

Proposed Rules

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

NOTE: Under IC 6-1.1-31-1, the name of the State Board of Tax Commissioners is changed to Department of Local Government Finance, effective January 1, 2002.

Proposed Rule LSA Document #01-367

DIGEST

Adds 50 IAC 3.2 concerning the assessment of mobile and manufactured homes on an annual basis. Repeals 50 IAC 3.1. Effective 30 days after filing with the secretary of state.

50 IAC 3.1

50 IAC 3.2

SECTION 1. 50 IAC 3.2 IS ADDED TO READ AS FOLLOWS:

ARTICLE 3.2. ASSESSMENT OF MOBILE HOMES

Rule 1. Purpose

50 IAC 3.2-1-1 Purpose

Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 1. The purpose of this article is to provide the method for the assessment of annually assessed mobile homes and annually assessed manufactured homes. For purposes of this article, "mobile home" shall include a manufactured home. (*Department of Local Government Finance; 50 IAC 3.2-1-1*)

Rule 2. Definitions

50 IAC 3.2-2-1 Definitions

Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 1. The definitions in this rule apply throughout this article. (*Department of Local Government Finance; 50 IAC 3.2-2-1*)

50 IAC 3.2-2-2 "Annually assessed mobile home" defined

Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 2. "Annually assessed mobile home" means a mobile or manufactured home that is not located on:

- (1) a permanent foundation; or
- (2) land owned by the mobile home owner.

(*Department of Local Government Finance; 50 IAC 3.2-2-2*)

50 IAC 3.2-2-3 "Permanent foundation" defined

Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 3. "Permanent foundation" means a structural system capable of transposing loads from a structure to the earth at a depth below the established frost line. A permanent foundation consists of a closed perimeter formation made from materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the frost line. The term may include cellars, basements, or crawl spaces, but it does not include a pier foundation. (*Department of Local Government Finance; 50 IAC 3.2-2-3*)

50 IAC 3.2-2-4 "Pier foundation" defined

Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 4. "Pier foundation" means a noncontinuous series of posts or columns laid in a grid pattern that transmits the load of the superstructure to the ground. Piers may or may not be on footings, and may be constructed of steel, wood, concrete, concrete block, or stone. A pier foundation is not to be considered a permanent foundation. (*Department of Local Government Finance; 50 IAC 3.2-2-4*)

50 IAC 3.2-2-5 "Real Property Assessment Guidelines for 2002-Version A" defined

Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 5. "Real Property Assessment Guidelines for 2002-Version A" (also referred to in this rule as "the Guidelines") means the Real Property Assessment Guidelines for 2002-Version 'A', published by the state board of tax commissioners and dated January 1, 2002, which are hereby incorporated by reference. The term does not include any later amendments or editions. Copies of these guidelines are available for a fee of ten dollars (\$10) from the department of local government finance (department) at 100 North Senate Avenue, Suite 1058, Indianapolis, Indiana or you may access them at no cost on the department's Web site at <http://www.in.gov/dlgf/pubs/>. (*Department of Local Government Finance; 50 IAC 3.2-2-5*)

50 IAC 3.2-2-6 "Real Property Assessment Manual for 2002" defined

Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 6. "Real Property Assessment Manual for 2002" means the 2002 Real Property Assessment Manual, published by the state board of tax commissioners and dated January 1, 2002, which is hereby incorporated by reference and does not include any later amendments or editions. Copies of the manual are available for a fee of ten dollars (\$10) from the department of local government finance (department) at 100 North Senate Avenue, Suite 1058, Indianapolis, Indiana or you may access the manual at no cost on the department's Web site at <http://www.in.gov/dlgf/pubs/>. (*Department of Local Government Finance; 50 IAC 3.2-2-6*)

50 IAC 3.2-2-7 “Real property mobile home” defined

Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 7. “Real property mobile home” means a mobile or manufactured home that meets one (1) of the following requirements:

- (1) Located on land owned by the home owner.
- (2) Located on a permanent foundation.

(Department of Local Government Finance; 50 IAC 3.2-2-7)

Rule 3. Method

50 IAC 3.2-3-1 Method

Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 1. (a) The township assessor of the township within which the mobile home is located shall assess the mobile home for taxation under this article.

(b) A mobile home shall be assessed as real property under 50 IAC 2.3 if the mobile home is located on:

- (1) land owned by the owner of the mobile home; or
- (2) a permanent foundation even if the land under the mobile home is owned by someone other than the owner of the mobile home.

(c) A mobile home shall be assessed annually in accordance with 50 IAC 4.3 if the mobile home is held for sale in the ordinary course of a trade or business.

(d) The township assessor shall assess mobile homes that do not meet the requirements of subsection (b) or (c), and all exterior features, yard structures, and improvements owned by the mobile home owner and located on the same parcel as the mobile home in accordance with 50 IAC 3.2-2. *(Department of Local Government Finance; 50 IAC 3.2-3-1)*

50 IAC 3.2-3-2 Assessment dates

Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-2-1; IC 6-1.1-7-7; IC 6-1.1-22-9

Sec. 2. (a) A mobile home that meets the requirements of section 1(d) of this rule shall be assessed on January 15 and taxed at the current year’s tax rate. The owner of a mobile home that meets the requirements of section 1(d) of this rule shall pay the tax in accordance with IC 6-1.1-7-7.

(b) A mobile home assessed as real property under section 1(b) of this rule shall be assessed on March 1 and taxed at the following year’s rate.

(c) A mobile home assessed as personal property under section 1(c) of this rule shall be assessed on March 1 and taxed at the following year’s rate.

(d) A mobile home properly assessed under subsection (a) that becomes real property on or before March 1 of the same year shall be assessed and taxed as real property

under subsection (b). Upon the taxpayer furnishing proper documentation to the auditor of two (2) consecutive assessments of the same property as real property, the auditor shall remove the January 15 assessment from the tax rolls. *(Department of Local Government Finance; 50 IAC 3.2-3-2)*

Rule 4. Valuation Guide

50 IAC 3.2-4-1 Criteria for valuation

Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7-2

Sec. 1. (a) Township assessors shall use the standard of true tax value as set forth in the Real Property Assessment Manual for 2002 in the assessment of annually assessed mobile homes.

(b) All annually assessed mobile homes assessed after January 14, 2003, shall be assessed in accordance with the methodology that the county assessor has elected, in accordance with 50 IAC 2.3-1-1, for the assessment of real property mobile homes in the county in which the mobile home is assessed.

(c) If the county assessor has selected to assess real property mobile homes under the Real Property Assessment Guidelines for 2002–Version A, then the township assessor shall value annually assessed mobile homes in accordance with the guidelines for the assessment of real property mobile homes contained in the Real Property Assessment Guidelines for 2002–Version A.

(d) If the county assessor has selected to assess real property mobile homes under an assessment method other than that described in subsection (c) and the county assessor has obtained the approval of the department of local government finance in accordance with 50 IAC 2.3-1-1(f) for this assessment method, then each township assessor in the county shall use the alternative approved method for the assessment of annually assessed mobile homes.

(e) The procedure for submission and approval of the alternative method shall be in accordance with the 2002 Real Property Assessment Manual, Approval of Mass Appraisal Methods. *(Department of Local Government Finance; 50 IAC 3.2-4-1)*

50 IAC 3.2-4-2 Application of the shelter allowance

Authority: IC 6-1.1-7-2; IC 6-1.1-31-1; IC 6-1.1-31-5
Affected: IC 6-1.1-20-9-1

Sec. 2. (a) In accordance with the 2002 Real Property Assessment Manual, assessing officials shall apply the shelter allowance to all owner-occupied residential property, including the improvement value of owner-occupied mobile homes assessed under this rule. The township assessor may assume that all properties that receive the

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homestead credit available under IC 6-1.1-20.9 qualify for the applicable shelter allowance.

(b) A property need not currently receive the homestead credit under IC 6-1.1-20.9-1 in order to qualify for the shelter allowance. The shelter allowance shall be applied to all properties that qualify as a "homestead", as that term is defined in IC 6-1.1-20.9-1. Assessing officials may assume without further investigation that, if the property receives the homestead credit provided IC 6-1.1-20.9, the shelter allowance should be applied to that property. (*Department of Local Government Finance; 50 IAC 3.2-4-2*)

50 IAC 3.2-4-3 Depreciation

Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-7

Sec. 3. (a) The depreciation tables in the Real Property Assessment Guidelines for 2002—Version 'A' are calculated for the 2002 reassessment date. Township assessors using the Real Property Assessment Guidelines for 2002—Version 'A' shall use the depreciation tables in the Guidelines for the January 15, 2003, assessment date for annually assessed mobile homes.

(b) The following depreciation tables shall be used in 2004 and thereafter to calculate the depreciation percentage for all annually assessed mobile or manufactured homes:

(1) Pre-HUD code models—depreciation percentages (for units built prior to June 15, 1976):

Age	Custom	Good	Economy
26 years and over	75	80	85

(2) These depreciation percentages shall be used for mobile homes in average condition relative to other comparable mobile homes. If the subject mobile home is in any condition other than average, adjust the applicable depreciation percentage as follows:

(A) If the home is in excellent or good condition, use ten percent (10%) less depreciation for excellent and five percent (5%) less depreciation for good.

(B) If the home is in fair condition, add an additional five percent (5%) depreciation; if in poor condition, add an additional ten percent (10%) depreciation to the classification; and if in very poor condition, add an additional fifteen percent (15%) depreciation, to a maximum of ninety-five percent (95%) to any mobile home.

(c) Post-HUD code models—depreciation percentages (for units built after June 15, 1976):

ACTUAL AGE	EX	Condition Rating				
		G	A	F	P	VP
01	05	05	05	10	15	20
02	05	05	10	15	20	25
03–04	05	10	15	20	25	30
05–06	10	15	20	25	30	35
07–08	10	20	25	30	35	40
09–10	15	25	30	35	40	45

11–12	20	30	35	40	45	50
13–14	25	35	40	45	50	55
15–16	30	40	45	50	55	60
17–18	35	45	50	55	60	65
19–20	40	50	55	60	65	70
21–22	45	55	60	65	70	75
23–24	50	60	65	70	75	80
25–27	55	65	70	75	80	80
28 +	60	70	75	80	80	80

(*Department of Local Government Finance; 50 IAC 3.2-4-3*)

50 IAC 3.2-4-4 Data collecting on mobile home properties

Authority: IC 6-1.1-7-2; IC 6-1.1-31-1
Affected: IC 6-1.1-1-3

Sec. 4. (a) The department of local government finance shall prepare a worksheet and instructions for the use of assessing officials in collecting data pertaining to the assessment of mobile homes.

(b) Assessing officials shall use the mobile home assessment work sheet or comparable computer software in the collection and processing of data pertaining to the assessment of mobile home properties. (*Department of Local Government Finance; 50 IAC 3.2-4-4*)

SECTION 2. 50 IAC 3.1 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 22, 2002 at 10:00 a.m., at the Indiana Government Center-North, 100 North Senate Avenue, Room 1058, Indianapolis, Indiana the Department of Local Government Finance will hold a public hearing on proposed new rules to govern the assessment of annually assessed mobile and manufactured homes.

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 that may serve to support, clarify, or supplement their concerns, suggestions, or proposed revisions. The Department of Local Government Finance also encourages any interested party who has concerns, suggestions, or proposed revisions to contact Beth Henkel, General Counsel, Department of Local Government Finance, at (317) 233-4361.

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
Commissioner
Department of Local Government Finance

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #01-444

DIGEST

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

312 IAC 9-10-11

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

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

Authority: IC 14-22-2-6; IC 14-22-28
Affected: IC 14-22

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

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

(c) A person who ~~applies for~~ **owns or has interest in property may obtain** a permit under this section to assist a landowner with a nuisance wild animal control problem must ~~provide a written recommendation from a conservation officer for the control of a nuisance wild animal causing damage to the person's property.~~

(d) A person may obtain a permit under this subsection to assist a property owner or lessee with the control of a nuisance wild animal. The following testing requirements apply:

- (1) A permit applicant must correctly answer at least eighty percent (80%) of the questions on a written examination of basic knowledge supervised and administered by the division of fish and wildlife.
- (2) A permittee who has satisfied subdivision (1) must, within four (4) years of being issued the permit, either:
 - (A) satisfy the same requirements as are set forth in subdivision (1) on another examination; or
 - (B) complete thirty-two (32) hours of continuing education as approved by the division.

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

(e) A person who does not hold a permit under subsection (d) may assist a permittee, but only if the permittee directly supervises the unpermitted person.

(f) An animal captured live must be handled in an expeditious and humane manner that causes no unnecessary discomfort or physical harm to the animal.

(g) Permittees may use the following:

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

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

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

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

(C) A Conibear, Dahlgren, Bigelow, or other killer trap that is seven and one-half (7½) inches or larger in diameter or is larger than seven and one-half (7½) inches by seven and one-half (7½) inches unless the trap is completely covered by water.

(3) Snares that do not employ a relaxing snare lock (a lock that will allow the snare's loop size to increase once pulling tension is no longer exerted along the snare from its anchored end).

(h) A permittee must check a trap or snare at least once every twenty-four (24) hours.

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

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

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

(A) For a reptile, apply one (1) of the following procedures:

(i) Barbiturates.

(ii) Inhalant anesthetics (in appropriate species).

(iii) Carbon dioxide (in appropriate species).

(iv) Penetrating captive bolt.

(v) Gunshot.

(vi) Decapitation and pithing.

(vii) Stunning and decapitation.

(B) For a bird or mammal, apply one (1) of the following procedures:

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- (i) Barbiturates.
- (ii) Inhalant anesthetics.
- (iii) Potassium chloride in conjunction with general anesthesia.
- (iv) Carbon dioxide in a chamber.
- (v) Carbon monoxide in a chamber.
- (vi) Nitrogen in a chamber.
- (vii) Argon in a chamber.
- (viii) Penetrating captive bolt.
- (ix) Gunshot.

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

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

- (1) The name and address of the landowner assisted.
- (2) The date assistance was provided.
- (3) The number and species of animals affected.
- (4) The method of disposition.

~~At the end of the calendar year, the information required under this subsection must be sent to the division for each permit issued.~~

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

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

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

(m) **A permit issued under this section may be suspended or revoked for failure of any of the following reasons:**

- (1) **Failure to comply with IC 14-22 or this article.**
- (2) **Failure to comply with a term of the permit.**
- (3) **Providing false information to obtain a permit under this section.**
- (4) **Engaging in a fraudulent business practice.**

~~(n)~~ (n) **No permit will shall be issued under this section:**

- (1) for the control of a migratory bird;
- (2) for a wild animal ~~which that~~ is identified under this article as an endangered species or a threatened species; or
- (3) if to ~~grant~~ **granting** the permit would violate a federal law.

(Natural Resources Commission; 312 IAC 9-10-11; filed May 12, 1997, 10:00 a.m.; 20 IR 2732)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 23, 2002 at 6:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Auditorium, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments that govern nuisance wild animal control. Establishes examination requirements before a person can lawfully assist another with the capture, possession, and release of a nuisance wild animal. Establishes requirements for periodic reexamination or for the completion of continuing education. Minimum standards are provided for measures to control, treat, or euthanize a wild animal. Identifies causes for which a permit can be suspended or revoked. 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 312 NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #02-2

DIGEST

Amends 312 IAC 3-1 that governs adjudicatory procedures by the natural resources commission and its division of hearings. The amendments would incorporate and coordinate responsibilities of the division of hearings with respect to its responsibilities to the Indiana board of registration for soil scientists. Makes technical changes. Effective 30 days after filing with the secretary of state.

312 IAC 3-1-1	312 IAC 3-1-8
312 IAC 3-1-2	312 IAC 3-1-14
312 IAC 3-1-3	312 IAC 3-1-18

SECTION 1. 312 IAC 3-1-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 3-1-1 Administration

Authority: IC 14-10-2-4; IC 25-31.5-3-8
Affected: IC 4-21.5; IC 14; IC 25-17.6

Sec. 1. (a) This rule controls proceedings governed by IC 4-21.5 for which the commission, or an administrative law judge for the commission, is the ultimate authority.

- (b) An affected person who is aggrieved by a determination of:
 - (1) the director;
 - (2) a delegate of the director;

- (3) a board (other than the commission when acting as the ultimate authority);
- (4) a delegate of the board (other than an administrative law judge);
- (5) a person who has been delegated authority under 312 IAC 2-2; **or**
- (6) the **Indiana** board of **certification licensure** for professional geologists under IC 25-17.6; **or**
- (7) **the Indiana board of registration for soil scientists under IC 25-31.5;**

may apply for administrative review of the determination under IC 4-21.5 and this rule.

(c) As used in this rule, "division director" refers to the director of the division of hearings of the commission. (*Natural Resources Commission; 312 IAC 3-1-1; filed Feb 5, 1996, 4:00 p.m.: 19 IR 1317; filed Oct 19, 1998, 10:12 a.m.: 22 IR 748*)

SECTION 2. 312 IAC 3-1-2, AS AMENDED AT 25 IR 1543, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

312 IAC 3-1-2 Ultimate authority

Authority: IC 14-10-2-4; IC 25-31.5-3-8
Affected: IC 4-21.5-4; IC 14-34-4-13; IC 14-34-15-7; IC 25-17.6; IC 25-31.5

Sec. 2. (a) Except as provided in subsection (b), the commission is the ultimate authority for the department and any department board.

(b) An administrative law judge is the ultimate authority for an administrative review under the following:

- (1) An order under IC 14-34, except for a proceeding:
 - (A) concerning the approval or disapproval of a permit application or permit renewal under IC 14-34-4-13; or
 - (B) a proceeding for suspension or revocation of a permit under IC 14-34-15-7.
- (2) An order granting or denying temporary relief under IC 14-34 or an order voiding, terminating, modifying, staying, or continuing an emergency or temporary order under IC 4-21.5-4.
- (3) An order designated as a final order in section 9 of this rule.

(c) An administrative law judge is also the ultimate authority for the **following:**

- (1) **The Indiana** board of licensure for professional geologists under IC 25-17.6.
- (2) **The Indiana board of registration for soil scientists under IC 25-31.5.**

(*Natural Resources Commission; 312 IAC 3-1-2; filed Feb 5, 1996, 4:00 p.m.: 19 IR 1317; filed Oct 19, 1998, 10:12 a.m.: 22 IR 749; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1543*)

SECTION 3. 312 IAC 3-1-3, AS AMENDED AT 25 IR 1543, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

312 IAC 3-1-3 Initiation of a proceeding for administrative review

Authority: IC 14-10-2-4; IC 25-31.5-3-8
Affected: IC 4-21.5-3-7; IC 4-21.5-3-8; IC 4-21.5-4; IC 14-34; IC 14-37-9; IC 25

Sec. 3. (a) A proceeding before the commission, under IC 4-21.5, as well as administrative review of a determination of the **Indiana** board of licensure for professional geologists **or the Indiana board of registration for soil scientists**, is initiated when one (1) of the following is filed with the Division of Hearings, Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana:

- (1) A petition for review under IC 4-21.5-3-7.
- (2) A complaint under IC 4-21.5-3-8.
- (3) A request for temporary relief under IC 14-34.
- (4) A request to issue or for review of an issued emergency or other temporary order under IC 4-21.5-4.
- (5) A request concerning an integration order under IC 14-37-9.
- (6) An answer to an order to show cause under section 5 of this rule.
- (7) A referral by the director of a petition for and challenge to litigation expenses under section 13(g) of this rule.

(b) As soon as practicable after the initiation of administrative review under subsection (a), the division director shall appoint an administrative law judge to conduct the proceeding. (*Natural Resources Commission; 312 IAC 3-1-3; filed Feb 5, 1996, 4:00 p.m.: 19 IR 1317; filed Oct 19, 1998, 10:12 a.m.: 22 IR 749; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1543*)

SECTION 4. 312 IAC 3-1-8 IS AMENDED TO READ AS FOLLOWS:

312 IAC 3-1-8 Administrative law judge; automatic change

Authority: IC 14-10-2-4; IC 25-31.5-3-8
Affected: IC 4-21.5-4; IC 14-34; IC 25

Sec. 8. (a) In addition to the reasons stated for the disqualification of an administrative law judge under IC 4-21.5, an automatic change of administrative law judge may be obtained under this section.

(b) A party, within ten (10) days after the appointment of an administrative law judge, may file a written motion for change of the administrative law judge without specifically stating the ground for the request.

(c) The administrative law judge shall grant a motion filed under subsection (b) and promptly notify the division director. The division director shall inform the parties of the names of two (2) other individuals from whom a substitute administrative law judge may be selected. A party who is opposed to the party who filed the motion under subsection (b) may, within five (5) days, select one (1) of the individuals named by the division director to serve as the substitute administrative law judge. In

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the absence of a timely designation by an opposing party under this subsection, the selection shall be made by the division director.

(d) This section does not apply:

(1) where a previous change of administrative law judge has been requested under this section;

(2) to a proceeding under IC 4-21.5-4;

(3) to temporary relief under:

(A) IC 13-4.1 before its repeal; or

(B) IC 14-34;

(4) if an administrative law judge has issued a stay or entered an order for disposition of all or a portion of the proceeding; or

(5) if the commission orders a suspension of the section where its continued application is impracticable as a result of inadequate staffing; or

(6) to a proceeding to review a determination by the Indiana board of licensure for professional geologists or the Indiana board of registration for soil scientists.

(Natural Resources Commission; 312 IAC 3-1-8; filed Feb 5, 1996, 4:00 p.m.: 19 IR 1319; filed Feb 7, 2000, 3:31 p.m.: 23 IR 1365)

SECTION 5. 312 IAC 3-1-14, AS AMENDED AT 25 IR 1543, SECTION 4, IS AMENDED TO READ AS FOLLOWS:

312 IAC 3-1-14 Court reporter; transcripts

Authority: IC 14-10-2-4; IC 25-31.5-3-8

Affected: IC 14; IC 25-17.6; IC 25-31.5

Sec. 14. (a) The commission (or, for administrative review of orders under IC 25-17.6, the **Indiana** board of licensure for professional geologists **or under IC 25-31.5, the Indiana board of registration for soil scientists**) shall employ and engage the services of a stenographer or court reporter, either on a full-time or a part-time basis, to record evidence taken during a hearing.

(b) A party may obtain a transcript of the evidence upon a written request to the administrative law judge.

(c) The party who requests a transcript under subsection (b) shall pay the cost of the transcript:

(1) as billed by the court reporting service; or

(2) if the transcript is prepared by an employee of the commission, as determined from time to time by the commission on a per page basis after consideration of all expenses incurred in the preparation of the transcript.

(d) For a proceeding in which the commission or its administrative law judge is the ultimate authority, a court reporter who is not an employee of the commission will be engaged to record a hearing upon a written request by a party filed at least forty-eight (48) hours before a hearing. *(Natural Resources Commission; 312 IAC 3-1-14; filed Feb 5, 1996, 4:00 p.m.: 19 IR 1322; filed Oct 19, 1998, 10:12 a.m.: 22 IR 750; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1543)*

SECTION 6. 312 IAC 3-1-18, AS AMENDED AT 25 IR 1544, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

312 IAC 3-1-18 Petitions for judicial review

Authority: IC 14-10-2-4; IC 25-31.5-3-8

Affected: IC 4-21.5-5-8; IC 14; IC 25

Sec. 18. (a) A person who wishes to take judicial review of a final agency action entered under this rule shall serve copies of a petition for judicial review upon the persons described in IC 4-21.5-5-8.

(b) The copy of the petition required under IC 4-21.5-5-8(a)(1) to be served upon the ultimate authority shall be served at the following address:

Division of Hearings
Natural Resources Commission
Indiana Government Center-South
402 West Washington Street, Room W272
Indianapolis, Indiana 46204.

This address applies whether the commission or an administrative law judge is the ultimate authority.

(c) Where the department or the state historic preservation review board is a party to a proceeding under this rule, a copy of the petition required under IC 4-21.5-5-8(a)(4) to be served upon each party shall be served at the following address:

Director
Department of Natural Resources
Indiana Government Center-South
402 West Washington Street, Room W256
Indianapolis, Indiana 46204.

(d) Where the **Indiana** board of **certification licensure** for professional geologists is a party to a proceeding under this rule, a copy of the petition required under IC 4-21.5-5-8(a)(4) to be served upon each party shall be served at the following address:

Indiana State Geologist
Indiana University
611 North Walnut Grove
Bloomington, Indiana 47405-2208.

(e) **Where the Indiana board of registration for soil scientists is a party to a proceeding under this rule, a copy of the petition required under IC 4-21.5-5-8(a)(4) to be served upon each party shall be served at the following address:**

**Office of Indiana State Chemist
Purdue University
1154 Biochemistry
West Lafayette, Indiana 47907-1154.**

(e) The commission and its administrative law judge provide the forum for administrative review under this rule. Neither the commission nor the administrative law judge is a party. *(Natu-*

ral Resources Commission; 312 IAC 3-1-18; filed Feb 5, 1996, 4:00 p.m.: 19 IR 1323; filed Oct 19, 1998, 10:12 a.m.: 22 IR 750; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1544)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 28, 2002 at 10:30 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 amendments that govern adjudicatory procedures by the natural resources commission and its division of hearing. The amendments would incorporate and coordinate responsibilities of the division of hearings with respect to its responsibilities to the Indiana registration board of soil scientists. Makes technical changes. 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

(Office of the Secretary of Family and Social Services; 405 IAC 2-3-23)

SECTION 2. 405 IAC 2-3-23, as added by SECTION 1 of this document, applies to United States Savings Bonds purchased on or after the effective date of that section.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 22, 2002 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 new rules to specify that a United States Savings Bond is considered available for Medicaid eligibility purposes beginning on the date of purchase. 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 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule
LSA Document #02-45

DIGEST

Adds 405 IAC 2-3-23 to specify that a United States Savings Bond is considered available for Medicaid eligibility purposes beginning on the date of purchase. Effective 30 days after filing with the secretary of state.

405 IAC 2-3-23

SECTION 1. 405 IAC 2-3-23 IS ADDED TO READ AS FOLLOWS:

405 IAC 2-3-23 Savings bonds

Authority: IC 12-8-1-9; IC 12-8-6-5; IC 12-15-1-10
Affected: IC 12-15-3

Sec. 23. United States Savings Bonds are considered available for Medicaid eligibility purposes beginning on the date of purchase. During the six (6) month period following the date of issue, bonds are valued for eligibility purposes as follows:

- (1) Bonds issued at face value, including, but not limited to, Series I and Series HH bonds, are valued at face value.**
- (2) Bonds issued for less than face value, including, but not limited to, Series EE bonds, are valued at the purchase price.**

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule
LSA Document #02-49

DIGEST

Amends 405 IAC 5-12-1 and 405 IAC 5-12-3 to limit Medicaid coverage for chiropractic services for all recipients to manual manipulations of the spine and x-rays, similar to Medicare coverage. Repeals 405 IAC 5-12-2, 405 IAC 5-12-4, 405 IAC 5-12-5, 405 IAC 5-12-6, and 405 IAC 5-12-7. Effective 30 days after filing with the secretary of state.

405 IAC 5-12-1	405 IAC 5-12-5
405 IAC 5-12-2	405 IAC 5-12-6
405 IAC 5-12-3	405 IAC 5-12-7
405 IAC 5-12-4	

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

405 IAC 5-12-1 Reimbursement

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2; IC 12-15-21-3
Affected: IC 12-13-7-3; IC 12-15; IC 25-10-1-1

Sec. 1. (a) Medicaid reimbursement is available for covered

Proposed Rules

services provided by a licensed chiropractor, enrolled as an Indiana Medicaid provider, when rendered within the scope of the practice of chiropractic as defined in IC 25-10-1-1 and 846 IAC 1-1, subject to the restrictions and limitations as described in the rule.

(b) Reimbursement is not available for any chiropractic services provided outside the scope of IC 25-10-1-1 and 846 IAC 1-1, or for any chiropractic service for which federal financial participation is not available.

(c) **Reimbursement is limited to fifty (50) spinal manipulation treatments, per recipient, per year consistent with Medicare coverage, and x-rays subject to restrictions and limitations as described in the rule.** (*Office of the Secretary of Family and Social Services; 405 IAC 5-12-1; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3314; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822*)

SECTION 2. 405 IAC 5-12-3 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-12-3 Chiropractic x-ray services

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

Affected: IC 12-13-7-3; IC 12-15; IC 16-39-1-2; IC 25-10-1-1

Sec. 3. Medicaid reimbursement is available for chiropractic x-ray services, subject to the following restrictions:

(1) Reimbursement is limited to one (1) series of full spine x-rays per recipient per year. Component x-rays of the series are individually reimbursable; however, if components are billed separately, total reimbursement is limited to the allowable amount for the series. Prior authorization is not required.

(2) Reimbursement for localized spine series x-rays, and for x-rays of the joints or extremities, is allowable only when the x-rays are necessitated by a condition-related diagnosis. Prior authorization is not required.

(3) Diagnostic radiological exams of the head and vascular system, as defined by the applicable procedure code, are not reimbursable.

(4) Diagnostic ultrasound exams, as defined by the applicable procedure code, are not reimbursable.

(5) X-rays that may be necessitated by the failure of another practitioner to forward, upon request, x-rays or related documentation to a chiropractic provider, are not reimbursable. ~~Under IC 16-39-1-2, Chiropractors are entitled to receive x-rays from other providers at the other providers' actual cost~~ **no charge to the recipient** upon a ~~patient's~~ **recipient's** written request to the other providers and upon reasonable notice.

(*Office of the Secretary of Family and Social Services; 405 IAC 5-12-3; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3314; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822*)

SECTION 3. THE FOLLOWING ARE REPEALED: 405

IAC 5-12-2; 405 IAC 5-12-4; 405 IAC 5-12-5; 405 IAC 5-12-6; 405 IAC 5-12-7.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 3, 2002 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Auditorium, Indianapolis, Indiana the Office of the Secretary of Family and Social Services will hold a public hearing on proposed amendments to limit benefits in chiropractic services for Medicaid recipients.

Written comments may be directed to MS-27 Office of General Counsel, Attention: Maureen Bartolo, 402 West Washington Street, Room W451, Indianapolis, Indiana 46204. Correspondence should be identified in the following manner: "COMMENTS RE: PROPOSED RULE AMENDMENT FOR RECIPIENTS IN NEED OF CHIROPRACTIC SERVICES, LSA #02-49". Written comments received will be made available for public display at the above listed address of the Office of General Counsel.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

John Hamilton

Secretary

Office of the Secretary of Family and Social Services

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule

LSA Document #02-50

DIGEST

Amends 405 IAC 5-14-1 to limit annual expenditures for Medicaid covered dental services to \$600 per year for recipients 21 years of age and over. Effective 30 days after filing with secretary of state.

405 IAC 5-14-1

SECTION 1. 405 IAC 5-14-1 IS AMENDED TO READ AS FOLLOWS:

405 IAC 5-14-1 Policy

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

Affected: IC 12-13-7-3; IC 12-15-13-6

Sec. 1. (a) Medicaid reimbursement is available only for those dental services listed in section 2 of this rule subject to the limitations set out in this rule. ~~The dental portion of the Indiana~~

Medicaid program places top priority on prevention, relief of pain, elimination of infection, and pathology:

(b) For those recipients twenty-one (21) years of age and over, covered services routinely provided in a dental office will be limited to six hundred dollars (\$600) per recipient, per twelve (12) month period. This limit precedes all other limits within this rule. The procedure codes that will be included within the limitation will be listed and published in a provider bulletin and may be updated by the office as needed. A provider bulletin issued under this subsection shall be effective no earlier than permitted under IC 12-15-13-6. (Office of the Secretary of Family and Social Services; 405 IAC 5-14-1; filed Jul 25, 1997, 4:00 p.m.: 20 IR 3319; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 4, 2002 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 reduce expenditures in some dental services to \$600 per 12 month period for adult Medicaid recipients.

Written comments may be directed to MS-27 Office of General Counsel, Attention: Maureen Bartolo, 402 West Washington Street, Room W451, Indianapolis, Indiana, 46204. Correspondence should be identified in the following manner: "COMMENTS RE: PROPOSED RULE LSA Document #02-50: ADULT DENTAL". Written comments received will be made available for public display at the above listed address of the Office of General Counsel.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

John Hamilton
Secretary
Office of the Secretary of Family and Social Services

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

Proposed Rule
LSA Document #01-337

DIGEST

Adds 460 IAC 1-8 concerning personal services attendants for individuals in need of self-directed in-home care. Effective 30 days after filing with the secretary of state.

460 IAC 1-8

SECTION 1. 460 IAC 1-8 IS ADDED TO READ AS FOLLOWS:

Rule 8. Personal Services Attendant for Individuals in Need of Self-Directed In-Home Care

460 IAC 1-8-1 Definitions

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19
Affected: IC 12-10-10; IC 12-10-17; IC 12-15-34-1; IC 16-25; IC 25-1-9-2; IC 25-1-9-3

Sec. 1. (a) The definitions in this section apply throughout this rule.

(b) "Ancillary services" means services ancillary to the basic services provided to an individual in need of self-directed in-home care who needs at least one (1) of the basic services listed in subsection (d). The term includes the following:

- (1) Homemaker type services, including shopping, laundry, cleaning, and seasonal chores.
(2) Companion type services, including transportation, letter writing, mail reading, and escort services.
(3) Assistance with cognitive tasks, including managing finances, planning activities, and making decisions.

(c) "Attendant care services" means those basic and ancillary services, which the individual chooses to direct and supervise a personal services attendant to perform, that enable an individual in need of self-directed in-home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self-care, and mobility.

(d) "Basic services" means a function that could be performed by the individual in need of self-directed in-home care if the individual were not physically disabled. The term includes the following:

- (1) Assistance in getting in and out of a bed, a wheelchair, and a motor vehicle.
(2) Assistance with routine bodily functions, including the following:
(A) Health related services as defined in subsection (f).
(B) Bathing and personal hygiene.
(C) Dressing and grooming.
(D) Feeding, including preparation and cleanup.

(e) "Geographic area" means one (1) county of the state.

(f) "Health related services" means those medical activities that, in the written opinion of the attending physician submitted to the case manager of the individual in need of self-directed in-home care, could be performed by the individual if the individual were physically capable, and if

the medical activities can be safely performed in the home, and either are performed by a person who has:

- (1) been trained or instructed on the performance of the medical activities by an individual in need of self-directed in-home care who is, in the written opinion of the attending physician submitted to the case manager of the individual in need of self-directed in-home care, capable of training or instructing the person who will perform the medical activities; or
- (2) received training or instruction from a licensed health professional, within the professional's scope of practice, in how to properly perform the medical activity for the individual in need of self-directed in-home care.

(g) "Individual in need of self-directed in-home care" means an individual with a disability, or person responsible for making health related decisions for the individual with a disability, who:

- (1) is approved to receive Medicaid waiver services under 42 U.S.C. 1396n(c), or is a participant in the community and home options to institutional care for the elderly and disabled program under IC 12-10-10;
- (2) is in need of attendant care services because of impairment;
- (3) requires assistance to complete functions of daily living, self-care, and mobility, including those functions included in attendant care services;
- (4) chooses to self-direct a paid personal services attendant to perform attendant care services; and
- (5) assumes the responsibility to initiate self-directed in-home care and exercise judgment regarding the manner in which those services are delivered, including the decision to employ, train, and dismiss a personal services attendant.

(h) "Licensed health professional" means the following:

- (1) A registered nurse.
- (2) A licensed practical nurse.
- (3) A physician with an unlimited license to practice medicine or osteopathic medicine.
- (4) A licensed dentist.
- (5) A licensed chiropractor.
- (6) A licensed optometrist.
- (7) A licensed pharmacist.
- (8) A licensed physical therapist.
- (9) A certified occupational therapist.
- (10) A certified psychologist.
- (11) A licensed podiatrist.
- (12) A licensed speech-language pathologist or audiologist.

(i) "Personal services attendant" means an individual who is registered to provide attendant care services under this rule and who has entered into a contract with an individual and acts under the individual's direction to provide atten-

nant care services that could be performed by the individual if the individual were physically capable.

(j) "Self-directed in-home health care" means the process by which an individual, who is prevented by a disability from performing basic and ancillary services that the individual would perform if not disabled, chooses to direct and supervise a paid personal services attendant to perform those services in order for the individual to live in the individual's home and community rather than an institution. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-1*)

460 IAC 1-8-2 Exclusions from rule

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19

Affected: IC 12-15-34-1; IC 16-25; IC 25-1-9-2; IC 25-1-9-3

Sec. 2. This rule does not apply to the following:

- (1) An individual who provides attendant care services and who is employed by and under the direct control of a home health agency (as defined in IC 12-15-34-1).
- (2) An individual who provides attendant care services and who is employed by and under the direct control of a licensed hospice program under IC 16-25.
- (3) An individual who provides attendant care services and who is employed by and under the control of an employer that is not the individual who is receiving the services.
- (4) A practitioner (as defined in IC 25-1-9-2) who is practicing under the scope of the practitioner's license (as defined in IC 25-1-9-3).

(*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-2*)

460 IAC 1-8-3 Attendant care service provider registration requirement; preclusion

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19

Affected: IC 12-10-10; IC 12-10-17; IC 12-15

Sec. 3. (a) An individual desiring to provide attendant care services must register with the division of disability, aging, and rehabilitative services (division).

(b) An individual may not provide attendant care services for compensation from Medicaid or the community and home options to institutional care for the elderly and disabled program for an individual in need of self-directed in-home care services unless the individual seeking to provide attendant care services is registered with the division.

(c) An individual who is a legally responsible relative of an individual in need of self-directed in-home care, including a parent of a minor individual and a spouse, is precluded from providing attendant care services for that individual for compensation under this section. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-3*)

460 IAC 1-8-4 Requirements to become registered as attendant care service provider; certificate

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19
Affected: IC 5-2-5; IC 12-10-17; IC 16-28-13

Sec. 4. (a) In order to be registered with the division of disability, aging, and rehabilitative services (division), an individual must submit the following:

- (1) A personal résumé containing information concerning the individual's qualifications, work experience, and any credentials the individual may hold. The individual must certify that the information contained in the résumé is true and accurate.
- (2) The individual's limited criminal history check from the Indiana central repository for criminal history information under IC 5-2-5 or another source allowed by law.
- (3) If applicable, the individual's state nurse aide registry report, referred to in IC 16-28-13, from the state department of health. This subdivision does not require an individual to be a nurse aide.
- (4) Three (3) letters of reference.
- (5) A registration fee of zero dollars (\$0).
- (6) Proof that the individual is at least eighteen (18) years of age.
- (7) Any other information required by the division.

(b) Subject to section 9(c) of this rule, if the requirements of subsection (a) are satisfactorily met, the division shall issue a certificate of registration for the period required under IC 12-10-17, effective on the date that the certificate of registration is issued. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-4*)

460 IAC 1-8-5 File maintained by division

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19
Affected: IC 12-10-17

Sec. 5. The division shall maintain a file for each personal services attendant that contains the following:

- (1) Comments related to the provision of attendant care services, including periodic reports on the quality of services provided by the personal services attendant, submitted by an individual in need of self-directed in-home care who has employed the personal services attendant.
- (2) The items described in section 4(a)(1) through 4(a)(4) of this rule.

(*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-5*)

460 IAC 1-8-6 Renewal of registration

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19
Affected: IC 12-10-17

Sec. 6. (a) A personal services attendant may renew the personal services attendant's registration by doing the following:

- (1) Updating any information in the file described in section 5 of this rule that has changed.
- (2) Paying the fee required under section 4(a)(5) of this rule.

(b) The limited criminal history check required under section 4(a)(2) of this rule and the nurse aide registry report described in section 4(a)(3) of this rule must be updated every two (2) years. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-6*)

460 IAC 1-8-7 Information available from division

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19
Affected: IC 5-14-3; IC 12-10-17

Sec. 7. Upon request, an individual in need of self-directed in-home care shall receive from the division of disability, aging, and rehabilitative services (division) the following:

- (1) Without charge, a list of personal services attendants who are registered with the division and available within the geographic area requested.
- (2) A copy of the information of a specified personal services attendant who is on file with the division under section 5 of this rule. The division may charge a fee in accordance with IC 5-14-3, not to exceed five dollars (\$5), for shipping, handling, and copying expenses.

(*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-7*)

460 IAC 1-8-8 Contract required

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-19
Affected: IC 12-10-17-16

Sec. 8. The individual in need of self-directed in-home care and the personal services attendant must each sign a contract, in a form approved by the division of disability, aging, and rehabilitative services (division), that includes, at a minimum, the following:

- (1) The responsibilities of the personal services attendant.
- (2) The frequency the personal services attendant will provide attendant care services.
- (3) The duration of the contract.
- (4) The hourly wage of the personal services attendant. The wage may not be less than the federal minimum wage or more than the rate that the recipient is eligible to receive under a Medicaid home and community based services waiver or the community and home options to institutional care for the elderly and disabled program for attendant care services.
- (5) Reasons and notice agreements for early termination of the contract.

(*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-8*)

460 IAC 1-8-9 Appeals and review

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-20
Affected: IC 4-21.5-3; IC 4-21.5-5

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Sec. 9. (a) The division of disability, aging, and rehabilitative services (division), through designated representatives, shall investigate complaints by or on behalf of an individual in need of self-directed in-home care concerning the neglect, abuse, mistreatment, or misappropriation of property of an individual in need of self-directed in-home care by a personal services attendant.

(b) The division shall make a determination as to whether or not a personal services attendant neglected, abused or misappropriated the property of an individual in need of self-directed in-home care by a personal services attendant. The finding shall be entered into the personal services attendant's file with the division. The division shall give the personal services attendant notice of its determination.

(c) If the division determines that a personal services attendant neglected, abused, or misappropriated the property of an individual in need of self-directed care, the division may remove the personal services attendant from the list of registered personal services attendants and revoke or deny the certificate of registration.

(d) If the division determines that a personal services attendant neglected, abused, or misappropriated the property of an individual in need of self-directed care, the division shall give written notice to the personal services attendant of the procedures and time limit for seeking administrative review of the division's determination pursuant to this section.

(e) A personal services attendant found by representatives of the division to have committed neglect, abuse, mistreatment or misappropriation of property of an individual in need of self-directed in-home care and who disagrees with the decision may petition for administrative review of the decision. The petition must be in writing, show that the petitioner was directly affected by the decision, and contain the specific issues for review and the rationale for the petitioner's position. The petition must be filed within fifteen (15) days after the petitioner is given notice of the decision. The petition must be filed with the director of the division.

(f) Upon receiving timely notice of an appeal, the director or the director's designee shall appoint an administrative law judge to conduct the proceedings on review. The proceedings shall be conducted in accordance with IC 4-21.5-3.

(g) Upon exhaustion of the administrative remedies in subsections (c) and (d), a personal services attendant who is dissatisfied with the outcome may file a petition for judicial review pursuant to IC 4-21.5-5. The petition must be filed in a court of competent jurisdiction within thirty (30) days after receiving notice of the final agency decision. The petition must be served upon the director of the division, the attorney general, and any other party to the agency

proceeding. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-9*)

460 IAC 1-8-10 Nurse aide registry

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-10-17-20

Affected: IC 16-28-13

Sec. 10. At the conclusion of all appeals taken, or if no appeal is taken, upon determination by the division of disability, aging, and rehabilitative services of the merits of a complaint, a personal services attendant found to have committed neglect, abuse, mistreatment, or misappropriation of property of an individual in need of self-directed in-home care shall be placed on the state nurse aide registry referred to in IC 16-28-13. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-8-10*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 23, 2002 at 2:00 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 attendant care services for individuals in need of self-directed in-home care, requirements for registration as a personal services attendant, method of payment to a personal services attendant, record keeping requirements for a personal services attendant, the handling and investigation of complaints concerning the neglect, abuse, mistreatment, or misappropriation of property of an individual in need of self-directed in-home care by a personal services attendant, and corresponding notice, administrative hearing, and appeal procedures. If an 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 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 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Proposed Rule

LSA Document #02-51

DIGEST

Amends 675 IAC 13-1-8, NFPA 13, 1999 Edition and 675 IAC 13-1-10, NFPA 20, 1999 Edition to revise, clarify, and

correct miscellaneous technical and editorial provisions. Effective 30 days after filing with the secretary of state.

675 IAC 13-1-8

675 IAC 13-1-10

SECTION 1. 675 IAC 13-1-8, AS AMENDED AT 25 IR 1166, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

675 IAC 13-1-8 NFPA 13; installation of sprinkler systems

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 8. (a) Standard for the Installation of Sprinkler Systems, NFPA 13, 1999, published by National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02269-9101 is adopted by reference except as revised hereafter.

(b) NFPA 11A, NFPA 22, NFPA 24, NFPA 40, NFPA 86C, NFPA 214, and NFPA 703 are not adopted, are not enforceable, and are referenced for information purposes only.

(c) Amend section 1-2 to read as follows: 1-2 Purpose. The purpose of this standard is to provide a reasonable degree of protection for life and property from fire through standardization of design, installation, and testing requirements for sprinkler systems based upon sound engineering principles, test data, and field experience. For alternate materials, methods, and design, see the General Administrative Rules (675 IAC 12-6-11).

(d) Delete section 1-3 in its entirety.

(e) Amend the following definitions in subsection 1-4.1 to read as follows:

APPROVED means, as to materials, equipment, and types of construction, acceptance by the authority having jurisdiction by one (1) of the following methods: investigation or tests conducted by recognized authorities; or investigation or tests conducted by technical or scientific organizations; or accepted principles. The investigation, tests, or principles shall establish that the materials, equipment, and types of construction are safe for their intended purpose.

AUTHORITY HAVING JURISDICTION means the state building commissioner, ~~or the state fire marshal, or an~~ officer of a local unit of government empowered by law to administer and enforce the rules of the commission. For the purposes of Industrialized Building Systems (675 IAC 15), authority having jurisdiction means the state building commissioner.

LISTED means equipment or materials included in a list published by an organization engaged in product evaluation that maintains periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner.

(f) Add the following definitions to subsection 1-4.1 to read as follows:

BUILDING CODE is the building code in effect in Indiana at the time of construction, remodeling, alteration, addition, or repair of a structure.

FIRE CODE is the fire code in effect in Indiana at the time of construction, remodeling, alteration, addition, or repair of a structure.

LABELED. Equipment or materials to which has been attached a label, symbol, or other identifying mark of an organization engaged in product evaluation that maintains periodic inspection of production of labeled equipment or materials and by whose labeling the manufacturer indicates compliance with appropriate standards or performance in a specified manner.

NFPA 70 means the Indiana Electrical Code (675 IAC 17). NFPA 72 means the National Fire Alarm Code (675 IAC 22-2.2-17).

(g) Amend the following definitions in subsection 1-4.2 to read as follows:

DWELLING UNIT means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, as required by the Indiana Building Code (675 IAC 13), for not more than one (1) family, or a congregate residence for ten (10) or fewer persons. For purposes of this standard, dwelling unit includes hotel rooms, dormitory rooms, apartments, condominiums, sleeping rooms in nursing homes, and similar living units.

SHOP WELDED. As used in this standard, shop, in the term shop welded, means either of the following:

- (1) At a sprinkler contractors' or fabricators' premises.
- (2) In an area specifically designed for such work, such as a detached outside location, maintenance shop, or other area of noncombustible or fire-resistive construction free of combustible and flammable contents and segregated from adjacent areas.

(h) Amend the following definition in subsection 1-4.8 as follows: SHELF-STORAGE means storage on shelves less than thirty (30) inches (seven hundred sixty-two (62) millimeters) ~~(762 mm)~~ deep with the distance between shelves not exceeding three (3) feet (nine hundred fourteen (914) millimeters) ~~(914 mm)~~ vertically. **There shall be a minimum of thirty (30) inches (seven hundred sixty-two (762) millimeters) aisle width between shelf rows.**

(i) Delete the last sentence of subsection 1-6.2.

(j) Delete the text of Chapter 2 and substitute to read as follows: **Commodity and occupancy classification shall be as set forth in Article 81 of the Indiana Fire Code (675 IAC 22-2.2) sections 2-2.3 through 2-2.4.3.**

(k) Amend Exception No. 3 in subsection 3-8.1.1 to read as follows: A nonindicating valve, such as an underground gate valve with an approved roadway box complete with T-wrench, acceptable to the water purveyor shall be permitted.

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(l) Amend subsection 3-9.1 to read as follows: The fire department connection(s) shall be internal threaded swivel fitting(s) having threads compatible with those of the local fire department.

(m) Delete subsection 4-5.1.

(n) Amend the first sentence of subsection 4-6.1.6 to read as follows: Materials added to water shall not adversely affect the fire fighting properties of the water.

(o) Amend subsection 4-9.1 to read as follows: In cooking areas protected by automatic sprinklers, additional sprinklers or automatic spray nozzles shall be provided to protect commercial-type ventilation systems that are designed to carry away grease-laden vapors as required by the Indiana Mechanical Code (675 IAC 18).

(p) Delete subsection 4-9.8.3 and substitute as follows: See the Indiana Mechanical Code (675 IAC 18) for shut off requirements.

(q) Amend subsection 5-2 by deleting "NFPA Standards" in two (2) places and substituting "rules of the commission as applicable".

(r) Amend subsection 5-4.5.1 by inserting ", sleeping rooms in health care facilities" after the words "dwelling units".

(s) Amend subsection 5-4.6.3 to read as follows: ESFR sprinklers shall be permitted for use in buildings with unobstructed or obstructed construction. Where depths of the solid structural members (beams, stems, etc.) exceed twelve (12) inches (three hundred four (304) mm). ESFR sprinklers shall be installed in each channel formed by the solid structural members. Minimum sprinkler spacing and area coverage shall comply with 5-11.2.3 and 5-11.3.4.

(t) Delete Exception 1 in subsection 5-5.6.

(u) Delete the Exception in subsection 5-6.6.

(v) Delete the Exception in subsection 5-8.6.

(w) Amend subsection 5-13.4 Exception 2(b) by deleting "NFPA 101 Life Safety Code" and substituting "applicable rules of the Commission".

(x) Amend the exception to subsection 5-13.6.3 to read as follows: Exception: Sprinklers are not required at the tops of noncombustible hoistways of passenger elevators whose car enclosure materials meet the requirements of the Indiana Safety Code for Elevators, Escalators, Manlifts, and Hoists (675 IAC 21).

(y) Delete the second sentence of subsection 5-14.2.6.1.

(z) Amend subsection 5-15.5.1.1 in two (2) places:

- (1) delete "lines" and substitute "connections".
- (2) after the words "Hose System", add "675 IAC 13".

(aa) Amend subsection 5-16.1 by adding "675 IAC 22-2.2-6" after "materials".

(bb) Delete sections 5-17 and 5-18 without substitution.

(cc) Amend subsection 5-19.1 by adding "675 IAC 22-2.2-10" after "Processes".

(dd) Delete section 5-20 without substitution.

(ee) Amend section 5-21 by adding "675 IAC 13" in two (2) places:

- (1) in 5-21.1 after "equipment"; and
- (2) in 5-21.2 after "NFPA 82" and before "shall be used".

(ff) Delete section 5-22 without substitution.

(gg) Delete sections 5-23, 5-24, 5-25, 5-26, 5-27, 5-28, 5-29, 5-30, and 5-31 without substitution.

(hh) Amend subsection 6-1.1 as follows:

- (1) Add to the second line of Exception 1 after "engineer" and before "to", the following: "or architect".
- (2) Delete, in the last paragraph of Exception 1, "when required by the reviewing authority" and substitute to read as follows: to the office of the state building commissioner as required by the General Administrative Rules (675 IAC 12-6).

(ii) Amend subsection 6-3.3.1.2 by deleting the words "by the authority having jurisdiction" from the exception.

(jj) Amend the first sentence of subsection 6-4.1 to read as follows: Sprinkler systems shall be protected to prevent pipe breakage where subject to earthquakes in accordance with the requirements of 6-4 and the Indiana Building Code (675 IAC 13) except where alternative methods of providing earthquake protection of sprinkler systems is based on a dynamic seismic analysis certified by a design professional, such that system performance will be at least equal to that of the building structure under expected seismic forces.

(kk) Delete the exception in subsection 6-4.5.6 without substitution.

(ll) Amend the subsection 6-4.5.8 as follows:

- (1) Amend the exception to read as follows: Exception: Other pipe schedules and materials not specifically included in Table 6-4.5.8 shall be permitted to be used if certified by a registered professional engineer or architect to support the loads determined in accordance with the above criteria. Calculations shall be submitted to the office of the state building commissioner as required by the General Administrative Rules (675 IAC 12-6).
- (2) In Table 6-4.5.8, change the second slenderness ratio for pipe (Schedule 40) from 200 to 100.

(mm) Amend subsection 6-4.5.9 Exception 2 to read as follows: Other fastening methods are acceptable for use if certified by a registered professional engineer or architect to support the loads determined in accordance with the criteria in 6-4.5.9.

(nn) Amend subsection 7-9.2.2 as follows:

(1) After the last word "criteria", insert ", but not less than to provide a minimum of .01 gpm/per sq ft over the design area".

(2) Add an exception to read as follows: Exception: For modification or alteration to existing systems equipped with residential sprinklers, the listed discharge criteria shall be permitted to be used.

(oo) Amend subsection 7-9.4.1 by deleting "NFPA Standards" and substituting "rules of the Fire Prevention and Building Safety Commission".

(pp) Amend subsection 7-9.4.2.1 by deleting "NFPA standards" and substituting "rules of the Fire Prevention and Building Safety Commission".

(qq) Amend subsection 7-9.4.2.2 by deleting from the last sentence "NFPA Standards" and substituting "rules of the Fire Prevention and Building Safety Commission".

(rr) Amend subsection 7-9.5.1 by deleting "NFPA Standards" and substituting "rules of the Fire Prevention and Building Safety Commission".

(ss) Delete subsections 7-10.1 and 7-10.2 and substitute the following:

(1) Flammable and combustible liquids: See Article 79 in the Indiana Fire Code (675 IAC 22-2.2).

(2) Aerosol products: See Article 88 in the Indiana Fire Code (675 IAC 22-2.2).

(tt) Amend subsection 7-10.3.1 by adding "675 IAC 22-2.2-6" after "Materials".

(uu) Delete subsections 7-10.4, 7-10.5, 7-10.6, and 7-10.7 without substitution.

(vv) Amend subsection 7-10.8.1 by adding "675 IAC 22-2.2-10" after "Processes".

(ww) Amend subsection 7-10.9.1 by adding "675 IAC 22-2.2-11" after "Plants".

(xx) Amend subsection 7-10.9.2 to read as follows: The need for automatic water spray system protection for acetylene cylinder charging manifolds and cylinder storage areas shall be determined by the building code (675 IAC 13). Where automatic water spray systems are installed, they shall be in accordance with NFPA 15, Standard for Water Spray Fixed Systems for Fire Protection (675 IAC 22-2.2-4).

(yy) Delete subsection 7-10.10 in its entirety without substitution.

(zz) Amend subsection 7-10.11.1 by adding "675 IAC 22-2.2-15" after "Plants".

(aaa) Amend subsection 7-10.12.1 by adding "675 IAC 22-2.2-16" after "Gas".

(bbb) Amend subsection 7-10.13.1 to read as follows: Ventilation control and Fire Protection of Commercial Cooking Operations shall be in accordance with the Indiana Mechanical Code (675 IAC 18).

(ccc) Delete sections 7-10.14, 7-10.15, 7-10.16, 7-10.17, 7-10.18, 7-10.19, 7-10.20, 7-10.21, 7-10.22, 7-10.23, 7-10.24, 7-10.25, 7-10.26, and 7-10.27 without substitution.

(ddd) Delete section 8-1 in its entirety and substitute to read as follows: Plans and specifications shall be filed as required by the General Administrative Rules (675 IAC 12).

(eee) Amend subsection 8-4.1 by deleting from the last sentence "standards" and substituting "rules of the Fire Prevention and Building Safety Commission".

(fff) Amend the footnote to Table 8-4.4.5 by deleting "is permitted to consider" and substituting "may approve".

(ggg) Amend section 8-6 to read as follows: Open sprinkler and deluge systems shall be hydraulically calculated.

(hhh) ~~Delete Amend~~ subsection 9-1.7 ~~without substitution. to read as follows: Where meters are provided, they shall be listed.~~

(iii) Amend subsection 9-1.8 to read as follows: Where equipment is installed to guard against possible contamination of the water supply system, such equipment and devices shall be listed for fire protection service.

(jjj) Amend subsection 9-2.1 to read as follows: A connection to a water purveyors distribution system shall be an acceptable water supply source. The volume and pressure of a public water supply shall be determined from waterflow test data.

(kkk) Amend subsection 9-2.3.1.1 to read as follows: An approved pressure tank shall be an acceptable water supply source.

(lll) Amend subsection 9-2.4 to read as follows: An approved elevated tank shall be an acceptable water supply source.

(mmm) Amend section 10-1(1) to read as follows: Notify the owner's representative of the time and date testing will be performed.

(nnn) Amend the Contractors' Material and Test Certificate for Aboveground Piping as follows:

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- (1) Delete from the second paragraph of Procedure “approving authorities” in two (2) places.
- (2) Delete the Plans category.

(ooo) Amend the Contractors’ Material and Test Certificate for Underground Piping as follows:

- (1) Delete from the second paragraph of Procedure “approving authority” in two (2) places.
- (2) Delete the Plans category.

(ppp) Delete Chapter 11 in its entirety.

(qqq) Amend section 12-1 by deleting everything after the words “Protection Systems” and substitute “675 IAC 22-2.2-5”.

(rrr) Delete Chapter 13 in its entirety. (*Fire Prevention and Building Safety Commission; 675 IAC 13-1-8; filed Sep 5, 1986, 9:22 a.m.: 10 IR 14; filed Oct 2, 1989, 4:25 p.m.: 13 IR 291; filed Aug 15, 1997, 8:54 a.m.: 21 IR 94; filed Nov 14, 2001, 4:55 p.m.: 25 IR 1166*)

SECTION 2. 675 IAC 13-1-10, AS AMENDED AT 25 IR 1172, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

675 IAC 13-1-10 NFPA 20; Installation of stationary pumps for fire protection

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-7

Sec. 10. (a) Standard for the Installation of Stationary Pumps for Fire Protection, NFPA 20, 1999, published by National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02269-9101 is adopted by reference except as revised hereafter.

(b) The following documents referenced in NFPA 20 are not adopted, are not enforceable, and are for information purposes only:

- (1) NFPA 24, and NFPA 110.
- (2) Hydraulic Institute Standards for Centrifugal, Rotary, and Reciprocating Pumps.
- (3) NEMA Standards.
- (4) SAE Standards, J-1349.
- (5) ANSI/IEEE C62.1, C62.11, C62.41.
- (6) ASTM-E.380.

(c) Delete the last sentence of subsection 1-2.1 and substitute to read as follows: For alternate methods, materials, and design, see the General Administrative Rules (675 IAC 12-6-11).

(d) Delete subsection 1-2.2 in its entirety without substitution.

(e) Delete subsection 1-4.3 and substitute the following: Plans and specifications shall be filed as required by the General Administrative Rules (675 IAC 12-6).

(f) Delete subsection 1-5 without substitution.

(g) Change the last sentence of section 1-7 to read as follows: The purchaser shall furnish this data to the authority having jurisdiction when requested.

(h) Amend the following definitions in section 1-8 to read as follows:

APPROVED means, as to materials, equipment, and types of construction, accepted by the authority having jurisdiction by one (1) of the following methods: investigation or tests conducted by recognized authorities; or investigation or tests conducted by technical or scientific organizations; or accepted principles. The investigation, tests, or principles shall establish that the materials, equipment, and types of construction are safe for their intended purpose.

AUTHORITY HAVING JURISDICTION means the state building commissioner or officer of a local unit of government empowered by law to administer and enforce the rules of the commission. For the purposes of Industrialized Building Systems (675 IAC 15), authority having jurisdiction means the state building commissioner.

LISTED. Equipment or materials included in a list published by an organization engaged in product evaluation that maintains periodic inspection or production of listed equipment or materials and whose listing states either that the equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner.

(i) Add the following definitions to section 1-8 to read as follows:

NFPA 13, Installation of Sprinkler Systems means 675 IAC 13-1-8.

NFPA 70, National Electrical Code means the Indiana Electrical Code (675 IAC 17).

TESTING LABORATORY means an independent nationally recognized testing laboratory or other organization listed in the General Administrative Rules (675 IAC 12-6-11).

(j) Delete, in section 1-8, the definition of Aquifer.

(k) Delete subsection 1-8.1 in its entirety without substitution.

(l) Delete subsection 2-1.1 in its entirety without substitution.

(m) Delete subsection 2-1.2 in its entirety without substitution.

(n) Amend subsection 2-2.3 to read as follows: Dual-drive pump units shall not be used.

(o) Delete, in section 2-3, the last sentence of the first paragraph.

(p) Amend Exception No. 2 to subsection 2-7.1.1 to read as follows: In buildings protected with an automatic sprinkler system installed in accordance with NFPA 13 (675 IAC 13-1-

8), the separation requirement may be reduced to 1-hour fire-rated construction.

(q) Amend subsection 2-8.4 to read as follows: Torch-cutting or welding in the pump house shall be permitted as a means of modifying or repairing pump house piping when it is performed in accordance with NFPA 51B (675 IAC 22-2.2-12).

(r) Amend Exception No. 2 to subsection 2-9.9(a) to read as follows: Check valves and backflow prevention devices and assemblies shall be permitted where required by the water purveyor.

(s) Amend the last sentence of subsection 2-10.2 to read as follows: All pump discharge pipe shall be hydrostatically tested in accordance with NFPA 13 (675 IAC 13-1-8).

(t) Amend subsection 2-14.3.2 to read as follows: Hose valve(s) shall have threads that are compatible with the local fire department hose threads.

(u) Delete subsection 2-14.3.2, Exception without substitution.

(v) Delete subsection 2-21.4 without substitution.

(w) Delete subsection 2-22.1 and substitute to read as follows: The fire pump, driver, diesel fuel tank, and the fire pump controller shall resist lateral loads as required by the Building Code (675 IAC 13).

(x) Amend subsection 4-2.1.1 to read as follows: The water supply shall have the capacity to supply one hundred fifty percent (150%) of the system that it serves as the system design. **be in accordance with Chapter 4.**

(y) Amend subsection 4-2.1.2 by deleting "satisfactory" in two (2) places.

(z) Amend the third sentence of subsection 4-2.7 to read as follows: The test shall be witnessed by a representative of the customer and contractor as required.

(aa) Amend subsection 4-3.3.2 by deleting "suitable" and substituting "approved".

(bb) Amend the first sentence of subsection 4-4.2 to read as follows: The driver shall be screened or enclosed and protected against tampering.

(cc) Amend the first and second sentences of subsection 4-5.1.3.1 to read as one (1) sentence as follows: Gear drives and flexible connecting shafts shall be of the vertical hollow-shaft type.

(dd) Amend subsection 7.5.4 by deleting from the exception "or where the authority having jurisdiction has required manual shutdown".

(ee) Delete section 7-7 without substitution.

(ff) Amend subsection 7-8.1.1 by deleting "by the authority having jurisdiction".

(gg) Amend subsection 8-1.2 to read as follows: Spark-ignited internal combustion engines shall not be used. This restriction shall not be interpreted to exclude gas turbine engines as future pump drivers.

(hh) Delete subsection 8-4.1 and substitute the following: Plans and specifications shall be filed as required by the General Administrative Rules (675 IAC 12).

(ii) Amend the first sentence of subsection 8-4.5 to read as follows: Diesel fuel supply tanks shall be located aboveground in accordance with the Indiana Fire Code (675 IAC 22) and shall not be buried.

(jj) Amend the exception to subsection 9-5.2.6 to read as follows: Automatic shutdown shall not be permitted where the pump constitutes the sole source of supply of a fire sprinkler or standpipe system.

(kk) Delete subsection 9-6.7.4 without substitution.

(ll) Amend the last sentence of subsection 9-6.13 to read as follows: Manual shutdown shall also be provided.

(mm) Delete **the text in** subsection 11-2.2 in its entirety **without substitution; and substitute to read as follows: The fire department shall be notified a minimum of twenty-four (24) hours prior to the test.**

(nn) Delete subsection 11-3.2 without substitution.

(oo) Delete section 11-5 without substitution.

(pp) Delete Chapter 12 in its entirety without substitution. (*Fire Prevention and Building Safety Commission; 675 IAC 13-1-10; filed Sep 5, 1986, 9:22 a.m.: 10 IR 14; filed Apr 5, 1988, 3:05 p.m.: 11 IR 2868; filed Aug 15, 1997, 8:54 a.m.: 21 IR 100; filed Nov 14, 2001, 4:55 p.m.: 25 IR 1172*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on July 15, 2002 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana; AND on September 4, 2002 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana the Fire Prevention and Building Safety Commission will hold a public hearing on proposed amendments to 675 IAC 13-1-8, NFPA 13, 1999 Edition and 675 IAC 13-1-10, NFPA 20, 1999 Edition to revise, clarify, and correct miscellaneous

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technical and editorial provisions. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W246 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Patrick Ralston
Secretary
Fire Prevention and Building Safety Commission

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Proposed Rule

LSA Document #02-52

DIGEST

Amends 675 IAC 20 concerning editorial and technical issues in the 1989 Indiana Swimming Pool Code. Effective 30 days after filing with the secretary of state.

675 IAC 20-2-17 **675 IAC 20-3-5**
675 IAC 20-2-20 **675 IAC 20-3-6**
675 IAC 20-2-24 **675 IAC 20-3-7**
675 IAC 20-2-26

SECTION 1. 675 IAC 20-2-17, AS READOPTED AT 25 IR 530, IS AMENDED TO READ AS FOLLOWS:

675 IAC 20-2-17 Circulation systems

Authority: IC 22-13-2-2

Affected: IC 22-12; IC 22-13; IC 22-15; IC 36-7

Sec. 17. (a) A circulation system consisting of pumps, piping, overflows, skimmers, filters, and other necessary equipment shall be provided for complete and continuous circulation of water through all parts of the pool.

(b) The circulation system shall be of adequate size to produce not less than the following turnover times:

- (1) Class A, **Class B**, and **Class C** diving pools: twelve (12) hours.
- (2) Class A, **Class B**, and **Class C** pools without wading areas: six (6) hours.
- (3) Class B and **Class C** pools with wading areas: two (2) hours.
- (4) Class B and **Class C** wading pools: one (1) hour.
- (5) Class B and **Class C** wave pools and zero (0) depth pools: two (2) hours.

(c) Circulation components **which that** may require replacement or servicing shall be accessible and available for inspection, repair, or replacement and installed according to manufacturer's instructions.

(d) Materials and equipment used in the circulation system shall be of an approved type.

(e) The water velocity in the pool piping shall not exceed ten (10) feet per second for discharge piping and six (6) feet per second for suction piping, unless summary calculations are provided to show that the greater flow is possible with the pump and piping provided. Pool piping shall be sized to permit the rated flows for filtering and cleaning without exceeding the maximum head at which the pump will provide such flows or exceeding the velocities stated. Exception: The water velocity in copper pipe shall not exceed eight (8) feet per second.

(f) The circulation piping and fittings shall be nontoxic and capable of withstanding operating pressures and conditions.

(g) The suction side of the circulation system shall be tied and split hydraulically equally between the two (2) or more main drains. Both branches shall have the same size pipe as the main drain.

~~(g)~~ **(h)** Pool piping shall have a uniform slope in one (1) direction equipped with valves for adequate drainage. Pool piping shall be supported at sufficient intervals to prevent entrapment of air, water, or dirt. Provision shall be made for expansion or contraction of pipes.

~~(h)~~ **(i)** Equipment shall be designed and fabricated to drain the pool water from the equipment, together with exposed face piping, by removal of drain plugs and manipulating winter drain valves.

~~(i)~~ **(j)** A pressure or vacuum gauge or other means of indicating system condition shall be provided in the circulation system in an accessible location. Class A, **Class B**, and **Class C** pools shall be provided with an indicator measuring the rate of flow through the filter system with an appropriate range readable in gallons per minute and accurate within ten percent (10%) actual flow.

~~(j)~~ **(k)** When time clocks are used to regulate the operation of circulation systems, they shall be set to regulate all circulation equipment and appurtenant devices.

~~(k)~~ **(l)** Operation and maintenance instructions shall be provided for circulation system components. (*Fire Prevention and Building Safety Commission; 675 IAC 20-2-17; filed Aug 14, 1989, 9:00 a.m.: 13 IR 55, eff Sep 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-17 was filed Aug 14, 1989.]; errata filed Aug 11, 1990, 5:00 p.m.: 13 IR 2140; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530*)

SECTION 2. 675 IAC 20-2-20, AS READOPTED AT 25 IR 530, IS AMENDED TO READ AS FOLLOWS:

675 IAC 20-2-20 Inlets and outlets

Authority: IC 22-13-2-2

Affected: IC 22-12; IC 22-13; IC 22-15; IC 36-7

Sec. 20. (a) Pool inlets and outlets for circulated water shall be located to produce uniform circulation of water and to facilitate the maintenance of a uniform disinfectant residual throughout the entire pool. Where skimmers are used, the inlets shall be located so as to help bring floating particles within range of the skimmers.

(b) The minimum number of inlets required shall be based on two (2) inlets per six hundred (600) square feet of pool surface area or fraction thereof.

(c) Inlets shall be sufficient in number such that the flow through any single inlet shall not exceed forty (40) gallons per minute.

(d) Wall inlets shall be located not less than twelve (12) inches below the waterline.

(e) Pools with a width over thirty (30) feet shall have bottom inlets.

(f) Inlets shall be designed and installed so as not to provide a hazard to bathers.

(g) Outlet drain covers and grates shall be installed in such a way that they cannot be removed without the use of tools.

(h) All pools shall be provided with a main outlet in the lowest point of the pool floor. **All main drains smaller than a twelve (12) inch by twelve (12) inch grate shall be dual main drains with a separation distance of three (3) feet between drains in any dimension. All main drains larger than a twelve (12) inch by twelve (12) inch grate shall be dual main drains with a separation distance three (3) feet or more.** The spacing of the main outlets for pool pump suction shall not be greater than twenty (20) feet on centers nor more than fifteen (15) feet from each side wall.

(i) The main outlet sumps shall be covered with suitable protective covers or grates. The total velocity through grate openings shall not exceed one (1) foot per second. The grate opening shall not exceed one-half (½) inch. ~~Where only one (1) The main drain is provided, it drains~~ shall be of the antivortex design that can only be removed with the use of tools, and velocity shall not exceed six (6) feet per second.

(j) ~~The piping shall be designed to carry one hundred percent (100%) of the recirculation rate and shall be equipped with a valve.~~ (Fire Prevention and Building Safety Commission; 675 IAC 20-2-20; filed Aug 14, 1989, 9:00 a.m.: 13 IR 56, eff Sep 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of

state. LSA Document #89-17 was filed Aug 14, 1989.]; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530)

SECTION 3. 675 IAC 20-2-24, AS READOPTED AT 25 IR 530, IS AMENDED TO READ AS FOLLOWS:

675 IAC 20-2-24 Disinfectant equipment and chemical feeders

Authority: IC 22-13-2-2

Affected: IC 22-12; IC 22-13; IC 22-15; IC 36-7

Sec. 24. Disinfectant equipment and chemical feeders shall be capable of automatically providing a continuous residual chemical effect in accordance with 410 IAC, the rules of the Indiana state ~~board~~ **department** of health. All such equipment shall be of an approved type and shall be installed downstream from the pump and wired so they will not operate unless the filter pump is operating. Exception: Erosion-type chlorinators may feed their solution to the suction side of the pump. (Fire Prevention and Building Safety Commission; 675 IAC 20-2-24; filed Aug 14, 1989, 9:00 a.m.: 13 IR 58, eff Sep 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-17 was filed Aug 14, 1989.]; errata filed Aug 11, 1990, 5:00 p.m.: 13 IR 2140; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530)

SECTION 4. 675 IAC 20-2-26, AS READOPTED AT 25 IR 530, IS AMENDED TO READ AS FOLLOWS:

675 IAC 20-2-26 Safety requirements

Authority: IC 22-13-2-2; IC 22-13-2-13

Affected: IC 22-12; IC 22-13; IC 22-15; IC 36-7

Sec. 26. (a) Pools shall be provided with a suitable handhold around their perimeter in areas where depths exceed three (3) feet six (6) inches. Handholds shall be provided no farther apart than four (4) feet and may consist of any one (1) or a combination of the following:

- (1) Coping, ledge, or deck along the immediate top edge of a pool that provides a slip-resisting surface of at least a four (4) inch minimum horizontal width located not over twelve (12) inches above the waterline.
- (2) Ladders, stairs, or seat ledges.
- (3) A railing fastened to the wall placed not over twelve (12) inches above the waterline.

(b) A transition line shall be provided between one (1) foot and two (2) feet on the shallow side of the break in grade between the shallow and deep portions of the swimming pools, with its position marked with visible floats at not greater than seven (7) feet intervals. This transition line shall be securely fastened to wall anchors of corrosion-resisting materials and of the type which shall be recessed.

(c) Depth of water in feet shall be plainly and conspicuously

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marked at or above the water surface on the vertical pool wall and on the top of coping or edge of the deck or walk next to the pool as follows:

- (1) Depth markers on the deck shall be within eighteen (18) inches of the water edge and positioned to be read while standing on the deck facing the water.
- (2) Depth markers shall be installed at the maximum and minimum water depths and at all points of slope change and at intermediate increments of water depth not to exceed two (2) feet.
- (3) Depth numbers shall not be less than four (4) inches minimum height, permanently colored, and in contrast to the background on which they are applied.

(d) Lifeguard chairs are required for all pools over two thousand (2,000) square feet at a rate of one (1) chair per every two thousand (2,000) square feet of water surface.

(e) All Class A, **Class B**, and **Class C** pools shall be furnished with not less than the following:

- (1) One (1) ~~U.S.~~ **United States** Coast Guard approved ring buoy **or rescue tube** attached to a one-fourth (1/4) inch diameter throwing line **equal to the width of the pool but not less than to exceed** forty-five (45) feet in ~~long~~ **length**.
- (2) One (1) shepherd's hook with a pole not less than twelve (12) feet long.
- (3) One (1) twenty-four (24) unit first aid kit.
- (4) Access to a telephone.

(f) All Class A, **Class B**, and **Class C** pools shall be enclosed by a fence, wall, building, or other enclosures that are not less than six (6) feet high, to aid in the control of the movement of bathers and to discourage the entrance of unwanted persons. (*Fire Prevention and Building Safety Commission; 675 IAC 20-2-26; filed Aug 14, 1989, 9:00 a.m.: 13 IR 58, eff Sep 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-17 was filed Aug 14, 1989.]; filed Nov 5, 1991, 5:00 p.m.: 15 IR 238; errata filed Mar 10, 1992, 11:00 a.m.: 15 IR 1393; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530*)

SECTION 5. 675 IAC 20-3-5, AS READOPTED AT 25 IR 530, IS AMENDED TO READ AS FOLLOWS:

675 IAC 20-3-5 Mechanical, electrical, and water supply

Authority: IC 22-13-2-2

Affected: IC 22-12; IC 22-13; IC 22-15; IC 36-7

Sec. 5. (a) Mechanical equipment shall be installed in accordance with 675 IAC 18, the Indiana Mechanical Code.

(b) Electrical equipment, system wiring, and grounding of all spa equipment and appurtenances shall be in accordance with 675 IAC 17, the Indiana Electrical Code.

(c) **An emergency shutdown device shall be installed that**

will immediately cut power to the pump serving the main drains. This emergency shutdown device shall be readily accessible in the event of an emergency. This device shall be distinctly labeled as EMERGENCY SPA SHUTDOWN DEVICE. This device shall be installed in the same room as the spa and within site of the spa.

(~~c~~) (d) The water supply serving the spa shall meet 327 IAC, the rules of the water pollution control board, before any bather uses the spa. (*Fire Prevention and Building Safety Commission; 675 IAC 20-3-5; filed Aug 14, 1989, 9:00 a.m.: 13 IR 61, eff Sep 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-17 was filed Aug 14, 1989.]; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530*)

SECTION 6. 675 IAC 20-3-6, AS READOPTED AT 25 IR 530, IS AMENDED TO READ AS FOLLOWS:

675 IAC 20-3-6 Inlets and outlets

Authority: IC 22-13-2-2

Affected: IC 22-12; IC 22-13; IC 22-15; IC 36-7

Sec. 6. (a) Spa inlets and outlets shall be arranged to produce a uniform circulation of water throughout the spa.

(b) Water velocity in the spa piping shall not exceed ten (10) feet per second with the following exceptions:

- (1) Suction velocity shall not exceed six (6) feet per second.
- (2) Water velocity in existing asbestos cement pipe shall not exceed six (6) feet per second.
- (3) Water velocity in copper pipe shall not exceed eight (8) feet per second.

(c) Total velocity through grate openings shall not exceed two (2) feet per second.

(d) All outlets below the waterline shall be covered with either a protective grate with individual openings of three-eighths (3/8) of an inch or less, or an antivortex cover.

(e) All spas shall have a surface skimming (overflow) system and a ~~main outlet~~ **dual drain outlets** at the lowest point on the spa floor. **The dual drains shall be spaced at least three (3) feet apart.** When skimmers are the sole overflow system, not less than one (1) skimmer shall be provided for each one hundred (100) square feet, or portion thereof, of water surface. (*Fire Prevention and Building Safety Commission; 675 IAC 20-3-6; filed Aug 14, 1989, 9:00 a.m.: 13 IR 61, eff Sep 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-17 was filed Aug 14, 1989.]; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530*)

SECTION 7. 675 IAC 20-3-7, AS READOPTED AT 25 IR 530, IS AMENDED TO READ AS FOLLOWS:

675 IAC 20-3-7 Circulation systems

Authority: IC 22-13-2-2

Affected: IC 22-12; IC 22-13; IC 22-15; IC 36-7

Sec. 7. (a) Every spa shall be provided with an approved type circulation system capable of turning over the entire spa water capacity in not less than thirty (30) minutes.

(b) All circulation shall go through the spa filtration system and be chemically treated prior to injection into the spa.

(c) A removable strainer or screen shall be installed upstream from all pumps.

(d) Filters shall meet the following requirements:

(1) They shall be capable of maintaining the standards of turbidity set by the state **board department** of health.

(2) They shall be provided with a means to safely release air which builds up in the filter tank.

(3) Piping furnished with the filter system shall be capable of withstanding three (3) times the designed working pressure.

(4) The suction side of the circulation system shall be tied and split hydraulically equally between the two (2) or more main drains. Both branches shall have the same size pipe as the main drain.

~~(4)~~ (5) All filters and their components shall be accessible.

(e) Air induction systems, when provided, shall prevent water backup and shall not introduce contaminants into the spa water.

(f) Chemical feeder systems capable of maintaining a chemical residual and pH level in accordance with 410 IAC, the rules of the Indiana state **board department** of health. (*Fire Prevention and Building Safety Commission; 675 IAC 20-3-7; filed Aug 14, 1989, 9:00 a.m.: 13 IR 61, eff Sep 1, 1989 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #89-17 was filed Aug 14, 1989.]; readopted filed Sep 11, 2001, 2:49 p.m.: 25 IR 530*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on July 15, 2002 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana; AND on September 4, 2002 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana the Fire Prevention and Building Safety Commission will hold a public hearing on proposed amendments to 675 IAC 20 concerning editorial and technical issues in the 1989 Indiana Swimming Pool Code. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W246 and Legislative Services

Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Patrick Ralston

Secretary

Fire Prevention and Building Safety Commission

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Proposed Rule

LSA Document #02-53

DIGEST

Amends 675 IAC 22-2.2-14 to reflect updates in technology by adopting and amending NFPA 58, 2001 Edition. Effective 30 days after filing with the secretary of state.

675 IAC 22-2.2-14

SECTION 1. 675 IAC 22-2.2-14 IS AMENDED TO READ AS FOLLOWS:

675 IAC 22-2.2-14 NFPA 58; standard for the storage and handling of liquefied petroleum gases

Authority: IC 22-13-2-2

Affected: IC 22-11-15; IC 22-12-7; IC 22-13; IC 22-14; IC 36-8-17; IC 36-8-17.5

Sec. 14. (a) That certain document, being titled NFPA 58, **Standard for the Storage and Handling of Liquefied Petroleum Gases, 1995 Gas Code, 2001** Edition, published by the National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02269-9101, be and same is hereby adopted by reference, as if fully set out in this section except as revised hereafter.

(b) The following documents referenced in NFPA 58 are not adopted, are not enforceable, and are for information purposes only:

- (1) NFPA 30.
- (2) NFPA 37.
- (3) NFPA 54.
- (4) NFPA 61B.
- (5) NFPA 82.
- (6) NFPA 96.
- (7) NFPA 101.
- (8) NFPA 251.
- (9) NFPA 302.
- (10) NFPA 501A.
- (11) NFPA 501C.
- (12) NFPA 505.
- (13) API-ASME Code for Unfired Pressure Vessels for Petroleum Liquids and Gases.

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- (14) API 620.
- (15) ASCE 7.
- (16) ASME Boiler and Pressure Vessels Code.
- (17) ASME B31.3.
- (18) ASME B36.10M.
- (19) ASTM A47.
- (20) ASTM A48.
- (21) ASTM A53.
- (22) ASTM A106.
- (23) ASTM A395.
- (24) ASTM A513.
- (25) ASTM A536.
- (26) ASTM A539.
- (27) ASTM B42.
- (28) ASTM B43.
- (29) ASTM B86.
- (30) ASTM B88.
- (31) ASTM B135.
- (32) ASTM B280.
- (33) ASTM D2513.
- (34) ASTM D2683.
- (35) ASTM D3261.
- (36) ASTM F1055.
- (37) AWS Z49.1.
- (38) ANSI/CGA C-4.
- (39) Title 49, Code of Federal Regulations.
- (40) UL 132.
- (41) UL 144.
- (42) UL 147A.
- (43) UL 147B.
- (44) UL 567.

(c) The following documents referenced in NFPA 58 are adopted and are enforceable:

- (1) NFPA 10 adopted in section 3 of the rule.
- (2) NFPA 15 adopted in section 4 of this rule.
- (3) NFPA 50B adopted in section 9 of this rule.
- (4) NFPA 51 adopted in section 10 of this rule.
- (5) NFPA 51B adopted in section 12 of this rule.
- (6) NFPA 59 adopted in section 13 of this rule.
- (7) NFPA 86 adopted in section 18 of this rule.

(d) "NOTES" that are not a part of a table, figure, or graph are not enforceable as part of this code.

(e) Amend section ~~1-1.1~~ by changing the second sentence **1.1.1(1)** to read as follows: **When the possibility of ammonia contamination exists (such as may be the result from the dual use of transportation or storage equipment), the LP-gas shall be tested in accordance with approved methods: Containers, piping, and associated equipment for supplying LP gas as a fuel up to the point of delivery into a building as defined in section 1.7.52.2.**

(f) Amend section ~~1-1.3.1(c)~~ **1.1.1(3)** to read as follows: (c)

Marine and pipeline terminals, natural gas processing plants, refineries, or tank farms ("tank farm" storage at industrial locations) is covered by this standard.

(g) Amend section ~~1-1.3.1(c)~~ **1.1.2(5)** to read as follows: (e) LP-gas used with oxygen shall comply with the Indiana Fire Code (**675 IAC 22**).

(h) Delete section ~~1-1.3.1(h)~~ **1.1.2(8)**.

(i) Delete section ~~1-1.4~~ **1.1.3** and substitute: See 675 IAC 12-6.

(j) In section ~~1-1.5~~, delete the second paragraph without substitution: **1.1.4, delete everything after the first sentence.**

(k) Delete section ~~1-4~~ **1.4**.

(l) In section 1.6, add the following to the last sentence: "in accordance with approved methods".

~~(m)~~ **(m)** In section ~~1-6~~, **1.7**, amend the following definitions:

1.7.6 APPROVED means, as to materials, equipment, and types of construction, acceptance by the authority having jurisdiction by one (1) of the following methods: investigation or tests conducted by recognized authorities; or investigation or tests conducted by technical or scientific organizations; or accepted principles. The investigation, tests, or principles shall establish that the materials, equipment, and types of construction are safe for their intended purpose.

1.7.11 AUTHORITY HAVING JURISDICTION means the state building commissioner, or the state fire marshal, or officer of a local unit of government empowered by law to administer and enforce the rules of the commission.

1.7.19 CYLINDER means a portable container constructed to DOT (formerly ICC) cylinder specifications or in some cases, constructed in accordance with the ASME Code of a similar size and for similar service. The maximum size permitted under DOT specifications is one thousand (1,000) pounds (four hundred fifty-four (454) kilograms) water capacity, four hundred twenty (420) pounds PROPANE (one hundred (100) gallons).

1.7.23 Amend the definition of DISPENSING STATION by adding a second sentence to read as follows: **The public is not to be permitted access to the dispensing station area.**

1.7.37 LABELED means equipment or materials to which has been attached a label, symbol, or other identifying mark of an organization engaged in product evaluation, that maintains periodic inspection of production of labeled equipment or materials, and by whose labeling the manufacturer indicates compliance with appropriate standards or performance in a specified manner.

1.7.39 LISTED means equipment or materials included in a list published by an organization engaged in product evaluation, that maintains periodic inspection of production of listed equipment or materials, and whose listing states either that the equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner.

1.7.66 Amend the definition of SPECIAL PROTECTION by adding the following: When required by this standard, special protection is allowed to consist of any of the following: applied insulated coatings, mounding, burial, water spray fixed systems, or fixed monitor nozzles meeting the criteria specified in this standard (see section 3.10.3), or by other means approved for this purpose.

(m) In section 1-6, add to the end of the definition of cylinder the following: “four hundred twenty (420) pounds PROPANE (one hundred (100) gallons.”;

(n) In section 1-6, amend the definition of Dispensing Station by amending the second sentence to read as follows: The public is not to be permitted access to the dispensing station area.

(o) (n) In section 1-6, 1.7, add the following definitions to read:

1.7.11.5 BUILDING CODE means the Indiana Building Code in effect in Indiana at the time of construction, remodeling, alteration, addition, or repair of the structure.

1.7.24.4 ELECTRICAL CODE means the Indiana Electrical Code in effect in Indiana at the time of construction, remodeling, alteration, addition, or repair of the structure.

1.7.24.8 FIRE CODE means the Indiana Fire Code (675 IAC 22).

~~INDIANA FIRE CODE~~ means the Uniform Fire Code, 1997 Edition, Volumes 1 and 2 as adopted by reference in section 1 of this rule.

1.7.34.6 INSPECTION AUTHORITY means the state fire marshal, or the fire chief, or the state building commissioner, or the local building official, or their authorized representative.

1.7.47.1 NFPA 70 means the Indiana Electrical Code (675 IAC 17).

1.7.40.5 MECHANICAL CODE means the mechanical code in effect in Indiana at the time of construction, remodeling, alteration, addition, or repair of the structure.

1.7.52.5 PLUMBING CODE means the plumbing code in effect in Indiana at the time of construction, remodeling, alteration, addition, or repair of the structure.

1.7.52.8 POINT OF DELIVERY means the outlet of the first stage pressure regulator that provides utilization pressure, exclusive of line gas regulators, in the system. **SPECIAL PROTECTION** is a means of limiting the temperature of an LP-gas container for purposes of minimizing the possibility of failure of the container as the result of fire exposure.

When required by this standard, special protection is allowed

to consist of any of the following: applied insulated coatings, mounding, burial, water spray fixed systems, or fixed monitor nozzles meeting the criteria specified in this standard (see 3-10.3); or by other means approved for this purpose:

(p) (o) Amend section ~~2-2.1.3~~ **2.2.1.3** to read as follows: Containers shall be listed and labeled for their intended use. (See Appendices C and D)

(q) (p) Amend section ~~2-2.1.4~~ **2.2.1.4** to read as follows: Containers complying with 2-2.1.3 shall be permitted to be reused, reinstalled, or continued in use as follows:

(i) A container shall not be filled if it is not suitable for continued service.

(ii) Containers that have been involved in a fire and show no distortion shall be retested using the hydrostatic test procedure applicable at the time of original fabrication, and relabeled by the manufacturer or the manufacturer’s authorized representative. All appurtenances shall be replaced.

(q) In section 2.2.1.5, delete the second sentence without substitution.

(r) In section 2.2.1.6(1), delete the exception.

(s) In section 2.2.1.6(2), delete “ASME or API ASME”.

(t) (t) Amend section ~~2-2.2.1~~ **2.2.2.1** to read as follows: The minimum design or service pressure of containers shall be in accordance with their listing.

(u) (u) Amend section ~~2-2.2.3(c)~~ **2.2.2.3(c)** to read as follows: (c) Wind loading on containers shall be based on wind pressures on the projected area as required by the building code (675 IAC 13).

(v) (v) Amend section ~~2-2.2.3(d)~~ **2.2.2.3(d)** to read as follows: (d) Seismic loading on containers shall be as required by the building code (675 IAC 13).

(w) (w) In section ~~2-2.5.4~~ **2.2.5.3**, amend the first sentence to read as follows: Containers to be used as portable storage containers (see definition) for temporary stationary service shall comply with the following (this shall apply to movable fuel storage tenders, including farm carts):

(v) In section 2-2.6.6, amend the first sentence by deleting the word “service”.

(x) (x) In section ~~2-3.1.2~~ **2.3.1.2**, amend the first sentence by deleting the word “suitable” and substituting “listed”.

(y) (y) Delete section ~~2-3.2.3~~ **2.3.2.3** and substitute the following: American Society of Mechanical Engineers (ASME) containers for LP-gas shall be equipped with listed direct spring-loaded relief valves or equivalent.

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(y) (z) Amend section ~~2-4.1.2~~ **2.4.1.2** to read as follows: Piping, pipe, and tubing fittings and valves used to supply utilization equipment shall be in accordance with the Mechanical Code (675 IAC 18).

(z) (aa) Amend section ~~2-4.1.3~~ **2.4.1.3(2)** to read as follows: Pipe and tubing shall comply with sections ~~2-4.2~~ and ~~2-4.3~~ or shall be of material which has been approved for its intended use.

(aa) (bb) Amend the last sentence in section ~~2-4.6.1~~ **2.4.6.1** to read as follows: Hose, hose connections, and flexible connectors (*see definition) shall be listed for use with LP-gas both as liquid and vapor. If wire braid is used for reinforcement, it shall be of corrosion-resistant material.

(bb) (cc) Amend the title of section ~~2-6~~ **2.6** to read "APPLIANCES IN BUILDINGS."

(cc) (dd) Amend section ~~2-6.1~~ **2.6.1** to read as follows: Approved appliances: See the Mechanical Code (675 IAC 18).

(dd) (ee) Amend section ~~3-2.2.2~~ **3.2.2.2** by deleting the word "important" and the phrase "that can be built upon".

(ee) (ff) Amend section ~~3-2.2.7(e)~~ **3.2.2.6** by deleting the last sentence and substituting the following: Horizontal separation is not required between aboveground LP-gas containers and underground tanks containing flammable or combustible liquids installed in accordance with ~~Article 79~~ of the Indiana Fire Code (675 IAC 22).

(ff) (gg) Amend section ~~3-2.2.7(f)~~ **3.2.2.6(f)** to read as follows: (f) The minimum separation between LP-gas containers and oxygen or gaseous hydrogen containers shall be in accordance with ~~Table 3-2.2.7(f)~~ **3.2.2.6(f)** except that lesser distances are allowed where protective structures interrupt the line of sight between uninsulated portions of the oxygen or hydrogen containers and the LP-gas containers. ~~The location and arrangement of such structures shall minimize the problems cited in the note to section 3-2.2.8.~~ The minimum separation between LP-gas containers and liquefied hydrogen containers shall be in accordance with ~~Article 75~~ of the ~~Indiana~~ fire code (675 IAC 22).

(gg) (hh) Amend section ~~3-2.2.7(h)~~ **3.2.2.6(h)** by adding a second sentence to read as follows: See Appendix II-B of the fire code.

(ii) Delete section 3.2.10 in its entirety.

(jj) Delete section 3.2.16.4 in its entirety.

(hh) (kk) Amend section ~~3-2.8.7~~ by deleting the second paragraph in its entirety: **3.2.18.4 to read as follows: Emergency remote shutdown stations shall be clearly identified by a sign printed in block letters of not less than two (2)**

inches (fifty-one (51) millimeters) in height on a background of contrasting colors to the letters. The sign shall be visible from the point of transfer.

(ll) Amend section 3.3.3.7 to read as follows: **Liquid inlet piping to the bulk plant storage facility shall be designed to prevent debris from entering the system.**

(ii) (mm) Delete section ~~3-4.3.8~~ **3.4.3.8** in its entirety.

(jj) (nn) Amend section ~~3-4.9.1~~ **3.4.9.1** to read as follows: Containers are allowed to be installed on noncombustible roofs of buildings constructed as required for an occupancy separation having a fire-resistive rating of not less than the following:
Groups B, F, M, and S Occupancies, Two Hours
All other occupancies, Four Hours
EXCEPTION: When the quantity of gas does not exceed sixty (60) gallons (227.1 L), a noncombustible roof without a fire-resistive rating is allowed.

(kk) (oo) Amend section ~~3-6.2.6~~ **3.6.2.6** by deleting subsection (a) and substituting subsection (b) as (a).

(pp) Amend section 3.10.2.2 to read as follows: **Fire protection shall be provided for installations of ASME containers with an aggregate water capacity of more than four thousand (4,000) gallons (15.1m3). The mode of such protection shall be determined through a written fire safety analysis for new installations. A written fire safety analysis may be prepared by company risk management personnel, insurance company loss control representatives, LP gas industry consultants, or other competent persons. Nothing in this section shall preclude the use of an industry-accepted checklist or the written results of a preplanning inspection conducted by the local fire department under IC 36-8-17.5 to satisfy the requirements that a written analysis be prepared. Nothing in this section shall require that such written plans must be stamped or certified by a professional engineer or submitted to any governmental agency.**

(H) (qq) Add a section ~~4-2.2.1.1~~ **4.2.2.1.1** to read as follows: ~~4-2.2.1.1~~ **4.2.2.1.1** Containers to be Filled. Containers shall be filled only by the owner or upon the owners' authorizations in accordance with IC 22-11-15.

(mm) (rr) Delete the text of Chapter 7 and substitute as follows: ~~7-1~~ **7.1** See the Building Code (675 IAC 13).

(mm) (ss) In the first sentence of section ~~9-1.5~~, **9.1.3.2**, delete the words "ICBO Uniform" and add "(675 IAC 13)" after "building code".

(oo) (tt) In section ~~9-1.5~~, **9.1.3.2**, delete the second sentence without substitution.

(pp) (uu) Chapter ~~11~~ **13** and the appendices are not adopted

as part of this code and are intended for use as a guide, and the standards referenced therein are not enforceable as part of this code. (*Fire Prevention and Building Safety Commission; 675 IAC 22-2.2-14; filed Aug 28, 1998, 5:02 p.m.: 22 IR 109; errata filed Jun 21, 1999, 3:33 p.m.: 22 IR 3420*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on July 15, 2002 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana; AND on September 4, 2002 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana the Fire Prevention and Building Safety Commission will hold a public hearing on proposed amendments to 675 IAC 22-2.2-14 to reflect updates in technology by adopting and amending NFPA 58, 2001 Edition. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W241 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Patrick Ralston
Secretary
Fire Prevention and Building Safety Commission

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Proposed Rule
LSA Document #02-90

DIGEST

Adds 675 IAC 12-3-13 to establish a fee schedule for the permitting and inspection of regulated boilers and pressure vessels, the licensing of boiler and pressure vessel inspectors, and the licensing of an owner or user boiler or pressure vessel inspection agency. Adds 675 IAC 12-3-14 to establish a fee schedule for the permitting and inspection of regulated lifting devices and the licensing of elevator contractors, elevator inspectors, and elevator mechanics. Effective 30 days after filing with the secretary of state.

675 IAC 12-3-13
675 IAC 12-3-14

SECTION 1. 675 IAC 12-3-13 IS ADDED TO READ AS FOLLOWS:

675 IAC 12-3-13 Boiler and pressure vessel inspection, permitting, and licensing fees

Authority: IC 22-12-6-6; IC 22-13-2-13
Affected: IC 22-15-6

Sec. 13. (a) The office of the state building commissioner may not charge an owner or user more than two (2) of the fees described in subsections (b) through (e) for inspections of regulated boilers and pressure vessels during a particular calendar year. However, an owner or user who has failed to:

(1) prepare a boiler or pressure vessel for the required inspection on the date specified by the inspector shall pay to the office a fee of twenty-five dollars (\$25); and
(2) make repairs, or otherwise correct conditions of noncompliance applicable to regulated equipment within the time frame specified by the inspector;
shall pay to the office a fee of twenty-five dollars (\$25). Verification of the conditions noted in either subdivision (1) or (2) shall be documented on the inspection report form mandated by the division of boiler and pressure vessel safety (division) to report inspection activities relating to equipment regulated by the division.

(b) The fees for the internal inspection of regulated boilers shall be as follows:

Heating Surface Area (in square feet)	Amount
0-100	\$24
101-500	\$36
501-1,000	\$48
1,001-10,000	\$90

Fees for internal inspection of regulated boilers exceeding ten thousand (10,000) square feet of heating surface shall be charged at the rates specified in subsection (i).

(c) The fees for the external inspection of regulated boilers shall be as follows:

Heating Surface Area (in square feet)	Amount
0-50	\$18
51-150	\$24
151 or more	\$40

(d) The fees for the internal or external inspection of regulated pressure vessels shall be based on the sectional area of the vessel (overall length head to head times the width or outside diameter) expressed in square feet as follows:

Area (in square feet)	Amount
0-50	\$15
51-150	\$30
Greater than 150	\$60

(e) The fee for internal or external inspection of a service water heater shall be ten dollars (\$10).

(f) The permit processing fee for all certificates of inspection (operating permits) issued by the office shall be twenty-

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five dollars (\$25). In all cases this fee is in addition to fees for inspection activities.

(g) A request to recreate a permit that has been lost shall be accompanied by a payment of fifteen dollars (\$15).

(h) A petition for variance shall be accompanied by a fee of two hundred dollars (\$200). An additional five hundred dollars (\$500) shall accompany the petition when engineering calculations are included for review.

(i) The fees for inspection and/or audit activities requested that are not otherwise listed shall be either of the following:

- (1) Three hundred dollars (\$300) per day, not to exceed four (4) regular working hours.
- (2) Six hundred dollars (\$600) per day exceeding four (4) regular working hours, plus seventy-five dollars (\$75) per hour exceeding eight (8) regular working hours in a particular day, plus actual expenses incurred, such as travel, lodging, and dining expenses.

A fee computed under this subsection must cover the period from the time the inspector leaves the inspector's regular work schedule to the time the inspector returns to the inspector's regular work schedule, and is payable upon receipt of an invoice.

(j) A payment of twenty dollars (\$20) per object inspected shall accompany the annual report of inspection of owner or user inspection agencies.

(k) An application for an owner or user inspection agency certificate shall be accompanied by payment of five hundred dollars (\$500).

(l) An application to sit for an inspector examination shall be accompanied by payment of one hundred dollars (\$100).

(m) The annual renewal of an inspector license shall be accompanied by payment of twenty-five dollars (\$25).

(n) All payments to the office are payable to the Fire and Building Services Fund. The state building commissioner may authorize the refunding of any fee specified in this section that was paid or collected in error. (*Fire Prevention and Building Safety Commission; 675 IAC 12-3-13*)

SECTION 2. 675 IAC 12-3-14 IS ADDED TO READ AS FOLLOWS:

675 IAC 12-3-14 Lifting device inspection, permitting, and licensing fees

Authority: IC 22-12-6-6; IC 22-13-2-13
 Affected: IC 22-15-5

Sec. 14. (a) An application for an installation or alteration permit for a regulated lifting device shall be accompanied by payment as follows:

Type of Device	Amount
(1) Vertical wheelchair lift, incline wheelchair lift, and incline chair lift	\$250
(2) Any other regulated lifting device, including elevator, escalator, belt manlift, personnel hoist, sewage lift station personnel hoist, or dumb-waiter	\$500

(b) An application for an initial or renewal certificate of operation for a regulated lifting device shall be accompanied by payment of one hundred twenty dollars (\$120).

(c) An application for a temporary operating permit for a regulated lifting device shall be accompanied by a payment of one hundred dollars (\$100).

(d) An application for an initial or renewal license as an elevator contractor, elevator inspector, or elevator mechanic shall be accompanied by payment as follows:

Type of License	Amount
(1) Elevator contractor, if the applicant is an individual	\$500
(2) Elevator contractor, if the applicant is a corporation, partnership, or limited partnership	\$2,500
(3) Elevator contractor, if the applicant is an educational institution	\$1,250
(4) Elevator inspector	\$100
(5) Elevator mechanic	\$100
(6) Temporary elevator mechanic	\$100
(7) Emergency elevator mechanic	\$25

(e) All payments to the office are payable to the Fire and Building Services Fund. The state building commissioner may authorize the refunding of any fee specified in this section which was paid or collected in error. (*Fire Prevention and Building Safety Commission; 675 IAC 12-3-14*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on July 15, 2002 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana; AND on September 4, 2002 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room B, Indianapolis, Indiana the Fire Prevention and Building Safety Commission will hold a public hearing on proposed amendments to the general administrative rules by adding 675 IAC 12-3-13 to establish a fee schedule for the permitting and inspection of regulated boilers and pressure vessels, the licensing of boiler and pressure vessel inspectors, and the licensing of an owner or user boiler or pressure vessel inspection agency and 675

IAC 12-3-14 to establish a fee schedule for the permitting and inspection of regulated lifting devices and the licensing of elevator contractors, elevator inspectors, and elevator mechanics. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W246 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Patrick Ralston
Secretary
Fire Prevention and Building Safety Commission

TITLE 760 DEPARTMENT OF INSURANCE

Proposed Rule
LSA Document #01-399
DIGEST

Adds 760 IAC 1-5.1 to establish standards for credit life insurance and credit accident and health insurance. Repeals 760 IAC 1-5 and 760 IAC 1-14. Effective January 1, 2003.

760 IAC 1-5
760 IAC 1-5.1
760 IAC 1-14

SECTION 1. 760 IAC 1-5.1 IS ADDED TO READ AS FOLLOWS:

Rule 5.1. Credit Life Insurance; Credit Accident and Health Insurance

760 IAC 1-5.1-1 Purpose and authority

Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102

Sec. 1. The purpose of this rule is to protect the interests of debtors and the public in this state by providing a system of rate, policy form, and operating standards for the regulation of consumer credit insurance. (*Department of Insurance; 760 IAC 1-5.1-1*)

760 IAC 1-5.1-2 Definitions

Authority: IC 27-1-3-7; IC 27-8-4-12
Affected: IC 24-4.5-4-102; IC 27-1-23-1

Sec. 2. (a) The following definitions apply throughout this rule:

- (1) "Affiliate" has the meaning set forth in IC 27-1-23-1.
- (2) "Closed-end credit" means a credit transaction that does not meet the definition of open-end credit.
- (3) "Compensation" means:
 - (A) commissions;
 - (B) dividends;

- (C) retrospective rate credits;
- (D) service fees;
- (E) expense allowances or reimbursements;
- (F) gifts;
- (G) furnishing of equipment, facilities, goods, or services; or
- (H) any other form of remuneration resulting directly from the sale of consumer credit insurance.

(4) "Consumer credit insurance" refers to any or all of credit life insurance and credit accident and health insurance.

(5) "Control" has the meaning set forth in IC 27-1-23-1.

(6) "Evidence of individual insurability" means a statement furnished by the debtor, as a condition of insurance becoming effective, that relates specifically to the health status or to the health or medical history of the debtor.

(7) "Gross debt" means the sum of the remaining payments owed to the creditor by the debtor.

(8) "Identifiable insurance charge" means a charge for a type of consumer credit insurance that is made to debtors having such insurance and not made to debtors not having such insurance; it includes a charge for insurance that is disclosed in the credit or other instrument furnished to the debtor that sets out the financial elements of the credit transaction and any difference in the finance, interest, service, or other similar charge made to debtors who are in like circumstances except for the insured or noninsured status of the debtor.

(9) "Loss ratio" means incurred claims divided by the sum of earned premiums and imputed interest earned on unearned premiums.

(10) "Net debt" means the amount necessary to liquidate the remaining debt in a single lump sum payment, excluding all unearned interest and other unearned finance charges.

(11) "Open-end credit" means credit extended by a creditor under an agreement in which the:

- (A) creditor reasonably contemplates repeated transactions;
- (B) creditor imposes a finance charge from time to time on an outstanding unpaid balance; and
- (C) amount of credit that may be extended to the debtor during the term of the agreement (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid.

(12) "Person" has the meaning set forth in IC 27-1-23-1.

(13) "Preexisting condition" means any condition for which the insured debtor received medical advice, consultation, or treatment within six (6) months before the effective date of the coverage and from which the insured debtor becomes disabled within six (6) months after the effective date of this coverage.

(b) The following definitions apply throughout section 10 of this rule:

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(1) "Experience" means earned premiums and incurred losses during the experience period.

(2) "Experience period" means the most recent period of time for which earned premiums and incurred losses are reported, but not for a period longer than three (3) full years.

(3) "Incurred losses" means total claims paid during the experience period, adjusted for the change in claim reserve.

(Department of Insurance; 760 IAC 1-5.1-2)

760 IAC 1-5.1-3 Rights and treatment of debtors

Authority: IC 27-1-3-7; IC 27-8-4-12

Affected: IC 24-4.5-4-102; IC 27-1-12-37; IC 27-8-4-4

Sec. 3. (a) If a creditor makes available to the debtors more than one (1) plan of consumer credit insurance, every debtor must be informed of each plan for which the debtor is eligible and of the premium or insurance charge for each.

(b) When a creditor requires insurance as additional security for a debt, the creditor shall inform the debtor that the debtor has the option of procuring alternative coverage. The debtor shall be informed by the creditor of the right to provide alternative coverage before the transaction is completed.

(c) The following applies to the termination of a group consumer credit insurance policy:

(1) If a debtor is covered by a group consumer credit insurance policy providing for the payment of single premiums to the insurer, or any other premium payment method that prepays coverage beyond one (1) month, then provision shall be made by the insurer that in the event of termination of the policy for any reason, insurance coverage with respect to any debtor insured under the policy shall be continued for the entire period for which the premium has been paid.

(2) If a debtor is covered by a group consumer credit insurance policy providing for the payment of premiums to the insurer on a monthly basis, then the policy shall provide that, in the event of termination of the policy, termination notice shall be given to the insured debtor at least thirty (30) days prior to the effective date of termination, except where replacement of the coverage by the same or another insurer in the same or greater amount takes place without lapse of coverage. The insurer shall provide or cause to be provided this required information to the debtor.

(d) If the creditor adds identifiable insurance charges or premiums for consumer credit insurance to the debt, and any direct or indirect finance, carrying, credit, or service charge is made to the debtor on the insurance charges or premiums, the creditor must remit and the insurer shall collect the premium within sixty (60) days after it is added to the debt.

(e) If the debt is discharged due to refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the refinanced debt. In all cases of termination prior to scheduled maturity, a refund of all unearned premium or unearned insurance charges paid by the debtor shall be paid or credited to the debtor as provided in section 8 of this rule. In any refinancing of the debt, the effective date of the coverage as respects any policy provision shall be deemed to be the first date on which the debtor became insured under the policy with respect to the debt that was refinanced, at least to the extent of the amount and term of the debt outstanding at the time of refinancing of the debt.

(f) A provision in an individual policy or group certificate that sets a maximum limit on total claim payments must apply only to that individual policy or group certificate.

(g) If a debtor prepays the debt in full, then any consumer credit insurance covering the debt shall be terminated and an appropriate refund of the consumer credit insurance premium shall be paid or credited to the debtor in accordance with section 8 of this rule. However, if the prepayment is a result of death or any other lump sum consumer credit insurance payment, no refund shall be required for the coverage under which the lump sum was paid. If a claim under credit accident and health coverage is in progress at the time of prepayment, the amount of refund may be determined as if the prepayment did not occur until the payment of benefits terminates. No refund need be paid during any period of disability for which credit accident and health benefits are payable. A refund shall be computed as if prepayment occurred at the end of the disability period.

(h) If a creditor has opened a line of credit for a debtor and, if permitted under IC 27-8-4-4(A) or IC 27-1-12-37(2)(F), is charging for this line of credit rather than the amount of debt in the event of the death of the debtor, the insured amount due is the amount of the established amount of credit against which premium was last charged.

(Department of Insurance; 760 IAC 1-5.1-3)

760 IAC 1-5.1-4 Determination of reasonableness of benefits in relation to premium charge

Authority: IC 27-1-3-7; IC 27-8-4-12

Affected: IC 24-4.5-4-102

Sec. 4. (a) Benefits provided by consumer credit insurance policies must be reasonable in relation to the premium charged. This requirement is satisfied if the premium rate charged develops or may reasonably be expected to develop a loss ratio of not less than fifty-five percent (55%). With the exception of deviations approved under section 10 of this rule, the rates shown in sections 6 and 7 of this rule, as

adjusted pursuant to section 9 of this rule, shall be presumed to satisfy this loss ratio standard. Anticipated losses that develop or are expected to develop a loss ratio of not less than fifty-five percent (55%) shall be presumed reasonable. Any insurer filing a deviation in accordance with section 10 of this rule must satisfy the fifty-five percent (55%) loss ratio standard on their total consumer credit insurance business.

(b) If any insurer files for approval of any form providing coverage different than that described in sections 6 and 7 of this rule, the insurer shall demonstrate to the satisfaction of the commissioner that the premium rates to be charged for such coverage are:

- (1) reasonably expected to develop a loss ratio of not less than fifty-five percent (55%); or
- (2) actuarially consistent with the rates used for standard coverages.

(Department of Insurance; 760 IAC 1-5.1-4)

760 IAC 1-5.1-5 Compensation limitations

Authority: IC 27-1-3-7; IC 27-8-4-12
 Affected: IC 24-4.5-4-102

Sec. 5. (a) An insurer shall not pay compensation in excess of forty percent (40%) of the net written prima facie premium of which not more than thirty-three percent (33%) of net written prima facie premium may be paid to a creditor.

(b) For purposes of subsection (a), prima facie premium means premium using the premium rates set out in sections 6 and 7 of this rule, or actuarially consistent premium rates for plans not described in sections 6 and 7 of this rule, without any adjustment pursuant to section 10 of this rule.

(Department of Insurance; 760 IAC 1-5.1-5)

760 IAC 1-5.1-6 Credit life insurance rates

Authority: IC 27-1-3-7; IC 27-8-4-12
 Affected: IC 24-4.5-4-102

Sec. 6. (a) Subject to the conditions and requirements in subsection (b) and section 10 of this rule, the following prima facie rates are considered to meet the requirements of section 4 of this rule, and may be used without filing additional actuarial support:

- (1) For monthly outstanding balance basis, sixty-nine cents (\$0.69) per month per one thousand dollars (\$1,000) of outstanding insured debt on single life and one dollar and fifteen cents (\$1.15) per month per one thousand dollars (\$1,000) of outstanding insured debt on joint life if premiums are payable on a monthly outstanding balance basis.
- (2) If the premium is charged on a single premium basis, the rate shall be computed according to the following formula or according to a formula approved by the

commissioner that produces rates substantially the same as those produced by the following formula:

$$S_p = \sum_{t=1}^n \left(\frac{O_p}{10} \times \frac{I_t}{I_1} \times (v^{t-1}) \right)$$

$$v = \frac{1}{1 + (\text{dis})}$$

Where: S_p = Single premium per one hundred dollars (\$100) of initial consumer credit life insurance coverage.

O_p = 0.69, the prima facie consumer credit life insurance premium rate for monthly outstanding balance coverage from subdivision (1).

I_t = The scheduled amount of insurance for month t.

I_1 = Initial amount of insurance. For a net insurance policy, I_1 equals the initial principal balance of the loan.

dis = 0.0044, representing an annual discount rate of 5.0% for interest plus four-tenths of one percent (0.4%) for mortality.

n = The number of months in the term of the insurance.

(3) If the benefits provided are other than those described in this section, premium rates for such benefits shall be actuarially consistent with the rates provided in subdivisions (1) and (2).

(4) The prima facie rates included in this subsection and any other rates approved for use that are computed in accordance with the formula in subdivision (2) are presumed sufficient to provide for up to two (2) months of delinquencies. Therefore, the determination of the premium shall not reflect delinquencies.

(b) The premium rates in subsection (a) shall apply to contracts providing credit life insurance that are offered to all eligible debtors, that do not require evidence of individual insurability from any eligible debtor electing to purchase coverage within thirty (30) days of the date the debtor becomes eligible, and that contain the following provisions:

(1) Coverage for death by whatever means caused, except that coverage may exclude death resulting from any of the following:

- (A) War or any act of war.
- (B) Suicide within six (6) months after the effective date of the coverage.
- (C) A preexisting condition or conditions. For the purpose of this subsection, the following apply:
 - (i) "Preexisting condition" means any condition for

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which the debtor received medical advice or treatment within six (6) months preceding the effective date of coverage.

(ii) No preexisting condition exclusion shall apply unless:

(AA) death is caused by or substantially contributed to by the preexisting condition; and

(BB) death occurs within six (6) months following the effective date of coverage.

(iii) A preexisting condition exclusion shall apply only if and to the extent that the amount of coverage to which it would otherwise apply (in the absence of this limitation) exceeds one thousand dollars (\$1,000).

(2) For the exclusions listed in subdivisions (1)(B) and (1)(C), the effective date of coverage for each part of the insurance attributable to a different advance or a charge to the plan account is the date on which the advance or charge occurs.

(3) At the option of the insurer and in lieu of a preexisting condition exclusion on insurance written in connection with open-ended consumer credit, a provision may be included to limit the amount of insurance payable on death due to natural causes to the balance as it existed six (6) months prior to the date of death if there has been one (1) or more increases in the outstanding balance during the six (6) month period and if evidence of individual insurability has not been required in the six (6) month period prior to the date of death. This provision applies only if and to the extent that the amount of coverage to which it would otherwise apply (in the absence of this limitation) exceeds one thousand dollars (\$1,000).

(4) An age restriction providing that no insurance will become effective on debtors on or after the attainment of age sixty-six (66) and that all insurance will terminate upon attainment by the debtor of age sixty-six (66).

(c) The insurer shall apply rates as follows:

(1) If the insurer, its agent, or the application form for credit life insurance does not request or require that the debtor provide evidence of insurability, then the premium rates deemed reasonable will be the prima facie rates in subsection (a).

(2) Except as provided in subdivision (3), if the insurer, its agent, or the application form for credit life insurance requests or requires that the debtor provide evidence of insurability and the initial amount of insurance is fifteen thousand dollars (\$15,000) or less, then the premium rates deemed reasonable will be the rates in subsection (a) multiplied by ninety percent (90%).

(3) If the insurer, its agent, or the application form for credit life insurance requests or requires that the debtor provide evidence of insurability and the initial amount of insurance is greater than fifteen thousand dollars (\$15,000) or the applicant elects to purchase coverage more than thirty (30) days after the date the debtor

became eligible under a group plan of insurance, then the premium rates deemed reasonable will be the prima facie rates in subsection (a). For policies insuring open lines of credit, the insurer may require evidence of insurability for advances that increase the outstanding debt above fifteen thousand dollars (\$15,000).

(d) Insurers may use the same application forms for credit life insurance whether or not underwriting questions are asked pursuant to subsection (c). The commissioner will presume that any application form for which all relevant underwriting questions have been left unanswered represents a policy that has not been underwritten and for which prima facie rates are permissible. A form for which any relevant underwriting questions have been answered or filled in represents a policy for which premium decreases pursuant to subsection (c) are required. Insurers should maintain in their files their rules for those circumstances where underwriting questions shall be asked. Those rules shall be communicated to and followed by the insurer's agents and producers. (*Department of Insurance; 760 IAC 1-5.1-6*)

760 IAC 1-5.1-7 Credit accident and health insurance rates

Authority: IC 27-1-3-7; IC 27-8-4-12

Affected: IC 24-4.5-4-102

Sec. 7. (a) Subject to the conditions and requirements in subsection (b) and section 10 of this rule, the following prima facie rates are considered to meet the requirements of section 4 of this rule, and may be used without filing additional actuarial support:

(1) If premiums are payable on a single-premium basis for the duration of the coverage, the prima facie rate per one hundred dollars (\$100) of initial insured debt for single accident and health is as set forth in the following table and rates for monthly periods other than those listed shall be interpolated or extrapolated:

Original Number of Equal Monthly Installments	14 Day		30 Day	
	Retroactive Policy	Nonretroactive Policy	Retroactive Policy	Nonretroactive Policy
6	1.54	1.01	1.04	0.79
12	2.04	1.42	1.40	1.05
24	2.73	1.97	1.97	1.37
36	3.35	2.57	2.53	1.83
48	3.71	2.93	2.89	2.16
60	4.00	3.22	3.19	2.44
72	4.27	3.47	3.45	2.69
84	4.49	3.71	3.68	2.93
96	4.71	3.93	3.89	3.15
108	4.92	4.13	4.10	3.36
120	5.12	4.32	4.29	3.55

(2) If premiums are paid on the basis of a premium rate per month per thousand of outstanding insured gross debt, these premiums shall be computed according to the following formula or according to a formula approved by

the commissioner, that produces rates actuarially consistent with the single premium rates in subdivision (1):

$$OP_n = \frac{10SP_n}{\left\{ \sum_{t=1}^n \frac{(v^{t-1} \times (n - t + 1))}{n} \right\}}$$

$$v = \frac{1}{1 + (\text{dis})}$$

Where: SP_n = Single premium rate per one hundred dollars (\$100) of initial insured debt repayable in n equal monthly installments as shown in subdivision (1).

OP_n = Monthly outstanding balance premium rate per one thousand dollars (\$1,000).

n = The number of months in the term of the insurance.

dis = 0.0041, representing an annual discount rate of five percent (5.0%) for interest.

(3) If the coverage provided is a constant maximum indemnity for a given period of time, the actuarial equivalent of subdivisions (1) and (2) shall be used.

(4) If the coverage provided is a combination of a constant maximum indemnity for a given period of time after which the maximum indemnity begins to decrease in even amounts per month, an appropriate combination of the premium rate for a constant maximum indemnity for a given period of time, and the premium rate for a maximum indemnity that decreases in even amounts per month shall be used.

(5) The outstanding balance rate for credit accident and health insurance may be either a term-specified rate or may be a single composite term outstanding balance rate.

(b) Subject to the conditions and requirements in subsection (c) and section 10 of this rule, the prima facie rates for credit accident and health insurance calculated as shown in this subsection are considered to meet the requirements of section 4 of this rule in the situation where the insurance is written on an open-end loan. These prima facie rates and the formulae used to calculate them may be used without filing additional actuarial support. Other formulae to convert from a closed-end credit rate to an open-end credit rate may be used if approved by the commissioner. The following establishes the prima facie rates for credit accident and health insurance on an open-end loan:

(1) If the maximum benefit of the insurance equals the net debt on the date of disability, the term of the loan is calculated according to the following formula:

$$1/(\text{minimum payment percent})$$

The prima facie rate is determined by applying the calculated term to the rates shown in subsection (a). A

composite minimum payment percentage may be used in place of the minimum payment percentage for a specific credit transaction.

(2) If the maximum benefit of the insurance equals the outstanding balance of the loan on the date of disability plus any interest accruing on that amount during disability, the term of the insurance (n) is estimated by using the following formula:

$$n = \ln \{1 - (1000i / x)\} / \ln(v)$$

Where: i = Interest rate on the account or a composite interest rate used for the type of policy.

x = Monthly payment per one thousand dollars (\$1,000) of coverage consistent with the term calculated in this subdivision.

$$v = 1/(1 + i)$$

The calculated value of the term is used to look up an initial rate in subsection (a). The final prima facie rate is calculated by multiplying the initial rate by the following:

the adjustment n/a_n

Where: n = The term calculated as per the following equation:

$$a_n = (1 - v)^n / i$$

As an alternative to the calculation required in subsection (b), a composite rate for open-end revolving loans may be filed for approval by the commissioner. This rate must be actuarially equivalent to the prima facie rate.

(c) If the accident and health coverage is sold on a joint basis (involving two (2) people), the rate for the joint coverage shall be filed with the commissioner prior to use.

(d) If the benefits provided are other than those described in subsection (a) or (b), rates for those benefits shall be actuarially consistent with rates provided in subsections (a) and (b).

(e) The premium rates in subsection (a) shall apply to contracts providing credit accident and health insurance that are offered to all eligible debtors, that do not require evidence of individual insurability from any eligible debtor electing to purchase coverage within thirty (30) days of the date the debtor becomes eligible and that contain the following provisions:

(1) Coverage for disability by whatever means caused, except that coverage may be excluded for disabilities resulting from:

(A) normal pregnancy;

(B) war or any act of war;

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- (C) elective surgery;
- (D) intentionally self-inflicted injury;
- (E) sickness or injury caused by or resulting from the use of alcoholic beverages or narcotics (including hallucinogens) unless they are administered on the advice of and taken as directed, by a licensed physician other than the insured;
- (F) flight in any aircraft other than a commercial scheduled aircraft; or
- (G) a preexisting condition.

(2) For the exclusion listed in subdivision (1)(G), the effective date of coverage for each part of the insurance attributable to a different advance or a charge to the plan account is the date on which the advance or charge occurs.

(3) A definition of disability providing that for the first twelve (12) months of disability, total disability shall be defined as the inability to perform the essential functions of the insured's own occupation. Thereafter, it shall mean the inability of the insured to perform the essential functions of any occupation for which he or she is reasonably suited by virtue of education, training, or experience.

(4) No employment requirement more restrictive than one requiring that the debtor be employed full time on the effective date of coverage and for at least twelve (12) consecutive months prior to the effective date of coverage. As used in this subdivision, "full time" means a regular work week of not less than thirty (30) hours.

(5) An age restriction providing that no insurance will become effective on debtors on or after the attainment of age sixty-six (66) and that all insurance will terminate upon attainment by the debtor of age sixty-six (66).

(6) A daily benefit of not less than one-thirtieth ($1/30$) of the monthly benefit payable under the policy.

(f) Requirements for applying rates shall be as follows:

(1) If the insurer, its agent, or the application form for credit life insurance does not request or require that the debtor provide evidence of insurability, then the premium rates deemed reasonable will be the prima facie rates in subsection (a).

(2) Except as provided in subdivision (3), if the insurer, its agent, or the application form for credit life insurance requests or requires that the debtor provide evidence of insurability and the initial amount of insurance is fifteen thousand dollars (\$15,000) or less, then the premium rates deemed reasonable will be the rates in subsection (a) multiplied by ninety percent (90%).

(3) If the insurer, its agent, or the application form for credit life insurance requests or requires that:

- (A) the debtor provide evidence of insurability and the initial amount of insurance is greater than fifteen thousand dollars (\$15,000); or
- (B) the applicant elects to purchase coverage more than

thirty (30) days after the date the debtor became eligible under a group plan of insurance; then the premium rates deemed reasonable will be the prima facie rates in subsection (a). For policies insuring open lines of credit, the insurer may require evidence of insurability for advances that increase the outstanding debt above fifteen thousand dollars (\$15,000).

(g) Insurers may use the same application forms for credit accident and health insurance whether or not underwriting questions are asked pursuant to subsection (f). The commissioner will presume that any application form for which all relevant underwriting questions have been left unanswered represents a policy that has not been underwritten and for which prima facie rates are permissible. A form for which any relevant underwriting questions have been answered or filled in represents a policy for which premium decreases pursuant to subsection (f) are required. Insurers should maintain in their files their rules for those circumstances where underwriting questions shall be asked. Those rules shall be communicated to and followed by the insurer's agents or other producers. (*Department of Insurance; 760 IAC 1-5.1-7*)

760 IAC 1-5.1-8 Refund formulas

Authority: IC 27-1-3-7; IC 27-8-4-12

Affected: IC 24-4.5-4-102; IC 27-8-4-8

Sec. 8. (a) In the event of termination, no charge for consumer credit insurance may be made for the first fifteen (15) days of a month and a full month may be charged for sixteen (16) days or more of a month.

(b) The requirement of IC 27-8-4-8(B) that refund formulas be filed with the commissioner shall be considered fulfilled if the refund formulas are set forth in the individual policy or group certificate filed with the commissioner.

(c) Refund formulas must develop refunds that are at least as favorable to the debtor as refunds equal to the premium cost of scheduled benefits subsequent to the date of cancellation or termination, computed at the schedule of premium rates in effect on the date of issue.

(d) No refund of one dollar (\$1) or less need be made. (*Department of Insurance; 760 IAC 1-5.1-8*)

760 IAC 1-5.1-9 Experience reports and adjustment of prima facie rates

Authority: IC 27-1-3-7; IC 27-8-4-12

Affected: IC 24-4.5-4-102

Sec. 9. (a) Each insurer doing insurance business in this state shall annually file with the commissioner and the National Association of Insurance Commissioners (NAIC) support and services office a report of consumer credit

insurance written on a calendar year basis. The report shall utilize the Credit Insurance Supplement—Annual Statement Blank as approved by the NAIC, and shall contain data separately for each state, rather than an allocation of the company’s countrywide experience. The filing shall be made in accordance with and no later than the due date in the instructions to the annual statement.

(b) The commissioner will, on a triennial basis, review the loss ratio standards set forth in section 4 of this rule and the prima facie rates set forth in sections 6 and 7 of this rule and determine the rate of expected claims on a statewide basis, compare such rate of expected claims with the rate of actual claims for the preceding three (3) years determined from the incurred claims and earned premiums at prima facie rates reported in the annual statement supplement or other available source, and publish in the Indiana Register the adjusted actual statewide prima facie rates to be used by insurers during the next triennium. The rates will reflect the difference between actual claims based on experience and expected claims based on the loss ratio standards set forth in section 4 of this rule applied to the prima facie rates set forth in sections 6 and 7 of this rule. If the commissioner determines, at the conclusion of the triennial review, that the rate adjustment is de minimus, then the statewide prima facie rate will not be changed. The commissioner will publish a statement that the rate will not change and the results of the rate review required by this subsection.

(c) The commissioner will, on a triennial basis, review the discount rates for interest included in the formulae in sections 6(a) and 7(a) of this rule, and adjust those discount rates to equal the average of the rates being paid at that time on three (3) year United States Treasury notes as reported in the Wall Street Journal on the last day of sale in the most recent three (3) calendar years. The commissioner shall publish the revised discount rates in the Indiana Register. (*Department of Insurance; 760 IAC 1-5.1-9*)

760 IAC 1-5.1-10 Use of rates; direct business only

Authority: IC 27-1-3-7; IC 27-8-4-12
 Affected: IC 24-4.5-4-102

Sec. 10. (a) An insurer that files rates or has rates on file that are equivalent to the prima facie rates shown in sections 6 and 7 of this rule, to the extent adjusted pursuant to section 9 of this rule, may use those rates without further proof of their reasonableness.

(b) An insurer may file for approval of and use rates that are higher than the prima facie rates shown in sections 6 and 7 of this rule, to the extent adjusted pursuant to section 9 of this rule, as long as the filed rates are consistent with section 4 of this rule. If rates higher than the prima facie

rates shown in sections 6 and 7 of this rule, to the extent adjusted pursuant to section 9 of this rule, are filed for approval, the filing shall specify the account or accounts to which the rates apply. The rates may be applied:

- (1) uniformly to all accounts of the insurer;
- (2) on an equitable basis approved by the commissioner to only one (1) or more accounts of the insurer for which the experience has been less favorable than expected; or
- (3) according to a case-rating procedure on file with the commissioner.

(c) The approval period of deviated rates are established as follows:

- (1) A deviated rate will be in effect for a period of time not longer than the experience period used to establish the rate, that is, one (1) year, two (2) years, or three (3) years. An insurer may file for a new rate before the end of a rate period, but not more often than once during any twelve (12) month period.
- (2) Notwithstanding the provision of subsection (a), if an account changes insurers, the rate approved to be used for the account by the prior insurer is the maximum rate that may be used by the succeeding insurer for the remainder of the rate approval period approved for the prior insurer or until a new rate is approved for use on the account, if sooner.

(d) An insurer may at any time use a rate for an account that is lower than its filed rate without notice to the commissioner. (*Department of Insurance; 760 IAC 1-5.1-10*)

760 IAC 1-5.1-11 Supervision of consumer credit insurance operations

Authority: IC 27-1-3-7; IC 27-8-4-12
 Affected: IC 24-4.5-4-102

Sec. 11. (a) Each insurer transacting credit insurance in this state shall be responsible for conducting a thorough periodic review of creditors with respect to their credit insurance business with such creditors, to assure compliance with the insurance laws of this state and the rules promulgated by the commissioner.

(b) Written records of such reviews shall be maintained by the insurer for a period of no less than five (5) years for review by the commissioner. (*Department of Insurance; 760 IAC 1-5.1-11*)

760 IAC 1-5.1-12 Prohibited transactions

Authority: IC 27-1-3-7; IC 27-8-4-12
 Affected: IC 24-4.5-4-102; IC 27-4-1

Sec. 12. The following practices, when engaged in by insurers in connection with the sale or placement of consumer credit insurance, or as an inducement thereto, shall

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be considered unfair methods of competition subject to the provisions of IC 27-4-1:

(1) The offer or grant by an insurer to a creditor of any special advantage or any service not set out in either the group insurance contract or in the agency contract, other than the payment of agent's commissions.

(2) Deposit by an insurer of money or securities without interest or at a lesser rate of interest than is currently being paid by the creditor, bank, or financial institution to other depositors of like amounts for similar durations. This subsection shall not be construed to prohibit the maintenance by an insurer of such demand deposits or premium deposit accounts as are reasonably necessary for use in the ordinary course of the insurer's business.

(Department of Insurance; 760 IAC 1-5.1-12)

760 IAC 1-5.1-13 Implementation

Authority: IC 27-1-3-7; IC 27-8-4-12

Affected: IC 24-4.5-4-102

Sec. 13. (a) Approval of all forms and premium rates not in compliance with this rule is hereby withdrawn as of January 1, 2003.

(b) Any deviations thought to be appropriate by an insurer as a result of promulgation of this rule shall be filed in accordance with the provisions of section 11 of this rule no later than October 1, 2002. *(Department of Insurance; 760 IAC 1-5.1-13)*

SECTION 2. THE FOLLOWING ARE REPEALED: 760 IAC 1-5; 760 IAC 1-14.

SECTION 3. SECTIONS 1 through 2 of this rule take effect January 1, 2003.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 13, 2002 at 10:30 a.m., at the Department of Insurance, 311 West Washington Street, Suite 300, Indianapolis, Indiana the Department of Insurance will hold a public hearing on a proposed rule to establish standards for credit life insurance and credit accident and health insurance. Copies are available at the Web site for the Department of Insurance at www.state.in.us/idoi. Copies of these rules are now on file at the Department of Insurance, 311 West Washington Street, Suite 300 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Sally McCarty
Commissioner
Department of Insurance

TITLE 760 DEPARTMENT OF INSURANCE

Proposed Rule
LSA Document #02-23

DIGEST

Amends 760 IAC 1-50 regarding continuing education providers. Effective 30 days after filing with the secretary of state.

760 IAC 1-50-2
760 IAC 1-50-3
760 IAC 1-50-4
760 IAC 1-50-5

760 IAC 1-50-7
760 IAC 1-50-13
760 IAC 1-50-13.5

SECTION 1. 760 IAC 1-50-2 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-50-2 Definitions

Authority: IC 27-1-15.7-7

Affected: IC 27-1-15.6; IC 27-1-15.7-2; IC 27-1-15.7-6

Sec. 2. In addition to the definitions in ~~IC 27-1-15.5-2; IC 27-1-15.6-2~~, the following definitions apply throughout this rule:

(1) "Advisory council" means the insurance agent producer education and continuing education advisory council created by ~~IC 27-1-15.5-20; IC 27-1-15.7-6~~.

(2) "Agent" means an insurance agent as defined by ~~IC 27-1-15.5-2~~ and shall also include a solicitor licensed under ~~IC 27-1-15.5-18~~.

(3) "Commissioner" means the commissioner of the department of insurance.

(4) (2) "Department" means the department of insurance.

(3) "Producer" means an insurance producer as defined by IC 27-1-15.6-2(7) and shall also include a solicitor licensed under IC 27-1-15.6-27.

(5) (4) "Provider" means an individual, insurance company, insurance trade association, accredited college, or insurance education institution that offers an insurance agent producer continuing education course that is approved by the commissioner.

(Department of Insurance; 760 IAC 1-50-2; filed Feb 23, 1993, 5:00 p.m.: 16 IR 1825; filed Nov 4, 1999, 10:12 a.m.: 23 IR 572)

SECTION 2. 760 IAC 1-50-3 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-50-3 Continuing education credit hour defined

Authority: IC 27-1-15.7-4; IC 27-1-15.7-7

Affected: IC 27-1-15.7-2

Sec. 3. (a) A continuing education credit hour is based on a one (1) hour block of time. Fifty (50) minutes of instruction in a sixty (60) minute period will constitute one (1) continuing education credit hour. Time designated by the provider as

break time may not be considered when computing course credit hours.

(b) Continuing education credit hours will be approved in no less than one-half (½) hour increments.

(c) Except as provided in section 4(i) of this rule, two (2) continuing education credit hours are the minimum number of hours that will be approved for a continuing education course.

(d) Eight (8) hours of classroom instruction per day are the maximum number of hours that will be approved for a continuing education course. (*Department of Insurance; 760 IAC 1-50-3; filed Feb 23, 1993, 5:00 p.m.: 16 IR 1825; filed Nov 4, 1999, 10:12 a.m.: 23 IR 573*)

SECTION 3. 760 IAC 1-50-4 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-50-4 Application requirements

Authority: IC 27-1-15.7-4; IC 27-1-15.7-7
Affected: IC 27-1-15.7-2

Sec. 4. (a) Any individual, insurance company, insurance trade association, insurance ~~agents~~ **producer** association, accredited college, or insurance education institution may submit continuing education courses for approval by the commissioner.

(b) Course information must be submitted on an application form that may be obtained from the Department of Insurance, 311 West Washington Street, Suite 300, Indianapolis, Indiana 46204-2787. The application form is adopted by reference.

(c) A completed application form shall be submitted to the Continuing Education Program, c/o Indiana Department of Insurance, 311 West Washington Street, Suite 300, Indianapolis, Indiana 46204-2787.

(d) The application form shall be submitted at least sixty (60) days prior to the date of the continuing education course.

(e) A provider may advertise a continuing education course after submission to the department but before its approval; however, the provider must clearly indicate in any advertisement of the course that course approval is pending.

(f) A nonrefundable processing fee in the amount of ~~ten forty~~ **dollars (\$40)** per ~~application, course,~~ **course,** or a yearly fee in the amount of ~~two five hundred fifty~~ **dollars (\$500)** for all ~~applications, courses,~~ **courses,** shall be submitted to the department along with a completed application form.

(g) Videotaped, Internet, and satellite broadcast programs may be approved for continuing education credit.

(h) Each educational segment within a convention program or

an association annual meeting shall be submitted individually for continuing education credit. Notwithstanding section 3(b) of this rule, the educational segment may be approved for one (1) hour of credit.

(i) Applications for continuing education course approval shall be presented to the advisory council. The advisory council shall review each application and make a recommendation to the commissioner on whether the course should be approved and the number of credit hours to be awarded. The department shall notify the provider in writing when the commissioner approves or disapproves a continuing education course.

(j) Course approval is valid for ~~one (1) year~~ **two (2) years** from the date of the commissioner's approval. Thereafter, the course must be resubmitted for approval under this section. (*Department of Insurance; 760 IAC 1-50-4; filed Feb 23, 1993, 5:00 p.m.: 16 IR 1825; filed Nov 4, 1999, 10:12 a.m.: 23 IR 573*)

SECTION 4. 760 IAC 1-50-5 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-50-5 Requirements for self-study continuing education courses

Authority: IC 27-1-15.7-4; IC 27-1-15.7-7
Affected: IC 27-1-15.6-12; IC 27-1-15.7-4

Sec. 5. (a) In addition to the requirements in section 4 of this rule self-study courses are subject to the following requirements:

(1) ~~Agents~~ **A producer** enrolled in a self-study course, including a computer-based course, shall take a written or computer-based examination at the conclusion of the self-study course. The written or computer-based examination must comply with the following requirements:

- (A) Examination questions shall be multiple choice.
- (B) Questions shall be selected at random from a bank of questions.
- (C) At least three (3) different versions of the examination shall be used on a random basis.
- (D) The examination for a course approved for eight (8) hours of credit or less shall consist of at least twenty-five (25) questions.
- (E) The examination for a course approved for greater than eight (8) hours of credit shall consist of at least fifty (50) questions.
- (F) The written examination shall be sealed in an opaque envelope. The testing protocol and affidavit requirements of subdivision (4) shall be written on the outside of the envelope.
- (G) The examination shall be graded by the provider.
- (H) A computer-based examination may not include prompts designed to aid the student in answering examination questions.

(2) ~~An agent~~ **A producer** must correctly answer seventy

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percent (70%) of the examination questions in order to pass the self-study course.

(3) **An agent A producer** must pass a self-study examination to receive any continuing education credit hours for the self-study course.

(4) When taking the self-study examination, the **agent producer** shall sign an affidavit, supplied by the provider, that states the **agent producer** did not use outside help, such as an open textbook or another individual, in taking the examination. A second **agent producer** must sign the affidavit verifying that the second **agent producer** witnessed the first **agent's producer's** examination and no outside help was used. The signed affidavit must be returned to the provider. The provider shall retain the original affidavit for four (4) years.

(5) The provider shall grade the examination and mail the results to the **agent producer** no later than thirteen (13) days after the date upon which the **agent producer** mailed the completed examination to the provider.

(6) A computer-based course that includes a computer-based examination must be designed to prevent the student from skipping the education materials before taking the examination.

(b) Failure to comply with the requirements of this section may result in disciplinary action by the department pursuant to ~~IC 27-1-15.5-8~~. **IC 27-1-15.6-12.** (*Department of Insurance; 760 IAC 1-50-5; filed Feb 23, 1993, 5:00 p.m.: 16 IR 1826; filed Nov 4, 1999, 10:12 a.m.: 23 IR 574*)

SECTION 5. 760 IAC 1-50-7 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-50-7 Record keeping requirements

Authority: IC 27-1-15.7-7
Affected: IC 27-1-15.7-4

Sec. 7. (a) **Providers A provider** shall take attendance at each continuing education course. The provider shall retain the attendance reports for four (4) years. The attendance report shall contain the following information:

- (1) The **agent's producer's** name.
- (2) The **agent's producer's** license number.
- (3) The **agent's producer's** birth date.
- (4) **Agent's The producer's** signature.
- (5) Any other information requested by the department.

(b) **Providers A provider** shall provide each **agent producer** who attends a continuing education course, or passes a self-study course, with a certificate of completion form no later than ten (10) days following the completion of the course. The certificate of completion form is adopted by reference, and a copy of the form may be obtained from the Department of Insurance, 311 West Washington Street, Suite 300, Indianapolis, Indiana 46204-2787.

(c) For two (2) years following a continuing education course, the provider shall prepare a duplicate certificate of completion upon the request of **an agent a producer** who attended the course. The certificate must be provided within ten (10) days of the request.

(d) No later than ten (10) days after a request from the department, the provider shall deliver to the department a list of the **agents producers** to whom it has delivered a certificate of completion for a specific course or courses.

(e) In the event a provider fails to provide a certificate of completion as required in this section, the commissioner may suspend approval of any or all of a provider's continuing education courses.

(f) **Agents The producer** shall retain the certificate of completion for four (4) years following completion of the course.

(g) **Providers A provider** shall notify the department at least thirty (30) days in advance of an approved continuing education course being offered. (*Department of Insurance; 760 IAC 1-50-7; filed Feb 23, 1993, 5:00 p.m.: 16 IR 1826; filed Nov 4, 1999, 10:12 a.m.: 23 IR 575; errata filed Dec 15, 1999, 9:08 a.m.: 23 IR 1110*)

SECTION 6. 760 IAC 1-50-13 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-50-13 Retirement exemption

Authority: IC 27-1-15.7-7
Affected: IC 27-1-15.6-12

Sec. 13. (a) A retired **agent producer** who is required by an insurer to maintain his or her license in order to collect commissions on business written before retirement, may apply for an exemption from continuing education requirements.

(b) To obtain a retirement exemption, **an agent a producer** shall complete and submit to the department the exemption form set forth in section 13.5 of this rule.

(c) The **agent producer** shall notify the department of any changes in his or her retirement status.

(d) A retired **agent producer** who solicits or services a policy is not eligible to apply for or retain an exemption from the continuing education requirements.

(e) **An agent A producer** who fails to notify the department of any change in status under this section will be subject to administrative action under ~~IC 27-1-15.5-8~~. **IC 27-1-15.6-12.** (*Department of Insurance; 760 IAC 1-50-13; filed Feb 23, 1993, 5:00 p.m.: 16 IR 1828; filed Nov 4, 1999, 10:12 a.m.: 23 IR 576*)

SECTION 7. 760 IAC 1-50-13.5 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-50-13.5 Retirement exemption form

Authority: IC 27-1-15.5-7.1

Affected: IC 27-1-15.5-3; IC 27-1-15.7-2

Sec. 13.5. The form referenced in section 13 of this rule is as follows:

CONTINUING EDUCATION EXEMPTION FORM FOR RETIRED INSURANCE AGENTS PRODUCERS AND SOLICITORS

I, _____, do hereby attest that effective _____ I am retired and am no longer an active insurance agent: producer. I will not solicit or service any insurance policy or policyholder. I respectfully request that I be exempt from fulfilling the continuing education requirements as prescribed by ~~IC 27-1-15.5-7.1~~ IC 27-1-15.7-2.

If my current situation changes and I plan to solicit or service insurance policies or policyholders, I will immediately notify the Indiana Department of Insurance of my change in status. I understand that the Department will rescind any continuing education exemption, and I will thereafter be responsible for all continuing education requirements as prescribed in IC 27-1-15.5-7.1.

I further understand that if I fail to notify the Department of Insurance of any change in my retirement status and I engage in the business of insurance, including soliciting or servicing an insurance policy, I will be subject to administrative sanctions.

Form with fields: Date, Signature, License number, Address, License expiration date, City/State Zip

Subscribed and sworn to before me this _____ day of _____, _____

Notary Public
My commission expires: _____
County of residence: _____
(Department of Insurance; 760 IAC 1-50-13.5; filed Nov 4, 1999, 10:12 a.m.: 23 IR 576)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 13, 2002 at 10:00 a.m., at the Department of Insurance, 311 West Washington Street, Suite 300, Indianapolis, Indiana the Department of Insurance will hold a public hearing on proposed amendments to conform with P.L.132-2001 concerning continuing education providers. Copies are available at the Web

site for the Department of Insurance at www.state.in.us/idoi. Copies of these rules are now on file at the Department of Insurance, 311 West Washington Street, Suite 300 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Sally McCarty
Commissioner
Department of Insurance

TITLE 860 INDIANA PLUMBING COMMISSION

Proposed Rule
LSA Document #01-425
DIGEST

Amends 860 IAC 1-1-2.1 to revise the fees charged and collected by the Indiana plumbing commission. Amends 860 IAC 1-1-8 to revise the license fee for a temporary plumbing contractor license. Note: Under IC 4-22-2-40, LSA Document #01-425, printed at 25 IR 2309, was recalled by the Indiana Plumbing Commission. This document was revised and readopted. Effective January 1, 2003.

860 IAC 1-1-2.1
860 IAC 1-1-8

SECTION 1. 860 IAC 1-1-2.1 IS AMENDED TO READ AS FOLLOWS:

860 IAC 1-1-2.1 Fee schedule
Authority: IC 25-28.5-1-8
Affected: IC 25-28.5-1-22

Sec. 2.1. The Indiana plumbing commission shall charge and collect the following fees:

- (1) For an application for examination as an individual plumbing contractor, a nonrefundable fee of thirty fifty dollars (\$30) (\$50) and a fee of thirty fifty dollars (\$30) (\$50) for each reexamination on one (1) of the two (2) exam parts not previously passed upon notice by the commission.
(2) For the issuance of the initial plumbing contractor license, the following:
(A) When the license is issued in an odd-numbered year, twenty-five fifty dollars (\$25): (\$50).
(B) When the license is issued in an even-numbered year, fifty one hundred dollars (\$50): (\$100).
(3) For the issuance of an initial license for a corporation, the following:
(A) When the license is issued in an odd-numbered year, twenty-five fifty dollars (\$25): (\$50).
(B) When the license is issued in an even-numbered year, fifty one hundred dollars (\$50): (\$100).
(4) For an application for examination as an individual

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journeyman plumber a nonrefundable fee of ~~fifteen~~ **thirty** dollars (~~\$15~~) (**\$30**) and a fee of ~~fifteen~~ **thirty** dollars (~~\$15~~) (**\$30**) for each reexamination on one (1) of the two (2) exam parts not previously passed upon notice by the commission. (5) For issuance of the initial license for a journeyman plumber, the following:

(A) When the license is issued in an odd-numbered year, ~~ten~~ **fifteen** dollars (~~\$10~~) (**\$15**).

(B) When the license is issued in an even-numbered year, ~~fifteen~~ **thirty** dollars (~~\$15~~) (**\$30**).

(6) For biennial renewal of a plumbing contractor's license, ~~fifty one hundred~~ dollars (~~\$50~~) (**\$100**) payable prior to December 1 of each odd-numbered year.

(7) For biennial renewal of a license for a corporation, ~~fifty one hundred~~ dollars (~~\$50~~) (**\$100**) payable prior to December 1 of each odd-numbered year.

(8) For biennial renewal of a journeyman plumber's license, ~~fifteen~~ **thirty** dollars (~~\$15~~) (**\$30**) payable prior to December 1 of each odd-numbered year.

(9) Application for a renewal received after the expiration date of December 31 of each odd-numbered year and prior to March 1 of the next even-numbered year shall be charged a reinstatement fee of ~~ten~~ **fifteen** dollars (~~\$10~~) (**\$15**) in addition to the license renewal fee.

(10) Applications for renewal received after March 1 of the next even-numbered year following expiration and no later than December 31 of the next odd-numbered year following expiration shall be charged the following reinstatement fees in addition to the applicable license renewal fees:

(A) Journeyman plumber ~~\$50~~ **\$100**

(B) Plumbing contractor ~~\$100~~ **\$200**

(C) Corporate plumbing contractor ~~\$100~~ **\$200**

(11) Applications for renewal received after December 31 of the next odd-numbered year following expiration shall be deemed invalid for renewal.

(Indiana Plumbing Commission; 860 IAC 1-1-2.1; filed Oct 31, 1983, 1:21 p.m.: 7 IR 69; errata, 7 IR 71; filed Oct 29, 1984, 3:07 p.m.: 8 IR 214; filed Jul 30, 1985, 3:13 p.m.: 8 IR 2038; filed Feb 19, 1987, 8:30 a.m.: 10 IR 1390; filed Feb 19, 1990, 11:06 a.m.: 13 IR 1181; filed Jun 14, 1996, 3:00 p.m.: 19 IR 3108; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3237)

SECTION 2. 860 IAC 1-1-8 IS AMENDED TO READ AS FOLLOWS:

860 IAC 1-1-8 Temporary plumbing contractor license

Authority: IC 25-28.5-1-8; IC 25-28.5-1-38

Affected: IC 25-28.5-1-18.5

Sec. 8. (a) A temporary plumbing contractor license authorized by IC 25-28.5-1-18.5 shall be for six (6) month increments.

(b) Such temporary license shall not enable the holder thereof to perform actual plumbing services unless he is a currently licensed journeyman or a currently licensed plumbing contractor. However, the holder of a temporary license may employ a journeyman to perform actual plumbing services pursuant to the temporary license. If the holder is a licensed journeyman, he may perform plumbing contracting under the authority of the temporary license.

(c) The temporary license will be granted upon submission of the license fee in the amount of ~~fifteen~~ **twenty-five** dollars (~~\$15~~) (**\$25**) for each six (6) month increment, as well as a fully executed bond on a form supplied by the commission.

(d) No temporary license will be issued to any applicant who fails to first appear before the commission or the executive director of the Indiana professional licensing agency to request the same.

(e) A temporary license granted by the executive director of the Indiana professional licensing agency is subject to ratification or refusal at the next regularly scheduled meeting of the commission. *(Indiana Plumbing Commission; 860 IAC 1-1-8; filed Dec 20, 1985, 9:13 a.m.: 9 IR 1099; filed Jun 14, 1996, 3:00 p.m.: 19 IR 3108; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3237)*

SECTION 3. SECTIONS 1 and 2 of this document take effect January 1, 2003.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 29, 2002 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 3, Indianapolis, Indiana the Indiana plumbing commission will hold a public hearing on proposed amendments to revise the fees charged and collected by the Indiana plumbing commission. 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 Quigley
Executive Director
Indiana Professional Licensing Agency