves a commercial airplane, train, subway or bus accident. However, these injuries must be recorded on the employer's IOSHA injury and illness records, if the employer is required to keep such records.

(5) Reporting a fatality caused by a heart attack at work is required. IOSHA will then decide whether to investigate the incident, depending on the circumstances of the heart attack.

(6) Reporting a fatality or hospitalization that occurs long after the incident is not required. The employer must only report each fatality or multiple hospitalization incident that occurs within thirty (30) days of an incident.

(7) If an employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under this section, the employer must make the report within eight (8) hours of the time the incident is reported to the employer or to any of the employer's agents or employees.

(Department of Labor; 610 IAC 4-6-23)

610 IAC 4-6-24 Providing records to government representatives

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 24. (a) When an authorized government representative asks for the records kept under this rule, the employer must provide copies of the records within four (4) business hours.

(b) Providing records to government representatives is governed by the following:

(1) The government representatives authorized to receive the records required under this rule are the following:

(A) A representative of the commissioner of labor conducting an inspection or investigation under the Indiana Occupational Safety and Health Act.

(B) A representative of the federal Occupational Safety and Health Administration.

(C) A representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health–NIOSH) conducting an investigation under Section 20(b) of the Occupational Safety and Health Act.

(2) The federal Occupational Safety and Health Administration and the Indiana occupational safety and health administration will consider the employer's response to be timely if the employer gives the records to the government representative within four (4) business hours of the request. If an employer maintains the records at a location in a different time zone, the employer may use the business hours of the establishment at which the records are located when calculating the deadline.

(Department of Labor; 610 IAC 4-6-24)

610 IAC 4-6-25 Requests from the Bureau of Labor Statistics for data

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 25. (a) If an employer receives a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS), or a BLS designee, he or she must promptly complete the form and return it following the instructions contained on the survey form.

(b) Employers shall respond to requests from the Bureau of Labor Statistics as follows:

(1) Not every employer must send data to the BLS. Each year, the BLS sends injury and illness survey forms to randomly selected employers and uses the information to create the nation's occupational injury and illness statistics. In any year, some employers will receive a BLS survey form and others will not. An employer does not have to send injury and illness data to the BLS unless he or she receives a survey form.

(2) If an employer receives a Survey of Occupational Injuries and Illnesses Form from the BLS, or a BLS designee, he or she must promptly complete the form and return it, following the instructions contained on the survey form.

(3) An employer must respond to a BLS survey form even if he or she is normally exempt from keeping OSHA

injury and illness records. Even if an employer is exempt from keeping injury and illness records under sections 2 through 4 of this rule, the BLS may inform the employer in writing that it will be collecting injury and illness information from the employer in the coming year. If the employer receives such a letter, the employer must keep the injury and illness records required by sections 6 through 14 of this rule and make a survey report for the year covered by the survey.

(4) All employers who receive a survey form must respond to the survey.

(Department of Labor; 610 IAC 4-6-25)

610 IAC 4-6-26 Summary and posting of the 2001 data

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 26. (a) If an employer was required to keep Occupational Safety and Health Administration (OSHA) 200 Logs in 2001, that employer must post a 2000 annual summary from the OSHA 200 Log of occupational injuries and illnesses for each establishment.

(b) Posting requirements shall be implemented as follows:

(1) The employer must include the following in the summary:

(A) The employer must include a copy of the totals from the 2001 OSHA 200 Log and the following information from that form:

(i) The calendar year covered.

(ii) Employer's company name.

(iii) The name and address of the establishment.

(iv) The certification signature, title, and date.

(B) If no injuries or illnesses occurred at the employer's establishment in 2001, the employer must enter zeros on the totals line and post the 2001 summary.

(2) The employer is required to summarize and post the 2001 information at the following times and in the following locations:

(A) The employer must complete the summary by February 1, 2002.

(B) The employer must post a copy of the summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. The employer must ensure that the summary is not altered, defaced or covered by other material.

(3) The employer must post the 2001 summary from February 1, 2002, to March 1, 2002.

(Department of Labor; 610 IAC 4-6-26)

610 IAC 4-6-27 Retention and updating of old forms

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-3.1; IC 22-8-1.1-43.1

Sec. 27. Each employer must save the employer's copies of the Occupational Safety and Health Administration (OSHA) 200 and 101 forms for five (5) years following the year to which they relate, and continue to provide access to the data as though these forms were the OSHA 300 and 301 forms. The employer is not required to update the old 200 and 101 forms. *(Department of Labor; 610 IAC 4-6-27)*

610 IAC 4-6-28 Definitions

Authority: IC 22-1-1-2; IC 22-8-1.1-48.1
Affected: IC 22-8-1.1-1

Sec. 28. (a) The Indiana OSH Act (IOSHA) means the Indiana Occupational Safety and Health Act codified at IC 22-8-1.1 et seq. The definitions found in IC 22-8-1.1-1 and related interpretations apply to such terms when used in this rule.

(b) The federal Occupational Safety and Health Act means the Occupational Safety and Health Act of 1970 codified at 29 U.S.C. 651 et seq.

(c) The Acts means both the Indiana Occupational Safety and Health Act and the federal Occupational Safety and Health Act as described in subsections (a) and (b).

(d) An establishment is a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction, transportation, communications, electric, gas, and sanitary services, and similar operations, the establishment is represented by main or branch offices, terminals, or stations, that either supervise such activities or are the base from which personnel carry out these activities as follows:

(1) Normally, one (1) business location has only one (1) establishment. Under limited conditions, the employer may consider two (2) or more separate businesses that share a single location to be separate establishments. An employer may divide one (1) location into two (2) or more establishments only when the following occur:

(A) Each of the establishments represents a distinctly separate business.

(B) Each business is engaged in a different economic activity.

(C) No one industry description in the Standard Industrial Classification Manual (1987) applies to the joint activities of the establishments.

(D) Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, the employer may consider each business to be a separate establishment.

(2) An establishment can include more than one (1) physical location, but only under certain conditions. An employer may combine two (2) or more physical locations

into a single establishment only when the following occur:

(A) The employer operates the locations as a single business operation under common management.

(B) The locations are all located in close proximity to each other.

(C) The employer keeps one (1) set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one (1) manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

(3) If an employee telecommutes from home, his or her home is not considered a separate establishment and a separate 300 Log is not required. Employees who telecommute must be linked to one (1) of your establishments under section 15 of this rule.

(e) An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. (Note: Injuries and illnesses are recordable only if they are new, work related cases that meet one (1) or more of the recording criteria contained in this rule.)

(f) A physician or other licensed health care professional is an individual whose legally permitted scope of practice, that is, license, registration, or certification, allows him or her to independently perform, or be delegated the responsibility to perform, the activities described by this rule.

(g) "Employer" means any individual or type of organization, including the state and all its political subdivisions, that has in its employ one (1) or more individuals. *(Department of Labor; 610 IAC 4-6-28)*

SECTION 2. 610 IAC 4-4 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 31, 2001 at 9:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W195, Indianapolis, Indiana the Department of Labor will hold a public hearing on proposed new rules governing the regulations for reporting and recording work place injuries and illnesses. Parties interested in participating in the public hearing are invited to attend and submit written statements expressing their concerns, any suggestions, and any documentation which may serve to support, clarify, or supplement their concerns and suggestions. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W195 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

John Griffin
Commissioner
Department of Labor

TITLE 872 INDIANA BOARD OF ACCOUNTANCY

Proposed Rule
LSA Document #01-310

DIGEST

Amends 872 IAC 1-1-8 to change the experience requirements for certified public accountants to bring the requirements into conformity with statutory changes by changing the types of experience required before a certificate or license may be issued. Amends 872 IAC 1-1-8.3 to require a licensee to verify an applicant's experience to meet the requirements of IC 25-2.1-3-10. Amends 872 IAC 1-1-8.4 to revise the use of an advanced degree as experience. Amends 872 IAC 1-1-10 to revise the fee schedule for certificate of registration for CPAs, PAs, and APs and for firm permits. Repeals 872 IAC 1-1-8.1. Effective 30 days after filing with the secretary of state.

872 IAC 1-1-8 **872 IAC 1-1-8.4**
872 IAC 1-1-8.1 **872 IAC 1-1-10**
872 IAC 1-1-8.3

SECTION 1. 872 IAC 1-1-8 IS AMENDED TO READ AS FOLLOWS:

872 IAC 1-1-8 Experience requirements; credit for types of experience

Authority: IC 25-2.1-2-15
Affected: IC 20-12-61; IC 20-12-62; IC 25-2.1-3-10

Sec. 8. (a) This section and sections ~~8.1~~ **8.2** through 8.5 of this rule implement the requirements in IC 25-2.1-3-10 for experience to be obtained by applicants for certified public accountant certificates before the certificate or license may be issued by the board. The experience requirements are **twenty-four (24) months of** full-time employment in the following positions:

~~(1) Thirty-six (36) months of practice in another state as a certified public accountant or as a public accountant.~~

~~(2) Thirty-six (36) months~~ **(1)** As an employee **or an accounting intern** engaged ~~as an accountant~~ **in an accounting position** in a firm (as that term is defined in 872 IAC 1-0.5-1(11)).

~~(3) Thirty-six (36) months in an accounting internship with a firm.~~

~~(4) Forty-three (43) months as a field examiner for the state board of accounts, department of insurance, or department of financial institutions.~~

(2) As an employee in a financial or accounting position in industry, government, or a nonprofit organization.
(3) As an employee in an advisory and/or consulting services position related to one (1) or more of the following activities:
(A) Financial.
(B) Accounting.
(C) Operational.
~~(5) Forty-three (43) months in an accounting internship with the state board of accounts.~~
~~(6) Fifty-four (54) months in a corporate internal audit position.~~
~~(7) Sixty (60) months supervising the accounting and reporting function for a business or corporation in the position of chief financial officer, chief accounting officer, controller, or other similar position.~~
~~(8) Sixty (60) months as a field auditor for the department of state revenue.~~
~~(9) Sixty (60) months as an Internal Revenue Service examiner.~~
~~(10) Sixty (60) months~~ **(4) As an instructor** teaching accounting in a college or university (four (4) year institutions or junior colleges).
~~(11) Seventy-two (72) months in an accounting internship with a business or corporation or with a governmental agency, except the state board of accounts.~~
~~(12) Seventy-two (72) months~~ **(5) As an instructor** teaching accounting in an institution created under IC 20-12-61 or private school registered under IC 20-12-62.
~~(13) Governmental or industrial accounting positions not described elsewhere in this subsection shall require no less than seventy-two (72) months. The time required shall depend upon the following:~~
~~(A) The amount and variety of the accounting, financial reporting, tax planning, and statutory compliance (such as Securities and Exchange Commission reports and income tax returns).~~
~~(B) Composition of the position.~~
~~(C) The accounting qualifications and experience of the immediate superior.~~

(b) Clerical functions shall not count under this ~~subdivision~~ **section** toward meeting the experience requirements. Clerical functions are positions that do not have accounting significance, including doing merely mathematical calculations, account analysis (looking into accounting books for specific information already recorded), and merely recording information in the general ledger (as opposed to compiling the information). Positions that partly qualify under this ~~subdivision~~ **section** and partly do not qualify shall be treated under the method provided for in section 8.2 of this rule with the part of the position that does not qualify under this ~~subdivision~~ **section** being treated as if it were part-time employment.

~~(b)~~ **(c)** Experience in fractions of months will be counted.

(d) An applicant may combine the types of experience described in subsection (a). To do so, the applicant must obtain a total of twenty-four (24) months of experience. *(Indiana Board of Accountancy; Rule 69-1,8 filed Jun 30, 1978, 9:54 a.m.: 1 IR 396; filed Aug 18, 1983, 3:20 p.m.: 6 IR 1928; filed Mar 20, 1985, 3:25 p.m.: 8 IR 1033; filed Aug 28, 1986, 3:20 p.m.: 10 IR 65; filed Nov 28, 1988, 5:32 p.m.: 12 IR 922; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2343; errata filed Sep 14, 1994, 2:50 p.m.: 18 IR 269; filed Feb 21, 2000, 7:06 a.m.: 23 IR 1651; readopted filed Jun 22, 2001, 8:57 a.m.: 24 IR 3824)*

SECTION 2. 872 IAC 1-1-8.3 IS AMENDED TO READ AS FOLLOWS:

872 IAC 1-1-8.3 Experience verification
Authority: IC 25-2.1-2-15
Affected: IC 20-12-61; IC 20-12-62; IC 25-2.1-3-10

Sec. 8.3. **(a)** An applicant's experience in a particular position meets the ~~supervision or direction requirement~~ **requirements** in IC 25-2.1-3-10 if the work ~~was under the supervision or direction of an individual with an active license and that individual:~~ **is verified by a licensee who:**
(1) employed the applicant or a legal entity controlled by that individual employed the applicant;
(2) worked for the same employer as the applicant; ~~or~~
(3) reviewed the accounting work of the applicant on a periodic basis in the capacity of an outside accounting firm, a government agency, or some similar capacity; **or**
(4) otherwise has direct knowledge of the work performed by the applicant.

(b) Any licensee who has been requested by an applicant to submit to the board verification of the applicant's experience and has refused to do so shall, upon request by the board, explain in writing or in person the basis for such refusal. *(Indiana Board of Accountancy; 872 IAC 1-1-8.3; filed Feb 21, 2000, 7:06 a.m.: 23 IR 1653; readopted filed Jun 22, 2001, 8:57 a.m.: 24 IR 3824)*

SECTION 3. 872 IAC 1-1-8.4 IS AMENDED TO READ AS FOLLOWS:

872 IAC 1-1-8.4 Advanced degree as experience
Authority: IC 25-2.1-2-15
Affected: IC 20-12-61; IC 20-12-62; IC 25-2.1-3-10

Sec. 8.4. (a) A master's degree in accounting or business administration from a college or university recognized by the board may be substituted for ~~one (1) year~~ **twelve (12) months** of ~~public~~ accounting experience for any person who ~~has met the education requirement outlined in section 6 of this rule and~~ was a first time examination candidate prior to January 1, 2000.

(b) A doctorate degree in accounting or business administration from a college or university recognized by the board may be substituted for ~~one (1) year~~ **twelve (12) months** of ~~public~~

accounting experience. ~~for any person who has met the education requirement outlined in section 6 or section 6.1 of this rule~~.

(c) For ~~the~~ purposes of this section, an advanced degree shall be calculated ~~in the same manner~~ as twelve (12) months of ~~employment in a firm~~ **experience** under section ~~8(a)(2)~~ **8** of this rule.

(d) An applicant may not receive experience credit from more than one (1) advanced degree. *(Indiana Board of Accountancy; 872 IAC 1-1-8.4; filed Feb 21, 2000, 7:06 a.m.: 23 IR 1653; readopted filed Jun 22, 2001, 8:57 a.m.: 24 IR 3824)*

SECTION 4. 872 IAC 1-1-10 IS AMENDED TO READ AS FOLLOWS:

872 IAC 1-1-10 Application; fees
Authority: IC 25-2.1-2-15
Affected: IC 4-21.5-3-1; IC 25-2.1

Sec. 10. (a) Applications to take the May examination must be filed by the preceding March 1. Applications to take the November examination must be filed by the preceding September 1. If March 1 or September 1 is a Saturday, a Sunday, a legal holiday under state statute, or a day that the Indiana professional licensing agency's offices are closed during regular business hours, the deadline shall be the first day thereafter that is not a Saturday, a Sunday, a legal holiday under state statute, or a day that the Indiana professional licensing agency's offices are closed during regular business hours. The date ~~an~~ **the** application is filed shall be calculated in the manner provided for in IC 4-21.5-3-1(f). Applicants will be notified of their eligibility to sit for the exam.

(b) All fees are nonrefundable and nontransferable. The following is a schedule of fees adopted by the board:

(1) Transfer of grades, forty dollars ($40).

(2) CPA certificate by reciprocity, fifty dollars ($50).

(3) Triennial certificate of registration for CPAs, PAs, and APs, forty-five dollars ($45).

(4) For restoration of an expired triennial certificate of registration for CPAs, PAs, and APs, fifty dollars ($50), plus all unpaid renewal fees.

~~(4)~~ **(5)** Triennial permit to practice for firms, twenty dollars ($20).

(6) For restoration of an expired triennial permit to practice for firms, fifty dollars ($50), plus all unpaid renewal fees.

(c) Notwithstanding subsection (b)(3), a fee for an individual initially registered in the:

(1) second year of a triennial registration period shall be thirty dollars ($30); and

(2) third year of the triennial registration period shall be fifteen dollars ($15).

(d) Failure of an applicant to pay the initial registration fee will cause the application to be terminated one (1) year after the board's action granting registration.

(e) Should an applicant pay the initial registration fee after the first renewal deadline for all licensees following the applicant's approval for licensure, the applicant must pay the renewal fee in addition to the initial registration fee in order to become licensed. *(Indiana Board of Accountancy; Rule 69-1, 10; filed Jun 30, 1978, 9:54 a.m.: 1 IR 396; filed Feb 15, 1980, 3:05 p.m.: 3 IR 639; filed Aug 18, 1983, 3:20 p.m.: 6 IR 1928; filed May 1, 1984, 12:50 p.m.: 7 IR 1540; filed Mar 20, 1985, 3:25 p.m.: 8 IR 1033; filed Aug 28, 1986, 3:20 p.m.: 10 IR 65; filed Aug 6, 1990, 4:30 p.m.: 13 IR 2135; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2345; errata filed Jul 28, 1994, 4:00 p.m.: 17 IR 2891; filed Jul 6, 1995, 12:00 p.m.: 18 IR 2784; filed Jun 14, 1996, 3:00 p.m.: 19 IR 3110; filed Feb 21, 2000, 7:06 a.m.: 23 IR 1654; readopted filed Jun 22, 2001, 8:57 a.m.: 24 IR 3824)*

SECTION 5. 872 IAC 1-1-8.1 IS REPEALED

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 18, 2002 at 10:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 6, Indianapolis, Indiana the Indiana Board of Accountancy will hold a public hearing on proposed amendments to change the experience requirements for certified public accountants to bring the requirements into conformity with statutory changes by changing the types of experience required before a certificate or license may be issued, to repeal 872 IAC 1-1-8.1, to require a licensee to verify an applicant's experience to meet the requirements of IC 25-2.1-3-10, to revise the use of an advanced degree as experience, and to revise the fee schedule for certificate of registration for CPAs, PAs, and APs and for firm permits. 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