

60 Day Requirement (IC 4-22-2-19)**TITLE 11 CONSUMER PROTECTION DIVISION OF
THE OFFICE OF THE ATTORNEY GENERAL**

LSA Document #02-18

June 5, 2002

Chairman
Administrative Rules Oversight Committee
c/o George Angelone
Legislative Services Agency

RE: LSA Doc. #02-18; LSA Doc. #02-19
11 IAC 2 (Consumer Protection Division of the Office of the
Attorney General)
Notice of Delay in Adoption of Rule under IC 24-4.7-3-7

Dear Mr. Chairman:

The Consumer Protection Division of the Office of Attorney
General has adopted rules implementing IC 24-4.7 concerning
the telephone solicitation of consumers. The rulemaking process
was initiated within sixty (60) days after the July 1, 2001
effective date of the statute.

Pursuant to IC 4-22-2-19(c) we are notifying Administrative
Rules Oversight Committee that the Division has instituted
further rulemaking (LSA #02-18 and LSA #02-19) more than
sixty (60) days after the effective date of the statute.

The Division has subsequently determined that it is necessary
to add a rule covering changes in area codes and prefixes
mandated by the Indiana Utilities Regulatory Commission
("IURC") (LSA #02-19). The need for this rule was in response
to the decision of the IURC to split the area codes in northern
Indiana and was not apparent at the time of the initial
rulemaking.

Furthermore, based on comments received during the initial
rulemaking, the Division finds it appropriate to add a rule
relating to verification of registration, and to add another rule
relating to the removal of certain telephone numbers from the
telephone privacy list (LSA #02-18).

If you have any questions, I can be reached at 317/234-2219.

Very truly yours,

Brent Embrey, Director
Telephone Privacy Unit

TITLE 130 INDIANA PORT COMMISSION

LSA Document #01-395

To: Honorable Jerry Denbo, Chairperson
c/o Mr. George Angelone
The Administrative Rules Oversight Committee

From: William Niemier, General Counsel

Date: May 30, 2002

Re: LSA #01-395(F)

On behalf of the Indiana Port Commission I am submitting
this memo to the Administrative Rules Oversight Committee
("AROC") pursuant to IC 4-22-2-19(c).

Statutory authority for adoption of LSA #01-395(F) has been
in place for many years. Under Ind. Code 4-22-2-19, promulga-
tion of rules required beginning the rulemaking process within
60 days of the enactment of such statutory authority unless an
exception applies. The rulemaking process did not begin for
these rules within 60 days of the effective date of the statutory
authority. Rules were already in place pursuant to the statutory
authority enacted many years ago. Ind. Code 4-22-2-19(a)(2)
excepts rules from the application of the 60 day requirement if they
are amending existing rules. Our proposed rules do not fall under
the amendment exception as the proposed rules will replace the
current rules and are not in a strictly amendment format, but the
Commission's intention is to merely amend the current rules.

The Commission is providing this written notification to the
committee to explain why this rule could not comply with the
timeframe specified in Ind. Code 4-22-2-19(c)(1). The Commis-
sion's rulemaking action to update and amend the current rules was
undertaken as soon as practicable once changes in the current rules
were needed. Please contact me by telephone at 232-9204 or by e-
mail at wniemier@portsofindiana.com if additional information is
needed or if you wish to discuss this matter further.

Sincerely,

William T. Niemier

**TITLE 410 INDIANA STATE DEPARTMENT OF
HEALTH**

LSA Document #01-243

June 12, 2002

The Honorable Jerry Denbo, Chairman
Administrative Rules Oversight Committee
302 Statehouse
Indianapolis, Indiana 46204

RE: 410 IAC 6-7.1; 410 IAC 6-7.2; LSA Doc. #01-243(F)

Dear Mr. Chairman:

The Indiana State Department of Health (ISDH) is in the process of modifying the current rules governing sanitation and safety in campgrounds and youth camps. The proposed changes to the current rules are a substantial restructuring and clarification as the current rules have not been amended in many years. Traditionally, when amending a rule that required significant changes, the ISDH uses the method of repealing the current rule and replacing it with a new rule rather than striking large portions of the current rule and adding large amounts of new text. The repeal and replace method was used in this case to amend the current rules.

Under Ind. Code 4-22-2-19, promulgation of rules requires beginning the rulemaking process within 60 days of the enactment of such statutory authority unless an exception applies. The rulemaking process did not begin for this set of rules within 60 days of the effective date of the statutory authority. Rules were already in place pursuant to the statutory authority enacted many years ago. Ind. Code 4-22-2-19(a)(2) excepts rules from the application of the 60 day requirement if they are amending existing rules. Our proposed rules do not appear to fall under the amendment exception as the proposed rules will replace the current rules and are not in a strictly amendment format, although the department's intention is to amend the current rules.

The department is providing this written notification to the committee to explain why this rule could not comply with the time frame specified in Ind. Code 4-22-2-19(c)(1). The department's rulemaking action to update and amend the current rule was undertaken as soon as practicable once changes in the current rule were determined to be needed.

If you need additional information please contact Burton Garten at (317) 233-7874.

Sincerely,

Veronica Hibbler, Director
Office of Legal Affairs

cc: George Angelone

365 Day Notice (IC 4-22-2-25)

**TITLE 405 OFFICE OF THE SECRETARY OF
FAMILY AND SOCIAL SERVICES**

LSA Document #01-373

To: Honorable Jerry Denbo, Chairperson
c/o Ms. Susan Kennell
The Administrative Rules Oversight Committee

From: Maureen Bartolo, Staff Attorney

Re: LSA #01-373, Amendments to the Indiana Prescription Drug Program Rule

Date: June 14, 2002

cc: Susan Kennell, Legislative Services Agency
Howard Stevenson, General Counsel, FSSA
Melanie Bella, Assistant Secretary, OMPP
Grace Chandler, Director, Prescription Drug Program

On behalf of the Family and Social Services Administration, Office of the Prescription Drug Program, I am submitting this memo to the Administrative Rules Oversight Committee in compliance with IC 4-22-2-25, because the agency has determined that the promulgation of the captioned rule may not be completed within one year after publication of the notice of intent to adopt a rule.

The agency published its notice of intent to adopt a rule for the captioned document on November 1, 2001, (25 IR 407). The publication of the proposed rule has been delayed while the agency procured a contractor for pharmacy benefit management services to benefit the Prescription Drug Program. Certain decisions could not be made until the Contractor was selected; some of which are to be reflected in the rule amendment. The agency expects to publish its proposed rule on August 1, 2002.

The Family and Social Services Committee (See IC 12-8-3), a committee that meets only once per month must approve any rule adopted by the agency. The committee currently has a number of vacancies and it is possible a monthly meeting could occur without a quorum and therefore without any action being taken on an adopted rule. This would mean delayed approval until the next monthly meeting of the committee and presence of a quorum. Following approval by the FSSA committee, the rule must be submitted to the Attorney General's office. Pursuant to IC 4-22-2-32, the Attorney General has forty-five days to complete his review of a rule. Whether a quorum is present at a monthly meeting of the FSSA Committee and the Attorney General's time frame for review are outside the agency's control. For these reasons, it is unlikely that the rule will be approved by the governor within one year of the date of publication of the notice of intent. The agency expects that the rule can be approved by the governor by January 31, 2003.

This notice setting forth the expected date of approval of LSA #01-373 as of January 31, 2003, is being submitted in a timely manner. July 10, 2002 is the two hundred fiftieth day after publication of the notice of intent to adopt a rule.