Indiana Register

Volume 26, Number 8
Pages 2599-2802

May 1, 2003

Retain this issue as a supplement to the Indiana Administrative Code (See p. 2600)

The Indiana Register is on the Internet at: www.in.gov/legislative/

Published By Indiana Legislative Services Agency

Office of Code Revision
317/232-9557

This issue contains documents officially filed through 4:45 p.m., April 10, 2003

IN THIS ISSUE

INDIANA REGISTER

is published monthly by the Indiana Legislative Council, Room 302 State House, Indianapolis, Indiana 46204-2789. An order form is on the back of this issue. Subscription price is $60 for volume 26, in advance.

Indiana Register
Legislative Services Agency
200 West Washington Street, Suite 302
Indianapolis, IN 46204-2789

RELATION OF THE INDIANA REGISTER TO THE INDIANA ADMINISTRATIVE CODE

The Indiana Register is an official monthly publication of the state of Indiana. The Indiana Legislative Council publishes the full text of proposed rules, final rules, and other documents, such as executive orders and attorney general's opinions, in the Indiana Register in the order in which the Indiana Legislative Council receives the documents.

The Indiana Administrative Code is an official annual publication of the state of Indiana. It codifies the current general and permanent rules of state agencies in subject matter order.

The Indiana Register acts as a source of information about the rules being proposed by state agencies and acts as an "advance sheet" to the Indiana Administrative Code. With few exceptions, an agency may not adopt a rule, i.e., a policy statement having the force of law, without publishing a substantially similar proposed version in the Indiana Register. Although a rule becomes effective without publication in the Indiana Register, an agency must file an adopted and approved rule with the Indiana Legislative Council. The Council publishes these final rules in the Indiana Register.

RETENTION SCHEDULE

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

(1) 2003 Indiana Administrative Code (CD-ROM version).

(2) Volume 26 of the Indiana Register (CD-ROM version).

The Indiana Administrative Code and Indiana Register are distributed in CD-ROM format only. Both are also accessible at www.in.gov/legislative/ic_iac/.

The 2001 Edition of the Indiana Administrative Code, the 2002 Supplement, and other volumes of the Indiana Register may be discarded. (Please consider recycling.)

JUDICIAL NOTICE AND CITATION FORM

IC 4-22-9 provides for the judicial notice of rules published in the Indiana Register or the Indiana Administrative Code. Subject to any errata notice that may affect a rule, the latest published version of a final rule is prima facie evidence of that rule's validity and content.

Cite to a current general and permanent rule by Indiana Administrative Code citation, regardless of whether it has been published in a supplement to the Indiana Administrative Code. For example, cite the entire current contents of title 312 as "Title 312 of the Indiana Administrative Code," cite the entire current contents of the third article in title 312 as "312 IAC 3," cite the entire current contents of the fourth rule in article three as "312 IAC 3-4," and cite part or all of the current contents of the second section in rule four as "312 IAC 3-4-2." IC 4-22-9-6 provides that a citation in this form contains later adopted amendments. Cite a noncodified rule provision by LSA document number, SECTION number, and Indiana Register citation to the page at which the cited text begins. If a reference to a particular version of a rule or a page in the Indiana Register is appropriate, cite the volume, page, and year of publication as "25 Ind. Reg. 120 (2002)." A shorter Indiana Register citation form is "25 IR 120."

PRINTING CODE

This style type is used to indicate that substantive text is being inserted by amendment into a rule, and ~~this style type~~ is used to indicate that substantive text is being eliminated by amendment from a rule. ~~This style type~~ is replaced by a single large "X" to show the elimination of a form or other piece of artwork. **This style type** is used to indicate a rule is being added. *This style type* and **this style type** also are used to highlight nonsubstantive annotations to a rule and to indicate that an entry in a reference table or the index concerns a final rule.

REFERENCE TABLES AND INDEX

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

FILING AND PUBLISHING SCHEDULE

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

PUBLICATION SCHEDULE

Closing Dates:	Publication Dates:	Closing Dates:	Publication Dates:
April 10, 2003	May 1, 2003	November 10, 2003	December 1, 2003
May 9, 2003	June 1, 2003	December 10, 2003	January 1, 2004
June 10, 2003	July 1, 2003	January 9, 2004	February 1, 2004
July 10, 2003	August 1, 2003	February 10, 2004	March 1, 2004
August 11, 2003	September 1, 2003	March 10, 2004	April 1, 2004
September 10, 2003	October 1, 2003	April 8, 2004	May 1, 2004
October 10, 2003	November 1, 2003	May 10, 2004	June 1, 2004

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

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

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

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

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

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

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

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

PROMULGATION PERIOD: In order to be effective, the final version of an adopted rule must be approved by the Attorney General and the Governor within one (1) year after the date that the notice of intent is published. The final rule must then be filed with the Secretary of State.

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

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

State Agencies

ALPHABETICAL LIST

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

NUMERICAL LIST

TITLE NUMBER

GENERAL GOVERNMENT

10 Office of Attorney General for the State
11 Consumer Protection Division of the Office of the Attorney General
†15 State Election Board
18 Indiana Election Commission
20 State Board of Accounts
25 Indiana Department of Administration
†30 State Personnel Board
31 State Personnel Department
33 State Employees' Appeals Commission
35 Board of Trustees of the Public Employees' Retirement Fund
40 State Ethics Commission
45 Department of State Revenue
50 Department of Local Government Finance
52 Indiana Board of Tax Review
55 Department of Commerce
58 Enterprise Zone Board
60 Oversight Committee on Public Records
62 Office of the Public Access Counselor
65 State Lottery Commission
68 Indiana Gaming Commission
†70 Indiana Horse Racing Commission
71 Indiana Horse Racing Commission
75 Secretary of State
80 State Fair Commission
85 Budget Agency

TRANSPORTATION AND PUBLIC UTILITIES

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105 Indiana Department of Transportation
†110 Aeronautics Commission of Indiana
†120 Department of Highways
130 Indiana Port Commission
135 Indiana Transportation Finance Authority
140 Bureau of Motor Vehicles
145 Reciprocity Commission of Indiana
†150 Office of Traffic Safety
†160 Department of Vehicle Inspection
170 Indiana Utility Regulatory Commission

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207 Coroners Training Board
210 Department of Correction
220 Parole Board
†230 Indiana Clemency Commission
240 State Police Department
250 Law Enforcement Training Board
260 State Department of Toxicology
270 Adjutant General
280 Public Safety Training Institute
290 State Disaster Relief Fund

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305 Indiana Board of Licensure for Professional Geologists
307 Indiana Board of Registration for Soil Scientists
310 Department of Natural Resources
†311 State Soil and Water Conservation Committee
312 Natural Resources Commission
315 Office of Environmental Adjudication
†320 Indiana Environmental Management Board
†320.1 Solid Waste Management Board
323 Indiana Hazardous Waste Facility Site Approval Authority
†325 Air Pollution Control Board of the State of Indiana
†325.1 Air Pollution Control Board
326 Air Pollution Control Board
327 Water Pollution Control Board
328 Underground Storage Tank Financial Assurance Board
329 Solid Waste Management Board
†330 Stream Pollution Control Board of the State of Indiana
†330.1 Water Pollution Control Board
†340 Commissioner of Agriculture
341 Indiana Standardbred Board of Regulations
345 Indiana State Board of Animal Health
350 Agricultural Experiment Station
355 State Chemist of the State of Indiana
357 Indiana Pesticide Review Board
360 State Seed Commissioner
365 Creamery Examining Board
370 State Egg Board
375 Indiana Organic Peer Review Panel

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405 Office of the Secretary of Family and Social Services
407 Office of the Children's Health Insurance Program
410 Indiana State Department of Health
412 Indiana Health Facilities Council
415 Commission on Forensic Sciences
430 Developmental Disabilities Residential Facilities Council
431 Community Residential Facilities Council
440 Division of Mental Health and Addiction
†450 Department on Aging and Community Services
460 Division of Disability, Aging, and Rehabilitative Services
470 Division of Family and Children
480 Violent Crime Compensation Division
490 Interdepartmental Board for the Coordination of Human Service Programs

EDUCATION AND LIBRARIES

†510 Commission on General Education
511 Indiana State Board of Education
515 Professional Standards Board
†520 Commission on Textbook Adoptions
†530 Commission on Teacher Training and Licensing
540 Indiana Education Savings Authority
550 Board of Trustees of the Indiana State Teachers' Retirement Fund
560 Indiana Education Employment Relations Board
570 Indiana Commission on Proprietary Education
†572 Indiana Commission on Vocational and Technical Education
575 State School Bus Committee
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585 State Student Assistance Commission
590 Indiana Library and Historical Board
595 Library Certification Board

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610 Department of Labor
615 Board of Safety Review
620 Occupational Safety Standards Commission
†630 Industrial Board of Indiana
631 Worker's Compensation Board of Indiana
†635 Wage Adjustment Board
†640 Indiana Unemployment Insurance Board
†645 Department of Employment and Training Services
646 Department of Workforce Development
650 State Fire Marshal
655 Board of Firefighting Personnel Standards and Education
†660 Administrative Building Council of Indiana
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685 Regulated Amusement Device Safety Board

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760 Department of Insurance
762 Indiana Political Subdivision Risk Management Commission
770 Indiana Agricultural Development Corporation

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820 State Board of Cosmetology Examiners
824 Indiana Grain Buyers and Warehouse Licensing Agency
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857 Indiana Optometric Legend Drug Prescription Advisory Committee
858 Controlled Substances Advisory Committee
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864 State Board of Registration for Professional Engineers
865 State Board of Registration for Land Surveyors
868 State Psychology Board
872 Indiana Board of Accountancy
876 Indiana Real Estate Commission
880 Speech-Language Pathology and Audiology Board
884 Board of Television and Radio Service Examiners
888 Indiana Board of Veterinary Medical Examiners
†892 Indiana State Board of Examiners in Watch Repairing
896 Board of Environmental Health Specialists
898 Indiana Athletic Trainers Board

MISCELLANEOUS

905 Alcohol and Tobacco Commission
910 Civil Rights Commission
915 Veterans' Affairs Commission
920 Indiana War Memorials Commission
925 Meridian Street Preservation Commission
930 Indiana Housing Finance Authority

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

TITLE 60 OVERSIGHT COMMITTEE ON PUBLIC RECORDS

LSA Document #02-261(F)

DIGEST

Amends 60 IAC 2 concerning microfilming standards. Adds 60 IAC 2-2-3.1 concerning the preparation of documents for microfilming. Adds 60 IAC 2-2-5.1 concerning notice and certification of destruction of records. Repeals 60 IAC 2-1-2, 60 IAC 2-1-3, 60 IAC 2-2-6, and 60 IAC 2-2-7. Effective 30 days after filing with the secretary of state.

60 IAC 2-1-1	**60 IAC 2-2-3.1**
60 IAC 2-1-2	**60 IAC 2-2-4**
60 IAC 2-1-3	**60 IAC 2-2-5**
60 IAC 2-2-1	**60 IAC 2-2-5.1**
60 IAC 2-2-2	**60 IAC 2-2-6**
60 IAC 2-2-3	**60 IAC 2-2-7**

SECTION 1. 60 IAC 2-1-1 IS AMENDED TO READ AS FOLLOWS:

60 IAC 2-1-1 Purpose
Authority: IC 5-15-5.1-8; IC 5-15-5.1-20
Affected: IC 5-15-5.1-1; IC 5-15-5.1-5

Sec. 1. ~~(a)~~ The purpose of these ~~microfilm~~ **microfilming** standards is to create minimum legal, legibility, permanency standards for source document microfilm ~~with a retention period of more than fifteen (15) years,~~ generated by agencies subject to IC 5-15-5.1-1. ~~These microfilming standards are consistent with the microfilming standard approved by the Indiana state supreme court as Administrative Rule 6.~~

~~(b) This article does not apply to computer-output microforms nor does it apply to records filmed for administrative purposes with a retention schedule of fifteen (15) years or less.~~ *(Oversight Committee on Public Records; 60 IAC 2-1-1; filed Feb 23, 1987, 11:30 a.m.: 10 IR 1358; filed Dec 19, 1988, 4:45 p.m.: 12 IR 1086; readopted filed Dec 2, 2001, 12:20 p.m.: 25 IR 1268; filed Mar 28, 2003, 9:38 a.m.: 26 IR 2604)*

SECTION 2. 60 IAC 2-2-1 IS AMENDED TO READ AS FOLLOWS:

60 IAC 2-2-1 Application of standards
Authority: IC 5-15-5.1-5; IC 5-15-5.1-20
Affected: IC 5-15-5.1-19

Sec. 1. All agencies, as defined by IC 5-15-5.1, shall meet the standards set forth under this article regarding the use of microfilm for the preservation of any record generated by that agency. Only those records or record series ~~which~~ **that** have been approved by the oversight committee on public records under IC 5-15-5.1-19 ~~implementing IC 5-15-5.1-12,~~ shall be eligible for microfilming. *(Oversight Committee on Public Records; 60 IAC 2-2-1; filed Feb 23, 1987, 11:30 a.m.: 10 IR 1359; filed Dec 19, 1988, 4:45 p.m.: 12 IR 1088; readopted filed Dec 2, 2001, 12:20 p.m.: 25 IR 1268; filed Mar 28, 2003, 9:38 a.m.: 26 IR 2604)*

SECTION 3. 60 IAC 2-2-2 IS AMENDED TO READ AS FOLLOWS:

60 IAC 2-2-2 Definitions
Authority: IC 5-15-5.1-5; IC 5-15-5.1-8; IC 5-15-5.1-20
Affected: IC 5-15-5.1-1; IC 5-15-5.1-18

Sec. 2. The **following** definitions ~~in this section shall~~ apply throughout this article:

~~(a)~~ **(1)** "AIIM" means Association for Information and Image Management.

~~(b)~~ **(2)** "ANSI" means American National Standards Institute.

(3) "Critical records" has the meaning set forth at IC 5-15-5.1-1.

(4) "ISO" means International Organization for Standardization.

(5) "LE" means life expectancy.

~~(c) "MS" means microfilming standards.~~

~~(d)~~ **(6)** "Microfilm", when used as a noun, means a photographic film containing an image greatly reduced in size from the original, and when used as a verb, means the recording of microphotographs on film.

~~(e)~~ **(7)** "Microform" is a generic term for any form, usually film, which contains microimages.

~~(f) "NMS" means National Micrographics Standards.~~

~~(g) "PH" means photographics standards.~~

~~(h) "Target" means any document or chart containing identification information, coding, or test charts. A target is an aid to technical or bibliographical control which is photographed on the film proceeding or following the document.~~

~~(i) "Standard" means a uniformly accepted set of compliances to a predefined norm.~~

~~(j) "Specifications" means a set of requirements to be satisfied, and whenever appropriate, the procedure which proves that the requirements given are satisfied.~~

~~(k) "Records series" means a group of related documents, either as to form or content, which are arranged under a single filing system, or kept together as a unit because they:~~

~~(1) consist of the same form;~~

~~(2) relate to the same subject;~~

~~(3) result in the same activity; and~~

~~(4) have certain physical characteristics (tapes, discs, microforms).~~

(8) "MS" means microfilming standards.

(9) "Oversight committee" means the oversight committee on public records under IC 5-15-5.1-18.

(10) "PIMA" means Photographic & Imaging Manufacturers Association, Inc.

~~(l)~~ **(11)** "Record retention schedules" means a series of documents governing, on a continuing basis, the retention and disposition of recurring record series of an agency, court, or organization.

(12) "Record series" means a group of related documents, either as to form or content, which are arranged under a single filing system, or kept together as a unit because they:

(A) consist of the same form;

(B) relate to the same subject;

(C) result in the same activity; and

(D) have certain physical characteristics (tapes, discs, microforms).

~~(m)~~ **(13)** "Reproduction" means the process of making an exact copy from an existing document.

(14) "Standard" means a uniformly accepted set of compliances to a predefined norm.

(Oversight Committee on Public Records; 60 IAC 2-2-2; filed Feb 23, 1987, 11:30 a.m.: 10 IR 1359; filed Dec 19, 1988, 4:45 p.m.: 12 IR 1088; readopted filed Dec 2, 2001, 12:20 p.m.: 25 IR 1268; filed Mar 28, 2003, 9:38 a.m.: 26 IR 2604)

SECTION 4. 60 IAC 2-2-3 IS AMENDED TO READ AS FOLLOWS:

60 IAC 2-2-3 Documentation

Authority: IC 5-15-5.1-5; IC 5-15-5.1-8; IC 5-15-5.1-20
Affected: IC 5-15-5.1

Sec. 3. A formal written documentation file shall be created and retained for the life of the microfilm based upon an approved retention schedule documenting the following:

(1) The authority to microfilm specifically enumerated records.

(2) The arrangement of originals to be microfilmed.

(3) Any weeding policy of documents to determine what papers from the file will be placed on microfilm.

(4) Any contracts with agents of record custodians, in-house or vendor, who will perform the actual microfilming.

(5) The reproduction process employed to assure accuracy.

(6) Verification of the microfilm for completeness and legibility **according to the following standards as approved by the oversight committee in record retention schedules:**

(A) Level A, frame-by-frame verification of microfilm containing the following records:

(i) Critical records.

(ii) Records that document the continuing protection of public and private rights.

(iii) Records that are significant to the functions of government.

(B) Level B, proof of verification by performing a cross-check of microfilm of the following records with original records by order or arrangement:

(i) Records that are not critical records.

(ii) Records that document the performance of agency functions.

(C) Level C, verification by comparing a significant sample of documents to microfilm for all other records not covered under Levels A and B. If any errors are detected, verification shall be made under Level B.

(7) The justification for the microfilming of the originals, ~~i.e.,~~ **that is,** space reduction, security, and the written process for the destruction of originals as authorized by an approved retention schedule.

(8) The identity of persons who supervised the microfilming procedures who are capable of giving evidence of these procedures.

(9) The retention schedule for the documentation matching the length of time of the microform.

(10) Certification of compliance with this section to the director, Indiana commission on public records.

(Oversight Committee on Public Records; 60 IAC 2-2-3; filed Feb 23, 1987, 11:30 a.m.: 10 IR 1359; filed Dec 19, 1988, 4:45 p.m.: 12 IR 1089; readopted filed Dec 2, 2001, 12:20 p.m.: 25 IR 1268; filed Mar 28, 2003, 9:38 a.m.: 26 IR 2605)

SECTION 5. 60 IAC 2-2-3.1 IS ADDED TO READ AS FOLLOWS:

60 IAC 2-2-3.1 Preparation of documents for microfilming

Authority: IC 5-15-5.1
Affected: IC 5-15-5.1

Sec. 3.1. Agencies shall prepare documents for microfilming as follows:

(1) Organization of documents.

(2) Preparation of an index to be submitted with the documents.

(3) Removal of staples, paper clips, or other fasteners.

(Oversight Committee on Public Records; 60 IAC 2-2-3.1; filed Mar 28, 2003, 9:38 a.m.: 26 IR 2605)

SECTION 6. 60 IAC 2-2-4 IS AMENDED TO READ AS FOLLOWS:

60 IAC 2-2-4 Legibility

Authority: IC 5-15-5.1-1; IC 5-15-5.1-5; IC 5-15-5.1-8; IC 5-15-5.1-20
Affected: IC 5-15-5.1

Sec. 4. (a) Resolution in a microfilm system for documents shall be tested for resolution capability, upon installation, by use of a camera test chart ~~such as the "Rotary Camera Test Chart", ANSI/AIIM MS112-1983 and ANSI/AIIM MS113-1983; "The Planetary Camera Test Chart", AIIM MS303-1980.~~ **provided in ANSI/AIIM MS23-1998.** Micrographics systems used for agency records must meet the following standards:

(1) A micrographic system for documents must produce a quality index level of not less than 5.0 for first-generation microfilm as measured according to ~~ANSI/NMA MS23-~~

~~1983.~~ **ANSI/AIIM MS23-1998.** In applying this ANSI standard, a lowercase letter "e" height of one and four-tenths (1.4) millimeters or less must be used.

(2) All pattern groups on the camera test chart must be read. The smallest line pattern, which corresponds to the highest number, in which both horizontal and vertical lines are clearly discernible is the resolving power of that pattern group.

(3) The film used in reading the camera test chart must be processed to the density standard in subsection (b).

(b) Density in microfilm systems used for agency records must meet the following standards:

(1) Background density in first-generation negative microfilm of documents must be maintained as nearly as practical in the range of 0.92 to 1.20. No density over 1.25 or under 0.87 is allowed.

(2) If a density in first-generation negative microfilm of documents occurs in the ranges 0.87 to 0.91 or 1.21 to 1.25, the records custodian shall determine by visual inspection that all such images satisfactorily reproduce all required record information.

(3) The density of microfilm in a clear area (base plus fog density or Dmin) must not be greater than 0.10.

(c) Reduction ratio in microfilm systems for agency records must meet the following standards:

(1) For microfilming of documents, a ratio of 25:1 or 24:1 or less is required.

(2) A reduction ratio for microfilm of documents of greater than 25:1 may be used only if the micrographic system can maintain the required quality index at the higher reduction.

(d) "Standard Recommended Practice—Production, Inspection, and Quality Assurance of First Generation, Silver Microforms of Documents", ANSI/AIIM MS23-1998 is hereby incorporated by reference. Copies of this publication may be obtained by writing to AIIM, 1100 Wayne Avenue, Suite 1100, Silver Spring, MD 20910. *(Oversight Committee on Public Records; 60 IAC 2-2-4; filed Feb 23, 1987, 11:30 a.m.: 10 IR 1360; errata, 10 IR 1884; filed Dec 19, 1988, 4:45 p.m.: 12 IR 1089; readopted filed Dec 2, 2001, 12:20 p.m.: 25 IR 1268; filed Mar 28, 2003, 9:38 a.m.: 26 IR 2605)*

SECTION 7. 60 IAC 2-2-5 IS AMENDED TO READ AS FOLLOWS:

60 IAC 2-2-5 Permanency

Authority: IC 5-15-5.1-5; IC 5-15-5.1-8; IC 5-15-5.1-20
Affected: IC 5-15-5.1

Sec. 5. For records requiring permanent retention, based on an approved retention schedule, the following shall apply:

(1) Raw stock microfilm shall **meet the requirements of ANSI/AIIM MS23-1998 and** be ~~of a safety-based permanent record film meeting specification of American National Standards Institute PH1.25-1984.~~ **capable of an LE 500-year rating, be polyester based, and include an antihalation dye system to prevent light scattering and fogging.**

(2) The camera-generated master negative microfilm shall be silver-halide, silver-gelatin, meeting the permanency requirements of ~~American National Standards Institute PH1.28-1984 and PH1.41-1984.~~ **ISO 18917.**

(3) Camera-generated negatives must be processed according to ISO 18917.

~~(3)~~ **(4)** Residual thiosulfate on the film must be measured using the methylene blue test and meet ~~American National Standards Institute PH4.8-1985.~~ **ANSI/AIIM MS23-1998.**

~~(4)~~ **(5)** The master microfilm record meeting the above criteria shall be stored at a site other than the producing agency's structure, in a fire-proof vault, ~~meeting American National Standards Institute PH1.43-1985.~~ **in accordance with ANSI/PIMA IT9.11-1998.**

~~(5)~~ **(6)** In addition to the master microfilm record, which is a security copy, the agency may provide working copies of the microfilm. These may be on silver, diazo, vesicular, dry silver, or transparent electro-photograph film, on a safety base of cellulose ester or polyester material.

(7) "Photography—Determination of residual thiosulfate and other related chemicals in processed photographic materials—Methods using iodine-amylose, methylene blue and silver sulfide", ISO 18917 (First edition 1999-0601) is hereby incorporated by reference. Copies of this publication may be obtained by writing to ISO, Case postale 56, 1211 Geneva 20, Switzerland.

(8) "Standard Recommended Practice—Production, Inspection, and Quality Assurance of First Generation, Silver Microforms of Documents", ANSI/AIIM MS23-1998 is hereby incorporated by reference. Copies of this publication may be obtained by writing to AIIM, 1100 Wayne Avenue, Suite 1100, Silver Spring, MD 20910.

(9) "Processed Safety Photographic Films—Storage", ANSI/PIMA IT9.11-1998 is hereby incorporated by reference. Copies of this publication may be obtained by writing to ANSI, 11 West 42nd Street, New York, NY 10036.

(Oversight Committee on Public Records; 60 IAC 2-2-5; filed Feb 23, 1987, 11:30 a.m.: 10 IR 1360; filed Dec 19, 1988, 4:45 p.m: 12 IR 1090; readopted filed Dec 2, 2001, 12:20 p.m.: 25 IR 1268; filed Mar 28, 2003, 9:38 a.m.: 26 IR 2606)

SECTION 8. 60 IAC 2-2-5.1 IS ADDED TO READ AS FOLLOWS:

60 IAC 2-2-5.1 Notice and certification of destruction

Authority: IC 5-15-5.1-5; IC 5-15-5.1-8; IC 5-15-5.1-20
Affected: IC 5-15-5.1

Sec. 5.1. (a) Records that have been microfilmed in accordance with this rule may be destroyed or otherwise disposed of only after:

(1) the agency files a destruction notice with the oversight committee certifying that the records have been microfilmed in accordance with this rule; and
(2) the oversight committee issues a written authorization for the destruction of such records.

(b) The oversight committee shall provide a form for this purpose. *(Oversight Committee on Public Records; 60 IAC 2-2-5.1; filed Mar 28, 2003, 9:38 a.m.: 26 IR 2606)*

SECTION 9. THE FOLLOWING ARE REPEALED: 60 IAC 2-1-2; 60 IAC 2-1-3; 60 IAC 2-2-6; 60 IAC 2-2-7.

LSA Document #02-261(F)
Notice of Intent Published: 26 IR 64
Proposed Rule Published: January 1, 2003; 26 IR 1118
Hearing Held: January 23, 2003
Approved by Attorney General: March 25, 2003
Approved by Governor: March 27, 2003
Filed with Secretary of State: March 28, 2003, 9:38 a.m.
Incorporated Documents Filed with Secretary of State: Standard Recommended Practice–Production, Inspection, and Quality Assurance of First General, Silver Microforms of Documents, ANSI/AIIM MS23-1998; Photography–Determination of residual thiosulfate and other related chemicals in process photographic materials–Methods using iodine-amylose, methylene blue and silver sulfide, ISO 18917 (First edition 1999-0601); Processed Safety Photographic Films–Storage", ANSI/PIMA IT9.11-1998.

TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #02-55(F)

DIGEST

Amends 326 IAC 20-25 concerning emissions from reinforced plastics composites fabricating emission units. Adds 326 IAC 20-48 concerning national emission standards for hazardous air pollutants from boat manufacturing. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: March 1, 2000, Indiana Register (25 IR 2045).

Second Notice of Comment Period and Notice of First Hearing: July 1, 2002, Indiana Register (25 IR 3488).

Date of First Hearing: September 4, 2002.

Notice of Second Hearing: October 1,2002, Indiana Register (26 IR 97).

Scheduled Date of Second Hearing: November 6, 2002.

326 IAC 20-25-1 **326 IAC 20-25-5**
326 IAC 20-25-3 **326 IAC 20-25-7**
326 IAC 20-25-4 **326 IAC 20-48**

SECTION 1. 326 IAC 20-25-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 20-25-1 Applicability

Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 1. (a) This rule applies to owners or operators of sources that emit or have the potential to emit ten (10) tons per year of any hazardous air pollutant (HAP) or twenty-five (25) tons per year of any combination of HAPs, and that meet all of the following criteria:

(1) Manufacture reinforced plastics composites parts, products, or watercraft.

(2) Have an emission unit where resins and gel coats that contain styrene are applied and cured using the open molding process.

(3) Have actual emissions of styrene equal to or greater than three (3) tons per year.

(b) Except as provided in section ~~3(e)~~ **3(d)** of this rule, in the event there is a conflict between this rule and any existing federal or state statute or federal or state rule, the more stringent requirement shall apply.

(c) If a source is subject to 326 IAC 20-48 concerning emission standards for hazardous air pollutants for boat manufacturing, the source is exempt from this rule after the following compliance dates for 326 IAC 20-48:

(1) August 23, 2004, for an existing source that is a major source on or before August 22, 2001.

(2) One (1) year after becoming a major source for an existing or new nonmajor source.

(3) Upon startup for a new major source.

(Air Pollution Control Board; 326 IAC 20-25-1; filed Feb 5, 2001, 9:23 a.m.: 24 IR 2406; filed Mar 25, 2003, 8:10 a.m.: 26 IR 2607)

SECTION 2. 326 IAC 20-25-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 20-25-3 Emission standards

Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 3. (a) Except as provided in subsections ~~(e),~~ ~~(f),~~ **(d), (e),** and ~~(h),~~ **(g),** owners and operators of sources subject to this rule shall comply with the provisions of this section on or before January 1, 2002. The total **hazardous air pollutants** (HAP) monomer content of the following materials shall be limited depending on the application method and products produced as specified in the following tables:

TABLE I Fiber Reinforced Plastics Composites Products Except Watercraft	HAP Monomer Content, Weight Percent
Resin, Manual or Mechanical Application	
Production-Specialty Products	48*
Production-Noncorrosion Resistant Unfilled	35*

Production-Noncorrosion Resistant Filled (≥35% by weight)	38
Production, Noncorrosion Resistant, Applied to Thermoformed Thermoplastic Sheet	42
Production, Class I, Flame and Smoke	60*
Shrinkage Controlled	52
Tooling	43
Gel Coat Application	
Production-Pigmented	37
Clear Production	44
Tooling	45
Production-Pigmented, subject to ANSI[a] standards	45
Production-Clear, subject to ANSI[a] standards	50

[a] American National Standards Institute.

TABLE II Watercraft Products	HAP Monomer Content, Weight Percent
Resin, Manual or Mechanical Application	
Production-Specialty Products	48*
Production-Noncorrosion Resistant Unfilled	35*
Production-Noncorrosion Resistant Filled (≥35% by weight)	38
Shrinkage Controlled	52
Tooling	43*
Gel Coat Application	
Production-Pigmented and Base Coat Gel Coat	34
Clear Production and Tooling	48

*Categories that must use mechanical nonatomized application technology or manual application as stated in subsection (b).

(b) Except as provided in subsection ~~(f),~~ **(e),** the following categories of materials in subsection (a) shall be applied using mechanical nonatomized application technology or manual application:

(1) Production noncorrosion resistant, unfilled resins from all sources.

(2) Production, specialty product resins from all sources.

(3) Tooling resins used in the manufacture of watercraft.

(4) Production resin used for Class I flame and smoke products.

(c) Unless specified in subsection (b), gel coat application and mechanical application of resins shall be by any of the following spray technologies:

(1) Nonatomized application technology.

(2) Air-assisted airless.

(3) Airless.

(4) High volume, low pressure.

(5) Equivalent emission reduction technologies to subdivisions (2) through (4).

~~(d) Cleaning operations for resin and gel coat application equipment are as follows:~~

~~(1) For routine flushing of resin and gel coat application equipment such as spray guns, flowcoaters, brushes, rollers, and squeegees, a cleaning solvent shall contain no HAPs. This emission standard does not apply to solvents used for removing cured resin or gel coat from application equipment.~~

~~(2) A source must store HAP containing solvents used for removing cured resin or gel coat in containers with covers. The covers must have no visible gaps and must be in place at all times, except when equipment is placed in or removed from the container.~~

~~(3) Recycled cleaning solvents that contain less than or equal to five percent (5%) HAP by weight are considered to contain no HAP for the purposes of this subsection.~~

~~(e)~~ **(d)** A source that was issued a permit pursuant to 326 IAC 2 on or after June 28, 1998, but prior to the effective date of this rule, and that obtained a revised best available control technology (BACT) determination in the permit for emission units, is not subject to this section until the permit is renewed, or the emission unit undergoes a modification that increases the potential to emit styrene.

~~(f)~~ **(e)** A new or reconstructed emission unit subject to 326 IAC 2-4.1-1 is not subject to the requirements of this section.

~~(g)~~ **(f)** The owner or operator of a source subject to this rule may comply with this section using monthly emission averaging within each resin or gel coat application category listed in subsection (a) without prior approval by the commissioner.

~~(h)~~ **(g)** Upon written application by the source, the commissioner may approve the following:

(1) Enforceable alternative emission reduction techniques that are at least equally protective of the environment as the emission standards in subsections (a) through ~~(d).~~ **(c).**

(2) Use of monthly emissions averaging for any or all material or application categories listed in subsection (a) if the following conditions are met:

(A) The source shows that emissions did not exceed the emissions that would have occurred if each emission unit had met the requirements of subsections (a) through (c).

(B) The source uses any one (1) or a combination of the following emission reduction techniques:

(i) Resins or gel coats with HAP monomer contents lower than specified in subsection (a).
(ii) Vapor suppressed resins.
(iii) Vacuum bagging or other similar technique. This item does not include resin transfer molding or compression molding.
(iv) Air pollution control equipment where the emissions are estimated based on parametric measurements or stack monitoring.
(v) Controlled spray used in combination with automated actuators or robots.
(vi) Controlled spray that includes the following:
(AA) Mold flanges.
(BB) Spray technique.
(CC) Spray gun pressure.
(DD) Means of verifying continuous use of the controlled spray technique, such as mass balance of materials and products (surface area and thickness of product), as approved by the commissioner prior to implementation.
(vii) Emission reduction techniques approved under subdivision (1).

Sources using averaging shall not use spray equipment that produces higher emissions than the equipment specified in ~~subsections~~ **subsection** (c)(2) through (c)(5).

~~(i)~~ **(h)** To determine emission estimates, the following references or methods shall be used:

(1) "Unified Emission Factors for Open Molding of Composites", ~~April 1999*,~~ **July 2001**,** except use of controlled spray emission factors must be approved by the commissioner.

(2) "Compilation of **Air Pollution** Emission Factors ~~Volume 1, Fifth Edition, and supplements, January 1995*~~, **AP-42**," as defined in 326 IAC 1-2-20.5,** except ~~for~~ **emissions from** hand layup and spray layup operations **must be calculated using** emission factors **referenced in subdivision (1) or site-specific values using information in subdivision (3).**

(3) Site-specific values or other means of quantification provided the site-specific values and the emission factors are acceptable to the commissioner and the U.S. EPA.

****These documents are incorporated by reference.** Copies ~~of the "Compilation of Emission Factors" and "Unified Emission Factors for Open Molding of Composites" referenced in this article~~ **may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20204 or** are available for **review and** copying ~~from~~ **at** the **Indiana Department of Environmental Management**, Office of Air ~~Management, Department of Environmental Management,~~ **Quality,** Indiana Government Center-North, **Tenth Floor,** 100 North Senate Avenue, Indianapolis, Indiana.

(Air Pollution Control Board; 326 IAC 20-25-3; filed Feb 5, 2001, 9:23 a.m.: 24 IR 2408; filed Mar 25, 2003, 8:10 a.m.: 26 IR 2607)

SECTION 3. 326 IAC 20-25-4 IS AMENDED TO READ AS FOLLOWS

326 IAC 20-25-4 Work practice standards

Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 4. On or before March 1, 2001, each owner or operator of a source or emission unit subject to this rule shall operate in accordance with the following work practice standards:

(1) Nonatomizing spray equipment shall not be operated at pressures that atomize the material during the application process.

(2) Except for mixing containers as described in ~~subsection~~ **subdivision** (7), **hazardous air pollutants** (HAP) containing materials shall be kept in a closed container when not in use.

(3) Solvents sprayed during cleanup and resin changes shall be directed into solvent collection containers.

(4) Solvent collection containers shall be kept closed when not in use.

(5) Clean-up rags with solvent shall be stored in closed containers.

(6) Closed containers shall be used for the storage of the following:

(A) All production and tooling resins that contain HAPs.
(B) All production and tooling gel coats that contain HAPs.
(C) Waste resins and gel coats that contain HAPs.
(D) Cleaning materials, including waste cleaning materials.
(E) Other materials that contain HAPs.

The covers of the closed containers must have no visible gaps and must be in place at all times, except when equipment is placed in or removed from the container.

(7) All resin and gel coat mixing containers with a capacity equal to or greater than fifty-five (55) gallons must have a cover with no visible gaps in place at all times except when material is being added to or removed from a container, or when mixing or pumping equipment is being placed in or removed from a container.

(8) For routine flushing of resin and gel coat application equipment, such as spray guns, flowcoaters, brushes, rollers, and squeegees, owners or operators must use a cleaning solvent that contains no HAPs. However, recycled cleaning solvents that contain less than or equal to five percent (5%) HAP by weight are considered to contain no HAP for the purposes of this subdivision. For removing cured resin or gel coat from application equipment, no organic HAP limit applies.

(Air Pollution Control Board; 326 IAC 20-25-4; filed Feb 5, 2001, 9:23 a.m.: 24 IR 2410; filed Mar 25, 2003, 8:10 a.m.: 26 IR 2609)

SECTION 4. 326 IAC 20-25-5 IS AMENDED TO READ AS FOLLOWS:

326 IAC 20-25-5 Testing requirements
Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 5. (a) An initial performance test is required when using air pollution control equipment to demonstrate compliance with the standards in section 3 of this rule. Testing shall be performed in accordance with 326 IAC 3-6, concerning source sampling procedures, and 40 CFR 63.7*, ~~(July 1, 1998)*,~~ performance testing requirements.

(b) When using air pollution control equipment to demonstrate compliance with the standards in section 3 of this rule, the following test methods shall be used:

(1) 40 CFR 60, Method 25/25A, Appendix A*, ~~(July 1, 1998)*,~~ shall be used to measure total hydrocarbon emissions.

(2) 40 CFR 60, Method 18, Appendix A*, ~~(July 1, 1998)*,~~ shall be used to measure styrene and methyl methacrylate emissions.

(3) 40 CFR 51, Method 204, Appendix M*, ~~(July 1, 1998)*,~~ shall be used to determine capture efficiency. As an alternative to the procedures specified in 40 CFR 51, Method 204, Appendix M*, ~~(July 1, 1998)*,~~ an owner or operator required to conduct a capture efficiency test may use any capture efficiency protocol and test methods that satisfy the criteria of either the data quality objective or the lower confidence limit approach as described in the EPA Guidelines for Determining Capture Efficiency, which is included in Appendix A to Subpart KK to 40 CFR Part 63*. ~~(July 1, 1998)*.~~ The owner or operator may exclude work stations that have never been subject to such capture efficiency determinations.

(c) Compliance with the HAP monomer content and usage limitations shall be determined using one (1) of the following:

(1) The manufacturer's certified product data sheet.

(2) The manufacturer's material safety data sheet.

(3) Sampling and analysis, using any of the following test methods, as applicable:

(A) 40 CFR 60, Method 24, Appendix A*, ~~(July 1, 1998)*,~~ shall be used to measure the total volatile HAP content of resins and gel coats. Method 24 may be modified for measuring the volatile HAP content of resins or gel coats to require that the procedure be performed on uncatalyzed resin or gel coat samples.

(B) 40 CFR 63, Method 311, Appendix A*, ~~(July 1, 1998)*,~~ shall be used to measure HAP content in resins and gel coats by direct injection into a gas chromatograph.

(C) Upon written application by the source, the commissioner may approve an alternative test method.

When a MSDS, a certified product data sheet, or other document specifies a range of values, the values resulting in the greatest calculated emissions shall be used for determining compliance with this rule.

***These documents are incorporated by reference.** Copies ~~of the Code of Federal Regulation (CFR) referenced in this section~~ may be obtained from the Government Printing Office, **732 North Capitol Street NW,** Washington, D.C. 20204 or are available for **review and** copying ~~from~~ **at** the **Indiana Department of Environmental Management**, Office of Air ~~Management, Department of Environmental Management,~~ **Quality,** Indiana Government Center-North, **Tenth Floor**, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 20-25-5; filed Feb 5, 2001, 9:23 a.m.: 24 IR 2410; filed Mar 25, 2003, 8:10 a.m.: 26 IR 2610)*

SECTION 5. 326 IAC 20-25-7 IS AMENDED TO READ AS FOLLOWS:

326 IAC 20-25-7 Reporting requirements
Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 7. (a) On or before June 1, 2001, the owner or operator of a source subject to this rule shall submit an initial notification report to the commissioner. The notification report shall include all of the following:

(1) Name and address of the owner or operator.

(2) Address of the physical location of the source.

(3) Statement verifying that the source is subject to the rule signed by a responsible official as set forth in 326 IAC 2-7-1(34).

(b) On or before March 1, 2002, the owner or operator of a source subject to this rule shall submit an initial statement of compliance to the commissioner. The initial statement of compliance shall include all of the following:

(1) Name and address of the owner or operator.

(2) Address of the physical location.

(3) Statement signed by a responsible official, as set forth in 326 IAC 2-7-1(34), certifying that the source achieved compliance on or before January 1, 2002, the method used to achieve compliance, and that the source is in compliance with all the requirements of this rule.

(c) Sources using monthly emissions averaging pursuant to section ~~3(h)(2)~~ **3(g)(2)** of this rule, shall submit a quarterly summary report and supporting calculations. *(Air Pollution Control Board; 326 IAC 20-25-7; filed Feb 5, 2001, 9:23 a.m.: 24 IR 2411; filed Mar 25, 2003, 8:10 a.m.: 26 IR 2610)*

SECTION 6. 326 IAC 20-48 IS ADDED TO READ AS FOLLOWS:

Rule 48. Emission Standards for Hazardous Air Pollutants for Boat Manufacturing

326 IAC 20-48-1 Applicability; incorporation by reference of federal standards

Authority: IC 13-15-2-1; IC 13-17-3-4
Affected: IC 13-12-3-1

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.5683* (66 FR 44232, August 22, 2001, and 66 FR 50504, October 3, 2001).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart VVVV*, (66 FR 44232, August 22, 2001, and 66 FR 50504, October 3, 2001), National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing, except for the following gel coat applications in Table 2 to Subpart VVVV, 40 CFR 63*; Alternative Organic Hazardous Content Requirements for Open Molding Resin and Gel Coat Operations:

(1) 3. Pigmented gel coat operations.

(2) 4. Clear gel coat operations.

(3) 7. Tooling gel coat operations.

(c) Sources subject to this rule are exempt from 326 IAC 20-25 after the following compliance dates as provided in Table 1 to Subpart VVVV, 40 CFR 63*; Compliance Dates for New and Existing Boat Manufacturing Facilities:

(1) August 23, 2004, for an existing source that is a major source on or before August 22, 2001.

(2) One (1) year after becoming a major source for an existing or new nonmajor source.

(3) Upon startup, whichever is later, for a new major source.

(d) A source shall use the following references or methods to estimate emissions:

(1) "Unified Emission Factors for Open Molding of Composites", July 2001*, except use of controlled spray emission factors must be approved by the commissioner and U.S. EPA.

(2) "Compilation of Air Pollution Emission Factors AP-42"*, as defined in 326 IAC 1-2-20.5, except emissions from hand layup and spray layup operations must be calculated using emission factors referenced in subdivision (1) or site-specific values using information in subdivision (3).

(3) Site-specific values or other means of quantification provided the site-specific values and the emission factors are acceptable to the commissioner and the U.S. EPA.

***These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 20-48-1; filed Mar 25, 2003, 8:10 a.m.: 26 IR 2611)*

326 IAC 20-48-2 Alternative organic hazardous air pollutant content requirements for open molding gel coat operations

Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 2. In addition to alternative organic HAP content requirements for open molding resin operations contained in Table 2 to Subpart VVVV, 40 CFR 63*, the alternative HAP content requirements for gel coat operations are as follows:

Gel Coat Application

For this operation	And this application method	You must not exceed this weighted-average percent organic HAP content (weight percent) requirement
Pigmented gel coat operations	Atomized (spray)	33 percent
Clear gel coat operations	Atomized (spray)	48 percent
Tooling gel coat operations	Atomized (spray)	40 percent
Pigmented gel coat operations	Nonatomized (nonspray)	40 percent
Clear gel coat operations	Nonatomized (nonspray)	55 percent
Tooling gel coat operations	Nonatomized (nonspray)	54 percent

***These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 20-48-2; filed Mar 25, 2003, 8:10 a.m.: 26 IR 2611)*

326 IAC 20-48-3 Work practice standards

Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 3. In addition to 40 CFR 63.5731* and 40 CFR 63.5734(b)*, the following work practice standards are required:

(1) Nonatomizing spray equipment shall not be operated

at pressures that atomize the material during the application process.

(2) Solvents sprayed during cleanup and resin changes shall be directed into solvent collection containers.

(3) For routine flushing of resin and gel coat application equipment, such as spray guns, flowcoaters, brushes, rollers, and squeegees, owners or operators must use a cleaning solvent that contains no hazardous air pollutants (HAPs). However, recycled cleaning solvents that contain less than or equal to five percent (5%) HAP by weight are considered to contain no HAP for the purposes of this subdivision. For removing cured resin or gel coat from application equipment, no organic HAP limit applies.

(4) Clean-up rags with solvent shall be stored in closed containers.

(5) Closed containers shall be used for the storage of the following:

(A) All production and tooling resins that contain HAPs.

(B) All production and tooling gel coats that contain HAPs.

(C) Waste resins and gel coats that contain HAPs.

(D) Cleaning materials, including waste cleaning materials.

(E) Other materials that contain HAPs.

The covers of the closed containers must have no visible gaps and must be in place at all times, except when equipment is placed in or removed from the container.

***These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 20-48-3; filed Mar 25, 2003, 8:10 a.m.: 26 IR 2611)*

326 IAC 20-48-4 Operator training

Authority: IC 13-14-8; IC 13-15-2-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-17-3

Sec. 4. (a) Each owner or operator shall train all new and existing personnel, including contract personnel, who are involved in resin and gel coat spraying and applications that could result in excess emissions if performed improperly according to the following schedule:

(1) All personnel hired shall be trained within fifteen (15) days of hiring.

(2) To ensure training goals listed in subsection (b) are maintained, all personnel shall be given refresher training annually.

(3) Personnel who have been trained by another owner or operator subject to this rule are exempt from subdivision (1) if written documentation that the employee's training is current is provided to the new employer.

(b) The lesson plans shall cover, for the initial and refresher training, at a minimum, all of the following topics:

(1) Appropriate application techniques.

(2) Appropriate equipment cleaning procedures.

(3) Appropriate equipment setup and adjustment to minimize material usage and overspray.

(c) The owner or operator shall maintain the following training records on site and available for inspection and review:

(1) A copy of the current training program.

(2) A list of all current personnel, by name, that are required to be trained and the dates they were trained and the date of the most recent refresher training.

(d) Records of prior training programs and former personnel are not required to be maintained. *(Air Pollution Control Board; 326 IAC 20-48-4; filed Mar 25, 2003, 8:10 a.m.: 26 IR 2612)*

LSA Document #02-55(F)
Proposed Rule Published: October 1, 2002; 26 IR 91
Hearing Held: December 4, 2002
Approved by Attorney General: March 5, 2003
Approved by Governor: March 21, 2003
Filed with Secretary of State: March 25, 2003, 8:10 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #00-136(F)

DIGEST

Amends 327 IAC 5-2-9 concerning notification requirements for toxic pollutants. Adds 327 IAC 5-2.1 concerning public notification by National Pollutant Discharge Elimination System (NPDES) permit holders of the potential health impact of combined sewer overflows (CSOs). Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: #00-136(WPCB) July 1, 2000, Indiana Register (23 IR 2613).

Second Notice of Comment Period and Notice of First Hearing: February 1, 2002, Indiana Register (25 IR 1736).

Date of First Hearing: April 10, 2002.

Third Notice of Comment Period and Notice of Second Hearing: November 1, 2002, Indiana Register (26 IR 422).

Date of Second Hearing and Final Adoption: January 8, 2003.

327 IAC 5-2-9
327 IAC 5-2.1

SECTION 1. 327 IAC 5-2-9 IS AMENDED TO READ AS FOLLOWS:

327 IAC 5-2-9 Notification requirements for toxic pollutants
Authority: IC 13-14-8; IC 13-14-9; IC 13-15-2; IC 13-18-4
Affected: IC 13-15-1-2; IC 13-18-3

Sec. 9. In addition to the reporting requirements of ~~327 IAC 5-2-8(j),~~ **section 8(10) of this rule,** permits issued to ~~all~~ **any** manufacturing, commercial, mining, ~~and~~ **or** silvicultural ~~dischargers~~ **discharger** shall contain conditions requiring ~~such dischargers~~ **the discharger** to notify the commissioner as soon as ~~they know~~ **the discharger knows** or ~~have~~ **has** reason to ~~believe:~~ **know the following:**

~~(a)~~ **(1)** That any activity has occurred or will occur ~~which~~ **that** would result in the discharge of any toxic pollutant ~~which~~ **that** is not limited in the permit if that discharge will exceed the highest of the following notification levels:

~~(1)~~ **(A)** One hundred **(100)** micrograms per liter. ~~(100 µg/l);~~

~~(2)~~ **(B)** Two hundred **(200)** micrograms per liter ~~(200 µg/l)~~ for acrolein and acrylonitrile; five hundred **(500)** micrograms per liter ~~(500 µg/l)~~ for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one **(1)** milligram per liter ~~(1 mg/l)~~ for antimony.

~~(3)~~ **(C)** Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7). ~~or~~

~~(4)~~ **(D)** A notification level established by the commissioner on a case-by-case basis, either at ~~his~~ **the commissioner's** own initiative or upon a petition by the permittee. This notification level may exceed the levels specified in ~~subdivisions (1), (2), or (3)~~ **clause (A), (B), or (C)** but may not exceed the level which can be achieved by the technology-based treatment requirements applicable to the permittee under the CWA (see 327 IAC 5-5-2).

~~(b)~~ **(2)** That ~~they have~~ **the discharger has** begun or ~~expect~~ **expects** to begin to use or manufacture, as an intermediate or final product or byproduct, any toxic pollutant ~~which~~ **that** was not reported in the permit application under 40 CFR 122.21(g)(9). However, this ~~subsection~~ **subdivision** does not apply to the permittee's use or manufacture of a toxic pollutant solely under research or laboratory conditions.

(Water Pollution Control Board; 327 IAC 5-2-9; filed Sep 24, 1987, 3:00 p.m.: 11 IR 622; filed Apr 9, 2003, 2:55 p.m.: 26 IR 2613)

SECTION 2. 327 IAC 5-2.1 IS ADDED TO READ AS FOLLOWS:

Rule 2.1. Combined Sewer Overflow Public Notification

327 IAC 5-2.1-1 Purpose
Authority: IC 13-14-1-5; IC 13-14-8; IC 13-14-9; IC 13-18-4-1
Affected: IC 13-18-3

Sec. 1. The purpose of this rule concerning community notification of potential health impacts resulting from a combined sewer overflow discharge is to promote and accomplish the following:

(1) Educate the public, in general, and those persons who, specifically, may come into contact with water that may be affected by a combined sewer overflow discharge as to the health implications possible from combined sewer overflow discharge tainted water.

(2) Alert members of the public who may be immediately affected by a combined sewer overflow discharge or the potential for a combined sewer overflow discharge to occur.

(3) Enable members of the public to protect themselves from possible exposure to waterborne pathogens resulting from contact with or ingestion of water from a waterway that may be affected by a combined sewer overflow discharge.

(4) Complement the combined sewer overflow discharge requirements contained in a National Pollutant Discharge Elimination System (NPDES) permit but not obviate or supersede any more stringent requirements contained in an NPDES permit.

(Water Pollution Control Board; 327 IAC 5-2.1-1; filed Apr 9, 2003, 2:55 p.m.: 26 IR 2613)

327 IAC 5-2.1-2 Applicability
Authority: IC 13-14-1-5; IC 13-14-8; IC 13-14-9; IC 13-18-4-1
Affected: IC 13-18-3

Sec. 2. Any person required to possess a National Pollutant Discharge Elimination System (NPDES) permit and having one (1) or more combined sewer overflow outfalls into waters of the state must comply with this rule. *(Water Pollution Control Board; 327 IAC 5-2.1-2; filed Apr 9, 2003, 2:55 p.m.: 26 IR 2613)*

327 IAC 5-2.1-3 Definitions
Authority: IC 13-14-1-5; IC 13-14-8; IC 13-14-9; IC 13-18-4-1
Affected: IC 13-11-2-158; IC 13-11-2-265; IC 13-18-3

Sec. 3. The following definitions apply throughout this rule:

(1) "Affected public" means those persons who may be exposed to waterborne pathogens through direct contact with or ingestion of water affected by a combined sewer overflow discharge and is limited to:

(A) residents on or adjacent to affected waters;

(B) public and private schools on or adjacent to affected waters;

(C) owners or operators of facilities that provide access to or recreational opportunities in or on affected waters; and

(D) owners or operators of public drinking water systems with surface intakes in or on affected waters.

(2) "Affected waters" means those waters where the E. coli criteria may be exceeded due to a combined sewer overflow discharge.
(3) "Combined sewage" means a combination of wastewater, including domestic, commercial, or industrial wastewater and storm water transported in a combined sewer.
(4) "Combined sewer overflow community" or "CSO community" means a recipient of a National Pollutant Discharge Elimination System (NPDES) permit that includes one (1) or more combined sewer overflow outfalls.
(5) "Combined sewer overflow discharge" or "CSO discharge" means the discharge of combined sewage from an overflow point listed in an NPDES permit.
(6) "Combined sewer overflow outfall" or "CSO outfall" means a structure that:
(A) conveys combined sewage into a receiving waterbody; and
(B) is listed in an NPDES permit.
(7) "Combined sewer system" means a system that:
(A) is designed, constructed, and used to receive and transport combined sewage to a publicly owned wastewater treatment plant; and
(B) may contain one (1) or more combined sewer overflow outfalls that discharge sewage when the hydraulic capacity of the wastewater treatment plant, combined sewer system, or part of the system is exceeded as a result of a wet weather event.
(8) "Commissioner" means the commissioner of the department of environmental management.
(9) "Department" means the department of environmental management except as specifically referenced in this rule.
(10) "Person" has the meaning set forth at IC 13-11-2-158.
(11) "Waters of the state" has the meaning set forth for "waters" at IC 13-11-2-265.

(Water Pollution Control Board; 327 IAC 5-2.1-3; filed Apr 9, 2003, 2:55 p.m.: 26 IR 2613)

327 IAC 5-2.1-4 CSO notification procedure

Authority: IC 13-14-1-5; IC 13-14-8; IC 13-14-9; IC 13-18-4-1
Affected: IC 13-18-3

Sec. 4. (a) A CSO community shall:
(1) develop a CSO notification procedure that meets the requirements of this rule; and
(2) incorporate the CSO notification procedure into its CSO operational plan.

(b) A CSO notification procedure must include the following information at a minimum:
(1) Determination of affected waters for the purpose of providing community notification according to section 5 of this rule.
(2) Locations of:
(A) the CSO outfalls;
(B) public access points including boat launches and bridges located on affected waters; and
(C) parks, school yards, parkways, and greenways on or adjacent to affected waters.
(3) Locations of drinking water suppliers having surface water intakes located within ten (10) river miles downstream of each CSO outfall within the CSO community's jurisdiction.
(4) Method, according to section 6 of this rule, that shall be used to provide notification to the affected public within the area of each affected water.
(5) Assignment of responsibilities within a CSO community for implementing the CSO notification procedure.

(c) A CSO notification procedure must be:
(1) submitted to the commissioner for review six (6) months after the effective date of this rule;
(2) included in the community's CSO operational plan;
(3) in the initial stages of implementation by the CSO community upon submission according to subdivision (1);
(4) fully implemented no later than ninety (90) days after the date of submission according to subdivision (1); and
(5) modified in order to ensure that the procedure is consistent with this rule if either of the following occurs:
(A) The commissioner requests such modification within six (6) months of the date of submission of the notification procedure.
(B) A member of the affected public requests that the department reevaluate the notification procedure.

(Water Pollution Control Board; 327 IAC 5-2.1-4; filed Apr 9, 2003, 2:55 p.m.: 26 IR 2614)

327 IAC 5-2.1-5 Notification

Authority: IC 13-14-1-5; IC 13-14-8; IC 13-14-9; IC 13-18-4-1
Affected: IC 13-18-3

Sec. 5. (a) A CSO community shall provide notification to:
(1) affected public;
(2) other persons within the CSO community who request to be notified in response to the public notice required by section 6(a)(1) of this rule; and
(3) local health departments and drinking water suppliers having surface water intakes located within ten (10) river miles downstream of each CSO outfall experiencing or about to experience a CSO discharge.

(b) The notification must be appropriately worded to explain the nature of the potential health effects of a CSO discharge and steps that affected persons can take to avoid exposure.

(c) Unless specifically required in this rule, a CSO

community is not responsible for confirming that the intended recipients of the notification required by subsection (a) received the notification.

(d) Notification must be provided whenever information from a reliable source indicates that:

(1) a discharge or discharges from one (1) or more combined sewer overflow outfalls is occurring; or

(2) a discharge or discharges from one (1) or more combined sewer overflow outfalls is imminent based on predicted or actual precipitation or a related event.

(e) If a CSO discharge occurred and notification was not provided according to subsection (d), the CSO community shall report this fact on the monthly report required according to section 7(a) of this rule. *(Water Pollution Control Board; 327 IAC 5-2.1-5; filed Apr 9, 2003, 2:55 p.m.: 26 IR 2614)*

327 IAC 5-2.1-6 Community notification methods

Authority: IC 13-14-1-5; IC 13-14-8; IC 13-14-9; IC 13-18-4-1
Affected: IC 13-18-3

Sec. 6. (a) A CSO community shall do the following unless alternative procedures are identified by the community that are equivalently effective:

(1) Provide public notice in a newspaper of general circulation in March of each year to allow the following to request receipt of CSO notification:

(A) Media sources, such as newspapers, television, or radio.

(B) Affected public.

(C) Other interested persons in the CSO community.

(2) Provide notification to those identified under subdivision (1) who request receipt of CSO notification under subdivision (1):

(A) when a CSO discharge is occurring or is imminent based on predicted or actual precipitation or a related event; and

(B) in a manner that is mutually agreeable to the recipient and the CSO community.

If the recipient and CSO community do not reach agreement on an acceptable manner of notification, then the CSO community shall provide notice by a reasonable, effective means.

(b) In addition to the requirements of subsection (a), a CSO community shall post a prominent sign within the CSO community's jurisdiction:

(1) at access points to an affected water, including boat ramps, bridges, parks, and school yards;

(2) along parkways and greenways on or adjacent to affected waters at locations most likely to provide notification to persons who may come into direct contact with the water based on information available to the CSO community; and

(3) with the language printed in English or any other language common in the locale (including the language necessary to fill in the blanks) that states or is equal in meaning to the following: "Caution–Sewage or Wastewater pollution. Sewage or Wastewater may be in this water during and for several days after periods of rainfall or snow melt. People who swim in, wade in, or ingest this water may get sick. For more information, please call [insert local sewer authority, telephone number, and, if available, a Web site address].".

(c) Cautionary combined sewer overflow signs posted prior to the effective date of this rule advising that combined sewer overflows may occur at that point do not need to be replaced specifically to comply with the wording of subsection (b)(3). If, however, a cautionary combined sewer overflow sign existing prior to the effective date of this rule does need replacement due to reasons such as weathering or other reasons for replacement, then the replacement sign must comply with the language suggested in subsection (b)(3).

(d) If an access point to an affected water is located on private property or property outside a CSO community's jurisdiction, then a CSO community shall:

(1) annually offer to provide the sign required under subsection (b) for the owner or operator of the private or nonjurisdictional property; and

(2) not be required to provide the sign required under subsection (b) provided the private or nonjurisdictional property owner or operator has refused the community's offer made according to subdivision (1).

(Water Pollution Control Board; 327 IAC 5-2.1-6; filed Apr 9, 2003, 2:55 p.m.: 26 IR 2615)

327 IAC 5-2.1-7 Record keeping and reporting

Authority: IC 13-14-1-5; IC 13-14-8; IC 13-14-9; IC 13-18-4-1
Affected: IC 13-18-3

Sec. 7. (a) A CSO community shall document its public notification efforts on its monthly CSO discharge monitoring report (DMR).

(b) A CSO community shall maintain a record of reports submitted according to subsection (a) that is:

(1) kept at the wastewater treatment plant; and

(2) available to the commissioner's representatives during the department's normal working hours.

(Water Pollution Control Board; 327 IAC 5-2.1-7; filed Apr 9, 2003, 2:55 p.m.: 26 IR 2615)

LSA Document #00-136(F)
Proposed Rule Published: November 1, 2002; 26 IR 422
Hearing Held: January 8, 2003
Approved by Attorney General: March 27, 2003
Approved by Governor: April 8, 2003
Filed with Secretary of State: April 9, 2003, 2:55 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

LSA Document #02-218(F)

DIGEST

Amends 440 IAC 4-3-1 to delete exemptions from mandatory services for community mental health centers. Amends 440 IAC 4.1-2-1, 440 IAC 4.1-2-4, 440 IAC 4.1-2-5, and 440 IAC 4.1-2-9 to require an applicant to be assigned an exclusive geographic primary service area before it is certified as a community mental health center and to make the maintenance of financial viability a requirement of certification. Adds 440 IAC 4.1-3 to establish exclusive geographic primary service areas for community mental health centers, including criteria and procedures to justify a change of an assignment of a community mental health center to a primary service area. Effective July 1, 2003.

440 IAC 4-3-1 **440 IAC 4.1-2-5**
440 IAC 4.1-2-1 **440 IAC 4.1-2-9**
440 IAC 4.1-2-4 **440 IAC 4.1-3**

SECTION 1. 440 IAC 4-3-1 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4-3-1 Mandatory services

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-29

Sec. 1. **(a)** The management of services provided by the center shall be so structured as to promote continuity of care to every client. All services of the center must be readily accessible and information easily transferable among service elements. The department and the center shall cooperate in defining and putting into operation policies and procedures that require clinical coordination by the center for patients going into the state hospital and for patients coming from the state hospital to the care of the center.

(b) In order to be designated as a community mental health center, a provider shall, within its designated service area, provide in the following six (6) areas for the treatment and prevention of mental disorders:

(1) Inpatient services.
(2) Residential services.
(3) Partial hospitalization services.
(4) Outpatient services.
(5) Consultation-education services.
(6) Community support program.

(c) Centers are expected to stay sensitive to the demographic makeup of their service areas when planning for the provision of service. Care should be taken to provide for the specialized service needs of children, the older adult, and residents previously discharged from inpatient treatment at a mental health facility. Within the identified framework of mandatory services, the following target populations must be addressed:

(1) ~~chronically~~ **Seriously** mentally ill.
(2) Seriously emotionally ~~handicapped~~ **disturbed** children and adolescents.
(3) Alcohol and other drug abusers.
(4) Older adults.

(d) In addition to the above required services, the center may provide additional services to the service area if availability of resources can be demonstrated.

~~A center may request exemption from providing a described mandatory service for a fixed time period, not to exceed one (1) year. Such request shall be in writing and accompanied by supporting documentation. This exemption shall be renewable at the department's discretion.~~ *(Division of Mental Health and Addiction; 440 IAC 4-3-1; filed Jun 29, 1983; 10:31 a.m.: 6 IR 1398; filed Jan 22, 1988, 1:55 p.m.: 11 IR 1777; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Apr 3, 2003, 11:10 a.m.: 26 IR 2616, eff Jul 1, 2003)*

SECTION 2. 440 IAC 4.1-2-1 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.1-2-1 Certification by the division

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-29-2-1
Affected: IC 12-29-2-14

Sec. 1. (a) Before an entity may call itself a community mental health center, and before the division may contract with an entity as a community mental health center for mental health services, the entity must be certified by the division under this article, **including the assignment of an exclusive geographic primary service area, under 440 IAC 4.1-3.**

(b) A center which has applied for certification or which has been certified must provide information related to services as requested by the division and must participate in the division's quality assurance program. A center must respond to a request from the division as fully as it is capable. Failure to comply

with a request from the division may result in termination of a center's certification.

(c) When a center has demonstrated compliance with all applicable laws and regulations, including the specific criteria in this article, a certificate shall be issued and shall be posted in a conspicuous place in the facility open to clients and the public. *(Division of Mental Health and Addiction; 440 IAC 4.1-2-1; filed Jan 18, 1995, 10:50 a.m.: 18 IR 1472;readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Jun 28, 2001, 4:24 p.m.: 24 IR 3643; filed Apr 3, 2003, 11:10 a.m.: 26 IR 2616, eff Jul 1, 2003)*

SECTION 3. 440 IAC 4.1-2-4 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.1-2-4 Regular certification

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-29-2-1
Affected: IC 12-7-2-40.6; IC 12-22-2-3; 42 U.S.C. 300x

Sec. 4. (a) An applicant for certification as a community mental health center shall file an application with the division.

(b) The application shall contain the following:

(1) A description of the organizational structure and mission of the applicant.

(2) The location of all operational sites of the applicant and proof of compliance with required health, fire, and safety codes as prescribed by federal and state law.

(3) List of governing board members and executive staff.

(4) Proof of general liability insurance coverage in the minimum amount of five hundred thousand dollars ($500,000) for bodily injury and property damage.

(5) A copy of the applicant's procedures to ensure protection of client rights and confidentiality.

(6) If the center is not operated by a unit of government, the applicant shall submit a copy of the most recent financial audit, including a balance sheet of assets and liabilities of the applicant, which shall be prepared by an independent certified public accountant.

(7) If the center is operated by a unit of government, the applicant shall submit either:

(A) a copy of the most recent financial audit, including a balance sheet of assets and liabilities of the applicant, which shall be prepared by an independent certified public accountant; or

(B) a copy of the most recent state board of accounts audit report regarding the center.

~~(8) The geographic area the applicant is requesting to serve.~~ ~~(9)~~ **(8)** The history of mental health services provided by the applicant ~~in~~ **and** the geographic area the applicant ~~is requesting to serve.~~ **has served.**

~~(10)~~ **(9)** A budget detailing all sources of revenue and expenses.

~~(11)~~ **(10)** Proof of the applicant's current federal tax exempt status.

(c) The applicant shall have the following staff:

(1) At least ten percent (10%) of the applicant's direct care staff full-time equivalents shall be some combination of the following:

(A) Licensed clinical social workers.

(B) Licensed mental health counselors.

(C) Licensed marriage and family therapists.

(D) Clinical nurse specialists.

(E) Licensed psychologists, including individuals licensed as health service providers in psychology.

(F) Psychiatrists licensed to practice in the state of Indiana.

(2) Five percent (5%) of the applicant's direct care staff that qualify under subdivision (1) or the equivalent of fifty percent (50%) of a full-time position, whichever is greater, shall be psychiatrists.

(d) At the time of application, the applicant must provide the following services directly within the limits of the capacity of the center to any individual residing or employed in the applicant's service area, regardless of ability to pay for such services:

(1) Services for seriously mentally ill adults and seriously emotionally disturbed children and adolescents as follows:

(A) Case management.

(B) Crisis intervention.

(C) Outpatient services (including specialized outpatient services for children, the elderly, individuals with a serious mental illness, and residents of the service area who have been discharged from inpatient treatment).

(D) Day treatment or partial hospitalization.

(E) Individualized treatment planning.

(F) Family support services.

(G) Medication evaluation and monitoring.

(H) Services to prevent unnecessary and inappropriate treatment and hospitalization.

(I) Consultation/education services to the communities within the service area.

(2) Services for individuals who abuse alcohol and other drugs as follows:

(A) Crisis intervention.

(B) Consultation/education services to the communities within the service area.

(e) The following services must be available, but may be provided directly by the applicant or by contract with another entity:

(1) For seriously mentally ill adult population, the following:

(A) Inpatient care.

(B) Acute stabilization.

(C) Residential services, in compliance with rules promulgated to implement IC 12-22-2-3.

(2) For seriously emotionally disturbed children and adolescents, the following:
(A) Inpatient care.
(B) Acute stabilization.
(3) For individuals who abuse alcohol and other drugs, the following:
(A) Inpatient care.
(B) Acute stabilization, including detoxification services.
(C) Residential services, in compliance with rules promulgated to implement IC 12-22-2-3.
(D) Day treatment or partial hospitalization.
(E) Outpatient services.
(F) Case management services.

(f) At the time of application, the applicant shall be providing and have accreditation for all of the services that are required to be provided directly for each of the following populations:
(1) seriously emotionally disturbed children and adolescents;
(2) seriously mentally ill adults; and
(3) individuals who abuse alcohol and other drugs;
and all other services in the continuum of care that the center is providing directly.

(g) The applicant's accreditation must be by an accrediting agency approved by the division.

(h) The applicant must forward to the division proof of accreditation in all services provided by the applicant, site survey recommendations from the accrediting agency, and the applicant's responses to the site survey recommendations.

(i) The division may require the applicant to correct any deficiencies described in the site survey.

(j) The division shall issue regular certification as a community mental health center to the applicant after the division has determined that the applicant meets all criteria for a community mental health center set forth in ~~this rule and in~~ federal and state law **and in this article, including the assignment of an exclusive geographic primary service area under 440 IAC 4.1-3.**

(k) The certification shall expire ninety (90) days after the expiration of the center's accreditation from the accrediting agency designated by the center as its official accrediting agency.

(l) If an applicant is denied certification, a new application for certification may not be submitted until twelve (12) months have passed. *(Division of Mental Health and Addiction; 440 IAC 4.1-2-4; filed Jan 18, 1995, 10:50 a.m.: 18 IR 1473; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Jun 28, 2001, 4:24 p.m.: 24 IR 3644; filed Apr 3, 2003, 11:10 a.m.: 26 IR 2617, eff Jul 1, 2003)*

SECTION 4. 440 IAC 4.1-2-5 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.1-2-5 Maintenance of certification
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-27-1-4; IC 12-29-2-1
Affected: IC 12-29-2-1

Sec. 5. Maintenance of certification is dependent upon the following:
(1) The center shall maintain accreditation from an approved accrediting agency. The division shall annually provide all centers with a list of accrediting agencies approved by the division.
(2) **The center shall demonstrate the administrative and financial capacity to continue successful operations as a viable entity, including the following:**
(A) The center shall purchase and maintain general liability insurance in the minimum amount of five hundred thousand dollars ($500,000) for bodily injury and property damage.
~~(3)~~ **(B)** An audit of the financial operations of the center shall be performed annually by an independent certified public accountant. The audit, including the management letter, shall be forwarded to the division within six (6) months of the end of the entity's fiscal year.
~~(4)~~ **(3)** The center shall have written policies and enforce these policies to support and protect the fundamental human, civil, constitutional, and statutory rights of each client. The center shall give a written statement of rights to each client, and, in addition, the center shall document that center staff provides an oral explanation of these rights to each client.
~~(5)~~ **(4)** The center shall maintain compliance with required health, fire, and safety codes as prescribed by federal, state, and local law.
~~(6)~~ **(5)** The center shall serve the population groups listed at 440 IAC 4-3-1.
~~(7)~~ **(6)** The center shall continue to meet all staff and service requirements set forth at section 4 of this rule.
~~(8)~~ **(7)** The center shall comply with federal and state law regarding community mental health centers.
(Division of Mental Health and Addiction; 440 IAC 4.1-2-5; filed Jan 18, 1995, 10:50 a.m.: 18 IR 1473; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Jun 28, 2001, 4:24 p.m.: 24 IR 3646; filed Apr 3, 2003, 11:10 a.m.: 26 IR 2618, eff Jul 1, 2003)

SECTION 5. 440 IAC 4.1-2-9 IS AMENDED TO READ AS FOLLOWS:

440 IAC 4.1-2-9 Termination of certification
Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-29-2-1
Affected: IC 12-29-2-1

Sec. 9. (a) The division may terminate certification issued

under this article upon the division's investigation and determination of the following:

(1) A substantive change in the operation of the center which, under the standards for accreditation, would cause the accrediting agency to revoke the accreditation.

(2) Failure of the center to regain accreditation within ninety (90) days following expiration of the center's current accreditation by the center's accrediting agency.

(3) Failure to comply with this article.

(4) Failure to forward the annual audit and management letter required by this article to the division.

(5) That the physical safety of the clients or staff of the center is compromised by a physical or sanitary condition of the center or of a physical facility of a center.

(6) The annual audit **or other financial or legal information** indicates evidence of fiscal mismanagement **or the failure to maintain financial viability.**

(7) Violation of a federal, state, or local statute, ordinance, rule, or regulation in the course of the operation of the center that endangers the health, safety, or continuity of services to consumers.

(b) If the division terminates an entity's certification as a community mental health center, the entity may not reapply to become a community mental health center until a lapse of twelve (12) months from the date of termination. *(Division of Mental Health and Addiction; 440 IAC 4.1-2-9; filed Jan 18, 1995, 10:50 a.m.: 18 IR 1474; readopted filed May 10, 2001, 2:30 p.m.: 24 IR 3235; filed Jun 28, 2001, 4:24 p.m.: 24 IR 3647; filed Apr 3, 2003, 11:10 a.m.: 26 IR 2618, eff Jul 1, 2003)*

SECTION 6. 440 IAC 4.1-3 IS ADDED TO READ AS FOLLOWS:

Rule 3. Exclusive Geographic Primary Service Areas

440 IAC 4.1-3-1 Community mental health center; exclusive geographic primary service areas

Authority: IC 12-21-2-3; IC 12-29-2-1
Affected: IC 12-29-2-1

Sec. 1. (a) Each community mental health center (CMHC) shall have a mutually exclusive geographic primary service area for purposes of IC 12-29-2, designated by the division of mental health and addiction.

(b) The exclusive geographic primary service areas, taken together, shall cover the entire state of Indiana.

(c) The director of the division of mental health and addiction shall issue a list of the official exclusive geographic primary service areas assigned to each CMHC, pursuant to P.L.79-2002, SECTION 6. This list shall be updated whenever there is a change pursuant to this rule.

(d) The director of the division of mental health and addiction shall not reassign any exclusive geographic primary service area unless one (1) of the following occurs:

(1) An order has been issued by a hearing officer under this rule.

(2) A request for a change in the exclusive geographic primary service area has been made, and the CMHCs and counties that would be affected by the change concur with the change in writing.

(3) An existing CMHC, which has an exclusive geographic primary service area, is denied certification or is terminated under this article.

(Division of Mental Health and Addiction; 440 IAC 4.1-3-1; filed Apr 3, 2003, 11:10 a.m.: 26 IR 2619, eff Jul 1, 2003)

440 IAC 4.1-3-2 Obligations of each community mental health center regarding the exclusive geographic primary service area

Authority: IC 12-21-2-3; IC 12-29-2-1
Affected: IC 12-26-6-8; IC 12-26-7-3

Sec. 2. (a) Each community mental health center (CMHC) is obligated to provide accessible services for all individuals, within the limits of its capacity, in its exclusive geographic primary service area.

(b) Except for consumers who are enrolled by another CMHC or managed care provider, the CMHC is obligated to provide commitment screening to a state institution administered by the division of mental health and addiction for any individual residing in the CMHC's exclusive geographic primary service area who presents for screening services or is referred for screening services.

(c) Commitment screening to a state institution administered by the division of mental health and addiction shall be done by the CMHC that enrolled them, or by the CMHC with which the managed care provider that enrolled the person has a screening contract.

(d) Notwithstanding subsection (b), the designation of an exclusive geographic primary service area may not limit an eligible consumer's right to choose or access the treatment services of any provider who is certified by the division of mental health and addiction to provide publicly supported mental health services. *(Division of Mental Health and Addiction; 440 IAC 4.1-3-2; filed Apr 3, 2003, 11:10 a.m.: 26 IR 2619, eff Jul 1, 2003)*

440 IAC 4.1-3-3 County complaints regarding a community mental health center

Authority: IC 12-21-2-3; IC 12-29-2-1; IC 12-29-2-16
Affected: IC 12-7-2-40.6

Sec. 3. (a) If the county commissioners have a concern about the community mental health center (CMHC) that is assigned to their county as part of its exclusive geographic primary service area, the county commissioners shall first take their complaint to the CMHC.

(b) If the concern cannot be resolved, the county commissioners may make a complaint to the director of the division of mental health and addiction. The director of the division of mental health and addiction shall mediate the disagreement between the CMHC and the county. The CMHC and the county have ninety (90) days to resolve their differences.

(c) If the CMHC and the county have not resolved their differences within ninety (90) days, the county commissioners may file a request with the director of the division of mental health and addiction to have another CMHC assigned to their county as a part of the CMHC's exclusive geographic primary service area. *(Division of Mental Health and Addiction; 440 IAC 4.1-3-3; filed Apr 3, 2003, 11:10 a.m.: 26 IR 2620, eff Jul 1, 2003)*

440 IAC 4.1-3-4 Changes of the exclusive geographic primary service areas

Authority: IC 12-21-2-3; IC 12-29-2-1; IC 12-29-2-16
Affected: IC 4-21.5-3; IC 12-7-2-40.6

Sec. 4. (a) To change an exclusive geographic primary service area, a request to change an exclusive geographic primary service area must be made by the county commissioners or by a community mental health center (CMHC) to the director of the division of mental health and addiction.

(b) A CMHC may not request to be divested of the responsibility of a county that it has been assigned as a part of its exclusive geographic primary service area.

(c) A CMHC that is under a conditional certification status from the division of mental health and addiction or under a conditional accreditation status is not eligible to add territory in a change of an exclusive geographic primary service area.

(d) The notice of a request shall be made at least eighteen (18) months prior to the requested effective date of the change.

(e) Except in emergencies, as determined by the director, changes in the exclusive geographic primary service areas for purposes of IC 12-29 shall take effect on the next July 1.

(f) The director shall notify all regularly certified CMHCs when a request to change an exclusive geographic primary service area is received.

(g) A CMHC may concur with the change in writing.

(h) If the CMHCs affected by the request do not concur fully with the requested change, the director shall appoint a hearing officer under IC 4-21.5-3 to consider the evidence and issue an order regarding the requested change of an exclusive geographic primary service area.

(i) The hearing officer shall issue an order based on the following information regarding the CMHCs serving the contested area:

(1) An unduplicated count of consumers served in the contested area, as reported to the division of mental health and addiction on the consumer service data system during the current and the average of two (2) previous fiscal years.
(2) The availability of accessible services and the past delivery of those services to residents of the contested area.
(3) The completeness of the continuum of care, defined at IC 12-7-2-40.6, available in the contested area.
(4) The geographic accessibility of services.
(5) Information from and preferences of local community advocates and officials.
(6) The accreditation status of the centers.
(7) The certification status of the centers.
(8) Reports that are required by IC 12-29-2-16.
(9) Any other relevant information.

(j) The hearing officer shall consider all of the above in the order regarding the county or portion of a county awarded to each center. *(Division of Mental Health and Addiction; 440 IAC 4.1-3-4; filed Apr 3, 2003, 11:10 a.m.: 26 IR 2620, eff Jul 1, 2003)*

440 IAC 4.1-3-5 Redesignation of the exclusive geographic primary service area

Authority: IC 12-21-2-3; IC 12-29-2-1
Affected: IC 12-29-2-1

Sec. 5. (a) When an existing community mental health center (CMHC), which has an exclusive geographic primary service area, is denied certification or is terminated under this article, the director shall redesignate that exclusive geographic primary service area to another or to multiple CMHCs.

(b) If there is a new CMHC applicant that has completed all of the requirements for certification except being assigned an exclusive geographic primary service area, that new CMHC applicant may be assigned the exclusive geographic primary service area.

(c) Changes in the exclusive geographic primary service areas for purposes of this section shall take effect as soon as the designation is made.

(d) The director shall notify all counties in the exclusive geographic primary service area and all regularly certified CMHCs when an existing CMHC is denied certification or is terminated. *(Division of Mental Health and Addiction; 440 IAC 4.1-3-5; filed Apr 3, 2003, 11:10 a.m.: 26 IR 2620, eff Jul 1, 2003)*

440 IAC 4.1-3-6 Designation of a new community mental health center

Authority: IC 12-21-2-3; IC 12-29-2-1
Affected: IC 12-29-2-1

Sec. 6. (a) A new community mental health center (CMHC) is not automatically entitled to be assigned an exclusive geographic primary service area.

(b) No CMHC applicant may be certified as a CMHC if it cannot be assigned an exclusive geographic primary service area. *(Division of Mental Health and Addiction; 440 IAC 4.1-3-6; filed Apr 3, 2003, 11:10 a.m.: 26 IR 2621, eff Jul 1, 2003)*

440 IAC 4.1-3-7 County request that it be assigned to a new community mental health center

Authority: IC 12-21-2-3; IC 12-29-2-1
Affected: IC 4-21.5-3; IC 12-7-2-40.6

Sec. 7. (a) A county may request that their county or a portion of their county containing at least seventy-five thousand (75,000) people be assigned to the new community mental health center (CMHC).

(b) Changes in the exclusive geographic primary service areas for purposes of this section shall take effect on the next July 1.

(c) The director shall notify all regularly certified CMHCs when a request to change an exclusive geographic primary service area is received.

(d) An existing CMHC may concur with the change in writing.

(e) If the CMHCs affected by the request do not concur fully with the requested change, the director shall appoint a hearing officer under IC 4-21.5-3 to consider the evidence and issue an order regarding the requested change of an exclusive geographic primary service area.

(f) The hearing officer shall issue an order based on the following information regarding the CMHCs serving the contested area:

(1) An unduplicated count of consumers served in the contested area, as reported to the division of mental health and addiction on the consumer service data system during the current and the average of two (2) previous fiscal years.
(2) The availability of accessible services and the past delivery of those services to residents of the contested area.
(3) The completeness of the continuum of care, defined at IC 12-7-2-40.6, available in the contested area.
(4) The geographic accessibility of services.
(5) Information from and preferences of local community advocates and officials.
(6) The accreditation status of the centers.

(g) The hearing officer shall consider all of the above in the order regarding the county or portion of a county awarded to each center. *(Division of Mental Health and Addiction; 440 IAC 4.1-3-7; filed Apr 3, 2003, 11:10 a.m.: 26 IR 2621, eff Jul 1, 2003)*

440 IAC 4.1-3-8 Appeal rights

Authority: IC 12-21-2-3; IC 12-29-2-1
Affected: IC 4-21.5-5

Sec. 8. A community mental health center (CMHC) that is aggrieved by any adverse action taken under this rule may appeal the action under IC 4-21.5-5. *(Division of Mental Health and Addiction; 440 IAC 4.1-3-8; filed Apr 3, 2003, 11:10 a.m.: 26 IR 2621, eff Jul 1, 2003)*

SECTION 7. **SECTIONS 1 through 6 of this document take effect July 1, 2003.**

LSA Document #02-218(F)
Notice of Intent Published: 25 IR 4131
Proposed Rule Published: November 1, 2002; 26 IR 519
Hearing Held: November 26, 2002
Approved by Attorney General: March 27, 2003
Approved by Governor: April 2, 2003
Filed with Secretary of State: April 3, 2003, 11:10 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 832 STATE BOARD OF FUNERAL AND CEMETERY SERVICE

LSA Document #02-147(F)

DIGEST

Amends 832 IAC 2-1-2 to revise the licensing and examination fees charged and collected by the board. Effective 30 days after filing with the secretary of state.

832 IAC 2-1-2

SECTION 1. 832 IAC 2-1-2 IS AMENDED TO READ AS FOLLOWS:

832 IAC 2-1-2 Fees
Authority: IC 25-1-8-2; IC 25-15-9-8; IC 25-15-9-9
Affected: IC 25-15-4; IC 25-15-6

Sec. 2. (a) The fee for issuance of a funeral home license under IC 25-15-4-1(3) shall be ~~thirty~~ **fifty** dollars ~~($30)~~ **($50)** if it is issued in an odd-numbered year and ~~fifteen~~ **twenty-five** dollars ~~($15)~~ **($25)** if it is issued in an even-numbered year.

(b) The fee for the issuance of a funeral director intern license under IC 25-15-4-2(a)(5) shall be ~~fifteen~~ **twenty-five** dollars ~~($15).~~ **($25).**

(c) The fee for the issuance of a funeral director license under IC 25-15-4-3(b)(7) shall be ~~thirty~~ **fifty** dollars ~~($30)~~ **($50)** if it is issued in an odd-numbered year and ~~fifteen~~ **twenty-five** dollars ~~($15)~~ **($25)** if it is issued in an even-numbered year.

(d) The fee for issuance of a funeral director license by reciprocity under IC 25-15-4-5 shall be ~~one~~ **two** hundred dollars ~~($100).~~ **($200).** This fee is payable regardless of whether the application is granted or denied.

(e) The fee to renew a funeral home license under IC 25-15-6-2 shall be ~~thirty~~ **fifty** dollars ~~($30).~~ **($50).**

(f) The fee to renew a funeral director license or embalmer license under IC 25-15-6-3 shall be ~~thirty~~ **fifty** dollars ~~($30).~~ **($50).**

(g) Five dollars ($5) of every fee collected under subsections (a) through (c) and subsections (e) through (f) shall be deposited in the state board of funeral service education fund.

(h) All applicants for any examination administered by the board shall pay a fee of ~~thirty~~ **fifty** dollars ~~($30).~~ **($50).** The same fee shall be paid for the second and all subsequent takings of an examination.

(i) The fee for restoration of a funeral director or embalmer license within four (4) years of its expiration is established by IC 25-15-6-4(3).

(j) The additional fee (in addition to the fee under subsection (c)) for restoration of a funeral director license more than four (4) years after its expiration under IC 25-15-6-6(3) shall be thirty dollars ($30).

(k) The additional fee (in addition to the fee under subsection (a)) for restoration of a funeral home license under IC 25-15-6-6(1) shall be ~~thirty~~ **fifty** dollars ~~($30)~~ **($50)** for each six (6) month period, or portion of a six (6) month period, that has elapsed from the date the license expired.

(l) The ~~additonal~~ **additional** fee (in addition to the fee under subsection (b)) for restoration of a funeral director intern license shall be ~~fifteen~~ **twenty-five** dollars ~~($15).~~ **($25).**

(m) The fee to be charged to a licensee for a duplicate pocket card shall be ~~five~~ **ten** dollars ~~($5).~~ **($10).**

(n) The fee to be charged to a licensee for a duplicate wall certificate shall be ~~five~~ **ten** dollars ~~($5).~~ **($10).** *(State Board of Funeral and Cemetery Service; 832 IAC 2-1-2; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1367; errata, 9 IR 1380; filed Aug 27, 1987, 2:30 p.m.: 11 IR 93; filed Jun 8, 1989, 4:45 p.m.: 12 IR 1900; errata filed Nov 28, 1989, 3:00 p.m.: 13 IR 677; filed May 20, 1993, 5:00 p.m.: 16 IR 2422; filed Jun 14, 1996, 3:00 p.m.: 19 IR 3100; errata filed Sep 23, 1996, 3:05 p.m.: 20 IR 333; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; filed Mar 28, 2003, 9:45 a.m.: 26 IR 2622)*

LSA Document #02-147(F)
Notice of Intent Published: 25 IR 2749
Proposed Rule Published: December 1, 2002; 26 IR 870
Hearing Held: February 6, 2003
Approved by Attorney General: March 12, 2003
Approved by Governor: March 25, 2003
Filed with Secretary of State: March 28, 2003, 9:45 a.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD

LSA Document #02-271(F)

DIGEST

Amends 839 IAC 1-2-2.1 concerning licensure retirement. Amends 839 IAC 1-2-5 concerning fees. Effective 30 days after filing with the secretary of state.

839 IAC 1-2-2.1
839 IAC 1-2-5

SECTION 1. 839 IAC 1-2-2.1 IS AMENDED TO READ AS FOLLOWS:

839 IAC 1-2-2.1 Licensure retirement
Authority: IC 25-23.6-2-8
Affected: IC 25-23.6-8-9

Sec. 2.1. (a) An individual who is licensed to practice social work, clinical social work, marriage and family therapy, or mental health counseling, and who would like to retire the license, shall notify the board in writing, when the individual retires from practice. ~~Upon receipt of notice, the board shall release the individual from further payment of renewal fees and continuing education requirements while the license is in retirement.~~

(b) An individual who has placed their license in retirement may not practice as a social worker, clinical social worker, marriage and family therapist, or mental health counselor until the license has been reinstated by the board.

~~(b)~~ **(c) In order to reinstate a retired license,** an individual ~~who is licensed to practice social work, clinical social work, marriage and family therapy, or mental health counseling, and would like to reinstate the retired license~~ shall do the following:

(1) ~~Notify the board in writing.~~ **Complete a retirement reinstatement application, provided by the board, which must be approved by the board.**

(2) Pay a reinstatement fee established by the board.

~~(2)~~ **(3)** Submit proof of continuing education requirements, as outlined by the board, depending on the number of years the license has been in retirement as follows:

(A) Zero (0) to three (3) years, ~~no continuing education shall be required.~~ **twenty (20) hours of continuing education shall be required and must be completed within twelve (12) months prior to the petition for reinstatement.**

(B) Three (3) to six (6) years, ~~one (1) year~~ **forty (40) hours** of continuing education shall be required and must be completed within ~~twelve (12)~~ **twenty-four (24)** months prior to the petition for reinstatement.

(C) Six (6) to ten (10) years, ~~two (2) years~~ **sixty (60) hours** of continuing education shall be required and must be completed within ~~twenty-four (24)~~ **thirty-six (36)** months prior to the petition for reinstatement.

(D) Ten (10) years or more shall require board determination of the continuing education needed and may require a personal appearance before the board, prior to reinstatement.

(E) Retirement years shall be calculated from the receipt of request **to retire the license** until reinstatement **of the license.**

(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-2-2.1; filed Dec 18, 2001, 9:11 a.m.: 25 IR 1633; filed Apr 9, 2003, 3:00 p.m.: 26 IR 2622)

SECTION 2. 839 IAC 1-2-5 IS AMENDED TO READ AS FOLLOWS:

839 IAC 1-2-5 Fees

Authority: IC 25-1-8-2; IC 25-23.6-2-8
Affected: IC 25-23.6

Sec. 5. (a) Candidates for examination shall pay the examination fee directly to the examination service.

(b) The application/issuance fee for licensure to practice as a social worker, clinical social worker, marriage and family therapist, or mental health counselor shall be fifty dollars ($50).

(c) The fee for issuance of a temporary permit shall be twenty-five dollars ($25).

(d) The fee for verification of licensure to another state or jurisdiction shall be ten dollars ($10).

(e) The fee for renewal of license to practice as a social worker, clinical social worker, marriage and family therapist, or mental health counselor shall be fifty dollars ($50) **biennially.**

(f) The fee for reinstatement of a retired license to practice as a social worker, clinical social worker, marriage and family therapist, or mental health counselor shall be fifty dollars ($50).

(g) The application fee for approval as a sponsor of continuing education shall be fifty dollars ($50).

(h) The renewal fee for approval to sponsor continuing education shall be fifty dollars ($50) biennially.

~~(f)~~ **(i)** The fee for a duplicate wall certificate shall be ten dollars ($10).

~~(g)~~ **(j)** The penalty fee for late renewal, and any additional health professions bureau administrative fees, shall be set in accordance with the health professions bureau fee schedule.

~~(h)~~ **(k)** All application fees are nonrefundable. *(Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board; 839 IAC 1-2-5; filed Nov 4, 1992, 5:00 p.m.: 16 IR 870; filed Dec 29, 1998, 10:57 a.m.: 22 IR 1505; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1307; filed Apr 9, 2003, 3:00 p.m.: 26 IR 2623) NOTE: 839 IAC 1-2-6 was renumbered by Legislative Services Agency as 839 IAC 1-2-5.*

LSA Document #02-271(F)
Notice of Intent Published: 26 IR 65
Proposed Rule Published: December 1, 2002; 26 IR 874
Hearing Held: January 27, 2003
Approved by Attorney General: March 25, 2003
Approved by Governor: April 8, 2003
Filed with Secretary of State: April 9, 2003, 3:00 p.m.
Incorporated Documents Filed with Secretary of State: None

TITLE 836 INDIANA EMERGENCY MEDICAL SERVICES COMMISSION

LSA Document #02-91(PC)

Under IC 4-22-8-4(c), corrects the following clerical error in LSA Document #02-91(F), printed at 26 IR 2333:

In 836 IAC 2-2-1(p), at 26 IR 2348, after "as described in", delete "836 IAC".

Retroactively effective to the same date and time as LSA Document #02-91(F).

Notice of Recall

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-49

Under IC 4-22-2-40, LSA Document #02-49, printed at 25 IR 2555, is recalled.

Notice of Withdrawal

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

LSA Document #02-82

Under IC 4-22-2-41, LSA Document #02-82, printed at 25 IR 2277, is withdrawn.

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

LSA Document #02-83

Under IC 4-22-2-41, LSA Document #02-83, printed at 25 IR 2277, is withdrawn.

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #97-4(WPCB)

Under IC 4-22-2-41, LSA Document #97-4(WPCB), printed at 20 IR 2213, is withdrawn.

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #99-236(WPCB)

Under IC 4-22-2-41, LSA Document #99-236(WPCB), printed at 23 IR 643, is withdrawn.

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #99-262(WPCB)

Under IC 4-22-2-41, LSA Document #99-262(WPCB), printed at 23 IR 933, is withdrawn.

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #00-16(WPCB)

Under IC 4-22-2-41, LSA Document #00-16(WPCB), printed at 23 IR 1235, is withdrawn.

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #00-92(WPCB)

Under IC 4-22-2-41, LSA Document #00-92(WPCB), printed at 23 IR 2110, is withdrawn.

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #01-134(WPCB)

Under IC 4-22-2-41, LSA Document #01-134(WPCB), printed at 24 IR 2592, is withdrawn. A new rulemaking covering the subject matter of this withdrawn rule has been initiated. A new first notice of rulemaking will be printed in the Indiana Register.

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #01-135(WPCB)

Under IC 4-22-2-41, LSA Document #01-135(WPCB), printed at 24 IR 2593, is withdrawn. A new rulemaking covering the subject matter of this withdrawn rule has been initiated. A new first notice of rulemaking will be printed in the Indiana Register

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #01-136(WPCB)

Under IC 4-22-2-41, LSA Document #01-136(WPCB), printed at 24 IR 2593, is withdrawn. A new rulemaking covering the subject matter of this withdrawn rule has been initiated. A new first notice of rulemaking will be printed in the Indiana Register.

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #01-137(WPCB)

Under IC 4-22-2-41, LSA Document #01-137(WPCB), printed at 24 IR 2594, is withdrawn. A new rulemaking

covering the subject matter of this withdrawn rule has been initiated. A new first notice of rulemaking will be printed in the Indiana Register.

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #02-138(WPCB)

Under IC 4-22-2-41, LSA Document #02-138(WPCB), printed at 25 IR 2863, is withdrawn. A new rulemaking covering the subject matter of this withdrawn rule has been initiated. A new first notice of rulemaking will be printed in the Indiana Register.

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

LSA Document #02-345

Under IC 4-22-2-41, LSA Document #02-345, printed at 26 IR 1115, is withdrawn.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-78(E)

DIGEST

Temporarily adds rules concerning instant game number 631. Effective March 11, 2003.

SECTION 1. **The name of this instant game is "Instant Game Number 631, Ace of Spades".**

SECTION 2. **Instant tickets in instant game number 631 shall sell for one dollar ($1) per ticket.**

SECTION 3. **(a) Each instant ticket in instant game number 631 shall contain thirteen (13) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. One (1) play symbol and play symbol caption shall appear in the area labeled "BONUS SPOT". Twelve (12) play symbols and play symbol captions shall be arranged in a matrix of four (4) rows and three (3) columns. The rows shall be separate and independent games labeled "GAME 1", "GAME 2", "GAME 3", and "GAME 4", respectively. The columns shall be labeled "YOURS", "DEALER'S", and "PRIZE", respectively.**

(b) The play symbols and play symbol captions in instant game number 631, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

(1)	2 TWO
(2)	3 THR
(3)	4 FOR
(4)	5 FIV
(5)	6 SIX
(6)	7 SVN
(7)	8 EGT
(8)	9 NIN
(9)	10 TEN
(10)	J JCK
(11)	Q QUN
(12)	K KNG
(13)	A ♠

(c) The play symbols and play symbol captions of prize amounts shall consist of the following possible play symbols and play symbol captions:

(1) $1.00
ONE
(2) $2.00
TWO
(3) $5.00
FIVE
(4) $10.00
TEN
(5) $20.00
TWENTY
(6) $25.00
TWY FIVE
(7) $50.00
FIFTY
(8) $100
ONE HUN
(9) $500
FIVE HUN
(10) $1,000
ONE THOU
(11) $2,000
TWO THOU

SECTION 4. **(a) The holder of an instant ticket in instant game number 631 shall remove the latex material covering the thirteen (13) play symbols and play symbol captions. If the play symbol and play symbol caption exposed in the "YOURS" column has a higher value than the play symbol and play symbol caption exposed in the "DEALER'S" column, the holder is entitled to the prize amount for that game exposed on the ticket. If a play symbol representing an "ACE OF SPADES" is exposed in the "BONUS" area, the holder is entitled to win all four (4) corresponding prize amounts. Play symbols and play symbol captions representing playing cards are valued in descending order with aces as the high cards and face cards valued at ten (10).**

(b) The number of winning games and the associated prize, total prize amounts, and approximate number of winners in instant game number 631 are as follows:

Number of Winning Games	Total Prize Amount	Approximate Number of Winners
1–$1.00	$1	540,000
2–$1.00	$2	48,000
1–$2.00	$2	48,000
3–$1.00	$3	36,000
1–$5.00	$5	24,000
2–$5.00	$10	24,000
1–$10.00	$10	24,000
3–$5.00	$15	12,000

4–$5.00 + Ace	**$20**	**3,000**
4–$5.00	**$20**	**3,000**
2–$10.00	**$20**	**3,000**
1–$20.00	**$20**	**3,000**
3–$5.00 + 1–$10.00	**$25**	**555**
3–$5.00 + 1–$10.00 + Ace	**$25**	**555**
1–$25.00	**$25**	**555**
3–$10.00	**$30**	**360**
2–$5.00 + 2–$10.00 + Ace	**$30**	**360**
2–$25.00	**$50**	**345**
1–$50.00	**$50**	**345**
4–$25.00 + Ace	**$100**	**300**
1–$100	**$100**	**300**
1–$500	**$500**	**60**
1–$1,000	**$1,000**	**30**
4–$500 + Ace	**$2,000**	**7**
1–$2,000	**$2,000**	**7**

SECTION 5. **(a) There shall be approximately three million six hundred thousand (3,600,000) instant tickets initially available in instant game number 631.**

(b) The odds of winning a prize in instant game number 631 are approximately 1 in 4.66.

(c) All reorders of tickets for instant game number 631 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of two hundred forty thousand (240,000); and
(3) odds;
as contained in the initial order.

SECTION 6. **The last day to claim a prize in instant game number 631 is December 31, 2003.**

SECTION 7. **SECTIONS 1 through 6 of this document expire January 31, 2004.**

LSA Document #03-78(E)
Filed with Secretary of State: March 11, 2003, 12:24 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-79(E)

DIGEST

Temporarily adds rules concerning instant game number 632. Effective March 11, 2003.

SECTION 1. **The name of this instant game is "Instant Game Number 632, Great 8s".**

SECTION 2. **Instant tickets in instant game number 632 shall sell for two dollars ($2) per ticket.**

SECTION 3. **(a) Each instant ticket in instant game number 632 shall contain twenty-two (22) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. Two (2) play symbols and play symbol captions shall appear in the area labeled "WINNING NUMBERS". Twenty (20) play symbols and play symbol captions shall appear in the area labeled "YOUR GREAT NUMBERS" and be arranged in pairs representing numbers and prize amounts.**

(b) The play symbols and play symbol captions in instant game number 632, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:
(1) 1
ONE
(2) 2 surrounded by a starburst
TWO
(3) 3
THR
(4) 4
FOR
(5) 5
FIV
(6) 6
SIX
(7) 7
SVN
(8) 8 surrounded by a triangle
EGT
(9) 9
NIN
(10) 10
TEN
(11) 11
ELV
(12) 12
TLV
(13) 13
TRN
(14) 14
FRN
(15) 15
FTN
(16) 16
SXT
(17) 17
SVT
(18) 18
ETN
(19) 19
NTN
(20) 20
TWY

(c) The play symbols and play symbol captions representing prize amounts in instant game number 632 shall consist of the following possible play symbols and play symbol captions:

(1) $2.00
TWO
(2) $3.00
THREE
(3) $4.00
FOUR
(4) $5.00
FIVE
(5) $10.00
TEN
(6) $15.00
FIFTEEN
(7) $20.00
TWENTY
(8) $50.00
FIFTY
(9) $100
ONE HUN
(10) $1,000
ONE THOU
(11) $8,888
ETH EHETET

SECTION 4. **The holder of a ticket in instant game number 632 shall remove the latex material covering the twenty-two (22) play symbols and play symbol captions. If one (1) or more of "YOUR GREAT NUMBERS" match either of the "WINNING NUMBERS", the holder is entitled to the paired prize amount. If the play symbol "2" surrounded by a starburst is exposed in "YOUR GREAT NUMBERS", the holder is automatically entitled to two (2) times the paired prize amount. If an "8" surrounded by a triangle is exposed in the "YOUR GREAT NUMBERS" area, the holder is automatically entitled to eight (8) times the paired prize amount. The number of matches, matched play symbols, prize amounts, and number of winners in instant game number 632 are as follows:**

Number of Matches and Matched Play Symbols	Total Prize Amount	Approximate Number of Winners
1–$2.00	$2	277,200
1–$2.00 + starburst 2	$4	176,400
1–$2.00 + 1–$3.00	$5	37,800
1–$5.00	$5	37,800
5–$2.00	$10	25,200
1–$5.00 + starburst 2	$10	25,200
1–$10.00	$10	12,600
5–$3.00	$15	6,300
1–$15.00	$15	6,300
5–$4.00	$20	6,300
4–$5.00	$20	6,300
1–$10.00 + starburst 2	$20	6,300
1–$20.00	$20	6,300
5–$10.00	$50	525
1–$10.00 + 1–$20.00 + starburst 2	$50	525
1–$50	$50	525
10–$10.00	$100	252
1–$10.00 + triangle 8 + 1–$20.00	$100	252
1–$100	$100	252
1–$100 + triangle 8	$800	30
10–$100	$1,000	12
1–$1,000	$1,000	12
1–$8,888	$8,888	10

SECTION 5. **(a) There shall be approximately two million five hundred thousand (2,500,000) instant tickets initially available in instant game number 632.**

(b) The odds of winning a prize in instant game number 632 are approximately 1 in 3.98.

(c) All reorders of tickets for instant game number 632 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
(3) odds;
as contained in the initial order.

SECTION 6. **The last day to claim a prize in instant game number 632 is December 31, 2003.**

SECTION 7. **SECTIONS 1 through 6 of this document expire January 31, 2004.**

LSA Document #03-79(E)
Filed with Secretary of State: March 11, 2003, 12:25 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-80(E)

DIGEST

Temporarily adds rules concerning instant game number 633. Effective March 11, 2003.

SECTION 1. **The name of this instant game is "Instant Game Number 633, 4 of a Kind".**

SECTION 2. **Instant tickets in instant game number 633 shall sell for two dollars ($2) per ticket.**

SECTION 3. **(a) Each instant ticket in instant game number 633 shall contain twenty-seven (27) play symbols and play symbol captions in the game play data area all concealed under a large spot of latex material. There shall be five (5) separate and independent rows labeled "HAND 1", "HAND 2", "HAND 3", " HAND 4", and " HAND 5", respectively. Each row shall contain five (5) play symbols and play symbol captions representing playing cards. There shall be two (2) play symbols and play symbol captions representing playing cards in the area labeled "DRAW CARDS". A legend labeled "PRIZE TABLE" shall appear on the lower left side of each instant ticket and shall set forth winning plays and corresponding prizes.**

(b) The play symbols and play symbol captions in instant game number 633, other that those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

(1)	2 TWO
(2)	3 THR
(3)	4 FOR
(4)	5 FIV
(5)	6 SIX
(6)	7 SVN
(7)	8 EGT
(8)	9 NIN
(9)	10 TEN
(10)	J JCK
(11)	Q QUN
(12)	K KNG
(13)	A ACE

SECTION 4. **The holder of a ticket in instant game number 633 shall remove the latex material covering the twenty-seven (27) play symbols and play symbol captions. The play symbols and play symbol captions in the box labeled "DRAW CARDS" shall be incorporated into each row as though they were exposed as a part of each row. If, after incorporating the foregoing, one (1) or more rows contain four (4) play symbols and play symbol captions of the same kind as identified on the "PRIZE TABLE", the holder is entitled to the corresponding prize amounts(s) set forth on the "PRIZE TABLE". The number of play symbols, the corresponding prize amounts, and number of winners in instant game number 633 are as follows:**

Number of Winning Play Symbols	Prize Amount	Approximate Number of Winners
1–$2.00	$2	327,600
2–$2.00	$4	31,500
1–$4.00	$4	25,200
1–$5.00	$5	37,800
1–$2.00 + 1–$4.00	$6	37,800
3–$2.00 + 1–$4.00	$10	25,200
2–$5.00	$10	25,200
1–$10.00	$10	12,600
2–$10.00	$20	6,300
5–$4.00	$20	6,300
4–$5.00	$20	6,300
1–$20.00	$20	6,300
5–$10.00	$50	1,575
1–$10.00 + 2–$20.00	$50	1,575
1–$50	$50	1,575
5–$20.00	$100	1,365
2–$50.00	$100	1,365
1–$100	$100	1,365
1–$500	$500	42
2–$500	$1,000	21
1–$1,000	$1,000	21
1–$10,000	$10,000	11

SECTION 5. **(a) There shall be approximately two million five hundred thousand (2,500,000) instant tickets initially available in instant game number 633.**

(b) The odds of winning a prize in instant game number 633 are approximately 1 in 4.52.

(c) All reorders of tickets for instant game number 633 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
(3) odds;
as contained in the initial order.

SECTION 6. **The last day to claim a prize in instant game number 633 is December 31, 2003.**

SECTION 7. **SECTIONS 1 through 6 of this document expire January 31, 2004.**

LSA Document #03-80(E)
Filed with Secretary of State: March 11, 2003, 12:27 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-81(E)

DIGEST

Temporarily adds rules concerning instant game number 634. Effective March 11, 2003.

SECTION 1. **The name of this instant game is "Instant Game Number 634, High 5s".**

SECTION 2. **Instant tickets in instant game number 634 shall sell for five dollars ($5) per ticket.**

SECTION 3. **(a) Each instant ticket in instant game number 634 shall contain forty-two (42) play symbols and play symbol captions arranged among four (4) separate and independent games and bonus spot each concealed under a spot of latex material.**

(b) The game on the upper right side of each instant ticket shall be labeled "GAME 1" and contain nine (9) play symbols and play symbols captions representing numbers and prize amounts. The play symbols and play symbol captions shall be arranged in a matrix of three (3) rows and three (3) columns. The rows shall be separate and independent games labeled "GAME 1", GAME 2", and "GAME 3", respectively. The columns shall be labeled "YOUR HAND", "DEALER'S HAND", and "PRIZE", respectively.

(c) The game in the right middle of each instant ticket shall be labeled "GAME 2" and shall contain twelve (12) play symbols and play symbol captions arranged in a matrix of three (3) rows and four (4) columns. The rows shall be labeled "PULL 1", "PULL 2", and "PULL 3", respectively, and each shall contain three (3) play symbols and play symbol captions representing pictures of objects and one (1) play symbol and play symbol caption representing a prize amount.

(d) The game in the middle left of each instant ticket shall be labeled "GAME 3" and shall contain nine (9) play symbols and play symbol captions arranged in a matrix of three (3) rows and three (3) columns. The rows shall be labeled "ROLL 1", "ROLL 2", and "ROLL 3", respectively, and shall each contain two (2) play symbols and play symbol captions representing dice and one (1) play symbol and play symbol caption representing a prize amount.

(e) The game at the bottom of each instant ticket shall be labeled "GAME 4" and shall contain eleven (11) play symbols and play symbol captions. Ten (10) play symbols and play symbol captions shall appear in the area labeled "YOUR NUMBERS" and be arranged in pairs representing numbers and prize amounts. One (1) play symbol and play symbol caption shall appear in the area labeled "WINNING NUMBER".

(f) One (1) play symbol and play symbol caption shall appear in the area designated "BONUS" box.

SECTION 4. **(a) The play symbols and play symbol captions representing prize amounts shall consist of the following possible play symbols and play symbol captions:**

(1) $2.00
TWO
(2) $3.00
THREE
(3) $4.00
FOUR
(4) $5.00
FIVE
(5) $8.00
EIGHT
(6) $10.00
TEN
(7) $15.00
FIFTEEN
(8) $20.00
TWENTY
(9) $25.00
TWY FIVE
(10) $30.00
THIRTY
(11) $40.00
FORTY
(12) $50.00
FIFTY
(13) $75.00
SVTY FIVE
(14) $100
ONE HUN
(15) $200
TWO HUN
(16) $500
FIVE HUN
(17) $1,000
ONE THOU
(18) $10,000
TEN THOU
(19) $50,000
FTY THOU

(b) The play symbols and play symbol captions appearing

in "GAME 1", other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

(1) 16
SXT
(2) 17
SVT
(3) 18
ETN
(4) 19
NTN
(5) 20
TWY
(6) 21
TWN

(c) The play symbols and play symbol captions appearing in "GAME 2", other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

(1) A picture of a bar
BAR
(2) A picture of a "7"
SVN
(3) A picture of a bell
BELL
(4) A picture of a dollar sign
DOLR
(5) A picture of a plum
PLUM
(6) A picture of a lemon
LEMN
(7) A picture of a horseshoe
SHOE
(8) A picture of an apple
APLE

(d) The play symbols and play symbol captions appearing *[sic., in]* **"GAME 3", other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:**

(1) A picture representing a die with the number "1" exposed
ONE
(2) A picture representing a die with the number "2" exposed
TWO
(3) A picture representing a die with the number "3" exposed
THR
(4) A picture representing a die with the number "4" exposed
FOR
(5) A picture representing a die with the number "5" exposed
FIV
(6) A picture representing a die with the number "6" exposed
SIX

(e) The play symbols and play symbol captions appearing *[sic., in]* **"GAME4", other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:**

(1) 1
ONE
(2) 2
TWO
(3) 3
THR
(4) 4
FOUR
(5) 5
FIVE
(6) 6
SIX
(7) 7
SVN
(8) 8
EGT
(9) 9
NINE
(10) 10
TEN

(f) The play symbols and play symbol captions appearing *[sic., in the]* **"BONUS" box, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:**

(1) TRY
AGAIN
(2) $5.00
FIVE

SECTION 5. **(a) The holder of a ticket in instant game number 634 shall remove the latex material covering the forty-two (42) play symbols and play symbol captions.**

(b) If, in "GAME 1", the number appearing in "YOUR HAND" is higher than the number appearing in the 'DEALER'S HAND" in any row, the holder is entitled to the associated prize amount(s).

(c) If, in "GAME 2", three (3) matching play symbols and play symbol captions are exposed in any row, the holder is entitled to the associated prize amount(s).

(d) If, in "GAME 3", on the dice in "ROLL 1", "ROLL 2", or "ROLL 3" total seven (7) or eleven (11), the holder is entitled to the associated prize amount(s).

(e) If, in "GAME 4", one (1) or more of the play symbols appearing in "YOUR NUMBERS" match the play symbol exposed in the "WINNING NUMBER", the holder is entitled to the paired prize amount(s).

(f) If, in the "BONUS" box, the prize symbol "$5" is

exposed, the holder is automatically entitled to a prize of five dollars ($5).

SECTION 6. **The winning games, number of winning plays, total prize amounts, and approximate number of winners in instant game number 634 are as follows:**

Winning Games and Prize Play Symbols	Total Prize Amount	Approximate Number of Winners
1–$5.00	$5	448,800
4–$2.00	$8	20,400
1–$2.00 + 2–$3.00	$8	20,400
2–$4.00	$8	20,400
1–$8.00	$8	20,400
5–$2.00	$10	20,400
1–$2.00 + 2–$4.00	$10	20,400
2–$5.00	$10	20,400
1–$10.00	$10	10,200
5–$3.00	$15	5,100
3–$5.00	$15	5,100
1–$5.00 + 1–$10.00	$15	5,100
1–$15.00	$15	5,100
10–$2.00	$20	6,800
5–$4.00	$20	6,800
4–$5.00	$20	6,800
2–$10.00	$20	6,800
1–$20.00	$20	6,800
10–$2.00 + 2–$5.00	$30	5,950
3–$10.00	$30	5,950
1–$30.00	$30	5,950
4–$10.00	$40	2,550
2–$10.00 + 1–$20.00	$40	2,550
2–$20.00	$40	2,550
1–$40.00	$40	2,550
10–$5.00	$50	1,275
10–$3.00 + 4–$5.00	$50	969
4–$5.00 + 3–$10.00	$50	969
2–$25.00	$50	1,275
1–$50.00	$50	1,275
1–$2.00 + 1–$3.00 + 12–$5.00 + 1–$10.00	$75	850
7–$5.00 + 2–$20.00	$75	850
15–$5.00	$75	850
1–$75.00	$75	850
10–$10.00	$100	595
5–$20.00	$100	595
2–$50.00	$100	595
10–$5.00 + 5–$10.00	$100	595
1–$100	$100	595
5–$100	$500	102
1–$100 + 2–$200	$500	102
1–$500	$500	102
1–$1,000	$1,000	34
1–$10,000	$10,000	12
1–$50,000	$50,000	8

SECTION 7. **(a) There shall be approximately two million (2,000,000) instant tickets initially available in instant game number 634.**

(b) The odds of winning a prize in instant game number 634 are approximately 1 in 2.93.

(c) All reorders of tickets for instant game number 634 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of one hundred twenty thousand (120,000); and
(3) odds;
as contained in the initial order.

SECTION 8. **The last day to claim a prize in instant game number 634 is December 31, 2003.**

SECTION 9. **SECTIONS 1 through 8 of this document expire January 31, 2004.**

LSA Document #03-81(E)
Filed with Secretary of State: March 11, 2003, 12:29 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-82(E)

DIGEST

Temporarily adds rules concerning instant game number 636. Effective March 11, 2003.

SECTION 1. **The name of this instant game is "Instant Game Number 636, Lucky 7's".**

SECTION 2. **Instant tickets in instant game number 636 shall sell for one dollar ($1) per ticket.**

SECTION 3. **(a) Each instant ticket in instant game number 636 shall contain ten (10) play symbols and play symbol captions all concealed under a large spot of latex material. Nine (9) play symbols and play symbol captions shall appear in a matrix of three (3) rows and three (3) columns. One (1) play symbol and play symbol caption shall appear in a box labeled "PRIZE".**

(b) The play symbols and play symbol captions, other than those representing prize amounts, shall consist of the following possible play symbols and play symbol captions:

(1) 1
ONE
(2) 2
TWO
(3) 3
THR
(4) 4
FOR
(5) 5
FIVE
(6) 6
SIX
(7) 7
SVN
(8) 8
EGT
(9) 9
NIN

(c) The play symbols and play symbol captions representing prize amounts shall consist of the following possible play symbols and play symbol captions:
(1) $1.00
ONE
(2) $2.00
TWO
(3) $3.00
THREE
(4) $5.00
FIVE
(5) $7.00
SEVEN
(6) $17.00
SEVENTEEN
(7) $50.00
FIFTY
(8) $77.00
SVTSVN
(9) $777.00
SVNHNSVSV

SECTION 4. **The holder of a ticket in instant game number 636 shall remove the latex material covering the ten (10) play symbols and play symbol captions. If three (3) play symbols of "7" are exposed in a row, column, or diagonal, the holder is entitled to the prize in the "PRIZE" box. The prize amounts and number of winners in instant game number 636 are as follows:**

Winning Prize Play Symbol	Prize Amount	Approximate Number of Winners
$1.00	$1	480,000
$2.00	$2	120,000
$3.00	$3	60,000
$5.00	$5	78,000
$7.00	$7	18,000
$17.00	$17	12,000
$50.00	$50	6,000
$77	$77	1,050
$777	$777	135

SECTION 5. **(a) There shall be approximately three million six hundred thousand (3,600,000) instant tickets initially available in instant game number 636.**

(b) The odds of winning a prize in instant game number 636 are approximately 1 in 4.64.

(c) All reorders of tickets for instant game number 636 shall have the same:
(1) prize structure;
(2) number of prizes per prize pool of two hundred forty thousand (240,000); and
(3) odds;
as contained in the initial order.

SECTION 6. **The last day to claim a prize in instant game number 636 is January 31, 2004.**

SECTION 7. **SECTIONS 1 through 6 of this document expire February 29, 2004.**

LSA Document #03-82(E)
Filed with Secretary of State: March 11, 2003, 12:30 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-83(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 053. Effective March 11, 2003.

SECTION 1. **The name of this pull-tab game is "Pull-Tab Game Number 053, Electric 7s".**

SECTION 2. **Pull-tab tickets for pull-tab game number 053 shall sell for fifty cents ($0.50) per ticket.**

SECTION 3. **Pull-tab game number 053 is a match 3 game.**

SECTION 4. **A pull-tab ticket in pull-tab game number 053 shall contain fifteen (15) play symbols and play symbol captions arranged in a matrix of five (5) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 053 shall consist of the following possible play symbols:**

(1) A picture of a 7 with lightening *[sic.]* **bolts**
ELECTRIC 7
(2) A picture of a silver 7
SILVER 7
(3) A picture of a green 7
GREEN 7
(4) A picture of a 7 with flames
FIRE 7
(5) A picture of a 7 with a spark
SPARK 7
(6) A picture of three (3) bars with lightening *[sic.]* **bolt**
BAR
(7) A picture of cherries with a lightening *[sic.]* **bolt**
CHERRIES
(8) A picture of a bell with a lightening *[sic.]* **bolt clapper**
BELL

SECTION 5. **A row on a pull-tab ticket in pull-tab game number 053 which contains three (3) identical play symbols is not a match 3 winning row unless all of the following are true:**
(1) The play symbols and play symbol captions in the row are consistent with those specified in section 4 of this rule.
(2) The three (3) play symbols and play symbol captions in the row are bisected by a pink arrow.
(3) The prize amount appears on the left side of the row in red ink in a yellow box.

SECTION 6. **Subject to section 5 of this rule, the holder of a valid pull-tab ticket for pull-tab game number 053 containing a match 3 winning row is entitled to a prize amount the approximate number of which are as follows:**

Matching Play Symbol in Match 3 Winning Row	Prize Amount	Approximate Number of Prizes
3–Spark 7	$0.50	380,205
3–Fire 7	$1	62,622
3–Green 7	$7	22,365
3–Silver 7	$17	4,473
3–Electric 7	$107	4,473

SECTION 7. **A total of approximately three million (3,000,000) pull-tab tickets will be initially available for pull-tab game number 053. The odds of winning a prize in pull-tab game 053 are approximately 1 in 6.34. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.**

SECTION 8. **The last day to claim prizes in pull-tab game number 053 shall be sixty (60) days after the end of the game. Game end dates are available on the commission's Web site at www.hoosierlottery.com or may be obtained through the commission's toll free customer service number or from any instant ticket retailer.**

LSA Document #03-83(E)
Filed with Secretary of State: March 11, 2003, 12:30 p.m.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #03-84(E)

DIGEST

Temporarily adds rules concerning pull-tab game number 054. Effective March 11, 2003.

SECTION 1. **The name of this pull-tab game is "Pull-Tab Game Number 054, Club Sandwich".**

SECTION 2. **Pull-tab tickets for pull-tab game number 054 shall sell for twenty-five cents ($0.25) per ticket.**

SECTION 3. **Pull-tab game number 054 is a match 3 game.**

SECTION 4. **A pull-tab ticket in pull-tab game number 054 shall contain nine (9) play symbols and play symbol captions arranged in a matrix of three (3) rows and three (3) columns. Each row shall be covered by a tab. The play symbols and play symbol captions in pull-tab game number 054 shall consist of the following possible play symbols:**
(1) A picture of a clover
CLUB
(2) A picture of a sandwich
SANDWICH
(3) A picture of a tomato
TOMATO
(4) A picture of slices of bacon
BACON
(5) A picture of a wedge of cheese
CHEESE
(6) A picture of a bag of chips
CHIPS
(7) A picture of a pickle
PICKLE
(8) A picture of a jar of mustard
MUSTARD

SECTION 5. **A row on a pull-tab ticket in pull-tab game number 054 which contains two (2) identical play symbols of a clover and one (1) picture of either a sandwich, tomato, bacon, or cheese is not a match 3 winning row unless all of the following are true:**
(1) The play symbols and play symbol captions in the row are consistent with those specified in section 4 of this rule.
(2) The three (3) play symbols and play symbol captions in the row are bisected by a pink arrow.
(3) The prize amount appears on the left side of the row in red ink on a yellow box.

SECTION 6. **Subject to section 5 of this rule, the holder of a valid pull-tab ticket for pull-tab game number 054 containing a match 3 winning row is entitled to a prize the amount and the approximate number of which are as follows:**

Matching Play Symbol in Match 3 Winning Row	Prize Amount	Approximate Number of Prizes
2–clovers + 1–cheese	$0.25	530,796
2–clovers + 1–bacon	$1	89,460
2–clovers + 1–tomato	$10	11,928
2–clovers + 1–sandwich	$50	5,964

SECTION 7. **A total of approximately four million (4,000,000) pull-tab tickets will be initially available for pull-tab game number 054. The odds of winning a prize in pull-tab game 054 are approximately 1 in 6.28. If additional pull-tab tickets are made available for this pull-tab game, the approximate number of each prize shall increase proportionally.**

SECTION 8. **The last day to claim prizes in pull-tab game number 054 shall be sixty (60) days after the end of the game. Game end dates are available on the commission's Web site at www.hoosierlottery.com or may be obtained through the commission's toll free customer service number or from any pull-tab retailer.**

LSA Document #03-84(E)
Filed with Secretary of State: March 11, 2003, 12:33 p.m.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-85(E)

DIGEST

Temporarily modifies 312 IAC 9-10-4 to govern game breeder licenses. Modifications prohibit the release of white-tailed deer into the wild and sets forth penalties for noncompliance. In addition, repeals the moratorium on new game breeder licenses for white-tailed deer. Authority: IC 14-10-2-5. Effective March 12, 2003.

SECTION 1. **(a) Notwithstanding 312 IAC 9-10-4, this document governs individuals issued a game breeder license.**

(b) An application for a license as a game breeder of one (1) or more species of wild animal shall be made on a departmental form.

(c) An application for a permit under this section must be made within five (5) days after the acquisition of an animal within Indiana or within five (5) days after the importation of an animal into Indiana, but after the cages or other enclosures are readied for habitation. Each cage or enclosure will be inspected by a conservation officer before a permit may be issued. Documentation that establishes lawful acquisition or ownership must accompany any transportation of white-tailed deer.

(d) A license holder may add a species to a game breeder operation other than those identified in the application upon written notification to the division within five (5) days of acquisition of the new species.

(e) Each animal possessed under this section must be lawfully acquired. A receipted invoice, bill of lading, or other satisfactory evidence of lawful acquisition shall be presented for inspection upon the request of a conservation officer. Game or furbearing mammals or game birds, other than wild turkeys, lawfully taken in season may be retained alive after the close of the season.

(f) A wild animal must be confined in a cage or other enclosure which makes escape of the animal unlikely. The cage or enclosure shall be large enough to provide the wild animal with ample space for exercise and to avoid overcrowding. Rainproof dens, nest boxes, shelters, shade, and bedding shall be provided as required for the comfort of the particular species of animal. Each animal shall be handled in a sanitary and humane manner. The cages or other enclosures must be made available upon request for inspection by a conservation officer.

(g) A diseased wild animal possessed under this section shall not be released in the wild. No white-tailed deer may be released into the wild. A license holder must report the escape of any white-tailed deer to a conservation officer within twenty-four (24) hours.

(h) A license holder must comply with IC 15-2.1 and 345 IAC.

(i) A game breeder shall record on a bill of sale or other suitable record a transaction by which a wild animal is sold, traded, or given to another person. A copy of the record shall be kept on the premises of the game breeder for at least two (2) years after the transaction and must be presented to a conservation officer upon request.

(j) A license may be suspended, denied, or revoked under IC 4-21.5 if the license holder fails to comply with any of the following:
(1) A license issued under this document.
(2) IC 14-22-20.
(3) IC 15-2.1 and 345 IAC.

SECTION 2. **SECTION 1 of LSA Document #03-051(E), printed at 26 IR 2389, is repealed.**

LSA Document #03-85(E)
Filed with Secretary of State: March 12, 2003, 3:42 p.m.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-88(E)

DIGEST

Temporarily modifies size and bag limits for sport fishing on J.C. Murphey Lake in Willow Slough Fish and Wildlife Area in Newton County. *NOTE: IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. This document was filed with the secretary of state on March 26, 2003.* Effective March 21, 2003.

SECTION 1. **Effective March 21, 2003, this document temporarily modifies the size and bag limits under 312 IAC 9-7 for fish that are taken from J.C. Murphey Lake in Willow Slough Fish and Wildlife Area in Newton County:**

(1) Size limits are eliminated.

(2) Bag limits are set at two (2) times the bag limits established by 312 IAC 9-7.

SECTION 2. **SECTION 1 of this document expires September 1, 2003.**

LSA Document #03-88(E)
Filed with Secretary of State: March 26, 2003, 3:36 p.m.

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #03-86(E)

DIGEST

Temporarily modifies 410 IAC 1-2.3-47, 410 IAC 1-2.3-48, and temporarily adds a SECTION governing the reporting and control measures of communicable disease to add smallpox and complications related to vaccinations for smallpox. Authority: IC 4-22-2-37.1. *NOTE: The original emergency document, LSA Document #03-2(E), as printed at 26 IR 1956, effective February 15, 2003, expires May 16, 2003.* Effective May 17, 2003.

SECTION 1. (a) It shall be the duty of each physician licensed under IC 25-22.5, and each administrator of a hospital licensed under IC 16-21, or the administrator's representative, to report all cases and suspected cases of the diseases listed in subsection (d). Reporting of specimen results by a laboratory to health officials does not nullify the physician's or administrator's obligations to report said case.

(b) The report required by subsection (a) shall be made to the local health officer in whose jurisdiction the patient was examined at the time the diagnosis was made or suspected. If the patient is a resident of a different jurisdiction, the local health jurisdiction receiving the report shall forward the report to the local health jurisdiction where the patient resides. If a person who is required to report is unable to make a report to the local health officer within the time mandated by this rule, a report shall be made directly to the department within the time mandated by this rule.

(c) Any reports of diseases required by subsection (a) shall include the following:

(1) The patient's:
  (A) full name;
  (B) street address;
  (C) city;
  (D) zip code;
  (E) county of residence;
  (F) telephone number;
  (G) age or date of birth;
  (H) sex; and
  (I) race and ethnicity, if available.

(2) Date of onset.

(3) Diagnosis.

(4) Definitive diagnostic test results (for example, culture, IgM, serology, or Western Blot).

(5) Name, address, and telephone number of the attending physician.

(6) Other epidemiologically necessary information requested by the local health officer or the commissioner.

(7) Persons who are tested anonymously at a counseling and testing site cannot be reported using personal identifiers; rather, they are to be reported using a numeric identifier code. Age, race, sex, risk factors, and county of residence shall also be reported.

(8) Name, address, and telephone number of person completing report.

(d) The dangerous communicable diseases and conditions described in this subsection shall be reported within the time specified. Diseases or conditions that are to be reported immediately to the local health officer shall be reported by telephone or other instantaneous means of communication on first knowledge or suspicion of the diagnosis. Diseases that are to be reported within seventy-two (72) hours shall be reported to the local health officer within seventy-two (72) hours of first knowledge or suspicion of the diagnosis by telephone, electronic data transfer, other confidential means of communication, or official report forms furnished by the department. During evening, weekend, and holiday hours, those required to report should report diseases required to be immediately reported to the after-hours duty officer at the local health department. If unable to contact the after-hours duty officer locally, or one has not been designated locally, those required to report shall file their reports with the after-hours duty officer at the department at (317) 233-1325 or (317) 233-8115.

DANGEROUS COMMUNICABLE DISEASES AND CONDITIONS

Disease	When to Report (from probable diagnosis)	Disease Intervention Methods (section in this rule)
Acquired immunodeficiency syndrome	See HIV Infection/Disease	Sec. 76
Animal bites	Within 24 hours	Sec. 52
Anthrax	Immediately	Sec. 53
Babesiosis	Within 72 hours	Sec. 54
Botulism	Immediately	Sec. 55
Brucellosis	Within 72 hours	Sec. 56
Campylobacteriosis	Within 72 hours	Sec. 57
Chancroid	Within 72 hours	Sec. 58
Chlamydia trachomatis, genital infection	Within 72 hours	Sec. 59
Cholera	Immediately	Sec. 60
Cryptosporidiosis	Within 72 hours	Sec. 61
Cyclospora	Within 72 hours	Sec. 62
Diphtheria	Immediately	Sec. 63
Ehrlichiosis	Within 72 hours	Sec. 64
Encephalitis, arboviral, Calif, EEE, WEE, SLE, West Nile	Immediately	Sec. 65
Escherichia coli, infection (including E. coli 0157:H7 and other enterohemorrhagic types)	Immediately	Sec. 66
Gonorrhea	Within 72 hours	Sec. 67
Granuloma inguinale	Within 72 hours	Sec. 68
Haemophilus influenzae invasive disease	Immediately	Sec. 69
Hansen's disease (leprosy)	Within 72 hours	Sec. 70
Hantavirus pulmonary syndrome	Immediately	Sec. 71
Hemolytic uremic syndrome, postdiarrheal	Immediately	Sec. 66
Hepatitis, viral, Type A	Immediately	Sec. 72
Hepatitis, viral, Type B	Within 72 hours	Sec. 73
Hepatitis, viral, Type B, pregnant woman (acute and chronic), or perinatally exposed infant	Immediately (when discovered at or close to time of birth)	Sec. 73
Hepatitis, viral, Type C (acute)	Within 72 hours	Sec. 74
Hepatitis, viral, Type Delta	Within 72 hours	Sec. 73
Hepatitis, viral, unspecified	Within 72 hours	
Histoplasmosis	Within 72 hours	Sec. 75
HIV infection/disease	Within 72 hours	Sec. 76
HIV infection/disease, pregnant woman, or perinatally exposed infant	Immediately (when discovered at or close to time of birth)	Sec. 76
Legionellosis	Within 72 hours	Sec. 77
Leptospirosis	Within 72 hours	Sec. 78
Listeriosis	Within 72 hours	Sec. 79
Lyme disease	Within 72 hours	Sec. 80
Lymphogranuloma venereum	Within 72 hours	Sec. 81
Malaria	Within 72 hours	Sec. 82
Measles (rubeola)	Immediately	Sec. 83
Meningitis, aseptic	Within 72 hours	Sec. 84
Meningococcal disease, invasive	Immediately	Sec. 85
Mumps	Within 72 hours	Sec. 86
Pertussis	Immediately	Sec. 88
Plague	Immediately	Sec. 89
Poliomyelitis	Immediately	Sec. 90
Psittacosis	Within 72 hours	Sec. 91
Q Fever	Immediately	Sec. 92
Rabies in humans or animals (confirmed and suspect animal with human exposure)	Immediately	Sec. 93
Rabies, postexposure treatment	Within 72 hours	Secs. 93 and 52
Rocky Mountain spotted fever	Within 72 hours	Sec. 94
Rubella (German measles)	Immediately	Sec. 95
Rubella congenital syndrome	Immediately	Sec. 95
Salmonellosis, other than typhoid fever	Within 72 hours	Sec. 96
Shigellosis	Immediately	Sec. 97
Smallpox (variola infection)	**Immediately**	**Contact the ISDH for specific intervention methods.**
Adverse events or complications due to smallpox vaccination (vaccinia virus infection) or secondary transmission to others after vaccination. This includes accidental implantation at sites other than the vaccination site, secondary bacterial infections at vaccination site, vaccinia keratitis, eczema vaccinatum, generalized vaccinia, congenital vaccinia, progressive vaccinia, vaccinia encephalitis, death due to vaccinia complications, and other complications requiring significant medical intervention.	**Immediately**	**Contact the ISDH for specific intervention methods.**

Staphylococcus aureus, Vancomycin resistance level of MIC ≥ 8 µg/mL	Immediately	Sec. 98
Streptococcus pneumoniae, invasive disease, and antimicrobial resistance pattern	Within 72 hours	Sec. 99
Streptococcus, Group A, invasive disease	Within 72 hours	Sec. 100
Streptococcus, Group B, invasive disease	Within 72 hours	Sec. 101
Syphilis	Within 72 hours	Sec. 102
Tetanus	Within 72 hours	Sec. 103
Toxic shock syndrome (streptococcal or staphylococcal)	Within 72 hours	Sec. 104
Trichinosis	Within 72 hours	Sec. 105
Tuberculosis, cases and suspects	Within 72 hours	Sec. 106
Tularemia	Immediately	Sec. 107
Typhoid fever, cases and carriers	Immediately	Sec. 108
Typhus, endemic (flea borne)	Within 72 hours	Sec. 109
Varicella, resulting in hospitalization or death	Within 72 hours	Sec. 110
Yellow fever	Within 72 hours	Sec. 111
Yersiniosis	Within 72 hours	Sec. 112

DANGEROUS BUT NOT COMMUNICABLE DISEASES AND CONDITIONS OF PUBLIC HEALTH SIGNIFICANCE

Disease and Condition	When to Report (from probable diagnosis)	Disease Intervention Methods
Pediatric venous blood lead ≥10 µg/dl in children less than or equal to 6 years of age	Within 1 week	Sec. 87

(e) Reporting of HIV infection/disease shall include classification as defined in the CDC Morbidity and Mortality Weekly Report, Volume 41, No. RR-17, 1993 Revised Classification System for HIV Infection and Expanded Surveillance Case Definition for AIDS among Adolescents and Adults. Reporting of HIV infection/disease in children less than thirteen (13) years of age shall include classification as defined in the CDC Morbidity and Mortality Weekly Report, Volume 43, No. RR-12, 1994 Revised Classification System for Human Immunodeficiency Virus Infection in Children Less Than 13 Years of Age. Supplemental reports shall be provided by the physician when an individual's classification changes. The CD4+ T-lymphocyte count and percentage, or viral load count, or both, shall be included with both initial and supplemental reports.

(f) The department, under the authority of IC 4-22-2-37.1, may adopt emergency rules to include mandatory reporting of emerging infectious diseases. Reports shall include the information specified in section 47(c) of this rule *[subsection (c)]*.

(g) Outbreaks of any of the following shall be reported immediately upon suspicion:

(1) Any disease required to be reported under this section.
(2) Diarrhea of the newborn (in hospitals or other institutions).
(3) Foodborne or waterborne diseases in addition to those specified by name in this rule.
(4) Streptococcal illnesses.
(5) Conjunctivitis.
(6) Impetigo.
(7) Nosocomial disease within hospitals and health care facilities.
(8) Influenza-like illness.
(9) Unusual occurrence of disease.
(10) Any disease (that is, anthrax, plague, tularemia, Brucella species, smallpox, or botulinum toxin) or chemical illness that is considered a bioterrorism threat, importation, or laboratory release.

(h) Failure to report constitutes a Class A infraction as specified by IC 16-41-2-8.

SECTION 2. (a) Each director, or the director's representative, of a medical laboratory in which examination of any specimen derived from the human body yields microscopic, bacteriologic, immunologic, serologic, or other evidence of infection by any of the organisms or agents listed in section 48(d) of this rule *[subsection (d)]* shall report such findings and any other epidemiologically necessary information requested by the department. HIV serologic results of tests performed anonymously in conjunction with the operation of a counseling and testing site registered with the department shall not be identified by name of patient, but by a numeric identifier code; for appropriate method to report such results, see subsection (b).

(b) The report required by subsection (a) shall, at a minimum, include the following:

(1) Name, date, results of test performed, the laboratory's normal limits for that test, and the laboratory's interpretation of the test results.
(2) Name of person and date of birth or age from whom specimen was obtained.
(3) Name, address, and telephone number of attending physician, hospital, clinic, or other specimen submitter.
(4) Name, address, and telephone number of the laboratory performing the test.

(c) This subsection does not preclude laboratories from testing specimens, which, when submitted to the laboratory, are identified by a numeric identifier code and not by name of patient. If testing of such a specimen, identified by numeric

code, produces results that are required to be reported under this rule, the laboratory shall submit a report that includes the following:

(1) Numeric identifier code, date, and results of tests performed.

(2) Name and address of attending physician, hospital, clinic, or other.

(3) Name and address of the laboratory performing the test.

(d) Laboratory findings demonstrating evidence of the following infections, diseases, or conditions shall be reported at least weekly to the department:

(1) Arboviruses, including, but not limited to, the following:
(A) St. Louis.
(B) California group.
(C) Eastern equine.
(D) Western equine.
(E) West Nile.
(F) Japanese B.
(G) Yellow fever.

(2) Babesia species.
(3) Bacillus anthracis.
(4) Bordetella pertussis.
(5) Borrelia burgdorferi.
(6) Brucella species.
(7) Calymmatobacterium granulomatis.
(8) Campylobacter species.
(9) Chlamydia psittaci.
(10) Chlamydia trachomatis.
(11) Clostridium botulinum.
(12) Clostridium perfringens.
(13) Clostridium tetani.
(14) Corynebacterium diphtheriae.
(15) Coxiella burnetii.
(16) Cryptococcus neoformans.
(17) Cryptosporidium parvum.
(18) Cyclospora cayetanensis.
(19) Ehrlichia chaffeensis.
(20) Ehrlichia phagocytophila.
(21) Enteroviruses (coxsackie, echo, polio).
(22) Escherichia coli infection (including E. coli 0157:H7 and other enterohemorrhagic types).
(23) Francisella tularensis.
(24) Haemophilus ducreyi.
(25) Hantavirus.
(26) Hepatitis viruses:
(A) anti-HAV IgM;
(B) HbsAg or HbeAg or anti-HBc IgM;
(C) RIBA or RNA or Anti-HCV, or any combination;
(D) Delta.
(27) Haemophilus influenzae, invasive disease.
(28) Histoplasmosis capsulatum.
(29) HIV and related retroviruses.
(30) Influenza.
(31) Kaposi's sarcoma (biopsies).
(32) Legionella species.
(33) Leptospira species.
(34) Listeria monocytogenes.
(35) Measles virus.
(36) Mumps virus.
(37) Mycobacterium tuberculosis.
(38) Neisseria gonorrhoeae.
(39) Neisseria meningitidis, invasive.
(40) Pediatric blood lead tests (capillary and venous) equal to or greater than 10 µg/dl on children less than or equal to six (6) years of age.
(41) Plasmodium species.
(42) Pneumocystis carinii.
(43) Rabies virus (animal or human).
(44) Rickettsia species.
(45) Rubella virus.
(46) Salmonella species.
(47) Shigella species and antimicrobial resistance pattern.
(48) Smallpox (variola) virus.
~~(48)~~ (49) Staphylococcus aureus, Vancomycin resistance equal to or greater than 8 µg/mL.
~~(49)~~ **(50)** Streptococcus pneumoniae, invasive disease, and antimicrobial resistance pattern.
~~(50)~~ **(51)** Streptococcus Group A (Streptococcus pyogenes), invasive disease.
~~(51)~~ **(52)** Streptococcus Group B, invasive disease.
~~(52)~~ **(53)** Treponema pallidum.
~~(53)~~ **(54)** Trichinella spiralis.
~~(54)~~ **(55)** Vibrio species.
~~(55)~~ **(56)** Yersinia species, including pestis, enterocolitica, and pseudotuberculosis.

(e) Laboratories may also report to the local health officer, but any such local report shall be in addition to reporting to the department. A laboratory may report by electronic data transfer, telephone, or other confidential means of communication. In lieu of electronic data transfer or reporting by telephone, a laboratory may submit a legible copy of the laboratory report, provided that the information specified in subsection (b) appears thereon. Whenever a laboratory submits a specimen, portion of a specimen, or culture to the department laboratory resource center for confirmation, phage typing, or other service, these reporting requirements will be deemed to have been fulfilled, provided that the minimum information specified in subsection (b) accompanies the specimen or culture.

(f) Laboratories shall submit all isolates of the following organisms to the department's microbiology laboratory for further evaluation:

(1) Haemophilus influenzae, invasive disease.
(2) Neisseria meningitidis, invasive disease.
(3) E. coli 0157:H7 or sorbital-negative E. coli isolates.
(4) Staphylococcus aureus, Vancomycin resistance equal to or greater than 8 µg/mL.
(5) Mycobacterium tuberculosis.

(6) Listeria monocytogenes.
(7) Salmonella from any site.

(g) Quarterly report the total number of blood lead test (capillary and venous) performed on children six (6) or less year *[sic.]* of age.

(h) Reporting by a laboratory, as required by this section, shall not:
(1) constitute a diagnosis or a case report; and
(2) be considered to fulfill the obligation of the attending physician or hospital to report.

~~(i) Failure to report constitutes a Class A infraction as specified by IC 16-41-2-8.~~

SECTION 3. **The control measures for smallpox are to begin an investigation immediately by the department in conjunction with the local health officer to determine the possible sources of infection, trace contacts of the known case, and determine the extent of the outbreak.**

SECTION 4. **SECTIONS 1 through 3 of this document expire August 14, 2003.**

LSA Document #03-86(E)
Filed with Secretary of State: March 18, 2003, 8:11 a.m.

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #03-87(E)

DIGEST

Temporarily modifies 410 IAC 17-10-1 governing the licensure of home health agencies. Modifications are made to the list of those persons who are not required to be licensed as home health agencies. Authority: IC 4-22-2-37.1. Effective April 10, 2003.

SECTION 1. (a) No home health agency shall be opened, operated, managed, maintained, or otherwise conduct business without a license issued by the department.

(b) A license is required for any home health agency providing care in Indiana where the parent agency is located in a state other than Indiana. The home health agency must be authorized by the secretary of state to conduct business in Indiana and have a branch office located in Indiana.

(c) Application for a license to operate a home health agency shall be made on a form provided by the department and shall be accompanied by a nonrefundable fee of one hundred dollars ($100).

(d) Disclosure of ownership and management information must be made to the department at the time of the home health agency's initial request for licensure, for each survey, and at the time of any change in ownership or management. The disclosure must include the following:
(1) The name and address of all persons having at least five percent (5%) ownership or controlling interest in the home health agency.
(2) The name and address of each person who is an officer, a director, a managing agent, or a managing employee of the home health agency.
(3) The name and address of the corporation, association, or other company that is responsible for the management of the home health agency, and the name and address of the chief executive officer and the chairman or equivalent position of the governing body of that corporation, association, or other legal entity responsible for the management of the home health agency.

(e) After receiving a completed application, the nonrefundable fee required by subsection (c) of this rule, and disclosure of ownership and management information, the department may issue a letter of approval for operating a home health agency for a period of up to ninety (90) days pending an on-site inspection. In determining whether to issue the letter of approval, the department shall consider the following factors:
(1) Whether the department has filed an action against an agency owned or operated by the applicant that resulted in:
(A) the revocation of a license;
(B) the denial or renewal of a license;
(C) the issuance or renewal of a probationary license; or
(D) the payment of a civil penalty.
(2) Whether the department has issued an order against an agency owned or operated by the applicant.
(3) Whether an agency owned or operated by the applicant has surrendered its license to the department.
(4) Whether any injunction has been issued against an agency owned or operated by the applicant; and
(5) Whether an agency owned or operated by the applicant has operated in substantial violation of this rule or any other law governing home health agencies at any time within two (2) years immediately preceding the date that the applicant applied for a license.

(f) The department may extend this ninety (90) day period for a total of one hundred twenty (120) days in fifteen (15) day increments. Such decision to grant an extension shall take into consideration the health, safety, and welfare of the citizens the home health agency serves and the individual circumstances warranting the need for the extension. The home health agency must provide the service(s) that have been specified on the application prior to the inspection and must have a minimum of three (3) patients for record review. Record review may consist of both open and closed patient files.

(g) In determining whether to issue the initial license to operate a home health agency, the department may consider the factors described under subsection (e) of this rule and the results of the initial survey.

(h) The license shall relate back to and reflect the date of the first day of the ninety (90) day letter issued by the department.

(i) In determining whether to renew a license to operate a home health agency, the department may consider the factors described under subsection (e) of this rule and any actions pending against the home health agency.

(j) In conducting a survey, a surveyor shall receive copies of any and all documents necessary to make a determination of compliance. The surveyor may make copies with permission of the home health agency, or supervise any copying process to ensure that photocopies are true and accurate. At the sole discretion of the department and for good cause shown, the home health agency may be granted up to twenty-four (24) hours to produce documents requested by the surveyor.

(k) A home health agency may apply to provide a service that was not listed in its application or renewal application by notifying the department in writing of the new service, the date the service is intended to be offered, and all supporting documentation that shows the home health agency is qualified to provide the additional service. Such documentation includes, but is not limited to, the following:

(1) Personnel qualifications and licensing.

(2) Limited criminal history from the Indiana central repository established by IC 5-2-5.

(3) Procedures for the supervision of personnel.

(4) Contracts between the home health agency and any person offering the new service.

(5) Records of physical exams showing that personnel are free of communicable disease. In the event the initial information submitted is not sufficient for the department to determine the home health agency's compliance regarding the new service, the department will inform the home health agency of the additional documents required. A home health agency may not offer additional services until it has received approval from the department to do so.

(l) The following are not required to be licensed as a home health agency:

(1) A physician licensed under IC 25-22.5.

(2) An individual whose permanent residence is in the patient's residence or who is a member of the patient's immediate family.

(3) Incidental services provided by licensed health facilities to their patients.

(4) An employee of a person holding a license under IC 16-27-1 who provides home health services only as an employee of the licensed person.

(5) A local health department established under IC 16-20.

(6) A health care professional who provides one (1) health service through a contract with a person licensed under IC 16-27-1.

(7) A durable medical equipment supply company that furnishes equipment but provides no home health services to persons in their homes.

(8) A drugstore or wholesale medical supply company that furnishes no home health services to persons in their home.

(9) A volunteer who provides home health aide services without compensation.

(10) An individual health care professional who provides professional services to a patient in the temporary or permanent residence of the patient.

(11) An entity does not need a home health license to provide early intervention services (as defined in IC 12-17-15-3) to a child pursuant to a state program funded by the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(12) An entity approved by the bureau of developmental disabilities services as a provider of services subject to family and social services administration regulation pursuant to 460 IAC 6 and who serves only individuals with developmental disabilities placed pursuant to IC 12-11-2.1-4.

(m) Except as provided in 410 IAC 17-11-5, each license shall be for a term of one (1) year and shall expire one (1) year from the date of issuance. The licensee shall notify the department in writing thirty (30) days in advance of closing or selling the home health agency.

(n) Each license shall be issued only for the home health agency named in the application and shall not be transferred or assigned. Upon sale, assignment, lease, or other transfer, voluntary or involuntary, including those transfers that qualify as changes of ownership, a new owner or person in interest shall obtain a license from the department prior to maintaining, operating, or conducting a home health agency.

(o) The licensee shall submit an annual activity report to the department on a form provided by the department.

(p) Surveys may be, but are not limited to, the following:

(1) Unannounced surveys conducted annually for compliance.

(2) Post survey revisits conducted based on a home health agency's plan of correction and for the purpose of determining compliance.

(3) Patient care complaints.

SECTION 2. **SECTION 1 of this document expires July 9, 2003.**

LSA Document #03-87(E)
Filed with Secretary of State: March 18, 2003, 8:15 a.m.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-49

Under IC 12-8-3-4.4, LSA Document #02-49, printed at 25 IR 2555, which amends 405 IAC 5-12-2, 405 IAC 5-12-3, and 405 IAC 5-12-7 to limit Medicaid coverage for chiropractic services for all recipients. Repeals 405 IAC 5-12-6. The rule that was adopted on April 7, 2003, is a different version from the proposed rule that was published in the Indiana Register on May 1, 2002.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-207

Under IC 12-8-3-4.4, LSA Document #02-207, printed at 26 IR 514, which amends 405 IAC 5-31-4 and adds 405 IAC 5-24-13 to add all legend and non-legend water products to the facility's per diem rate was adopted on March 31, 2003. The rule which was adopted is a different version than the proposed rule that was published in the Indiana Register on November 1, 2002.

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-214

Under IC 12-8-3-4.4, LSA Document #02-214, printed at 26 IR 157, which amends 405 IAC 1-16-2 to specify the payment level for hospice services, was adopted on March 31, 2003. This rule also specifies that the hospice must have a written agreement with the nursing facility. Amends 405 IAC 5-34-1 to specify that the hospice provider must provide all services in compliance with the Medicaid provider agreement, the appropriate provider manual and all other Medicaid policy documents issued to provider at the time services were rendered, and any applicable state or federal statute or regulations. Amends 405 IAC 5-34-2 to specify licensure and certification requirements for Medicaid Hospice Providers. Amends 405 IAC 5-34-3 to specify the requirements for Medicaid Hospice services provided by out of state hospice providers. Amends IAC 5-34-4 to specify the requirements for obtaining authorization for hospice services. Adds 405 IAC 5-34-4.1 regarding appeals of hospice authorization determinations. Adds 405 IAC 5-34-4.2 to provide for retrospective audit of hospice services including review for medical necessary. Amends 405 IAC 5-34-5 to specify requirements relating to the hospice physician certification form. Amends 405 IAC 5-34-6 to specify requirements relating to election and revocation of hospice services. Amends 405 IAC 5-34-7 to specify requirements relating to the hospice plan of care. The rule that was adopted is a different version than the proposed rule that was published in the Indiana Register on October 1, 2002.

Change in Notice of Public Hearing

TITLE 327 WATER POLLUTION CONTROL BOARD

#01-51(WPCB)

The Water Pollution Control Board gives notice that the date of the public hearing for consideration of preliminary adoption of #01-51(WPCB), printed at 26 IR 1737, has been changed. The changed Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on ***May 8, 2003*** *at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Water Pollution Control Board will hold a public hearing on proposed amendments to 327 IAC 5-4-3 and new rules of the board for the general NPDES permit for CAFOs at 327 IAC 15-15. This hearing was originally scheduled for April 9, 2003, at 1:30 p.m.*

Also planned for the May 8, 2003, board meeting is the adoption of identical language to the general NPDES permit rules for CAFOs as an emergency rule. Under IC 4-22-2-37.1, the board may adopt an emergency rule that will be effective for ninety (90) days from the date the emergency rule is filed with the Secretary of State. There will be no public hearing prior to the adoption of the emergency rules.

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments and new language. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed in this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Lynn West, Rules, Planning, and Outreach Section, Office of Land Quality, 317-232-3593 or (800) 451-6027, press 0, and ask for ext. 2-3593 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. TDD: (317) 232-6565. Speech and hearing impaired callers may also contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file with the Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin
Deputy Assistant Commissioner
Office of Land Quality

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #01-95

The Water Pollution Control Board gives notice that the date of the public hearing for consideration of final adoption of LSA Document #01-95, printed at 26 IR 1604, has been rescheduled. The changed Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-1, IC 13-14-8-2, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on ***May 8, 2003*** *at 1:30 p.m., in the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Water Pollution Control Board will hold a special meeting of the board and conduct a public hearing on proposed amendments and new rules concerning storm water run-off associated with construction activity and storm water discharges associated with industrial activity.*

The purpose of this hearing is to receive comments from the public prior to the board's consideration of final adoption of these rules. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposal to final adopt the new rules and amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Technical information regarding this action can be obtained from Lori Gates, Wet Weather Section, Office of Water Quality, (317) 233-6725 or (800) 451-6027 (in Indiana). Additional information regarding this action can be obtained from MaryAnn Stevens, Rules Section, Office of Water Quality, (317) 232-8635 or (800) 451-6027 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. TDD: (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file with the Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Twelfth Floor West, Room 1255 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Tim Method
Deputy Commissioner
Indiana Department of Environmental Management

TITLE 329 SOLID WASTE MANAGEMENT BOARD

LSA Document #01-161

The Solid Waste Management Board gives notice that the date of the public hearing for consideration of final adoption of LSA Document #01-161, printed at 26 IR 1962, has been changed. The changed Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on ***May 20, 2003*** *at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Solid Waste Management Board will hold a public hearing on amendments to rules for underground storage tanks at 329 IAC 9. The hearing for final adoption concerning amendments to rules for underground storage tanks at 329 IAC 9, printed at 26 IR 1201, was opened on February 18, 2003, and continued to the March 18, 2003 board meeting. Because no board business could be conducted at the March 18, 2003, board meeting, the hearing was continued to the April 15, 2003, board meeting. Because the April 15, 2003, board meeting has been canceled, the hearing is being renoticed for the May board meeting.*

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments and new language. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed in this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Lynn West, Rules, Planning, and Outreach Section, Office of Land Quality, 317-232-3593 or (800) 451-6027, press 0, and ask for ext. 2-3593 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:
Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015
or call (317) 233-0855. TDD: (317) 232-6565. Speech and hearing impaired callers may also contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file with the Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin
Deputy Assistant Commissioner
Office of Land Quality

TITLE 329 SOLID WASTE MANAGEMENT BOARD

LSA Document #01-288

The Solid Waste Management Board gives notice that date of the public hearing for consideration of final adoption of LSA Document #01-288, printed at 26 IR 1647, has been continued due to cancellation of the April 15, 2003, board meeting. The changed Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on ***July 15, 2003*** *at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Solid Waste Management Board will hold a public hearing on proposed amendments to 329 IAC 10, 329 IAC 11, 329 IAC 12, and 329 IAC 13.*

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Steve Mojonnier, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. (TDD): (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the IDEM Office of Land Quality, 100 North Senate Avenue and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin
Deputy Assistant Commissioner
Office of Land Quality

TITLE 329 SOLID WASTE MANAGEMENT BOARD

LSA Document #02-160(SWMB)

The Solid Waste Management Board gives notice that the date of the public hearing for consideration of final adoption of LSA Document #02-160(SWMB), printed at 26 IR 1358, has been continued due to cancellation of the April 15, 2003, board meeting. The changed Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on ***July 15, 2003*** *at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Solid Waste Management Board will hold a public hearing on proposed amendments to 329 IAC 3.1.*

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Steve Mojonnier, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. (TDD): (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the IDEM Office of Land Quality, 100 North Senate Avenue and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin
Deputy Assistant Commissioner
Office of Land Quality

TITLE 329 SOLID WASTE MANAGEMENT BOARD

LSA Document #02-235

The Solid Waste Management Board gives notice that the date of the public hearing for consideration of final adoption of LSA Document #02-235, printed at 26 IR 1239, has been changed. The changed Notice of Public hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on ***May 20, 2003*** *at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Solid Waste Management Board will hold a public hearing on proposed amendments to 329 IAC 3.1. This rule concerns amendments to the rules for hazardous waste management at 329 IAC 3.1, commonly known as the 2002 Hazardous Waste Annual Update. The original notice of public hearing was published on January 1, 2003, at 26 IR 1243. The second public hearing was opened on February 18, 2003, and was continued to the March 18, 2003, board meeting. Because no board business could be conducted at the March 18, 2003, board meeting, the hearing was continued to the April 15, 2003, board meeting. Because no board business could be conducted at the April 15, 2003, board meeting, the hearing has been postponed.*

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed

amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Steve Mojonnier, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-0855. (TDD): (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the IDEM Office of Land Quality, 100 North Senate Avenue and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin
Deputy Assistant Commissioner
Office of Land Quality

TITLE 515 PROFESSIONAL STANDARDS BOARD

LSA Document #03-11

The Professional Standards Board gives notice that the date of the public hearing for consideration of final adoption of LSA Document #03-11, printed at 26 IR 2451, has been changed. The changed Notice of Public Hearing appears below:

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on ***May 27, 2003*** *at 10:00 a.m., at the Professional Standards Board, 101 West Ohio Street, Third Floor, Indianapolis, Indiana the Professional Standards Board will hold a public hearing on a proposed new rule to provide certain requirements and procedures for the issuance and revocation of various licenses and permits issued by the Professional Standards Board. Copies of these rules are now on file at the Professional Standards Board, 101 West Ohio Street, Suite 300 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Marie Theobald
Executive Director
Professional Standards Board

TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

LSA Document #03-101

Under IC 4-22-2-23, the Office of Attorney General for the State intends to adopt a rule concerning the following:

OVERVIEW: Amends 10 IAC 1.5 governing unclaimed property to establish filing dates for reports required by holders of property. Amends 10 IAC 1.5 governing unclaimed property to establish requirements for disclaimer of property. Effective 30 days after filing with the secretary of state. Questions or comments may be directed by mail to the Unclaimed Property Division, Office of the Indiana Attorney General, ATTENTION: Judy Hudson, Indiana Government Center-South, 302 West Washington Street, Fifth Floor, Indianapolis, Indiana 46204 or by electronic mail to jhudson@atag.state.in.us. Statutory authority: IC 32-34-1-52; IC 4-22-2-19(b).

TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

LSA Document #03-104

Under IC 4-22-2-23, the Office of Attorney General for the State intends to adopt a rule concerning the following:

OVERVIEW: Amends 10 IAC 1.5 governing the requirements for a claim for unclaimed property to be considered by the attorney general. Effective 30 days after filing with the secretary of state. Questions or comments may be directed by mail to the Unclaimed Property Division, Office of the Indiana Attorney General, ATTENTION: Judy Hudson, Indiana Government Center-South, 302 West Washington Street, Fifth Floor, Indianapolis, Indiana 46204 or by electronic mail to jhudson@atag.state.in.us. Statutory authority: IC 32-34-1-52; IC 4-22-2-19(b).

TITLE 52 INDIANA BOARD OF TAX REVIEW

LSA Document #03-89

Under IC 4-22-2-23, the Indiana Board of Tax Review intends to adopt a rule concerning the following:

OVERVIEW: Under IC 6-1.5-6-1, the Indiana Board of Tax Review intends to adopt rules to govern practice and procedures before the Indiana Board of Tax Review. The Indiana Board of Tax Review invites written suggestions, facts, arguments, or views in these matters. Questions or comments may be directed to Annette Biesecker, Chairman, Indiana Board of Tax Review, at 232-3753. Statutory authority: IC 6-1.5-6-1.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-91

Under IC 4-22-2-23, the Natural Resources Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 312 IAC 18-5-4 that governs phytosanitary document fees and related fees by increasing those fees from $30 to $50. Adds state phytosanitary certificates to those for which the fees are required but with exemptions. Effective 30 days after filing with the secretary of state. Questions concerning the proposed rule amendments may be directed to the following telephone number: (317) 232-4699 or electronic mail to jkane@dnr.state.in.us. Statutory authority: IC 14-10-2-4; IC 14-24.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-92

Under IC 4-22-2-23, the Natural Resources Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 312 IAC 5-6-5 governing special watercraft restrictions on Lake James to include all lakes within the Lake James Chain of Lakes. New restricted watercraft zones would be added, including those for Lake James, the channel between Lake James and Snow Lake, and Follette Creek between Big Otter Lake and Snow Lake. Effective January 1, 2004. Questions or comments may be directed to slucas@dnr.state.in.us or by telephone at 317-233-3322. Statutory authority: IC 14-10-2-4; IC 14-5-7-3.

TITLE 312 NATURAL RESOURCES COMMISSION

LSA Document #03-93

Under IC 4-22-2-23, the Natural Resources Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 312 IAC 25 that assists in the administration of IC 14-34 (sometimes referred to as the "Indiana Surface Control and Reclamation Act" or "Indiana SMCRA") that governs surface coal mining and reclamation activities. Makes numerous changes to help assure conformance with state and federal law. Included among them are new

definitions for "land eligible for remining" and "unanticipated event or condition". References to ponds would be modified to describe siltation structures. Designated regulations of the Mine Safety and Health Administration would be incorporated by reference. Refuse piles would be addressed with greater specificity. References to the former Soil Conservation Service are updated to identify the Natural Resources Conservation Service. New standards address consultation with the Secretary of Agriculture, permits on prime farmland, permits on lands eligible for remining, certifications by a permittee who seeks a bond release, the development of baselines for hydrologic information, and the frequency of inspections of abandoned sites. Provides for the confidentiality of information and location of archaeological resources on public and Indian lands. Specifies that, in addition to the director of the department of natural resources, the Secretary of the Interior may perform mine inspections. Makes numerous other substantive and technical changes. Questions and comments may be sent to the Division of Hearings, Natural Resources Commission, 402 West Washington Street, Room W272, Indianapolis, Indiana 46204 or by telephone at (317) 233-3322. Statutory authority: IC 14-34-2-1.

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document #03-90

Under IC 4-22-2-23, the Indiana State Department of Health intends to adopt a rule concerning the following:

OVERVIEW: Amends the rules on comprehensive care facilities to update the incorporated reference to the life safety code. Written comments may be submitted to the Indiana State Department of Health, ATTENTION: Long Term Care, 2 North Meridian Street, Indianapolis, Indiana 46204. Statutory authority: IC 16-28-1-7; IC 16-28-1-12.

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

LSA Document #03-99

Under IC 4-22-2-23, the Division of Disability, Aging, and Rehabilitative Services intends to adopt a rule concerning the following:

OVERVIEW: Adds provisions affecting providers and recipients of assisted living services under the Medicaid waiver program authorized by P.L.100-2000. Statutory authority: IC 12-8-8-4; IC 12-9-2-3.

TITLE 550 BOARD OF TRUSTEES OF THE INDIANA STATE TEACHERS' RETIREMENT FUND

LSA Document #03-100

Under IC 4-22-2-23, the Board of Trustees of the Indiana State Teachers' Retirement Fund intends to adopt a rule concerning the following:

OVERVIEW: Adds 550 IAC 7 concerning the pick-up of additional member contributions to a member's annuity savings account. Question or comments on the adoption may be directed by mail to the Indiana State Teachers' Retirement Fund, 150 West Market Street, Suite 300, Indianapolis, Indiana 46204 or by electronic mail to tdavidson@trf.state.in.us. Statutory authority: IC 21-6.1-3-6.

TITLE 888 INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS

LSA Document #03-103

Under IC 4-22-2-23, the Indiana Board of Veterinary Medical Examiners intends to adopt a rule concerning the following:

OVERVIEW: Amends 888 IAC 1.1-6-1 concerning applicants who are applying to take the NAVLE examination. Effective 30 days after filing with the secretary of state. Public comments are invited and may be directed to the Indiana Board of Veterinary Medical Examiners, ATTENTION: Director, 402 West Washington Street, Room W041, Indianapolis, Indiana 46204 or by electronic mail to cvaught@hpb.state.in.us. Statutory authority: IC 15-5-1.1-11.

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

LSA Document #03-94

Under IC 4-22-2-23, the Alcohol and Tobacco Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 905 IAC 1-15.2-3 to clarify conditions under which minors may be present in permit premises containing restaurants. Questions concerning the proposed rule may be directed to Mary L. DePrez, Chairperson, Alcohol and Tobacco Commission, at (317) 232-2444. Statutory authority: IC 7.1-2-3-7.

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

LSA Document #03-95

Under IC 4-22-2-23, the Alcohol and Tobacco Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 905 IAC 1-27-4 to clarify the commission's obligation to determine the desirability of the permit in regard to the general geographical location of said permit. Provides that the issue regarding location must first be raised by remonstrators, who bear the burden of proof by a preponderance of the evidence. Questions concerning the proposed rule may be directed to Mary L. DePrez, Chairperson, Alcohol and Tobacco Commission, at (317) 232-2444. Statutory authority: IC 7.1-2-3-7.

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

LSA Document #03-96

Under IC 4-22-2-23, the Alcohol and Tobacco Commission intends to adopt a rule concerning the following:

OVERVIEW: Adds 905 IAC 1-35.1 to establish procedures governing the issuance of annual race track permits. Questions concerning the proposed rule may be directed to Mary L. DePrez, Chairperson, Alcohol and Tobacco Commission, at (317) 232-2444. Statutory authority: IC 7.1-2-3-7.

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

LSA Document #03-97

Under IC 4-22-2-23, the Alcohol and Tobacco Commission intends to adopt a rule concerning the following:

OVERVIEW: Amends 905 IAC 1-36-2 to provide that appeals to the commission must be verified or signed under the penalties for perjury. Also provides that an appellant's request to appeal must be accompanied by specifically stating the objections to the local board's recommendation. Questions concerning the proposed rule may be directed to Mary L. DePrez, Chairperson, Alcohol and Tobacco Commission, at (317) 232-2444. Statutory authority: IC 7.1-2-3-7.

TITLE 307 INDIANA BOARD OF REGISTRATION FOR SOIL SCIENTISTS

Proposed Rule
LSA Document #03-32

DIGEST

Adds 307 IAC to establish standards for the Indiana registry of soil scientists. Effective 30 days after filing with the secretary of state.

307 IAC

SECTION 1. 307 IAC IS ADDED TO READ AS FOLLOWS:

TITLE 307 INDIANA BOARD OF REGISTRATION FOR SOIL SCIENTISTS

ARTICLE 1. INDIANA REGISTRY OF SOIL SCIENTISTS

Rule 1. Definitions

307 IAC 1-1-1 Applicability
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5

Sec. 1. The definitions in this rule apply throughout this article. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-1-1)*

307 IAC 1-1-2 "ARCPACS" defined
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5

Sec. 2. "ARCPACS" means A Federation of Certifying Boards in Agriculture, Biology, Earth, and Atmospheric Sciences. Its acronym was derived from its previous name, American Registry of Certified Professionals in Agronomy Crops and Soils. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-1-2)*

307 IAC 1-1-3 "Board" defined
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5

Sec. 3. "Board" means the Indiana board of registration for soil scientists. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-1-3)*

307 IAC 1-1-4 "IRSS" defined
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5

Sec. 4. "IRSS" means the Indiana registry of soil scientists. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-1-4)*

307 IAC 1-1-5 "RASS" defined
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5

Sec. 5. "RASS" means a registered associate soil scientist. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-1-5)*

307 IAC 1-1-6 "RPSS" defined
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5

Sec. 6. "RPSS" means a registered professional soil scientist. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-1-6)*

307 IAC 1-1-7 "RSS" defined
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5

Sec. 7. "RSS" means a registered soil scientist (RASS or RPSS). *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-1-7)*

307 IAC 1-1-8 "Soil taxonomy" defined
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5

Sec. 8. "Soil taxonomy" means the current soil classification system used in the United States as described in the book, Soil Survey Staff, 1999. Soil Taxonomy: A basic method for making and interpreting soils surveys, Second Edition USDA, NRCS Aric. Handb. 436, United States Government Printing Office, Washington, D.C., and in revisions to that book accepted by the National Cooperative Soil Survey. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-1-8)*

Rule 2. Administration

307 IAC 1-2-1 Board and officers
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-2-1; IC 25-31.5-2-8

Sec. 1. (a) The board administers this article with the assistance of the office of state chemist.

(b) The board consists of the following five (5) members:
(1) Four (4) soil scientists who, at the time of appointment, include:
(A) one (1) member from federal, state, or local government;
(B) one (1) member involved in education in a teaching, a research, or an extension context; and
(C) two (2) members from industry or the private practice of soil science who are registered professional soil scientists in Indiana.
(2) One (1) member who represents the public at large and is not associated with soil science other than as a consumer.

(c) Each year the board shall elect from its members a chairperson and a secretary. The board may elect a vice chair.
(Indiana Board of Registration for Soil Scientists; 307 IAC 1-2-1)

307 IAC 1-2-2 Administration; support
Authority: IC 35-31.5-3-4
Affected: IC 25-31.5-3-6; IC 25-31.5-3-9; IC 25-31.5-4-10; IC 25-31.5-6-3

Sec. 2. (a) The state chemist will appoint an administrative advisor who is employed by the office of the state chemist. The administrative advisor will provide the following:
(1) Clerical and administrative support for the soil science registration fund.
(2) Record keeping services.
(3) Other support as needed.

(b) The contract between the board and the state chemist will consist of mutual agreements, as recorded in the minutes of board meetings. A written contract will be developed upon the request of the board or the administrative advisor.

(c) Each year the board shall:
(1) determine the cost incurred in administering the program for the registration of soil scientists under this article; and
(2) if necessary, adjust the amount of the:
(A) registration fees charged under IC 25-31.5-4-10; and
(B) renewal fee charged under IC 25-31.5-6-3;
to ensure that the program is self-supporting.
(Indiana Board of Registration for Soil Scientists; 307 IAC 1-2-2)

307 IAC 1-2-3 Code of professional conduct
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-3-4

Sec. 3. An applicant must agree to and sign a code of professional conduct to become registered. The code of professional conduct is adopted and reads as follows:

"Article I. Preamble

The privilege of professional practice imposes obligations of responsibility as well as professional knowledge. The Indiana Registry of Soil Scientists certifies the credentials of individuals who have met certain professional requirements and agree to this Code. The Registry was established in 2001 by state law (IC 25-31.5), and is administered by a Board of Registration for Soil Scientists appointed by the Governor of Indiana. Two (2) levels of registration are recognized. Fully qualified individuals are called Indiana Registered Professional Soil Scientists; those who meet all requirements except experience are Indiana Registered Associate Soil Scientists. Collectively, they are called Registered Soil Scientists.

Article II. Relation of Professional to the Public

1. Registered Soil Scientists shall hold paramount the health and welfare of the public and the protection of soil and water quality.
2. Registered Soil Scientists shall perform services only in the areas of their professional competence.
3. Registered Soil Scientists shall be objective and truthful in professional reports, statements, and testimony.
4. Registered Soil Scientists shall not issue false statements or provide false information even though directed to do so by employer or client.

Article III. Relation of Professional to Employer and Client

1. Registered Soil Scientists, at the request of a client or employer, must disclose the information used to gain registration. Registered Soil Scientists who knowingly misrepresent their credentials will face disciplinary action.
2. A Registered Soil Scientist shall protect, to the fullest extent possible, the interest of his/her employer or client insofar as such interest is consistent with the law, the protection of public health, and the protection of soil and water quality.
3. A Registered Soil Scientist who finds that obligations to their employer or client conflict with their professional obligation or ethics should work to have such objectionable conditions corrected.
4. A Registered Soil Scientist shall not use, directly or indirectly, an employer's or client's information in any way that would violate the confidence of the employer or client.
5. A Registered Soil Scientist retained by one (1) client shall not accept, without the client's written consent, an engagement by another if the interests of the two (2) are in any manner conflicting.
6. A Registered Soil Scientist who has made an investigation for any employer or client shall not seek to profit economically from the information gained, unless written permission to do so is granted or until it is clear that there can no longer be a conflict of interest with the original employer or client.
7. A Registered Soil Scientist shall not divulge information given in confidence.
8. A Registered Soil Scientist shall engage, or advise employer or client to engage, and cooperate with other experts and specialists including local, state, and federal officials.
9. A Registered Soil Scientist protects the interests of a client by recommending only products and services that are in the best interest of the client and public.
10. A Registered Soil Scientist protects his/her credibility by disclosing to clients how he/she will be compensated for providing recommendations to the client.

Article IV. Relation of Professionals to Each Other

1. A Registered Soil Scientist shall not falsely or maliciously attempt to injure the reputation of another.
2. A Registered Soil Scientist shall freely give credit for work done by others, to whom the credit is due, and shall refrain from plagiarism of oral and written communica-

tions and shall not knowingly accept credit rightfully due another person.

3. A Registered Soil Scientist shall not use the advantage of public employment (i.e., university, government) to compete unfairly with other registered or certified professions.

4. A Registered Soil Scientist shall endeavor to cooperate with others in the profession and encourage the ethical dissemination of technical knowledge.

Article V. Duty to the Profession

1. A Registered Soil Scientist shall aid in exclusion from registration those who have not followed this Code of Professional Conduct or who do not have the required education and experience.

2. A Registered Soil Scientist shall uphold this Code of Professional Conduct by precept and example and encourage, by counsel and advice, other Registered Soil Scientists to do the same.

3. A Registered Soil Scientist having positive knowledge of deviation from this Code by another Registered Soil Scientist shall bring such deviation to the attention of the Board.".

(Indiana Board of Registration for Soil Scientists; 307 IAC 1-2-3)

307 IAC 1-2-4 Roster

Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-3-7

Sec. 4. The board will produce a roster of the RSS that will contain, at a minimum, the following information for each RSS:

(1) Name.
(2) Business name, if any.
(3) Kind of registration (professional or associate).
(4) Registration number.
(5) Address.
(6) Phone number.

An electronic copy of the roster will be maintained on the Web site at the office of state chemist. It will be updated at least twice a year. A hard copy of the roster will be provided for a fee established in 307 IAC 1-4. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-2-4)*

Rule 3. Registration; Education; Continuing Education

307 IAC 1-3-1 Kinds of registration

Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-4

Sec. 1. (a) There are two (2) kinds or levels of registration:

(1) a RPSS; and
(2) a RASS.

(b) The requirements for both a RPSS and a RASS are similar except for the work experience requirement. When a RASS meets the work experience requirement, they can become a RPSS.

(c) This article applies to a RPSS and a RASS unless otherwise stated.

(d) There is no limit in the time a person can be a RASS. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-3-1)*

307 IAC 1-3-2 Exclusions; activities prohibited

Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-1-1; IC 25-31.5-7

Sec. 2. No one is prohibited from practicing soil science; however, an individual who is not a RSS may not use, assume, or advertise in any way a title or description tending to convey the impression that the individual is a RSS. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-3-2)*

307 IAC 1-3-3 Education

Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-4-2

Sec. 3. (a) To qualify for RSS under this article, an applicant must meet the following:

(1) Educational requirements as follows:

(A) Successful completion of a bachelor's degree or an advanced degree.

(B) Successful completion of course work requirements in the following:

(i) Soil sciences, fifteen (15) or more semester credit hours, including at least three (3) semester credit hours in soil morphology, genesis, classification, interpretation, or mapping.

(ii) Supporting sciences, forty-five (45) or more semester credit hours. The minimum number of semester credit hours in the various sciences are as follows:

(AA) Math, statistics, six (6).
(BB) Chemistry, six (6).
(CC) Biology, plant science (including crop science, forestry, and related courses), six (6).
(DD) Physics, engineering (including computer science, geographic information systems, and related courses), three (3).
(EE) Geology, three (3).

Within each class of science in this subdivision any combination of credits satisfies the requirement, for example, the requirement in clause (A) can be satisfied by six (6) credits of math, six (6) credits of statistics, three (3) credits of math, and three (3) credits of statistics, or other combinations of six (6) credits. The total credits in all the sciences listed in this subdivision and in other science course must equal or exceed forty-five (45) semester credit hours. The board has discretion whether a particu-

lar course fulfills the requirements in this subsection. An applicant must supply an official transcript showing that all required course work has been successfully completed. Three (3) quarter credit hours is the equivalent of two (2) semester credits.

(2) Pass the examinations described in section 3 of this rule.

(3) Pay the registration fee described in section 10 of this rule.

(b) There is no limit in the time a person can be a RASS.

(c) To qualify for RPSS under this article, an applicant must satisfy the work requirement described in section 5 of this rule. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-3-3)*

307 IAC 1-3-4 Examinations

Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-4-3

Sec. 4. (a) The board requires applicants for registration as a RPSS or a RASS to pass the following exams:

(1) Soil science fundamentals exam, which covers basic principles in all areas of soil science. The requirement can be met by passing either of the following:

(A) The Council of Soil Science Examiners soil science fundamentals exam, which is prepared by the Council of Soil Science Examiners of the Soil Science Society of America and administered through ARCPACS.

(B) The IRSS soil science fundamentals exam, which is prepared for IRSS and approved and administered by the board.

(2) The Indiana soils and field skills exam, which is also prepared for IRSS and approved and administered by the board. The exam covers the following:

(A) Indiana soils, including soil geography and land use.

(B) Factors and processes of soil formation in Indiana, including relation of soils to parent (geologic) materials, topography and landforms, climate, vegetation, and time.

(C) Soil morphology, including the following:

(i) Describing soil color, texture, structure, and consistence.

(ii) Estimating the percent of sand, silt, and clay in a soil sample.

(D) Describing landforms and landform components.

(E) Understanding and using map projections, such as the following:

(i) The township-range-section system.

(ii) The Universal Transverse Mercator system.

(F) Interpreting pedon descriptions.

(G) Using Soil Taxonomy and recognizing major soil properties from a taxonomic classification and a pedon description.

(H) Other related topics.

(b) Dates and times when exams will be offered shall be available from the IRSS office located in the office of state chemist. Fees to take the IRSS exams the first time are included in the application fee. Additional fees are charged to retake the exams, see 307 IAC 1-4. Fees to take the Council of Soil Science Examiners exam are set by the Council of Soil Science Examiners.

(c) The passing grade for each IRSS exam is seventy percent (70%).

(d) Individuals may apply for "exam only" in which they take one (1) or both examinations administered by the board before completing the remaining application requirements. Credit for passing an exam lasts for five (5) years, from the date of the exam to the date of the application for RASS or RPSS. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-3-4)*

307 IAC 1-3-5 Work requirement

Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-4-3

Sec. 5. (a) Three (3) years of work experience are required for registration as a RPSS. Credit will be allowed for regular work and for certain kinds of college course work as explained in this section. The board will decide how much work credit to allow for various kinds of work using the following guidelines:

(1) Unlimited credit for work experience will be granted for activities related primarily to evaluating soils and landscapes in their natural setting, as listed in this subdivision. Credit is granted for work done while a person is a college graduate or undergraduate student, intern, student trainee, or similar position. Some of this work can be part of field laboratory sessions of college courses. One (1) semester credit counts as forty (40) hours of work credit. Examples of these activities are as follows:

(A) Collecting soil samples from entire pedons (profiles) in the field.

(B) Describing soil morphology and explaining how soil morphology affects soil processes.

(C) Characterizing landscapes and explaining how they relate to soil processes.

(D) Mapping soils.

(E) Preparing soil reports that deal with soil morphology and landscapes.

(F) Collecting and preparing soil monoliths.

(G) Teaching college students to do those tasks and related tasks.

(2) A maximum of one (1) year of work experience will be allowed for soil science work other than that mentioned under subdivision (1). This work is primarily related to crop production, soil erosion control, wetland determination, and related activities. Specific tasks include the following:

(A) Interpreting soil surveys without doing field investigations.
(B) Sampling soils for fertility.
(C) Making fertilizer recommendations.
(D) Scouting for soil-borne disease.
(E) Planning soil erosion control practices.
(F) Conducting wetland investigations.
(G) Laboratory research.
(H) Teaching college students to do those tasks.
(I) Related tasks.

(b) Work as established in subsection (a)(1) done while a college student can contribute to the total work experience requirement according to the following limits:
(1) A bachelor of sciences (BS) candidate, up to one (1) year.
(2) A master of science (MS) candidate, up to one (1) year.
(3) A doctor of philosophy (Ph.D.) candidate, up to one (1) year beyond MS (up to two (2) years as a graduate student).
(Indiana Board of Registration for Soil Scientists; 307 IAC 1-3-5)

307 IAC 1-3-6 Documentation of competency and integrity
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-4-7

Sec. 6. The board requires that all applicants must document competency and integrity as follows:
(1) An applicant must agree to follow a code of professional conduct pursuant to IC 25-31.5-3-4 and 307 IAC 1-2-3.
(2) An applicant must provide names of at least three (3) people who can evaluate their competency and integrity.
(Indiana Board of Registration for Soil Scientists; 307 IAC 1-3-6)

307 IAC 1-3-7 Registration in other states; reciprocity
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-4-8

Sec. 7. The board may waive the requirement to pass a soil science fundamentals exam for an applicant who passed a similar exam and is registered, certified, or licensed in another state on the date he or she applies for registration. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-3-7)*

307 IAC 1-3-8 Certificates; wallet cards
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-5-1; IC 25-31.5-5-3

Sec. 8. (a) The board will issue a registration certificate to a newly registered RASS and RPSS. The board may issue a replacement certificate if the original certificate is lost, destroyed, or mutilated.

(b) The board will issue a wallet card to a registrant at the time of initial registration and after each renewal. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-3-8)*

307 IAC 1-3-9 Seal or stamp
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-5-4

Sec. 9. (a) The board authorizes a RPSS to use a seal or stamp that follows the design and size shown as follows:

The outside diameter must not be less than one and five-eighths (1e) inches and not more than one and seven-eighths (1f) inches.

(b) At the time of initial registration as a professional soil scientist, the board will issue a document that shows the design of the seal or stamp and authorizes a manufacturer or vendor to furnish a seal or stamp for the registered professional soil scientist. No seal or stamp is authorized for a RASS. If, subsequent to original registration, the RPSS needs a new seal or stamp, the board may issue another such document. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-3-9)*

307 IAC 1-3-10 Revocation of the use of seal or stamp
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-5-5

Sec. 10. A RPSS may no longer use the seal or stamp if his or her registration is suspended or revoked. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-3-10)*

307 IAC 1-3-11 Continuing education
Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-6-2

Sec. 11. (a) In order to renew registration, registrants are required to document completion of requirements as documented in this article for general skills continuing education units (CEUg) and field skills continuing education units (CEUf).

(b) During the three (3) year registration term, a registrant must complete at least forty-five (45) CEUg credits. One (1) CEUg credit is equivalent to approximately one (1) hour of activity. The kinds of CEUg credits and maximum credits for each kind are listed as follows:
(1) Professional meetings attended (not presented), no maximum, as follows:
(A) Professional conferences, such as the following:
(i) Soil Science Society of America.
(ii) Soil and Water Conservation Society.
(iii) Indiana Association of Professional Soil Classifiers.

(iv) Indiana On-Site Wastewater Professionals Association.

(v) Other professional conferences related to soil science.

(B) Short courses.

(C) Workshops.

(D) Seminars.

(E) Clinics.

(F) Distance education.

(G) Similar sessions.

(2) Public and professional education, thirty (30) CEUg credits maximum, as follows:

(A) Assisting in high school or college soil judging (evaluation) contests.

(B) Educating kindergarten through grade 12 students in soil and water sciences.

(C) Educating on-site wastewater professionals in soil and water sciences.

(D) Administering assessment of field skills sessions.

(E) Similar activities.

(3) Self-directed study in soil science, thirty (30) CEUg credits maximum, including the following:

(A) Books, journal articles, and other printed material.

(B) Videos.

(C) Educational television programs.

(D) Internet presentations.

(4) Community service that involves soil, water quality, land use, or similar topics, fifteen (15) CEUg credits maximum, including the following:

(A) Serving on boards.

(B) Serving on governmental committees.

(C) Participating in community organizations.

5) Author or presenter (report time of preparation and of presentation), fifteen (15) CEUg credits maximum, as follows:

(A) Articles written.

(B) Presentations made.

(C) Conferences organized.

(c) During a three (3) year registration term, a RSS must complete at least three (3) CEUf credits, one (1) in each of the three (3) skill areas. The hours of activity required for CEUg credit do not apply to CEUf credit. To receive CEUf credit, a RSS must participate in an evaluation session and submit his or her answers on a form that will be numerically graded: The skill areas are as follows:

(1) Evaluation of the sand, silt, and clay contents of a soil sample compared to the contents determined in a laboratory.

(2) Evaluation of morphological characteristics of soil horizons, such as texture, color, structure, and consistence, using core or other undisturbed soil samples compared to the evaluation of RPSSs appointed by the board.

(3) Evaluation of pedon properties using a soil pit or similar exposure and evaluation of landscape position at the site, compared to the evaluation of RPSSs appointed by the board.

(d) The board will arrange for a minimum of one (1) CEUf session each year. The purpose of the CEUf sessions is to maintain and improve the field skills of registrants. To maximize the educational value of a CEUf session, the official answers will be given soon after registrants complete their evaluations and hand in their papers. Interaction between the participants and official judges will be encouraged. Details about the contents of the skill evaluation and how a session is to be scheduled and conducted can be obtained from the IRSS office at the office of state chemist.

(e) The board will tabulate the scores of each registrant and will periodically review the records. These scores are available only to the board. If the scores for a RSS are sufficiently low, in the judgment of the board, to hamper his or her professional work, the board may recommend that the RSS participate in more than the minimum number of CEUf sessions or do other remedial work.

(f) The board may delay the enforcement of CEUf requirements in this article during the initial term while materials and methods are under development. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-3-11)*

Rule 4. Fees

307 IAC 1-4-1 Fees

Authority: IC 25-31.5-3-4
Affected: IC 25-31.5-3-2; IC 25-31.5-6-1; IC 25-31.5-6-3

Sec. 1. (a) All registration terms expire on June 30. An initial registration will expire three (3) years after the June 30 following the date the registration was approved. (The initial term will be three (3) to four (4) years.) The initial registration fee is two hundred forty dollars ($240).

(b) For "exam only" application, the cost is fifty dollars ($50) for the IRSS soil science fundamentals exam and fifty dollars ($50) for the Indiana soils and field skills exam. The exam costs will be deducted from the application fee when the individual applies for a RASS or a RPSS.

(c) Renewal terms are three (3) years, from July 1 to June 30. The renewal fee is two hundred forty dollars ($240) for three (3) years.

(d) These fees may be adjusted annually and apply to both a RPSS and a RASS.

(e) An individual can upgrade registration from a RASS to a RPSS without paying additional fees; the expiration date remains the same.

(f) The registration fee includes the cost of administering

one (1) IRSS soil science fundamentals exam and one (1) Indiana soils and field skills exam. If an applicant does not pass an exam the first time, the cost of taking it again is fifty dollars ($50) for each exam. There is no limit to the number of times a registrant may take an exam. He or she must pass all exams within three (3) years of the date the application is received by the IRSS.

(g) A fee may be charged for printing, handling, and mailing rosters under 307 IAC 1-2-4. Currently the cost is five dollars ($5) for the first copy and one dollar ($1) each for additional copy. The board may waive the fee for certain kinds of distribution of the roster.

(h) Initial registration fees are not refundable if registration is denied or otherwise not granted by the board. *(Indiana Board of Registration for Soil Scientists; 307 IAC 1-4-1)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 4, 2003 at 10:00 a.m., at the Office of State Chemist, Purdue University, 175 South University Street, Room A151, West Lafayette, Indiana the Indiana Board of Registration for Soil Scientists will hold a public hearing on proposed new rules for professional soil scientists under IC 25-31.5. Copies of these rules are now on file at the Office of State Chemist, Purdue University, 175 South University Street, Room A151, West Lafayette and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Michael Hancock
Fertilizer Administrator
Indiana Board of Registration for Soil Scientists

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #02-329

DIGEST

Adds 312 IAC 20-5 to assist the historic preservation review board in the administration of the register of Indiana historic sites and historic structures. Effective 30 days after filing with the secretary of state.

312 IAC 20-5

SECTION 1. 312 IAC 20-5 IS ADDED TO READ AS FOLLOWS:

Rule 5. Indiana Register

312 IAC 20-5-1 Applicability of rule for Indiana register of historic sites and structures
Authority: IC 14-21-1-31
Affected: IC 14-9; IC 14-21-1-9

Sec. 1. This rule governs matters pertaining to the register of Indiana historic sites and historic structures established under IC 14-21-1-9. *(Natural Resources Commission; 312 IAC 20-5-1)*

312 IAC 20-5-2 Criteria for eligibility on the register
Authority: IC 14-21-1-31
Affected: IC 14-9; IC 14-21-1

Sec. 2. A site, district, building, structure, or object is eligible for inclusion in the Indiana register if it does each of the following:

(1) Possesses local, state, or national significance in Indiana history, architecture, archaeology, engineering, or culture.

(2) Demonstrates sufficient integrity of location, setting, design, workmanship, and materials. Feeling and association are factors that may be considered.

(3) Satisfies at least one (1) of the following:

(A) Is associated with events who have made a significant contribution to national, state, or local history.

(B) Is associated with individuals who have made significant contribution to the nation, state, or local community.

(C) Embodies distinctive characteristics of a type, period, or method of construction.

(D) Represents the work of a master.

(E) Possesses high artistic values.

(F) Has yielded, or will likely yield, information important in the archaeological knowledge of the prehistory or history of the state or nation.

(Natural Resources Commission; 312 IAC 20-5-2)

312 IAC 20-5-3 Eligibility exemptions
Authority: IC 14-21-1-31
Affected: IC 14-9; IC 14-21-1

Sec. 3. (a) Except as provided in subsection (b), a structure or site cannot be included in the Indiana register if the structure is any of the following:

(1) Moved from its original location.

(2) A reconstructed historic building.

(3) Primarily commemorative in nature.

(4) An archaeological site where the contextual integrity is significantly altered.

(5) A structure or site where the significance was achieved within the past fifty (50) years.

(b) A structure or site otherwise disqualified under subsection (a) may be included in the Indiana register if it is either of the following:

(1) An integral part of a district that meets the criteria described in section 2 of this rule.

(2) Falls into at least one (1) of the following categories:

(A) A building or structure removed from its original location but that is a rare surviving resource associated with an historical person or event.

(B) A reconstructed building that is accurately executed in a suitable environment and presented in a dignified manner.

(C) A property primarily commemorative in intent, if design, age, tradition, or symbolic value has invested it with its own historical significance.

(D) A property that has achieved significance within the past fifty (50) years if it is of exceptional significance in the historic, architectural, archaeological, or cultural development of the state or nation.

(E) An archaeological site where the contextual integrity has been altered by natural forces or human activity but which may yield pertinent or quality cultural, biological, fauna, and floral data regarding cultural patterns, processes, or activities significant in our past.

(Natural Resources Commission; 312 IAC 20-5-3)

312 IAC 20-5-4 Listing and removal of properties from the Indiana register

Authority: IC 14-21-1-31
Affected: IC 4-21.5; IC 14-9; IC 14-21-1-17

Sec. 4. (a) Additions and removals from the Indiana register are governed by IC 14-21-1-17, 312 IAC 2-3-1, and this section.

(b) The Indiana register includes any site listed by the board:

(1) on the effective date of this rule; or

(2) under this section.

(c) A property included on the National Register after the effective date of this rule is also automatically listed on the Indiana register unless:

(1) the board or division otherwise specifies; or

(2) the listing is made unilaterally by the federal government without approval by the board.

(d) This subsection governs petitions to list a property on the Indiana register, including the following:

(1) A person may, in writing, petition the division to list a site on the Indiana register. The petition must include adequate photographic and written documentation to support listing, including the significance of the property and its current physical condition.

(2) If the division determines the property meets the minimum criteria for listing, the division will issue a letter to indicate the property is being considered for listing and providing at least thirty (30) days for comment or objections to the following persons:

(A) The property owner.

(B) The chief elected official.

(C) The board of county commissioners.

(D) Any other person who requests notification.

(3) If an objection is not received within the comment period, without intervention of the board, the division shall list the property on the Indiana register and notify the persons described in subdivision (2).

(4) If timely objections are received, a designated member or members of the board will conduct a hearing under 312 IAC 2-3-1 to consider the objections. The board shall consider the recommendations of any hearing officer before determining whether to list the property.

(e) A property may be removed from the Indiana register if it either:

(1) ceases to demonstrate the characteristics that originally made the property eligible for the Indiana register; or

(2) was listed as a result of a procedural error during the listing process.

(f) Administrative review of a determination under subsection (b) is governed by IC 4-21.5 and 312 IAC 3-1.

(Natural Resources Commission; 312 IAC 20-5-4)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 27, 2003 at 9:00 a.m., at the Natural Resources Commission, Division of Hearings, Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed new rules to assist the historic preservation review board in the administration of the register of Indiana historic sites and historic structures. 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 #03-29

DIGEST

Amends 312 IAC 5-6-6 that provides restricted watercraft zones on Lake Wawasee and Syracuse Lake to provide greater specificity for an idle speed zone within Conklin Bay, Lake Wawasee. The amendments would make other technical changes. Currently, the zone on Conklin Bay is established by a temporary rule designated as LSA Document #03-26(E). Effective 30 days after filing with the secretary of state.

312 IAC 5-6-6

SECTION 1. 312 IAC 5-6-6, AS AMENDED AT 26 IR 1900, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

312 IAC 5-6-6 Lake Wawasee and Syracuse Lake; special watercraft zones

Authority: IC 14-10-2-4; IC 14-15-7-3
Affected: IC 14; IC 32-19-1-1

Sec. 6. (a) This section establishes restrictions on the operation of watercraft on and between Lake Wawasee and Syracuse Lake in Kosciusko County. The coordinates used in this section are on the Indiana coordinate system of 1983, east zone, in United States Survey feet as defined in IC 32-19-1-1, hereinafter referred to as SPC.

(b) A person must not operate a watercraft in excess of idle speed in any of the following locations:

(1) In an area known as Johnson Bay on Lake Wawasee, and more particularly described as east and north of buoys placed along a boundary in the northeastern portion of the bay. The boundary:

(A) begins at its southernmost point with a buoy placed at SPC 2244173.23 north and SPC 323786.03 east;

(B) continues in a northwesterly direction, including, but not limited to, buoys placed at:

(i) SPC 2244348.87 north and SPC 323439.20 east;

(ii) SPC 2244959.54 north and SPC 323331.64 east; and

(iii) SPC 2245188.84 north and SPC 322952.76 east; and

(C) concludes with the northernmost buoy placed at SPC 2245460.99 north and SPC 322442.69 east.

(2) In an area known as Johnson Bay on Lake Wawasee, and more particularly described as west of buoys forming a boundary in the western portion of the bay. The boundary:

(A) begins at its southernmost point with a buoy placed at SPC 2242916.32 north and SPC 321786.06 east;

(B) continues north, including, but not limited to, buoys placed at:

(i) SPC 2243201.20 north and SPC 321889.40 east; and

(ii) SPC 2243594.17 north and SPC 321842.69 east; and

(C) concludes with the northernmost buoy placed at SPC 2243903.36 north and SPC 321985.50 east.

(3) In the area known as Conklin Bay on Lake Wawasee, and more particularly described as ~~the area along and fifty (50) feet lakeward of emergent wetlands, so as to include those wetlands and the fifty (50) foot buffer in the zone, with the boundary to be determined using a suitable Global Positioning System.~~ **southeasterly, southerly, and southwesterly of buoys placed along a boundary in the central portion of the bay. The boundary:**

(A) begins at its westerly end with a buoy placed at SPC 2242788.82 north and SPC 307249.00 east;

(B) continues in a southeasterly, easterly, and northeasterly direction, including, but not limited to, buoys placed at:

(i) SPC 2242718.09 north and SPC 307352.68 east;
(ii) SPC 2242565.10 north and SPC 307401.91 east;
(iii) SPC 2242497.48 north and SPC 307465.11 east;
(iv) SPC 2242521.75 north and SPC 307526.81 east;
(v) SPC 2242525.13 north and SPC 307585.84 east;
(vi) SPC 2242474.80 north and SPC 307694.90 east;
(vii) SPC 2242498.23 north and SPC 307759.98 east;
(viii) SPC 2242567.77 north and SPC 307813.45 east;
(ix) SPC 2242659.47 north and SPC 307862.22 east;
(x) SPC 2242742.59 north and SPC 307901.47 east;
(xi) SPC 2242822.16 north and SPC 307964.83 east;
(xii) SPC 2242840.80 north and SPC 308000.91 east;
(xiii) SPC 2242834.77 north and SPC 308059.05 east;
(xiv) SPC 2242805.66 north and SPC 308123.49 east;
(xv) SPC 2242814.46 north and SPC 308213.15 east;
(xvi) SPC 2242828.98 north and SPC 308312.37 east;
(xvii) SPC 2242887.79 north and SPC 308379.96 east;
(xviii) SPC 2242958.99 north and SPC 308387.17 east;
(xix) SPC 2243095.28 north and SPC 308458.38 east;
(xx) SPC 2243116.97 north and SPC 308495.63 east;
(xxi) SPC 2243128.91 north and SPC 308619.23 east;
(xxii) SPC 2243071.61 north and SPC 308693.71 east;
(xxiii) SPC 2243045.71 north and SPC 308854.70 east;
(xxiv) SPC 2243044.62 north and SPC 308912.74 east;
(xxv) SPC 2243022.03 north and SPC 308961.85 east;
(xxvi) SPC 2243024.71 north and SPC 309030.45 east;
(xxvii) SPC 2242991.47 north and SPC 309101.67 east;
(xxviii) SPC 2242960.27 north and SPC 309176.01 east;
(xxix) SPC 2242952.81 north and SPC 309248.88 east;
(xxx) SPC 2242922.97 north and SPC 309291.55 east;
(xxxi) SPC 2242842.09 north and SPC 309335.57 east;
(xxxii) SPC 2242744.94 north and SPC 309426.58 east;
(xxxiii) SPC 2242709.93 north and SPC 309487.98 east;
(xxxiv) SPC 2242717.16 north and SPC 309590.62 east;
(xxxv) SPC 2242677.69 north and SPC 309775.22 east;
(xxxvi) SPC 2242666.43 north and SPC 309826.05 east; and
(xxxvii) SPC 2242691.59 north and SPC 309969.02 east; and

(C) concludes with the easterly most buoy placed at SPC 2242703.63 north and SPC 310011.72 east.

(4) In the area of Lake Wawasee, commonly referred to as the channel area and Mud Lake, that lies between the main body of Lake Wawasee and Syracuse Lake.

(5) In the southeastern portion of Syracuse Lake, more particularly described as east and south of buoys forming a boundary that:

(A) begins at its northernmost point with a buoy placed at SPC 2249799.53 north and SPC 311364.04 east;

(B) continues in a southwesterly direction to include buoys placed at:

(i) SPC 2249436.77 north and SPC 310315.97 east; and

(ii) SPC 2249156.14 north and SPC 310047.98 east; and

(C) concludes at its southernmost point with a buoy placed at SPC 2248558.17 north and SPC 309952.51 east.

(6) In an area commonly referred to as the north bay on Lake Wawasee, more particularly described as north of the boundary between buoys placed at:

(A) SPC 2246336.50 north and SPC 313670.41 east; and

(B) SPC 2246294.91 north and SPC 312868.18 east.

(c) In addition to subsection (b)(6), a person must not operate, anchor, or moor a watercraft in either of the following restricted zones located in the area commonly referred to as the north bay on Lake Wawasee:

(1) Within the rectangular shaped area bounded by buoys designating the:

(A) southwestern corner of the area at SPC 2246372.00 north and SPC 313226.16 east;

(B) northwestern corner at SPC 2246561.00 north and SPC 313224.59 east;

(C) northeastern corner at SPC 2246576.75 north and SPC 313538.09 east; and

(D) southeastern corner at SPC 2246382.25 north and SPC 313549.53 east.

(2) Within the rectangular shaped area bounded by buoys designating the southwestern corner of the:

(A) area at SPC 2246371.25 north and SPC 312958.88 east;

(B) northwestern corner at SPC 2246558.25 north and SPC 312954.19 east;

(C) northeastern corner at SPC 2246558.50 north and SPC 313090.28 east; and

(D) southeastern corner at 2246374.50 north and SPC 313091.94 east.

(d) The coordinates used in this section apply the Indiana coordinate system of 1983, east zone, in United States Survey feet as defined in IC 32-19-1-1 and here referenced as "SPC". *(Natural Resources Commission; 312 IAC 5-6-6; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2374, eff Jan 1, 2002; filed Jan 16, 2003, 10:55 a.m.: 26 IR 1900)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 28, 2003 at 10:30 a.m., at the Indiana Conservation Officers District 1 Headquarters, 9822 North Turkey Creek Road, Syracuse, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments to rules that provide restricted watercraft zones on Lake Wawasee and Syracuse Lake to provide greater specificity for an idle speed zone within Conklin Bay, Lake Wawasee. 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 #03-30

DIGEST

Amends 312 IAC 11-5-1 governing exceptions to licensing standards for nonconforming uses with respect to construction along and within public freshwater lakes. A new exception would be recognized in 312 IAC 11-5-1 where needed for construction by a governmental entity in order to comply with the federal Americans with Disabilities Act. Effective 30 days after filing with the secretary of state.

312 IAC 11-5-1

SECTION 1. 312 IAC 11-5-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 11-5-1 Alternative licenses

Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23
Affected: IC 14-26-2

Sec. 1. (a) The director or a delegate may issue a license that uses materials, techniques, or standards other than those approved in this article, **under either of the following circumstances,** if the applicant demonstrates to the satisfaction of the department:

(1) That activities under the permit satisfy both of the following:

~~(1)~~ **(A)** Include new technology or material not previously or commonly used for the purpose sought.

~~(2)~~ **(B)** Do not affect the public safety, natural resources, natural scenic beauty, or water level of the lake in a detrimental manner otherwise prohibited by IC 14-26-2.

(2) That the applicant is a government entity that demonstrates the licensed activity would provide public access to the water, if both of the following apply:

(A) The resulting use would comply with 43 CFR 17.203, 43 CFR 17.217, and 43 CFR 17.218 that are designed to eliminate discrimination on the basis of disability for any program or activity receiving federal financial assistance, including the construction of public access facilities by public entities.

(B) A design that conforms to 312 IAC 11-4 would not provide equivalent accessibility.

(b) A person who wishes to secure a license under this section must confer and consult with the department before filing an application.

(c) Use of the following materials cannot qualify for a license under this section:
(1) Railroad ties.
(2) Treated timber.
(3) Broken concrete.
(4) Tires.
(5) Scrap metal, appliances, or vehicle bodies.
(6) Asphalt.
(7) **For a license sought under subsection (a)(1),** another material not considered by the department to be innovative.
(Natural Resources Commission; 312 IAC 11-5-1; filed Feb 26, 1999, 5:49 p.m.: 22 IR 2227)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 28, 2003 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W293, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments governing exceptions to licensing standards for nonconforming uses with respect to construction along and within public freshwater lakes. A new exception would be recognized in 312 IAC 11-5-1 where needed for construction by a governmental entity in order to comply with the federal Americans with Disabilities Act. 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 410 INDIANA STATE DEPARTMENT OF HEALTH

Proposed Rule
LSA Document #02-295

DIGEST

Amends 410 IAC 6-7.2 regarding the operation and sanitation of youth camps. Effective 30 days after filing with the secretary of state.

410 IAC 6-7.2-17
410 IAC 6-7.2-29
410 IAC 6-7.2-30

SECTION 1. 410 IAC 6-7.2-17 IS AMENDED TO READ AS FOLLOWS:

410 IAC 6-7.2-17 General health
Authority: IC 16-19-3-4
Affected: IC 16-19-3

Sec. 17. (a) When a youth camp is in session, there shall be an individual present who is designated as the health supervisor and who has completed at least the Red Cross Standard First Aid Course or its equivalent.

(b) A member of the camp health staff shall conduct a health screening of each camper to identify any illness or communicable disease. The screening shall:
(1) occur not more than twelve (12) hours after arrival at camp; and
(2) include a check of medications in use by each camper.

(c) Youth camps **owners** shall ~~maintain~~ **possess an original or a copy of** an up to date medical log. The medical log shall be in permanent ink and be a record of the dates, times, patient names, ailments, treatments, names of attending staff, and signature of the ~~staff member~~ **person** who made the entries into the log.

(d) Medication prescribed for campers or staff members shall be dispensed from original containers.

(e) Medications, except those a physician prescribed for self-administration, shall be locked in a cabinet, box, or drawer or stored in a safe place inaccessible to children.

(f) Whenever there is an injury or illness to a camper that results in hospitalization, a positive x-ray or laboratory analysis, or the camper is being sent home, a report shall be sent to the department. This report shall be:
(1) made on a form acceptable to the department; and
(2) filed with the department within ten (10) days of an incident.

(g) Whenever there is an injury or illness that results in the death of a camper or staff member, a report of the incident and death shall be filed with the department within twenty-four (24) hours of the death.

(h) The use of tobacco products ~~or alcohol~~ is prohibited in buildings used by children. ~~in the presence of children, or in areas that will be occupied by children.~~ **The use of tobacco products or alcoholic beverages is prohibited in a youth camp while it is in operation.** *(Indiana State Department of Health; 410 IAC 6-7.2-17; filed Jun 27, 2002, 1:30 p.m.: 25 IR 3750)*

SECTION 2. 410 IAC 6-7.2-29 IS AMENDED TO READ AS FOLLOWS:

410 IAC 6-7.2-29 Buildings and sleeping shelters
Authority: IC 16-19-3-4
Affected: IC 16-19-3

Sec. 29. (a) Buildings, structures, tents, and cabins shall be kept in good repair and maintained in a safe and sanitary condition.

(b) Floors and floor coverings in buildings used for sleeping or camp activities shall be in good repair and easily cleanable.

(c) Buildings used for sleeping shall have screened openable windows ~~equal to at least ten percent (10%) of the floor area.~~ **or mechanical ventilation as required by 675 IAC 13-2.3.**

(d) Outside openings shall be screened with at least sixteen (16) mesh screen to prevent the entrance of insects.

(e) Screened doors shall be tight-fitting, in good repair, and self-closing.

(f) At least thirty (30) square feet of floor space per camper must be provided in rooms used for sleeping.

(g) Beds shall be arranged so the heads of the sleepers are at least six (6) feet apart and there is at least thirty (30) inches between the sides of the beds. **Beds are not required to be permanently affixed to the floor.**

(h) Sleeping rooms shall have a minimum ceiling height of seven (7) feet.

(i) Bedding provided by the camp operator shall be clean and washed before use by a new camper.

(j) Foam bed mattresses shall be provided with easily cleanable mattress covers.

(k) Vertical separation between the top of the lower mattress of a double deck bunk and the upper bunk shall be a minimum of twenty-seven (27) inches. The vertical separation from the top of the upper mattress to the ceiling shall be a minimum of thirty-six (36) inches.

(l) Bunk beds used by campers shall be equipped with guardrails on the upper bunk. Guardrails are required on any side of a bunk not placed tightly against a wall.

(m) At least twenty (20) foot-candles of light shall be provided throughout buildings used for sleeping.

(n) Tent material shall be flame-retardant. *(Indiana State Department of Health; 410 IAC 6-7.2-29; filed Jun 27, 2002, 1:30 p.m.: 25 IR 3755)*

SECTION 3. 410 IAC 6-7.2-30 IS AMENDED TO READ AS FOLLOWS:

410 IAC 6-7.2-30 Water recreation

Authority: IC 16-19-3-4
Affected: IC 16-19-3

Sec. 30. (a) An individual currently certified as a lifeguard and having a current cardiopulmonary resuscitation (CPR) certification must direct swimming, boating, canoeing, watercraft, water skiing, and other aquatic activities.

(b) A minimum of one (1) counselor for each fifteen (15) campers shall supervise watercraft and swimming activities.

(c) At each aquatic site, a minimum of one (1) currently certified lifeguard for each thirty (30) campers must be provided.

(d) Swimming pools shall comply with 410 IAC 6-2 and 675 IAC 20.

(e) In addition to the requirements of 410 IAC 6-2 and 675 IAC 20, swimming pools less than two thousand (2,000) square feet shall have one (1) or more qualified lifeguards on duty when the pool is in use by campers.

(f) Watercraft activity participants must wear a Type II or Type III U.S. Coast Guard approved personal flotation device.

(g) Bathing beaches shall comply with the following:
(1) Camp bathing beaches shall have a water surface area of at least one (1) acre.
(2) A minimum of twenty-five (25) square feet of water surface per bather shall be provided in areas having a water depth less than four (4) feet.
(3) At least seventy-five (75) square feet of water surface per bather shall be provided in areas over four (4) feet deep.
(4) A minimum of thirty-five (35) square feet of land area shall be provided per bather.
(5) The camp bathing beach, from the shoreline out to a water depth of six (6) feet, shall consist of pea gravel or other material approved by the department of natural resources to minimize turbidity.
(6) Floating marker lines securely anchored with buoys, spaced at intervals of no more than twenty-five (25) feet, shall be provided to designate the perimeter of the bathing area. Marker lines shall delineate the separation between the shallow (less than five (5) feet), deep, and diving areas. Depth markers shall be provided at diving areas.
(7) Toilet facilities shall be provided within five hundred (500) feet of camp bathing beaches, in the ratio of one (1) toilet for each fifty (50) bathers. Where flush toilets are provided lavatories shall be provided in the ratio of one (1) lavatory for each fifty (50) bathers.
(8) Water samples shall be collected at the camp bathing beach for bacteriological examination and submitted to an approved laboratory for analysis. Samples shall be submitted in accordance with the following:
(A) One (1) sample at least two (2) weeks prior to opening.
(B) One (1) sample each week the bathing beach is open thereafter.

(C) One (1) sample after a heavy rainfall of at least one-half (½) inch.

(9) Bathing beach samples shall be collected within one (1) foot of the surface, in water having a depth of at least three (3) feet, but no more than six (6) feet and at least twenty (20) feet from swimmers and animals.

(10) The bathing beach must be closed if the beach water quality does not meet the following water quality standards:

(A) Escherichia coliform bacteria, using the membrane filter count, exceeds one hundred twenty-five (125) colonies per one hundred (100) milliliters as a geometric mean based on no less than five (5) samples equally spaced over a thirty (30) day period.

(B) Escherichia coliform bacteria using the membrane filter count exceeds two hundred thirty-five (235) colonies per one hundred (100) milliliters in any one (1) sample in a thirty (30) day period.

(C) The water has aquatic vegetation, deposits, growths, oil, grease, chemicals, or other substances capable of creating toxic reactions, skin or membrane irritations, or a health or safety hazard.

(11) Results of each camp bathing beach water sample analysis must be reported to the department.

(12) At least one (1) qualified lifeguard shall be on duty when the bathing beach is open to swimmers.

(13) A lifeguard shall be stationed at each diving area.

(14) Each lifeguard station shall have a clear and unobstructed view of the lifeguard's area of responsibility and at least one (1) lifeguard station at the diving area and on shore shall be an elevated stand.

(15) Land based lifeguard stations shall be located within thirty (30) feet of the shoreline.

(16) Lifeguard stations shall be equipped with a whistle or megaphone and sunglasses.

(17) When performing as a lifeguard, lifeguards shall not perform any other tasks and shall not be in the water except in the line of duty.

(18) A spine board **equipped** with ties **or straps** and ~~cervical collar~~ **a head immobilization device** shall be provided at each aquatic location.

(19) A rescue tube shall be provided at each lifeguard station.

(20) Required safety equipment shall be kept clean, in good repair, and ready for use.

(Indiana State Department of Health; 410 IAC 6-7.2-30; filed Jun 27, 2002, 1:30 p.m.: 25 IR 3755)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 22, 2003 at 2:00 p.m., at the Indiana State Department of Health, 2 North Meridian Street, Yoho Board Room, Indianapolis, Indiana the Indiana State Department of Health will hold a public hearing on proposed amendments to the rules on youth camps to address certain issues, including maintenance of a medical log, use of tobacco or alcohol, first aid kits, the use of buildings and sleeping shelters, and spine boards at bathing beaches. Copies of these rules are now on file at the Consumer Protection Division of Healthcare Regulatory Services Commission, Indiana State Department of Health, 2 North Meridian Street, Fifth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Gregory A. Wilson, M.D.
State Health Commissioner
Indiana State Department of Health

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

Proposed Rule
LSA Document #02-326

DIGEST

Amends 460 IAC 6 concerning types of supported living services and supports, provider qualifications and supervision, and reporting requirements. Effective 30 days after filing with the secretary of state.

460 IAC 6-3-2.1
460 IAC 6-3-5.1
460 IAC 6-3-5.2
460 IAC 6-3-6.1
460 IAC 6-3-10.1
460 IAC 6-3-15.1
460 IAC 6-3-15.2
460 IAC 6-3-18
460 IAC 6-3-25
460 IAC 6-3-29.5
460 IAC 6-3-31
460 IAC 6-3-32
460 IAC 6-3-38.5
460 IAC 6-3-38.6
460 IAC 6-3-41.1
460 IAC 6-3-52.1
460 IAC 6-3-56
460 IAC 6-4-1
460 IAC 6-5-4
460 IAC 6-5-7
460 IAC 6-5-21
460 IAC 6-5-32
460 IAC 6-5-33
460 IAC 6-5-34
460 IAC 6-5-35
460 IAC 6-5-36
460 IAC 6-6-2
460 IAC 6-6-3
460 IAC 6-7-2
460 IAC 6-7-3
460 IAC 6-9-5
460 IAC 6-9-7
460 IAC 6-10-5
460 IAC 6-10-8
460 IAC 6-10-13
460 IAC 6-13-2
460 IAC 6-14-4
460 IAC 6-17-3
460 IAC 6-17-4
460 IAC 6-19-6
460 IAC 6-24-1
460 IAC 6-24-2
460 IAC 6-25-10
460 IAC 6-29-4
460 IAC 6-29-9
460 IAC 6-35

SECTION 1. 460 IAC 6-3, AS ADDED AT 26 IR 749, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-3-2.1 "Adult foster care services" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2.1. "Adult foster care services" means a living arrangement in which an individual lives in the private home of a principal caregiver who is unrelated to the individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-2.1)*

SECTION 2. 460 IAC 6-3, AS ADDED AT 26 IR 749, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-3-5.1 "Applied behavior analysis services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5.1. "Applied behavior analysis services" means therapy services that are highly intensive, individualized instruction and behavior intervention to assist an individual in developing skills with social value. Applied behavior analysis therapy is provided:

(1) over a two (2) to three (3) year time period; and

(2) to individuals between two (2) years of age and seven (7) years of age.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-5.1)

SECTION 3. 460 IAC 6-3, AS ADDED AT 26 IR 749, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-3-5.2 "Applied behavior analysis support plan" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5.2. "Applied behavior therapy analysis support plan" means a plan that addresses the applied behavior analysis support needs of an individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-5.2)*

SECTION 4. 460 IAC 6-3, AS ADDED AT 26 IR 749, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-3-6.1 "BDDS behavior management committee" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-33-1.5.1

Sec. 6.1. "BDDS behavior management committee" means a group of persons appointed by the director to review the applications of individuals seeking to be approved to provide behavior management services as a Level 2 clinician pursuant to 460 IAC 6-5-4(c)(1)(E). The committee shall consist of:

(1) at least two (2) division employees; and

(2) a licensed psychologist under IC 25-33 who has an endorsement as a health service provider in psychology pursuant to IC 25-33-1-5.1(c) and is not an employee of the division.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-6.1)

SECTION 5. 460 IAC 6-3, AS ADDED AT 26 IR 749, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-3-10.1 "Children's foster care services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 10.1. "Children's foster care services" means a living arrangement in which an individual under eighteen (18) years of age lives in the private home of a principal caregiver who:

(1) is unrelated to the individual; and

(2) has no legal responsibility to support the individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-10.1)

SECTION 6. 460 IAC 6-3, AS ADDED AT 26 IR 749, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-3-15.1 "Community transition supports" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 15.1. "Community transition supports" means supports that are one-time set-up expenses for an individual who is transitioning from an institution to supported living setting in the community. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-15.1)*

SECTION 7. 460 IAC 6-3, AS ADDED AT 26 IR 749, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-3-15.2 "Cost comparison budget" or "CCB" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 15.2. "Cost comparison budget" or "CCB" means the format used by the BDDS to:

(1) uniformly account for all services to be provided as specified in the service planner and home and community based services worksheet; and

(2) approve the allocation of funding for specified services for the individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-15.2)

SECTION 8. 460 IAC 6-3-18, AS ADDED AT 26 IR 751, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-3-18 "Direct care staff" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 18. "Direct care staff" means a person, or an agent or employee of a provider entity, who provides hands-on services to an individual while providing any of the following services:

(1) Adult day services.
(2) Adult foster care services.
(3) Community-based sheltered employment services.
(4) Community education and therapeutic activities services.
(5) Community habilitation and participation services.
(6) Facility-based sheltered employment services.
(7) Prevocational services.
(8) Residential habilitation and support services.
(9) Respite care services.
(10) Supported employment services.
(11) Transportation services.
(12) Children's foster care services.
(13) Independence assistance services.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-18; filed Nov 4, 2002, 12:04 p.m.: 26 IR 751)

SECTION 9. 460 IAC 6-3-25, AS ADDED AT 26 IR 752, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-3-25 "Facility-based sheltered employment services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 25. "Facility-based sheltered employment services" means employment services provided to an individual that implement the individual's training ~~goals~~ **outcomes** and in which the individual is provided remuneration or other occupational activity. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-25; filed Nov 4, 2002, 12:04 p.m.: 26 IR 752)*

SECTION 10. 460 IAC 6-3, AS ADDED AT 26 IR 749, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-3-29.5 "Independence assistance services" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 29.5. "Independence assistance services" means services that an individual needs to maintain independence to live successfully in his or her own home. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-29.5)*

SECTION 11. 460 IAC 6-3-31, AS ADDED AT 26 IR 752, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-3-31 "Individual community living budget" or "ICLB" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 31. "Individual community living budget" or "ICLB" means the format used by the BDDS to:

(1) uniformly account for all:
(A) ~~service and living costs;~~ **services to be provided as specified in the service planner and BDDS monthly service cost worksheet;**
(B) living costs;
~~(B)~~ **(C)** sources and amounts of income and benefits; and
~~(C)~~ **(D)** other financial issues;
of an individual; and
(2) approve the allocation of state funding for specified services for the individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-31; filed Nov 4, 2002, 12:04 p.m.: 26 IR 752)

SECTION 12. 460 IAC 6-3-32, AS ADDED AT 26 IR 753, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-3-32 "Individualized support plan" or "ISP" defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 32. "Individualized support plan" or "ISP" means a plan that establishes supports and strategies, **based upon the person centered planning process,** intended to accomplish the individual's long term and short term ~~goals~~ **outcomes** by accommodating the financial and human resources offered to the individual through paid provider services or volunteer services, or both, as designed and agreed upon by the individual's support team. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-32; filed Nov 4, 2002, 12:04 p.m.: 26 IR 753)*

SECTION 13. 460 IAC 6-3, AS ADDED AT 26 IR 749, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-3-38.5 "Person centered planning " defined

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 38.5. "Person centered planning" means a process that:

(1) allows an individual, the individual's legal representative, if applicable, and any other person chosen by the individual to direct the planning and allocation of resources to meet the individual's life goals;
(2) achieves understanding of how an individual:
(A) learns;
(B) makes decisions; and
(C) is and can be productive;

(3) discovers what the individual likes and dislikes; and
(4) empowers an individual and the individual's family to create a life plan and corresponding ISP for the individual that:
(A) is based on the individual's preferences, dreams, and needs;
(B) encourages and supports the individual's long term hopes and dreams;
(C) is supported by a short term plan that is based on reasonable costs, given the individual's support needs;
(D) includes individual responsibility; and
(E) includes a range of supports, including funded, community, and natural supports.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-38.5)

SECTION 14. 460 IAC 6-3, AS ADDED AT 26 IR 749, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-3-38.6 "Person centered planning facilitation services" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 38.6. "Person centered planning facilitation services" means services that are provided by a provider other than a provider of case management services that guide an individual through the person centered planning process. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-38.6)*

SECTION 15. 460 IAC 6-3, AS ADDED AT 26 IR 749, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-3-41.1 "PRN" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 41.1. "PRN" means pro re nata as needed; as the circumstances require when used in writing a prescription. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-41.1)*

SECTION 16. 460 IAC 6-3, AS ADDED AT 26 IR 749, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-3-52.1 "Service planner" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 52.1. "Service planner" means the worksheet approved by a BDDS service coordinator that outlines on a weekly basis:
(1) the services an individual is to receive; and
(2) the intensity of those services, including staffing levels, if applicable.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-52.1)

SECTION 17. 460 IAC 6-3-56, AS ADDED AT 26 IR 755, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-3-56 "Therapy services" defined
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-33-1-5.1

Sec. 56. "Therapy services" means services provided under this article by a licensed psychologist with an endorsement as a health service provider in psychology pursuant to ~~IC 23-33-1-1.5(c),~~ **IC 25-33-1-5.1(c),** a licensed marriage and family therapist, a licensed clinical social worker, or a licensed mental health counselor. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-3-56; filed Nov 4, 2002, 12:04 p.m.: 26 IR 755)*

SECTION 18. 460 IAC 6-4-1, AS ADDED AT 26 IR 755, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-4-1 Types of supported living services and supports
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. Supported living services and supports include the following:
(1) Adult day services.
(2) Adult foster care services.
(3) Behavioral support services.
(4) Case management services.
(5) Community-based sheltered employment services.
(6) Community education and therapeutic activity services.
(7) Community habilitation and participation services.
(8) Crisis assistance services.
(9) Enhanced dental services.
(10) Environmental modification supports.
(11) Facility-based sheltered employment services.
(12) Family and caregiver training services.
(13) Health care coordination services.
(14) Music therapy services.
(15) Nutritional counseling services.
(16) Occupational therapy services.
(17) Personal emergency response system supports.
(18) Physical therapy services.
(19) Prevocational services.
(20) ~~Psychological~~ Therapy services.
(21) Recreational therapy services.
(22) Rent and food for unrelated live-in caregiver supports.
(23) Residential habilitation and support services.
(24) Residential living allowance and management services.

(25) Respite care services.
(26) Specialized medical equipment and supplies supports.
(27) Speech-language therapy services.
(28) Supported employment services.
(29) Transportation services.
(30) Transportation supports.
(31) Applied behavior analysis services.
(32) Children's foster care services.
(33) Community transition supports
(34) Independence assistance services.
(35) Person centered planning facilitation services.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-4-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 755)

SECTION 19. 460 IAC 6-5-4, AS ADDED AT 26 IR 756, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-5-4 Behavioral support services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-23.6; IC 25-33-1-5.1

Sec. 4. (a) Until January 1, 2003, to be approved to provide behavioral support services as a Level 1 clinician, an applicant shall meet the following requirements:

(1) Be a licensed psychologist under IC 25-33 and have an endorsement as a health service provider in psychology pursuant to IC 25-33-1-5.1(c). ~~or~~

(2) Have:

(A) at least a master's degree in:

(i) a behavioral science;

(ii) special education; or

(iii) social work; and

(B) evidence of five (5) years of experience in:

(i) working directly with individuals with developmental disabilities, including the devising, implementing, and monitoring of behavioral support plans; and

(ii) the supervision and training of others in the implementation of behavioral support plans.

(b) Effective January 1, 2003, to be approved to provide behavioral support services as a licensed Level 1 clinician, ~~a;~~ **an** applicant shall be a licensed psychologist under IC 25-33 and have an endorsement as a health service provider in psychology pursuant to IC 25-33-1-5.1(c).

(c) To be approved to provide behavioral support services as a Level 2 clinician, an applicant shall meet the following requirements:

(1) Either:

(A) have a master's degree in:

(i) **clinical** psychology, **counseling psychology, school psychology, or another applied health service area of psychology;**

(ii) special education; ~~or~~

(iii) social work; or

(iv) counseling;

(B) be a licensed marriage and family therapist licensed under IC 25-23.6;

(C) be a licensed clinical social worker under IC 25-23.6;

(D) be a licensed mental health counselor under IC 25-23.6;

(E) have a master's degree in a human services field and be able to demonstrate to the BDDS behavior management committee that the individual has either coursework in or five (5) years of experience in devising, implementing, and monitoring behavior support plans; or

~~(B)~~ **(F)** meet all of the following requirements:

(i) Have a bachelor's degree.

(ii) Be employed as a behavioral consultant on or before September 30, 2001, by a provider of behavioral support services approved under this article.

(iii) Be working on a master's degree in psychology, special education, or social work.

(iv) By December 31, 2006, complete a master's degree in **clinical** psychology, **school psychology, or another applied health service area of psychology,** special education, or social work.

(2) Be supervised by a Level 1 clinician.

(d) To maintain approval as a behavioral support services provider, a behavioral support services provider shall:

(1) obtain annually at least ten (10) continuing education hours related to the practice of behavioral support:

(A) from a Category I sponsor as provided in 868 IAC 1.1-15; or

(B) as provided by the BDDS's behavioral support curriculum list; or

(2) be enrolled in:

(A) a master's level program in **clinical** psychology, **counseling psychology, school psychology, or another applied health services area of psychology, or** special education, or social work; or

(B) a doctoral program in psychology.

(e) For an entity to be approved to provide behavioral support services, the entity shall certify that, if approved, the entity shall provide Level 1 clinician behavioral support services or Level 2 clinician behavioral support services using only persons who meet the qualifications set out in this section. **If a provider is using a Level 2 clinician under subsection (c)(1)(F), the provider shall certify that the Level 2 clinician will not provide services under this rule until the BDDS behavior management committee has approved the credentials of the Level 2 clinician.**

(f) The provisions in subsection ~~(c)(1)(B)~~ **(c)(1)(F)** expire on December 31, 2006. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 756)*

SECTION 20. 460 IAC 6-5-7, AS ADDED AT 26 IR 757, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-5-7 Community education and therapeutic activity services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 7. To be approved to provide community education and therapeutic activities services, an applicant shall be **otherwise** approved **to provide supported living services** ~~approved~~ under this article. ~~to provide either:~~

~~(1) residential habilitation and support services; or~~

~~(2) community habilitation and participation services.~~

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-7; filed Nov 4, 2002, 12:04 p.m.: 26 IR 757)

SECTION 21. 460 IAC 6-5-21, AS ADDED AT 26 IR 759, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-5-21 Therapy services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-23.6; IC 25-33-1-5.1

Sec. 21. (a) To be approved to provide ~~psychological~~ therapy services, an applicant shall be:

(1) a psychologist licensed under IC 25-33-1 and have an endorsement as a health service provider in psychology pursuant to IC 25-33-1-5.1(c);

(2) a marriage and family therapist licensed under IC 25-23.6; ~~IC 25-22.5;~~

(3) a clinical social worker licensed under IC 25-23.6; or

(4) a mental health counselor licensed under IC 25-23.6.

(b) For an entity to be approved to provide ~~psychological~~ therapy services, the entity shall certify that, if approved, the entity will provide ~~psychological~~ therapy services using only persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-21; filed Nov 4, 2002, 12:04 p.m.: 26 IR 759)*

SECTION 22. 460 IAC 6-5, AS ADDED AT 26 IR 756, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-5-32 Applied behavior analysis services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 25-22.5; IC 25-33-1-5.1

Sec. 32. (a) To be approved to provide applied behavior analysis services as a lead therapist, an applicant shall meet the following requirements:

(1) Either be a licensed:

(A) psychiatrist under IC 25-22.5; or

(B) psychologist under IC 25-33 and have an endorsement as a health service provider in psychology pursuant to IC 25-33-1-5.1(c).

(2) Meet all of the following requirements:

(A) Have completed at least one thousand five hundred (1,500) hours of training or supervised experience in the application of applied behavior analysis or an equivalent behavior modification theory for children with a pervasive developmental disorder.

(B) Have at least two (2) years of experience as an independent practitioner and as a supervisor of less experienced clinicians.

(b) To be approved to provide applied behavior analysis services as a senior therapist, an applicant shall either:

(1) be a psychotherapist; or

(2) meet the following requirements:

(A) Have completed at least three thousand (3,000) hours of training or supervised experience in the application of applied behavior analysis or an equivalent behavior modification theory for children with a pervasive developmental disorder.

(B) Have at least four hundred (400) hours of training or supervised experience in the use of applied behavior analysis or an equivalent behavior modification program for children with an autistic disorder, asperger's disorder, or a pervasive developmental disorder, which may be included in the three thousand (3,000) hour training requirement in clause (A).

(c) To be approved to provide applied behavior analysis services as line staff, an applicant must either:

(1) be in at least the second year of college and have obtained at least thirty (30) hours of experience utilizing intensive behavioral treatment with children with autism or at least one hundred sixty (160) hours working in any setting with children with autism; or

(2) be at least eighteen (18) years of age, a high school graduate, and have received at least two thousand (2,000) hours of training or supervised experience in the application of applied behavior analysis or an equivalent behavior modification program in a setting working with children with autism.

(d) To maintain approval as a senior therapist, a senior therapist shall obtain annually at least ten (10) continuing education hours related to applied behavior analysis:

(1) from a Category I sponsor as provided in 868 IAC 1.1-15; or

(2) as provided by the BDDS's applied behavior analysis support curriculum list.

(e) For an entity to be approved to provide applied behavior analysis services, the entity shall certify that, if approved, the entity shall provide lead therapist services, senior therapist services, or line staff services using only

persons who meet the qualifications set out in this section. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-32)*

SECTION 23. 460 IAC 6-5, AS ADDED AT 26 IR 756, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-5-33 Children's foster care provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 33. To be approved to provide children's foster care services, an applicant shall:

(1) be an entity approved to provide supported living services under this article; and

(2) certify that, if approved, the entity will provide children's foster care services using only persons who meet the qualifications set out in 460 IAC 6-14-5.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-33)

SECTION 24. 460 IAC 6-5, AS ADDED AT 26 IR 756, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-5-34 Community transition supports provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 34. To be approved to provide community transition supports, an applicant shall be approved under this article to provide residential living allowance and management services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-34)*

SECTION 25. 460 IAC 6-5, AS ADDED AT 26 IR 756, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-5-35 Independence assistance services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 35. To be approved to provide independence assistance services, an applicant shall be either:

(1) approved to provide residential habilitation and support services under this article; or

(2) a home health agency; and

certify that, if approved, the entity will provide independence assistance services using only persons who meet the direct care staff qualifications set out in 460 IAC 6-14-5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-35)*

SECTION 26. 460 IAC 6-5, AS ADDED AT 26 IR 756, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-5-36 Person centered planning facilitation services provider qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 36. (a) To be approved to provide person centered planning facilitation services an applicant shall either:

(1) be an entity approved to provider supported living services under this article; or

(2) complete the requirements set out in 460 IAC 7-4-1(c).

(b) For an entity to be approved to provide person centered planning facilitation services, an entity shall certify that, if approved, the entity will provide person centered planning facilitation services using only persons who meet the qualifications set out in 460 IAC 7-4-5.1(c). *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-5-36)*

SECTION 27. 460 IAC 6-6-2, AS ADDED AT 26 IR 761, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-6-2 Initial application

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. To receive initial approval as a supported living services or supports provider, an applicant shall submit the following for each supported living service or support for which the applicant is seeking to be an approved provider:

(1) An application on a form prescribed by the BDDS.

(2) Evidence that the provider meets the qualifications for each supported living service or support that the provider is seeking to be approved to provide as specified in this article.

(3) Supporting documents specified on the application form to demonstrate the applicant's programmatic, financial and managerial ability to provide supported living services or supports as set out in this article.

(4) A written and signed statement that the applicant will comply with the provisions of this article.

(5) A written and signed statement that the applicant will provide services to an individual as set out in the individual's **CCB, ICLB, and** ISP.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-6-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 761)

SECTION 28. 460 IAC 6-6-3, AS ADDED AT 26 IR 762, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-6-3 Action on application

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 4-21.5; IC 12-11-1.1; IC 12-11-2.1

Sec. 3. (a) The BDDS shall determine whether an applicant meets the requirements under this article.

(b) Upon review of an initial application, the BDDS shall either:
(1) approve the applicant for a period not to exceed (3) years; or
(2) deny approval to an applicant that does not meet the approval requirements of this article.

(c) If an applicant is seeking to obtain approval as a Level 2 clinician pursuant to 460 IAC 6-5-4(c)(1)(E), the BDDS behavior management committee shall review the applicant's credentials.

~~(c)~~ **(d)** The BDDS shall notify an applicant in writing of the BDDS's determination within sixty (60) days of submission of a completed application.

~~(d)~~ **(e)** If an applicant is adversely affected or aggrieved by the BDDS's determination, the applicant may request administrative review of the determination. Such request shall be made in writing and filed with the director of the division within fifteen (15) days after the applicant receives written notice of the BDDS's determination. Administrative review shall be conducted pursuant to IC 4-21.5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-6-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 762)*

SECTION 29. 460 IAC 6-7-2, AS ADDED AT 26 IR 763, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-7-2 Monitoring; corrective action
Authority: IC 12-8-4-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. (a) The BDDS shall monitor compliance with the requirements of this article at the following times:
(1) At least annually.
(2) Upon receiving a complaint or report alleging a provider's noncompliance with the requirements of this article.

(b) The BDDS shall monitor compliance with the requirements of this article through any of the following means:
(1) Requesting and obtaining information from the provider.
(2) Site inspections.
(3) Meeting with an individual or the individual's legal representative as applicable.
(4) Review of provider records and the records of an individual.
(5) Follow-up inspection as is reasonably necessary to determine compliance after the BDDS has requested a corrective action plan.

(c) After any site inspection, the BDDS shall issue a written report. The report shall:
(1) be prepared by the BDDS or its designee;
(2) document the findings made during monitoring;
(3) identify necessary corrective action;
(4) identify the time period in which a corrective action plan shall be ~~completed~~ **submitted to the BDDS or its designee and the time period in which a corrective action plan is to be completely implemented** by the provider;
(5) identify any documentation needed from the provider to support the provider's completion of the corrective action plan; and
(6) be submitted to the provider.

(d) A provider shall:
(1) submit a corrective plan of action to the BDDS or its designee within the time frame identified by the BDDS or its designee;
~~(1)~~ **(2)** complete **and implement** a corrective action plan to the reasonable satisfaction of the BDDS or its designee within the time period identified ~~in the corrective action plan,~~ **by the BDDS,** or within such longer time period agreed to by the BDDS or its designee and the provider;
~~(2)~~ **(3)** notify the BDDS or its designee upon the completion of a corrective action plan; and
~~(3)~~ **(4)** provide the BDDS or its designee with any requested documentation.

(e) If a complaint is filed by a person other than an individual receiving services, BDDS or its designee shall notify the person filing the complaint of the following:
(1) The completion of the BDDS's monitoring as a result of the complaint.
(2) The completion of any corrective action by the provider as a result of the BDDS' monitoring of a provider.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-7-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 763)

SECTION 30. 460 IAC 6-7-3, AS ADDED AT 26 IR 763, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-7-3 Effect of noncompliance; notice
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 4-21.5; IC 12-11-1.1; IC 12-11-2.1

Sec. 3. (a) If a provider does not comply with the requirements of this article and does not complete a corrective action plan to the reasonable satisfaction of the BDDS or its designee within the time allowed, the BDDS shall not authorize:
(1) the continuation of services to an individual or individuals by the provider, if the services do not comply with this article; ~~or~~
(2) the receipt of services by individuals not already receiving services from the provider at the time the determination is made that the provider did not implement a corrective action plan to the reasonable satisfaction of the BDDS or its designee; **or**
(3) both.

(b) After an acceptable corrective plan of action has been

submitted to the BDDS, the BDDS shall monitor the provider's compliance with the corrective action plan. If the BDDS determines that the provider has not implemented the corrective plan of action, the BDDS shall not authorize:

(1) the continuation of services to an individual or individuals by the provider, if the services do not comply with this article; ~~or~~

(2) the receipt of services by individuals not already receiving services from the provider at the time the determination is made that the provider did not submit a corrective action plan to the reasonable satisfaction of the BDDS or its designee; **or**

(3) both.

(c) The BDDS shall give written notice of the BDDS's action under subsection (a) or (b) to:

(1) the provider;

(2) the individual receiving service from the provider; and

(3) the individual's legal representative if applicable.

(d) The written notice under subsection (c) shall include the following:

(1) The requirements of this article with which the provider has not complied.

(2) The effective date, with at least thirty (30) days' notice, of the BDDS's action under subsection (a).

(3) The need for planning to obtain services that comply with this article for an individual or individuals.

(4) The provider's right to seek administrative review of the BDDS's action.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-7-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 763)

SECTION 31. 460 IAC 6-9-5, AS ADDED AT 26 IR 767, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-9-5 Incident reporting

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5. (a) An incident described as follows shall be reported to the BDDS on the incident report form prescribed by the BDDS:

(1) Alleged, suspected, or actual abuse, neglect, or exploitation of an individual. An incident in this category shall also be reported to adult protective services or child protection services as applicable. The provider shall suspend staff involved in an incident from duty pending investigation by the provider.

(2) Death of an individual. A death shall also be reported to adult protective services or child protection services as applicable. **A death shall also be reported to the BDDS's central office in Indianapolis not later than twenty-four (24) hours after the death.**

(3) A service delivery site that compromises the health and safety of an individual while the individual is receiving services from the following causes:

(A) A significant interruption of a major utility, such as electricity, heat, water, air conditioning, plumbing, fire alarm, or sprinkler system.

(B) Environmental or structural problems associated with a habitable site that compromise the health and safety of an individual, including:

(i) inappropriate sanitation;

(ii) serious lack of cleanliness;

(iii) rodent or insect infestation;

(iv) structural damage; or

(v) damage caused by flooding, tornado, or other acts of nature.

(4) Fire resulting in relocation, personal injury, property loss, or other health and safety concerns to or for an individual receiving services.

(5) Elopement of an individual.

(6) Suspected or actual criminal activity by:

(A) a staff member, employee, or agent of a provider; or

(B) an individual receiving services.

(7) An event with the potential for causing significant harm or injury and requiring medical or psychiatric treatments or services to or for an individual receiving services.

(8) Admission of an individual to a nursing facility, including respite stays.

(9) Injury to an individual when the origin or cause of the injury is unknown.

(10) A significant injury to an individual, including:

(A) a fracture;

(B) a burn greater than first degree;

(C) choking that requires intervention; or

(D) contusions or lacerations.

(11) An injury that occurs while an individual is restrained.

(12) A medication error, except for refusal to take medications, that jeopardizes an individual's health and safety, **as determined by the individual's personal physician,** including the following:

(A) Medication given that was not prescribed or ordered for the individual.

(B) Failure to administer medication as prescribed, including:

(i) incorrect dosage;

(ii) missed medication; and

(iii) failure to give medication at the appropriate time.

(13) Inadequate staff support for an individual, including inadequate supervision, with the potential for:

(A) significant harm or injury to an individual; or

(B) death of an individual.

(14) Inadequate medical support for an individual, including failure to obtain:

(A) necessary medical services;

(B) routine dental or physician services; or

(C) medication timely resulting in missed medications.

(15) Use of any PRN medication related to an individual's behavior. An incident report related to the use of PRN medication related to an individual's behavior must include the following information:

(A) The length of time of the individual's behavior that resulted in the use of the PRN medication related to the individual's behavior.

(B) A description of what precipitated the behavior resulting in the use of PRN medication related to the individual's behavior.

(C) A description of the steps that were taken prior to the use of the PRN medication to avoid the use of a PRN medication related to the individual's behavior.

(D) If a PRN medication was used before a medical or dental appointment, a description of the desensitization plan in place to lessen the need for a PRN for a medical or dental appointment.

(E) The criteria the provider has in place for use of a PRN related to an individual's behavior.

(F) A description of the provider's PRN protocol related to an individual's behavior, including the provider's:

(i) notification process regarding the use of a PRN related to an individual's behavior; and

(ii) approval process for the use of a PRN related to an individual's behavior.

(G) The name and title of the staff approving the use of the PRN related to the individual's behavior.

(H) The medication and dosage that was approved for the PRN related to the individual's behavior.

(I) The date and time of any previous PRN given to the individual related to the individual's behavior based on current records.

(b) An incident described in subsection (a) shall be reported by a provider or an employee or agent of a provider who:

(1) is providing services to the individual at the time of the incident; or

(2) becomes aware of or receives information about an alleged incident.

(c) An initial report regarding an incident shall be submitted within twenty-four (24) hours of:

(1) the occurrence of the incident; or

(2) the reporter becoming aware of or receiving information about an incident.

(d) The provider providing case management services to an individual shall submit a follow-up report concerning the incident on the BDDS's follow-up incident report form at the following times:

(1) Within seven (7) days of the date of the initial report.

(2) Every seven (7) days thereafter until the incident is resolved.

(e) All information required to be submitted to the BDDS shall also be submitted to the provider of case management services to the individual. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-9-5; filed Nov 4, 2002, 12:04 p.m.: 26 IR 767)*

SECTION 32. 460 IAC 6-9, AS ADDED AT 26 IR 765, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-9-7 Notice of termination of services

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 7. (a) A provider shall give an individual and an individual's representative at least sixty (60) days' written notice before terminating the individual's services, if the services being provided to the individual are of an ongoing nature.

(b) If the provider is providing any services to the individual, besides case management services, before terminating services the provider shall:

(1) participate in the development of a new or updated ISP prior to terminating services; and

(2) continue providing services to the individual until a new provider providing similar services is in place.

(c) If the provider is the providing case management services to the individual, before terminating services the provider shall:

(1) participate in a team meeting in which the individual's new provider providing case management provider is present; and

(2) coordinate the transfer of case management services to the new provider providing case management services.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-9-7)

SECTION 33. 460 IAC 6-10-5, AS ADDED AT 26 IR 768, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-10-5 Documentation of criminal histories

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1; IC 16-27-2-5; IC 31-33-22-1; IC 35-42-1; IC 35-42-4; IC 35-43-4; IC 35-46-1-12; IC 35-46-1-13

Sec. 5. (a) A provider shall obtain a limited criminal history from the Indiana central repository for criminal history information from each employee, officer, or agent involved in the management, administration, or provision of services.

(b) The limited criminal history shall verify that the employee, officer, or agent has not been convicted of the following:

(1) A sex crime (IC 35-42-4).

(2) Exploitation of an endangered adult (IC 35-46-1-12).

(3) Failure to report:

(A) battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13); or

(B) abuse or neglect of a child (IC 31-33-22-1).

(4) Theft (IC 35-43-4), if the person's conviction for theft occurred less than ten (10) years before the person's employ-

ment application date, except as provided in IC 16-27-2-5(a)(5).
(5) Murder (IC 35-42-1-1).
(6) Voluntary manslaughter (IC 35-42-1-3).
(7) Involuntary manslaughter (IC 35-42-1-4).
(8) Felony battery.
(9) A felony offense relating to a controlled substance.

(c) A provider shall also obtain a criminal history check from each county in which an employee, officer, or agent involved in the management, administration, or provision of services has resided during the three (3) years before the criminal history check is requested from the county.

~~(c)~~ **(d)** A provider shall have a report from the state nurse aid registry of the Indiana state department of health verifying that each ~~employee or agent involved in the management, administration, and provision of services~~ **direct care staff** has not had a finding entered into the state nurse aide registry. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-5; filed Nov 4, 2002, 12:04 p.m.: 26 IR 768)*

SECTION 34. 460 IAC 6-10-8, AS ADDED AT 26 IR 769, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-10-8 Resolution of disputes
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 4-21.5; IC 12-11-1.1; IC 12-11-2.1

Sec. 8. (a) If a dispute arises between or among providers, the dispute resolution process set out in this section shall be implemented.

(b) The resolution of a dispute shall be designed to address an individual's needs.

(c) The parties to the dispute shall attempt to resolve the dispute informally through an exchange of information and possible resolution.

(d) If the parties are not able to resolve the dispute **within fifteen (15) days:**
(1) each party shall document:
(A) the issues in the dispute;
(B) their positions; and
(C) their efforts to resolve the dispute; and
(2) the parties shall refer the dispute to the individual's support team for resolution.

(e) The parties shall abide by the decision of the individual's support team.

(f) If an individual's support team cannot resolve the matter **within fifteen (15) days after the dispute is referred to the individual's support team,** then the parties shall refer the matter to the individual's service coordinator for resolution of the dispute.

(g) The service coordinator shall **make a decision within fifteen (15) days after the dispute is referred to the service coordinator and** give the parties notice of the service coordinator's decision pursuant to IC 4-21.5.

(h) Any party adversely affected or aggrieved by the service coordinator's decision may request administrative review of the service coordinator's decision within fifteen (15) days after the party receives written notice of the service coordinator's decision.

(i) Administrative review shall be conducted pursuant to IC 4-21.5. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-8; filed Nov 4, 2002, 12:04 p.m.: 26 IR 769)*

SECTION 35. 460 IAC 6-10-13, AS ADDED AT 26 IR 770, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-10-13 Emergency behavioral support
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 13. (a) In an emergency, **chemical restraint,** physical restraint, or removal of an individual from the individual's environment may be used:
(1) without the necessity of a behavioral support plan; and
(2) only to prevent significant harm to the individual or others.

(b) The individual's support team shall meet not later than five (5) working days after an emergency **chemical restraint,** physical restraint, or removal of an individual from the environment in order to:
(1) review the circumstances of the emergency **chemical restraint,** physical restraint, or removal of an individual;
(2) determine the need for a:
(A) functional analysis;
(B) behavioral support plan; or
(C) both; and
(3) document recommendations.

(c) If a provider of behavioral support services is not a member an individual's support team, a provider of behavioral support services must be added to the individual's support team.

(d) Based on the recommendation of the support team, a provider of behavioral support services shall:
(1) complete a functional analysis within thirty (30) days; and
(2) make appropriate recommendations to the support team.

(e) The individual's support team shall:
(1) document the recommendations of the behavioral support services provider; and

(2) design an accountability system to ~~insure~~ **ensure** implementation of the recommendations.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-10-13; filed Nov 4, 2002, 12:04 p.m.: 26 IR 770)

SECTION 36. 460 IAC 6-13-2, AS ADDED AT 26 IR 771, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-13-2 Transportation of an individual

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. A provider that transports an individual receiving services in a motor vehicle shall:

(1) maintain the vehicle in good repair;

(2) properly register with the Indiana bureau of motor vehicles **or in the state in which the owner of the vehicle resides;** and

(3) insure the vehicle as required under Indiana law.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-13-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 771)

SECTION 37. 460 IAC 6-14-4, AS ADDED AT 26 IR 771, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-14-4 Training

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. (a) A provider shall train the provider's employees or agents in the protection of an individual's rights, including how to:

(1) respect the dignity of an individual;

(2) protect an individual from abuse, neglect, and exploitation;

(3) implement person centered planning and an individual's ISP; and

(4) communicate successfully with an individual.

(b) A provider that develops training ~~goals~~ **outcomes** and ~~objective~~ **objectives** for an individual shall train the provider's employees or agents in:

(1) selecting specific objectives;

(2) completing task analysis;

(3) appropriate locations for instruction; and

(4) appropriate documentation of an individual's progress on ~~goals~~ **outcomes** and objectives.

(c) A provider shall train direct care staff in providing a healthy and safe environment for an individual, including how to:

(1) administer medication, monitor side effects, and recognize and prevent dangerous medication interactions;

(2) administer first aid;

(3) administer cardiopulmonary resuscitation;

(4) practice infection control;

(5) practice universal precautions;

(6) manage individual-specific treatments and interventions, including management of an individual's:

(A) seizures;

(B) behavior;

(C) medication side effects;

(D) diet and nutrition;

(E) swallowing difficulties;

(F) emotional and physical crises; and

(G) significant health concerns; and

(7) conduct and participate in emergency drills and evacuations.

(d) Applicable training as required in this section shall be completed prior to any person working with an individual.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-14-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 771)

SECTION 38. 460 IAC 6-17-3, AS ADDED AT 26 IR 774, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-17-3 Individual's personal file; site of service delivery

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. (a) A provider specified in the individual's ISP as being responsible for maintaining the individual's personal file shall maintain a personal file for the individual at:

(1) the individual's residence; or

(2) the primary location where the individual receives services.

(b) The individual's personal file shall contain at least the following information:

(1) The individual's full name.

(2) Telephone numbers for emergency services that may be required by the individual.

(3) A current sheet with a brief summary regarding:

(A) the individual's diagnosis or diagnoses;

(B) the individual's treatment protocols, current medications, and other health information specified by the individual's ISP;

(C) behavioral information about the individual;

(D) likes and dislikes of the individual that have been identified in the individual's ISP; and

(E) other information relevant to working with the individual.

(4) The individual's history of allergies, if applicable.

(5) Consent by the individual or the individual's legal representative for emergency treatment for the individual.

(6) A photograph of the individual, if:

(A) a photograph is available; and

(B) inclusion of a photograph in the individual's file is specified by the individual's ISP.

(7) A copy of the individual's current ISP.

(8) A copy of the individual's behavioral support plan, if applicable.

(9) Documentation of:

(A) changes in the individual's physical condition or mental status during the last sixty (60) days;

(B) an unusual event such as vomiting, choking, falling, disorientation or confusion, behavioral problems, or seizures occurring during the last sixty (60) days; and

(C) the response of each provider to the observed change or unusual event.

(10) If an individual's ~~goals~~ **outcomes** include bill paying and other financial matters, the individual's file shall contain:

(A) the individual's checkbook with clear documentation that the checkbook has been balanced; and

(B) bank statements with clear documentation that the bank statements and the individual's checkbook have been reconciled.

(11) All environmental assessments conducted during the last sixty (60) days, with the signature of the person or persons conducting the assessment on the assessment.

(12) All medication administration documentation for the last sixty (60) days.

(13) All seizure management documentation for the last sixty (60) days.

(14) Health-related incident management documentation for the last sixty (60) days.

(15) All nutritional counseling services documentation for the last sixty (60) days.

(16) All behavioral support services documentation for the last sixty (60) days.

(17) All ~~goal~~ **outcome** directed documentation for the last sixty (60) days.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-17-3; filed Nov 4, 2002, 12:04 p.m.: 26 IR 774)

SECTION 39. 460 IAC 6-17-4, AS ADDED AT 26 IR 774, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-17-4 Individual's personal file; provider's office

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. (a) A provider specified in the individual's ISP as being responsible for maintaining the individual's personal file shall maintain a personal file for an individual at the provider's office.

(b) The individual's personal file shall contain documentation of the following:

(1) A change in an individual's physical condition or mental status.

(2) An unusual event for the individual.

(3) All health and medical services provided to an individual.

(4) An individual's training ~~goals.~~ **outcomes.**

(c) A change or unusual event referred to in subsection (b) shall include the following:

(1) Vomiting.

(2) Choking.

(3) Falling.

(4) Disorientation or confusion.

(5) Patterns of behavior.

(6) A seizure.

(d) The documentation of a change or an event referred to in subsections (b) and (c) shall include the following:

(1) The date, time, and duration of the change or event.

(2) A description of the response of the provider, or the provider's employees or agents to the change or event.

(3) The signature of the provider or the provider's employees or agents observing the change or event.

(e) The documentation of all health and medical services provided to the individual shall:

(1) be kept chronologically; and

(2) include the following:

(A) Date of services provided to the individual.

(B) A description of services provided.

(C) The signature of the health care professional providing the services.

(f) The individual's training file shall include documentation regarding the individual's training goals required by 460 IAC 6-24-1. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-17-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 774)*

SECTION 40. 460 IAC 6-19-6, AS ADDED AT 26 IR 777, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-19-6 Monitoring of services

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 6. (a) A provider of case management shall monitor and document the quality, timeliness, and appropriateness of the care, services, and products delivered to an individual.

(b) The documentation required under this section shall include an assessment of the following:

(1) The appropriateness of the ~~goals~~ **outcomes** in the individual's ISP.

(2) An individual's progress toward the goals in the individual's ISP.

(c) The documentation required by this section shall include the following:

(1) Any medication administration system for the individual.

(2) An individual's behavioral support plan.

(3) Any health-related incident management system for the individual.

(4) Any side effect monitoring system for the individual.

(5) Any seizure management system for the individual.

(6) Any other system for the individual implemented by more than one (1) provider.

(d) A provider of case management services shall continuously monitor the services and outcomes established for the individual in the individual's ISP, including the following:

(1) A provider of case management services shall timely follow-up on identified problems.

(2) A provider of case management services shall act immediately to resolve critical issues and crises in accordance with this article.

(3) If concerns with services or outcomes are identified, a provider of case management services shall:

(A) address the concerns in a timely manner; and

(B) involve all necessary providers and the individual's support team if necessary.

(e) A provider of case management services who is attempting to resolve a dispute shall follow the dispute resolution procedure described in 460 IAC 6-10-8.

(f) No later than thirty (30) days after the implementation of an individual's ISP, unless otherwise specified in the ISP, a provider of case management shall make the first monitoring contact with the individual.

(g) A provider of case management services shall have regular in-person contact with the individual as required by the ISP and this section. The provider of case management services shall make at least:

(1) one (1) in-person contact with the individual every ninety (90) days to assess the quality and effectiveness of the ISP;

(2) two (2) in-person contacts each year in the individual's residence; and

(3) one (1) in-person contact each year unannounced.

(h) If an individual's ISP requires more contact than required by subsection (g), the individual's ISP shall control the amount of contact a provider of case management services must make with an individual receiving case management services.

(i) A provider of case management services shall coordinate the provision of family and caregiver training services. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-19-6; filed Nov 4, 2002, 12:04 p.m.: 26 IR 777)*

SECTION 41. 41. 460 IAC 6-24-1, AS ADDED AT 26 IR 779, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-24-1 Coordination of training services and training plan

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. (a) A provider designated in an individual's ISP as responsible for providing training to an individual shall create a training plan for the individual.

(b) A training plan shall:

(1) consist of a formal description of ~~goals,~~ **outcomes,** objectives, and strategies, including

~~(A) desired outcomes; and~~

~~(B)~~ persons responsible for implementation; and

(2) be designed to enhance skill acquisition and increase independence.

(c) The provider shall assess the appropriateness of an individual's ~~goals~~ **outcomes** at least once every ninety (90) days.

(d) All providers responsible for providing training to an individual shall:

(1) coordinate the training services provided to an individual; and

(2) share documentation regarding the individual's training;

as required by the individual's ISP. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-24-1; filed Nov 4, 2002, 12:04 p.m.: 26 IR 779)*

SECTION 42. 460 IAC 6-24-2, AS ADDED AT 26 IR 779, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-24-2 Required documentation

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. (a) The provider identified in section 1 of this rule shall maintain a personal file for each individual served.

(b) The individual's file shall:

(1) be kept chronologically; and

(2) include the following information:

(A) Measurement of the individual's progress toward each training ~~goal~~ **outcome** identified in the individual's ISP.

(B) Dates, times, and duration of training services provided to the individual.

(C) A description of training activities conducted on each date.

(D) The signature of the person providing the service each time training is provided.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-24-2; filed Nov 4, 2002, 12:04 p.m.: 26 IR 779)

SECTION 43. 460 IAC 6-25-10, AS ADDED AT 26 IR 782, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-25-10 Investigation of death

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 10. (a) If an individual dies, an investigation into the death shall be conducted by the provider identified in section 1 of this rule, except as provided in subsection (b).

(b) If the provider identified in section 1 of this rule is a family member of the individual, then the provider of case management services to an individual shall conduct an investigation into the death of the individual. **If there is no provider**

providing case management services to the individual, then the individual's service coordinator shall conduct an investigation into the death of the individual.

(c) A provider conducting an investigation into the death of an individual shall meet the following requirements:

(1) Notify by telephone the BDDS's central office in Indianapolis not later than twenty-four (24) hours after the death.

(2) Notify adult protective services or child protection services, as applicable, not later than twenty-four (24) hours after the death.

(3) Collect and review documentation of all events, incidents, and occurrences in the individual's life for at least the thirty (30) day period immediately before:

(A) the death of the individual;

(B) the hospitalization in which the individual's death occurred; or

(C) the individual's transfer to a nursing home in which death occurred within ninety (90) days of that transfer.

(4) In conjunction with all providers of services to the deceased individual, review and document all the actions of all employees or agents of all providers for the thirty (30) day period immediately before:

(A) the individual's death;

(B) the hospitalization in which the individual's death occurred; or

(C) the individual's transfer to a nursing home in which death occurred within ninety (90) days of that transfer.

(5) Document conclusions and make recommendations arising from the investigation.

(6) Document implementation of any recommendations made under subdivision (5).

(7) No later than fifteen (15) days after the individual's death, send to the BDDS:

(A) a completed notice of an individual's death on a form prescribed by the BDDS; and

(B) a final report that includes all documentation required by subdivisions (1) through (6) for review by the division's mortality review committee.

(d) A provider shall respond to any additional requests for information made by the mortality review committee within seven (7) days of the provider's receipt of a request.

(e) A provider shall submit the documentation to the BDDS to support the provider's implementation of specific recommendations made by the mortality review committee. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-25-10; filed Nov 4, 2002, 12:04 p.m.: 26 IR 782)*

SECTION 44. 460 IAC 6-29-4, AS ADDED AT 26 IR 784, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

460 IAC 6-29-4 Compliance of environment with building and fire codes

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. (a) A provider designated in an individual's ISP as responsible for providing environmental and living arrangement support shall ensure that an individual's living areas comply with the requirements of this section.

(b) An individual's living areas shall meet Indiana Code and local building requirements for single family dwellings or multiple family dwellings as applicable.

(c) An individual's living areas shall contain a working smoke detector or smoke detectors that are:

(1) tested at least once a month; and

(2) located in areas considered appropriate by the local fire marshal.

(d) An individual's living areas shall contain a working fire extinguisher or extinguishers that are inspected annually.

(e) An individual's living ~~areas~~ **area** shall, **if required by the individual's ISP:**

(1) contain operable antiscald devices; or

(2) have hot water temperature no higher than one hundred ten (110) degrees Fahrenheit.

~~if required by an individual's ISP.~~ *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-29-4; filed Nov 4, 2002, 12:04 p.m.: 26 IR 784)*

SECTION 45. 460 IAC 6-29, AS ADDED AT 26 IR 783, SECTION 1, IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS:

460 IAC 6-29-9 Change in location of residence

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 9. A provider designated in an individual's ISP as responsible for providing environmental and living arrangement support shall notify the individual's service coordinator at least twenty (20) days before any contemplated change of the individual's residence. The change in the individual's residence may not take place until written approval is received from the individual's service coordinator. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-29-9)*

SECTION 46. 460 IAC 6, AS ADDED AT 26 IR 749, SECTION 1, IS AMENDED BY ADDING A NEW RULE TO READ AS FOLLOWS:

Rule 35. Applied Behavior Analysis Services

460 IAC 6-35-1 Preparation of behavior analysis support plan

Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 1. An applied behavior analysis services provider

shall prepare a applied behavior analysis support plan in accordance with 460 IAC 6-18-1. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-35-1)*

460 IAC 6-35-2 Applied behavior analysis support plan standards
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 2. (a) An applied behavior analysis support plan developed by an applied behavior analysis services provider shall meet the standards set out in 460 IAC 6-18-2.

(b) In addition to the requirements contained in 460 IAC 6-18-2, an applied behavior analysis support plan developed by an applied behavior analysis services provider shall meet the following requirements:

(1) Provide for applied behavior analysis support services for a minimum of four (4) to six (6) hours of service five (5) to seven (7) days a week for a two (2) to three (3) year period.

(2) Be based upon discrete trial therapy.

(3) Contain targeted skills that are broken down into small attainable tasks.

(4) Emphasize skills that are prerequisites to language development, such as attention, cooperation, and imitation.

(5) Include the following elements:

(A) Attending skills (to therapist, adults, and peers).

(B) Imitation skills including motor and verbal skills.

(C) Receptive and expressive language skills development.

(D) Appropriate toy plan.

(E) Appropriate social interaction.

(6) Provide for one-on-one structured therapy.

(7) Provide for family training.

(8) Emphasize the acquisition of new behaviors.

(c) An applied behavior analysis support plan can only be developed for an individual between two (2) years of age and seven (7) years of age. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-35-2)*

460 IAC 6-35-3 Written policy and procedure standards
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 3. An applied behavior analysis services provider shall have written policies and procedures that meet the standards set out in 460 IAC 6-18-3. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-35-3)*

460 IAC 6-35-4 Documentation standards
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 4. An applied behavior analysis services provider shall adhere to the documentation standards set out in 460 IAC 6-18-4. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-35-4)*

460 IAC 6-35-5 Senior therapist standards
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 5. If a senior therapist has a direct role in training and supervising the applied behavior analysis services provided to an individual, the senior therapist shall be supervised by a lead therapist. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-35-5)*

460 IAC 6-35-6 Line staff standards
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 6. (a) All line staff providing applied behavior analysis services to an individual shall be supervised by a lead therapist and a senior therapist.

(b) All line staff shall be recruited by either the lead therapist or the individual's family. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-35-6)*

460 IAC 6-35-7 Implementation of applied behavior analysis support plan
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 7. All providers working with an individual shall implement that applied behavior analysis support plan designed by the individual's behavior analysis support services provider. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-35-7)*

460 IAC 6-35-8 Human rights committee
Authority: IC 12-8-8-4; IC 12-9-2-3; IC 12-11-1.1-9; IC 12-11-2.1-12
Affected: IC 12-11-1.1; IC 12-11-2.1

Sec. 8. Beginning July 1, 2004, a provider of applied behavior analysis support services who:

(1) prepares an applied behavior analysis support plan; or

(2) implements an applied behavior analysis support plan;

shall cooperate with the division's or the BDDS's regional human rights committee for the geographic area in which the provider is providing services under this article. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 6-35-8)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 28, 2003 at 2:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 5, Indianapolis, Indiana the Division of Disability, Aging, and

Rehabilitative Services will hold a public hearing on proposed amendments concerning types of supported living services and supports, provider qualifications and supervision, and reporting requirements. If an accommodation is required to allow an individual with a disability to participate in a public hearing, please contact Jean Oswalt at (317) 232-1161 at least 48 hours before the hearing. 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.

Steven C. Cook
Director
Division of Disability, Aging, and Rehabilitative Services

TITLE 470 DIVISION OF FAMILY AND CHILDREN

Proposed Rule
LSA Document #03-33

DIGEST

Adds 470 IAC 10.2 concerning the determination of financial eligibility and the amount of assistance payments in the Temporary Assistance to Needy Families (TANF) program and sanctions for noncompliance with certain TANF program requirements. Repeals 470 IAC 10.1-3-4, 470 IAC 10.1-3-4.1, and 470 IAC 10.1-3-5. Effective 30 days after filing with the secretary of state.

470 IAC 10.1-3-4 **470 IAC 10.1-3-5**
470 IAC 10.1-3-4.1 **470 IAC 10.2**

SECTION 1. 470 IAC 10.2 IS ADDED TO READ AS FOLLOWS:

ARTICLE 10.2. TEMPORARY ASSISTANCE TO NEEDY FAMILIES

Rule 1. Definitions

470 IAC 10.2-1-1 Definitions
Authority: IC 12-13-2-3; IC 12-13-5-3
Affected: IC 12-14

Sec. 1. The definitions in 470 IAC 10.1-1-1 apply throughout this article. *(Division of Family and Children; 470 IAC 10.2-1-1)*

Rule 2. Determination of Income

470 IAC 10.2-2-1 Countable income determination
Authority: IC 12-13-2-3; IC 12-13-5-3
Affected: IC 12-14

Sec. 1. (a) In addition to the income sources specifically excluded under federal law, the following income is excluded from consideration in determining eligibility and the amount of the assistance payment:

(1) Assistance provided by a township trustee or other agency that provides in-kind assistance based on need through vendor payments.

(2) Nonexempt educational income not received directly by, or made available to, a member of a TANF group.

(3) A loan for which there is a verified repayment schedule in effect.

(4) Tax refunds.

(5) Home energy assistance administered or funded by the division.

(6) Workforce Investment Act income.

(7) The value of the monthly food stamp allotment.

(8) Contributions from a supplemental security income recipient in the household.

(9) Earned income of a TANF dependent child who is a full-time student.

(10) Nonexempt educational income that is not received directly or made available to the student.

(11) The first thirty dollars ($30) of all infrequent and inconsequential contributions received by an individual during a calendar quarter.

(12) The income of a nonparent caretaker who is not included as a member of the assistance group.

(b) When determining eligibility and the amount of the assistance payment, the computations in this subsection shall be made to establish countable gross income for the payment month. Income received other than monthly shall be converted to a monthly amount as follows:

(1) Income received weekly shall be multiplied by four and three-tenths (4.3).

(2) Income received every two (2) weeks shall be multiplied by two and fifteen-hundredths (2.15).

(3) Income received twice per month shall be multiplied by two (2).

(4) Income that is not expected to continue throughout the payment month, shall count only to the extent it is anticipated to be received during the payment month.

(5) Income resulting from a contractual agreement shall be prorated over the number of months covered under the contract, and the resultant amount shall be considered available monthly income during these months.

(6) Income received on a quarterly, semiannual, or annual basis shall be divided by the appropriate number of months to establish the monthly amount.

(7) Income received to defray the cost of education shall be prorated over the period intended to be covered by the income.

(8) Fluctuating income may be averaged to determine a monthly amount.

(9) The countable self-employment income is determined by subtracting from the total income the deduction listed in clause (A) or (B) as follows, whichever is greater:

(A) Deduct forty percent (40%) of the gross income.

(B) Deduct actual business expenses as follows when there is proof of such expenses:

(i) Wages, commissions, and mandated costs relating to the wages for employees of the self-employed.

(ii) The cost of shelter in the form of rent, mortgage, or contract payments, including interest, taxes, and utilities.

(iii) The cost of inventory, machinery, and equipment in the form of rent, loans, direct purchase, and contract payments, including the interest on the loans or contract payments.

(iv) Insurance on the real and personal property of the business.

(v) The cost of repairs on the business equipment or shelter.

(vi) The cost of any travel required. If the actual cost cannot be determined, twenty-five cents ($0.25) per mile shall be used to calculate the expense.

(c) The following deductions may be applied against an individual's gross countable income to determine eligibility:

(1) The first ninety dollars ($90) of the earned income of an applicant, recipient, or financially responsible adult.

(2) Thirty dollars ($30) of an applicant's or recipient's earned income remaining after the deduction in subdivision (1) for a period not to exceed twelve (12) consecutive months.

(3) One-third (a) of the applicant's or recipient's remaining earned income following the deductions in subdivisions (1) and (2) for a period not to exceed four (4) consecutive months.

(4) Mandatory deductions withheld from the unearned income of an applicant, recipient, or financially responsible nonrecipient adult.

(5) An amount equal to the unmet need, based on the standard of need in 470 IAC 10.1-3- 3.1, of the applicant's or recipient's spouse and their nonrecipient dependent children under eighteen (18) years of age living in the home.

(6) An amount equal to the unmet need, based on the standard of need in 470 IAC 10.1-3-3.1, of the financially responsible adult's nonrecipient dependent children under eighteen (18) years of age living in the home.

(7) The actual costs of tuition, mandatory books, fees, and transportation directly associated with education from the nonexempt educational income of an undergraduate student when the individual's exempt educational income is insufficient to meet those expenses.

(8) Child support payments for nonrecipient children living outside the home made by the spouse of an applicant or recipient.

(9) Child support payments for nonrecipient children living outside the home made by the nonrecipient parent of a minor applicant or recipient parent or caretaker living in the home.

(d) The following deductions may be applied against an individual's gross countable income to determine the amount of TANF assistance:

(1) Seventy-five percent (75%) of the earned income received by a recipient.

(2) Mandatory deductions withheld from the unearned income of an applicant, recipient, or financially responsible nonrecipient adult.

(3) An amount equal to the unmet need, based on the standard of need in 470 IAC 10.1-3-3.1, of the applicant's or recipient's spouse and their nonrecipient dependent children under eighteen (18) years of age living in the home.

(4) An amount equal to the unmet need, based on the standard of need in 470 IAC 10.1-3-3.1, of the financially responsible adult's nonrecipient dependent children under eighteen (18) years of age living in the home.

(5) The actual costs of tuition, mandatory books, fees, and transportation directly associated with education from the nonexempt educational income of an undergraduate student when the individual's exempt educational income is insufficient to meet those expenses.

(6) Child support payments for nonrecipient children living outside the home made by the spouse of an applicant or recipient.

(7) Child support payments for nonrecipient children living outside the home made by the nonrecipient parent of a minor applicant or recipient parent or caretaker living in the home.

(Division of Family and Children; 470 IAC 10.2-2-1)

Rule 3. Sanctions

470 IAC 10.2-3-1 Sanctions for noncompliance

Authority: IC 12-13-2-3; IC 12-13-5-3
Affected: IC 12-14

Sec. 1. (a) Termination of employment or noncompliance with the provisions of the IMPACT employment and training requirements and the IV-D Child Support program, without good cause, shall result in the following penalties:

(1) Reduction of TANF assistance by excluding the applicant's or recipient's needs from the determination of the amount of assistance until the noncompliance ceases.

(2) When the noncompliance continues for a period of two (2) consecutive payment months, the case shall be closed.

(b) An individual's failure to comply is considered to have ceased when the applicant or recipient performs either of the following:

(1) The previously assigned action or activity for which the noncompliance penalty was imposed.
(2) A comparable activity determined by the agency to meet the requirements of the program. When participation in the activity required for compliance extends for a period of two (2) weeks or more, compliance will be met when the individually has participated successfully in the activity for a period of two (2) weeks.

(c) An individual reapplying for assistance after their case was closed under subsection (a)(2) shall have thirty (30) days from the date of application to come into compliance with program requirements.

(d) Failure to comply within thirty (30) days of application as required in subsection (c) shall result in denial of assistance.

(e) An individual reapplying for assistance who was sanctioned or would have been sanctioned under subsection (a)(1) when the case was closed, shall have thirty (30) days from the date of application to come into compliance with program requirements.

(f) Failure to comply within thirty (30) days of application as required in subsection (e) shall result in the sanction under subsection (a)(1) being imposed for the initial payment month and subsequent months in accordance with subsection (a)(2) if noncompliance continues.

(g) Good cause for failure to comply with the requirements of this section shall be limited to the following:
(1) The required actions were beyond the capability of the individual to perform.
(2) The agency failed to provide the services needed by the individual to perform the required action.
(3) The required child support action would result in harm or threat of harm to the parent or dependent child.
(Division of Family and Children; 470 IAC 10.2-3-1)

SECTION 2. THE FOLLOWING ARE REPEALED: 470 IAC 10.1-3-4; 470 IAC 10.1-3-4.1; 470 IAC 10.1-3-5.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 28, 2003 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Auditorium, Indianapolis, Indiana the Division of Family and Children will hold a public hearing on proposed rules to establish countable income determination for TANF eligibility and assistance and the implementation of a new sanction for noncompliance with the requirements of the TANF program. Written comments may be directed to the Indiana Government Center-South, 402 West Washington Street, Room W451, MS-27 Office of General Counsel, Attention: Deniece Safewright, Indianapolis, Indiana 46204. Correspondence should be identified in the following manner: "COMMENTS RE: PROPOSED RULE FOR TANF LSA 03-33". 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 Jay Boyce
Director
Division of Family and Children

TITLE 845 BOARD OF PODIATRIC MEDICINE

Proposed Rule
LSA Document #02-341

DIGEST

Adds 845 IAC 1-5-2.1 concerning reporting of continuing education credit. Repeals 845 IAC 1-5-2. Effective 30 days after filing with the secretary of state.

845 IAC 1-5-2
845 IAC 1-5-2.1

SECTION 1. 845 IAC 1-5-2.1 IS ADDED TO READ AS FOLLOWS:

845 IAC 1-5-2.1 Reporting continuing education credit; audit
Authority: IC 25-29-2-11; IC 25-1-4-3
Affected: IC 25-29-6-4

Sec. 2.1. (a) The licensee shall provide the board with a sworn statement signed by the licensee that the licensee has fulfilled the continuing education requirements required by the board.

(b) The licensee shall retain copies of certificates of completion for continuing education courses for three (3) years from the end of the licensing period for which the continuing education applied. The licensee shall provide the board with copies of the certificates of completion upon the board's request for a compliance audit.

(c) Every two (2) years the board shall randomly audit for compliance more than one percent (1%) but less than ten percent (10%) of the licensees required to take continuing education courses. *(Board of Podiatric Medicine; 845 IAC 1-5-2.1)*

SECTION 2. 845 IAC 1-5-2 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 13, 2003 at 9:20 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 3, Indianapolis, Indiana the Board of Podiatric Medicine will hold a public hearing on a proposed new rule concerning reporting of continuing education credit. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W041 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Lisa R. Hayes
Executive Director
Health Professions Bureau

TITLE 845 BOARD OF PODIATRIC MEDICINE

Proposed Rule
LSA Document #03-46

DIGEST

Amends 845 IAC 1-3-1 concerning licensure by endorsement. Amends 845 IAC 1-3-2 concerning licensure by examination. Adds 845 IAC 1-3-3 concerning the definition for progressive graduate podiatric medical training. Amends 845 IAC 1-4.1-1 concerning mandatory renewal. Amends 845 IAC 1-4.1-2 concerning notice for mandatory renewal. Amends 845 IAC 1-4.1-7 concerning inactive status. Amends 845 IAC 1-5-1 concerning continuing education hours required. Amends 845 IAC 1-5-3 concerning approval of continuing education programs. Repeals 845 IAC 1-4.1-4. Effective 30 days after filing with the secretary of state.

845 IAC 1-3-1
845 IAC 1-3-2
845 IAC 1-3-3
845 IAC 1-4.1-1
845 IAC 1-4.1-2
845 IAC 1-4.1-4
845 IAC 1-4.1-7
845 IAC 1-5-1
845 IAC 1-5-3

SECTION 1. 845 IAC 1-3-1 IS AMENDED TO READ AS FOLLOWS:

845 IAC 1-3-1 Licensure by endorsement
Authority: IC 25-29-2-11
Affected: IC 25-29-4; IC 25-29-5-1

Sec. 1. (a) The board may issue a license by endorsement to an applicant who:

(1) submits an application upon oath or affirmation in proper form;

(2) submits the fee specified in 845 IAC 1-6-8;

(3) presents satisfactory evidence that he or she has not been the subject of a disciplinary action by the licensing or certification agency of another state or jurisdiction on the grounds that the applicant was not able to practice podiatric medicine without endangering the public;

(4) presents satisfactory evidence that he or she does not have a conviction for a crime that has a direct bearing on the applicant's ability to practice competently;

(5) is a graduate of a college or school of podiatric medicine approved by the Council on Podiatric Medical Education;

(6) submits a certified copy of a current license in good standing in any state, territory, or possession of the United States;

(7) submits examination scores from the state from which the applicant is endorsing, and presents satisfactory evidence that the examination is equivalent to the examination given under IC 25-29-4;

(8) submits official notice from the National Board of Podiatry Examiners that the applicant has passed all areas of the examination given by the National Board of Podiatry Examiners;

(9) submits a statement from the board in each state where the applicant is licensed, or has been licensed, certifying whether his or her license has been the subject of any final or pending disciplinary action;

(10) submits proof of being in the practice of podiatric medicine for five (5) years in another state;

(11) submits evidence of proper medical malpractice insurance;

(12) submits proof of ~~at least twelve (12) months~~ **completion** of **a** progressive graduate podiatric medical education training **program** that **is at least twelve (12) months in length and** meets the requirements of the Council on Podiatric Medical Education; and

(13) meets all other minimum requirements specified in IC 25-29-5.

(b) According to IC 25-29-5-1(b)(2), if ten (10) years have elapsed since passing a medical licensing examination, the board may require an applicant to submit to the examination approved by the board. *(Board of Podiatric Medicine; 845 IAC 1-3-1; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1530; filed Aug 5, 1987, 4:30 p.m.: 10 IR 2724; filed Dec 8, 1994, 5:08 p.m.: 18 IR 1281; readopted filed Jun 13, 2001, 11:45 a.m.: 24 IR 3823) NOTE: Transferred from the Medical Licensing Board of Indiana (844 IAC 8-3-1) to the Board of Podiatric Medicine (845 IAC 1-3-1) by P.L.33-1993, SECTION 76, effective July 1, 1993.*

SECTION 2. 845 IAC 1-3-2 IS AMENDED TO READ AS FOLLOWS:

845 IAC 1-3-2 Licensure by examination
Authority: IC 25-29-2-11
Affected: IC 25-29-3; IC 25-29-4

Sec. 2. (a) The board may issue a license by examination to an applicant who:

(1) submits an application upon oath or affirmation in proper form;
(2) submits the fee specified in 845 IAC 1-6-8;
(3) presents satisfactory evidence that he or she has not been the subject of a disciplinary action by the licensing or certification agency of another state or jurisdiction on the grounds that the applicant was not able to practice podiatric medicine without endangering the public;
(4) presents satisfactory evidence that the applicant does not have a conviction for a crime that has a direct bearing on the applicant's ability to practice competently;
(5) is a graduate of a college or school of podiatric medicine approved by the Council on Podiatric Medical Education;
(6) submits official transcripts from the National Board of Podiatry Examiners certifying applicant's passing scores in all areas of the National Board of Podiatry Examiners examination;
(7) successfully completes, under IC 25-29-4, an examination provided by the board;
(8) submits proof of proper medical malpractice insurance within thirty (30) days of licensure;
(9) submits proof of completion of ~~at least twelve (12) months of~~ **a** progressive graduate podiatric medical **education** training **program** that **is at least twelve (12) months in length and** meets the requirements of the Council on Podiatric Medical Education; and
(10) meets all other minimum requirements specified in IC 25-29-3.

(b) An applicant who fails the examination given by the committee may be reexamined at least once within six (6) months of any such failure or denial. A candidate who has not passed every section of the examination may retake the examination on a regularly scheduled examination date. If a candidate has failed more than one (1) section of the examination or if a candidate fails any section three (3) times, the committee shall reexamine the candidate on all sections of the examination. If a candidate has failed only one (1) section of the examination but retakes the remaining failed section(s) of the examination on its next regularly scheduled date, the committee shall give the candidate credit for the section(s) which the candidate previously passed. Otherwise, the committee may not give credit to a candidate who passes less than all of the sections of the examination.

(c) An applicant who has failed the examination provided by the committee three (3) times shall not be allowed to retake the examination until such time as the applicant provides evidence of an additional one (1) year of postgraduate training in a program approved by the committee.

(d) The deadline for making any application for the examination provided by the committee shall be sixty (60) days prior to the examination date, except that where such dates are Saturday, Sunday, or a legal holiday, the deadline shall be the next business day immediately following such date. *(Board of Podiatric Medicine; 845 IAC 1-3-2; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1530; filed Aug 5, 1987, 4:30 p.m.: 10 IR 2725; filed Dec 8, 1994, 5:08 p.m.: 18 IR 1282; readopted filed Jun 13, 2001, 11:45 a.m.: 24 IR 3823) NOTE: Transferred from the Medical Licensing Board of Indiana (844 IAC 8-3-2) to the Board of Podiatric Medicine (845 IAC 1-3-2) by P.L.33-1993, SECTION 76, effective July 1, 1993.*

SECTION 3. 845 IAC 1-3-3 IS ADDED TO READ AS FOLLOWS:

845 IAC 1-3-3 Progressive graduate podiatric medical training defined
Authority: IC 25-29-2-11
Affected: IC 25-29-3-1; IC 25-29-3-2

Sec. 3. (a) As used in IC 25-29-3-1(4), "satisfactorily completed at least twelve (12) months of progressive graduate podiatric medical training" means completion of an established residency program that is no less than twelve (12) months in duration.

(b) An applicant who has enrolled in a twenty-four (24) month residency program must complete the entire residency program before becoming eligible for licensure under IC 25-29-3-1 and IC 25-29-3-2. *(Board of Podiatric Medicine; 845 IAC 1-3-3)*

SECTION 4. 845 IAC 1-4.1-1 IS AMENDED TO READ AS FOLLOWS:

845 IAC 1-4.1-1 Mandatory renewal; time
Authority: IC 25-29-2-11
Affected: IC 25-29-6

Sec. 1. Every podiatrist holding a license issued by the board shall renew such license with the board every ~~four (4)~~ **two (2)** years. *(Board of Podiatric Medicine; 845 IAC 1-4.1-1; filed Dec 8, 1994, 5:08 p.m.: 18 IR 1283; readopted filed Jun 13, 2001, 11:45 a.m.: 24 IR 3823)*

SECTION 5. 845 IAC 1-4.1-2 IS AMENDED TO READ AS FOLLOWS:

845 IAC 1-4.1-2 Mandatory renewal; notice
Authority: IC 25-29-2-11
Affected: IC 25-29-6

Sec. 2. On or before April 30 every ~~four (4)~~ **two (2)** years, the board, or its duly authorized agent, shall notify each licensee that the licensee is required to renew with the board. The board, or its agent, shall furnish a licensee a form to be completed for renewal. *(Board of Podiatric Medicine; 845 IAC 1-4.1-2; filed Dec 8, 1994, 5:08 p.m.: 18 IR 1283; readopted filed Jun 13, 2001, 11:45 a.m.: 24 IR 3823)*

SECTION 6. 845 IAC 1-4.1-7 IS AMENDED TO READ AS FOLLOWS:

845 IAC 1-4.1-7 Inactive status
Authority: IC 25-29-2-11
Affected: IC 25-29-6

Sec. 7. Any podiatrist who has retired from practice and wants to retain his or her license may do so for half of the usual renewal fee as required by ~~845 IAC 1-6-8,~~ **845 IAC 1-6-9,** provided that he or she does not maintain an office for the practice of podiatric medicine and does not charge for any podiatric medical services that he or she might render. A podiatrist whose license is inactive may submit a written request to the board of podiatric medicine to reinstate his or her license by paying the full renewal fee. *(Board of Podiatric Medicine; 845 IAC 1-4.1-7; filed Dec 8, 1994, 5:08 p.m.: 18 IR 1283; readopted filed Jun 13, 2001, 11:45 a.m.: 24 IR 3823)*

SECTION 7. 845 IAC 1-5-1 IS AMENDED TO READ AS FOLLOWS:

845 IAC 1-5-1 Credit hours required
Authority: IC 25-29-2-11
Affected: IC 25-29-6-4

Sec. 1. (a) ~~Participation in an annual average of fifteen (15)~~ **A licensee who renews a license as a podiatrist shall complete no less than thirty (30)** hours of continuing podiatric medical education in courses or programs approved by ~~the board are required for licensure~~ **any of the approved sponsors found in 845 IAC 1-5-3 in each two (2) year** renewal **period.**

(b) A podiatrist is not required to complete continuing education requirements for the year in which the initial license is issued.

(c) Continuing podiatric medical education acquired in any area other than podiatric medicine will not be accepted.

(d) Continuing education credit units or clock hours must be obtained within the renewal period and may not be carried over from one (1) licensure period to another.

(e) The continuing education requirement shall not be increased or decreased until this section is duly amended and all licensees are notified in writing at the date of their license renewal that the subsequent renewal will require an increased or decreased number of hours. *(Board of Podiatric Medicine; 845 IAC 1-5-1; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1531; filed Aug 5, 1987, 4:30 p.m.: 10 IR 2725; filed Dec 8, 1994, 5:08 p.m.: 18 IR 1283; readopted filed Jun 13, 2001, 11:45 a.m.: 24 IR 3823) NOTE: Transferred from the Medical Licensing Board of Indiana (844 IAC 8-5-1) to the Board of Podiatric Medicine (845 IAC 1-5-1) by P.L.33-1993, SECTION 76, effective July 1, 1993.*

SECTION 8. 845 IAC 1-5-3 IS AMENDED TO READ AS FOLLOWS:

845 IAC 1-5-3 Approval of continuing education programs
Authority: IC 25-29-2-11
Affected: IC 25-29-6-4

Sec. 3. ~~(a) The following criteria shall be used in evaluation of approval of continuing podiatric medical education:~~
~~(1) The continuing education program shall have a statement of objectives which the program should achieve for its participants.~~
~~(2) The sponsor of continuing education programs shall provide adequate administration, including a responsible person to coordinate and administer the program, and shall provide for the maintenance of proper records.~~
~~(3) Sponsors of continuing education programs shall provide adequate funding for the educational programs undertaken.~~
~~(4) The curriculum of a continuing education program shall be thoughtfully planned and designed to explore in considerable depth one (1) subject or a closely related group of subjects.~~
~~(5) The continuing education program shall have qualified faculty members who have demonstrated competence in the subject areas.~~
~~(6) The continuing education program shall be held in adequate facilities that allow for an effective program.~~
~~(7) Continuing education programs shall employ a variety of educational methods and teaching aids that enhance the learning opportunities.~~
~~(8) Appropriate methods of evaluation shall be devised and used to measure the program's effectiveness.~~
~~(9) The sponsor of the continuing education program shall provide to the participants a meaningful record of attendance stating the continuing education units involved.~~

~~(b) Programs for continuing podiatric medical education may be approved by the board provided the sponsoring organization, or the licensee who attended, has submitted the proper form no later than thirty (30) days after presentation of the program and submits the fee for evaluation as provided in 845 IAC 1-6-8.~~

~~(c) The sponsor of the program is responsible for monitoring attendance in such manner that verification of attendance throughout the entire lecture can be reliably assured.~~

To receive credit for continuing education programs, the program must be sponsored, accredited, or approved by any of the following organizations:

(1) American Association of Podiatric Physicians and Surgeons.

(2) American Medical Association (programs related to podiatric medicine).

(3) American Society of Podiatric Dermatology.

(4) American Society of Podiatric Medicine.
(5) Council on Podiatric Medical Education.
(6) A national, regional, state, district, or local organization that operates as an affiliated entity under the approval of any organizations listed in subdivisions (1) through (5).
(7) Any of the colleges of podiatric medicine accredited by the Council on Podiatric Medical Education.
(8) A federal, state, or local government agency that coordinates or presents continuing education programs related to podiatric medicine.

(Board of Podiatric Medicine; 845 IAC 1-5-3; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1531; filed Aug 5, 1987, 4:30 p.m.: 10 IR 2726; filed Dec 8, 1994, 5:08 p.m.: 18 IR 1284; readopted filed Jun 13, 2001, 11:45 a.m.: 24 IR 3823) NOTE: Transferred from the Medical Licensing Board of Indiana (844 IAC 8-5-3) to the Board of Podiatric Medicine (845 IAC 1-5-3) by P.L.33-1993, SECTION 76, effective July 1, 1993.

SECTION 9. 845 IAC 1-4.1-4 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 13, 2003 at 9:15 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 3, Indianapolis, Indiana the Board of Podiatric Medicine will hold a public hearing on proposed amendments concerning fees. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W041 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Lisa R. Hayes
Executive Director
Health Professions Bureau

TITLE 845 BOARD OF PODIATRIC MEDICINE

Proposed Rule
LSA Document #03-47

DIGEST

Adds 845 IAC 1-6-9 concerning fees. Repeals 845 IAC 1-6-8. Effective 30 days after filing with the secretary of state.

845 IAC 1-6-8
845 IAC 1-6-9

SECTION 1. 845 IAC 1-6-9 IS ADDED TO READ AS FOLLOWS:

845 IAC 1-6-9 Licensure fees
Authority: IC 25-1-8-2; IC 25-29-2-11
Affected: IC 25-29-1-3; IC 25-29-1-5

Sec. 9. (a) A candidate for examination shall purchase the examination directly from the examination service.

(b) The application/issuance fee for a license to practice, as a doctor of podiatric medicine, by examination is one hundred fifty dollars ($150).

(c) The application/issuance fee for a license to practice, as a doctor of podiatric medicine, by endorsement is one hundred fifty dollars ($150).

(d) The fee for verification of a license to another state or jurisdiction is ten dollars ($10).

(e) The fee for a duplicate wall certificate is ten dollars ($10).

(f) The fee for a temporary permit or limited license is fifty dollars ($50).

(g) The fee for renewal of the license to practice is one hundred dollars ($100) every two (2) years.

(h) The fee for renewal of the license that is in inactive status is fifty dollars ($50) every two (2) years.

(i) The fees are subject to change in accordance with the health professions bureau fee schedule.

(j) All application fees are nonrefundable. *(Board of Podiatric Medicine; 845 IAC 1-6-9)*

SECTION 2. 845 IAC 1-6-8 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 13, 2003 at 9:10 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 3, Indianapolis, Indiana the Board of Podiatric Medicine will hold a public hearing on a proposed new rule concerning fees. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W041 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Lisa R. Hayes
Executive Director
Health Professions Bureau

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

Proposed Rule
LSA Document #03-38

DIGEST

Adds 905 IAC 1-5.2-9.1 concerning the amount of product a wholesaler or primary source of supply may furnish to a retailer or dealer who has not previously purchased such product from such wholesaler or primary source of supply. Adds 905 IAC 1-5.2-9.2 to govern the activities of a retailer, wholesaler, and supplier in the case of a consumer sampling of wine, liquor, or cordials in accordance with the Indiana Code. Repeals 905 IAC 1-5.2-9. Effective 30 days after filing with the secretary of state.

905 IAC 1-5.2-9
905 IAC 1-5.2-9.1
905 IAC 1-5.2-9.2

SECTION 1. 905 IAC 1-5.2-9.1 IS ADDED TO READ AS FOLLOWS:

905 IAC 1-5.2-9.1 Samples; wholesale to retail
Authority: IC 7.1-2-3-7; IC 7.1-2-3-8; IC 7.1-2-3-22
Affected: IC 7.1-3-9-11; IC 7.1-3-10-13; IC 7.1-3-14-7; IC 7.1-5

Sec. 9.1. (a) A primary source of supply or wholesaler may furnish, or give a sample of, alcoholic beverages to a retailer or dealer who has not previously purchased the brand from that primary source of supply or wholesaler. For each retail establishment, the primary source of supply or wholesaler may not give more than:

(1) three (3) gallons of any brand of beer;

(2) three hundred seventy-five (375) milliliters of any brand of liquor; and

(3) three (3) liters of any brand of wine.

(b) If a particular product is not available in a size within the quantity limitations of this section, a primary source of supply or wholesaler may furnish to a retailer or dealer another single container size. *(Alcohol and Tobacco Commission; 905 IAC 1-5.2-9.1)*

SECTION 2. 905 IAC 1-5.2-9.2 IS ADDED TO READ AS FOLLOWS:

905 IAC 1-5.2-9.2 Samples; consumer product sampling
Authority: IC 7.1-2-3-7; IC 7.1-2-3-8; IC 7.1-2-3-22
Affected: IC 7.1-3-9-11; IC 7.1-3-10-13; IC 7.1-3-14-7; IC 7.1-5

Sec. 9.2. A liquor dealer who is the proprietor of a package liquor store, a liquor retailer, or a wine retailer may offer a product sampling authorized under IC 7.1-3-9-11, IC 7.1-3-10-13, or IC 7.1-3-14-7, in accordance with the following:

(1) Product that is to be used for a consumer product sampling may be provided by a primary source of supply or wholesaler to an authorized liquor dealer, liquor retailer, or wine retailer, but must be offered to all authorized liquor dealers, liquor retailers, and wine retailers in a nondiscriminatory manner. Samples provided to the liquor dealer, liquor retailer, or wine retailer must be properly invoiced by the authorized wholesaler and the invoice shall clearly show the product being used for consumer product sampling. A primary source of supply or wholesaler may only provide products to a liquor dealer who is the proprietor of a liquor store, a liquor retailer, or a wine retailer that are lawful for the liquor dealer, liquor retailer, or wine retailer to ordinarily sell under their scope of permit.

(2) In addition to product that is provided in accordance with subdivision (1), an authorized liquor dealer, liquor retailer, or wine retailer may purchase product to be used for consumer sampling from an authorized wholesaler.

(3) A sampling described in this subsection may only be conducted by licensed employees of the liquor dealer, liquor retailer, wine retailer, wholesaler, primary source of supply, or a company engaged by a primary source of supply, or wholesaler whose primary business is to conduct sampling or tasting promotions on the permit premises and during the normal business hours of the liquor dealer, liquor retailer, or wine retailer.

(4) The following limitations apply to the number of samples a customer may sample and the size of samples provided to a customer by a liquor dealer, liquor retailer, or wine retailer:

(A) A liquor retailer or a liquor dealer who is the proprietor of a package liquor store may offer a combined total not to exceed two (2) samples of liquor, liqueurs, premixed cocktails, or cordials per customer in a day. A liqueur, premixed cocktail, or cordial sample may not exceed one-half (0.5) ounce, and a sample of liquor may not exceed four-tenths (0.4) ounce.

(B) A liquor retailer, a liquor dealer, or a wine retailer may offer wine samples not to exceed one (1) ounce.

(C) Any sample provided by a liquor dealer, liquor retailer, or wine retailer to a consumer must be provided in a nondiscriminatory manner.

(5) A liquor dealer, liquor retailer, or wine retailer may not charge a fee to a consumer for a sample.

(6) If a liquor dealer, liquor retailer, or wine retailer modifies their existing floor plan to provide for the sampling, then amended floor plans must be submitted to and approved by the Indiana state excise police.

(7) For a consumer product sampling described in this section, a primary source of supply or wholesaler may not give a liquor retailer, wine retailer, or a liquor dealer who is the proprietor of a package liquor store an aggregate amount of more than nine (9) liters of wine, of which no more than three (3) liters may be the same product, or

two and twenty-five hundredths (2.25) liters of liquor, liqueurs, premixed cocktails, or cordials.

(Alcohol and Tobacco Commission; 905 IAC 1-5.2-9.2)

SECTION 3. 905 IAC 1-5.2-9 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 9, 2003 at 10:00 a.m., at the Indiana Government Center-South, 302 West Washington Street, Room E114, Indianapolis, Indiana the Alcohol and Tobacco Commission will hold a public hearing on proposed new rules concerning retail and consumer sampling. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E114 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Mary L. DePrez
Chairperson
Alcohol and Tobacco Commission

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

Proposed Rule
LSA Document #03-39

DIGEST

Amends 905 IAC 1-11.1-1 to increase the fees for temporary beer/wine permits. Amends 905 IAC 1-11.1-2 to provide that the commission may revoke a temporary permit for good cause at any time, including before the event. Effective 30 days after filing with the secretary of state.

905 IAC 1-11.1-1
905 IAC 1-11.1-2

SECTION 1. 905 IAC 1-11.1-1 IS AMENDED TO READ AS FOLLOWS:

905 IAC 1-11.1-1 Temporary beer and wine permits
Authority: IC 7.1-2-3-7; IC 7.1-3-6-1
Affected: IC 7.1-2-3-7; IC 7.1-3-6-1

Sec. 1. The fee for a temporary beer and wine permit is ~~twenty-five~~ **fifty** dollars ~~($25)~~ **($50)** per day. No rain checks shall be given on any of the above events. *(Alcohol and Tobacco Commission; 905 IAC 1-11.1-1; filed May 16, 1985, 3:51 p.m.: 8 IR 1308; readopted filed Dec 2, 2001, 12:23 p.m.: 25 IR 1350)*

SECTION 2. 905 IAC 1-11.1-2 IS AMENDED TO READ AS FOLLOWS:

905 IAC 1-11.1-2 Qualification requirements
Authority: IC 7.1-2-3-7; IC 7.1-3-6-1
Affected: IC 7.1-2-3-7; IC 7.1-3-6-1

Sec. 2. In order to qualify for a temporary permit, the following guidelines must be met:

(1) There must be a well-defined premises, ~~i.e.~~ **that is, a** building, tent, enclosure, **or** fenced-in or designated area.

(2) The applicant must submit a floor plan or diagram ~~(8½ × 11)~~ **(eight and one-half (8½) by eleven (11))** showing either a beer garden/barroom (for adults only) or beer garden/barroom and family area (for families to consume food). All alcoholic beverages must be dispensed from the beer garden/barroom. Minors will be allowed in the family area with a parent or guardian or to consume food, BUT MAY NOT LOITER.

(3) There shall be NO carry-out privileges, NO carry-in privileges, and NO spirituous beverages allowed.

(4) Each applicant must designate an individual responsible for the event and such person must sign the application.

(5) ANY and ALL persons dispensing or selling or accepting payment for alcoholic beverages MUST POSSESS a valid alcoholic beverage commission employee's permit.

(6) The event must meet applicable board of health requirements, particularly with regard to restroom facilities.

(7) Legal hours for dispensing alcoholic beverages:

(Prevailing time)

Monday through Saturday	7 a.m. to 3 a.m. the following day
Sunday	12 noon to 12:30 a.m. the following day

(8) The applicant must file this application with the alcoholic beverage commission at least fifteen (15) days prior to the event. Failure to comply is grounds for denial.

(9) The temporary permit must be posted in the most conspicuous place at the location of the event. An excise officer, or commissioner for good cause, has the authority to revoke a temporary permit **at any time before or** during the event.

(Alcohol and Tobacco Commission; 905 IAC 1-11.1-2; filed May 16, 1985, 3:51 p.m.: 8 IR 1308; readopted filed Oct 4, 2001, 3:15 p.m.: 25 IR 941)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 9, 2003 at 10:00 a.m., at the Indiana Government Center-South, 302 West Washington Street, Room E114, Indianapolis, Indiana the Alcohol and Tobacco Commission will hold a public hearing on proposed amendments governing temporary permits. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E114 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Mary L. DePrez
Chairperson
Alcohol and Tobacco Commission

TITLE 905 ALCOHOL AND TOBACCO COMMISSION

Proposed Rule
LSA Document #03-40

DIGEST

Amends 905 IAC 1-13-3 concerning service to nonmembers in clubs to conform with IC 7.1-3-20-8.6. Adds 905 IAC 1-13-6 to require the public posting of operating dates prior to operating under the provisions of IC 7.1-3-20-2.5 (Sunday sales) and IC 7.1-3-20-8.6 (guest nights). Requires notification and approval of the state excise police district office prior to operating. Requires adherence to the dates publicly posted. Provides penalties for failure to post operating dates as well as for operation on dates other than those approved and posted. Effective 30 days after filing with the secretary of state.

905 IAC 1-13-3
905 IAC 1-13-6

SECTION 1. 905 IAC 1-13-3 IS AMENDED TO READ AS FOLLOWS:

905 IAC 1-13-3 Service to nonmembers
Authority: IC 7.1-2-3-7
Affected: IC 7.1-3-20-1

Sec. 3. **(a)** Club permits shall be granted for consumption of alcoholic beverages on the permit premises only. No holder of a club permit shall sell or give alcoholic beverages to any person not a member of the club and unless said person's name and address is included in the membership lists filed with the commission, as amended and revised by the last report to the commission, except said person be a new member of less than six **(6)** months' membership.

(b) Club permittees shall have the privilege, under this ~~regulation,~~ **section,** of inviting guests on one **(1)** night only of each ~~quarter~~ **month** of the year; said night designated as "guest night" in the records of the club permittee **pursuant to section 6 of this rule.** *(Alcohol and Tobacco Commission; Reg 27, Sec 3; filed Mar 5, 1946, 10:30 a.m.: Rules and Regs. 1947, p. 647; filed Feb 14, 1950, 2:37 p.m.: Rules and Regs. 1950, p. 29; readopted filed Oct 4, 2001, 3:15 p.m.: 25 IR 941)*

SECTION 2. 905 IAC 1-13-6 IS ADDED TO READ AS FOLLOWS:

905 IAC 1-13-6 Requirement to publicly post operating dates
Authority: IC 7.1-2-3-7
Affected: IC 7.1-3-20-2.5; IC 7.1-3-20-8.6

Sec. 6. No holder of a club permit may operate under the provisions of IC 7.1-3-20-2.5 (Sunday sales) or IC 7.1-3-20-8.6 (guest nights) without the notification and approval in writing of the local state excise police district office prior to operating. The notification and written approval sent to and received from the state excise police district office must be publicly posted in a conspicuous place on the premises prior to operating under this section. A holder of a club permit who:

(1) operates under this section on a date other than that approved and posted; or

(2) fails to post operating dates as required under this section;

may be fined in an amount not to exceed one thousand dollars ($1,000) for each day of operation in violation of this section or have the permit at issue suspended or revoked. *(Alcohol and Tobacco Commission; 905 IAC 1-13-6)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 9, 2003 at 10:00 a.m., at the Indiana Government Center-South, 302 West Washington Street, Room E114, Indianapolis, Indiana the Alcohol and Tobacco Commission will hold a public hearing on proposed amendments governing the operation of clubs on Sundays and on "guest nights". Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E114 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Mary L. DePrez
Chairperson
Alcohol and Tobacco Commission

Indiana Register

Readopted Rules

TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

Notice of Intent
LSA Document #03-102

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

OVERVIEW: Rule to be readopted without changes is:

10 IAC 1.5 UNCLAIMED PROPERTY

Questions or comments on the readoption may be directed by mail to the Unclaimed Property Division, Office of the Indiana Attorney General, ATTENTION: Judy Hudson, Indiana Government Center-South, 302 West Washington Street, Fifth Floor, Indianapolis, Indiana 46204 or by electronic mail to jhudson@atg.state.in.us. Statutory authority: IC 32-34-1-52; IC 4-22-2.5-3.

TITLE 240 STATE POLICE DEPARTMENT

Notice of Intent
LSA Document #03-98

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

OVERVIEW: Rules to be adopted without changes are as follows:

240 IAC 1-4-3	Applicant standards for appointment
240 IAC 1-4-24.1	Termination; mandatory retirement at 60 years of age

Questions or comments on the readoption may be directed by mail to the Indiana State Police Department, Indiana Government Center-North, 100 North Senate Avenue, Room 340, Indianapolis, Indiana 46204 or by electronic mail to tsommer@isp.state.in.us. Statutory authority: IC 10-1-1-3.

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Proposed Rule
LSA Document #03-48

DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. Effective 30 days after filing with the secretary of state.

675 IAC 13-1-4
675 IAC 13-1-5
675 IAC 13-1-9.5
675 IAC 13-1-9.6
675 IAC 13-1-28

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING ARE READOPTED:

675 IAC 13-1-4	NFPA 11-1994 Low Expansion Foam and Combined Systems
675 IAC 13-1-5	NFPA 12-1993 Carbon Dioxide Extinguishing Systems
675 IAC 13-1-9.5	NFPA 17-1994 Dry Chemical Extinguishing Systems
675 IAC 13-1-9.6	NFPA 17A-1994 Wet Chemical Extinguishing Systems
675 IAC 13-1-28	NFPA 2001-1994 Clean Agent Fire Extinguishing Systems

Notice of Public Hearing

Under IC 4-22-2-24 and IC 4-22-2.5-4, notice is hereby given that on July 15, 2003 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room D, Indianapolis, Indiana; ***AND*** *on September 3, 2003 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 to readopt rules.*

Requests for any part of this readoption to be separate from this action must be made in writing within 30 days of this publication. Send written comments to:

John Weesner
Department of Fire and Building Services
402 West Washington Street, Room W246
Indianapolis, Indiana 46204.

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 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

Final Rule
LSA Document #02-237(F)

DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. *NOTE: IC 4-22-2.5-5 authorizes the governor, by executive order, to postpone the expiration date for one year. Executive Order 02-22 (printed at 26 IR 1746), issued December 20, 2002, extends the rules listed in this document to expire January 1, 2004.* Effective 30 days after filing with the secretary of state.

460 IAC 3.5

SECTION 1. UNDER IC 4-22-2.5-4, THE FOLLOWING IS READOPTED:

460 IAC 3.5 RATES FOR ADULT DAY SERVICES PROVIDED BY COMMUNITY MENTAL RETARDATION AND OTHER DEVELOPMENTAL DISABILITIES CENTERS

LSA Document #02-237(F)
Intent to Readopt Rules Published: September 1, 2002; 25 IR 4218
Proposed Readopted Rules Published: February 1, 2003; 26 IR 1734
Hearing Held: March 4, 2003
Filed with Secretary of State: March 11, 2003, 12:42 p.m.

60 Day Requirement (IC 4-22-2-19)

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

LSA Document #02-214

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

From: Donna Stolz Sembroski, Staff Attorney

Re: LSA #02-214, Amendments to Medicaid Hospice Services Rule

Date: April 3, 2003

cc: Susan Kennell, Legislative Services Agency
Catherine Rudd, Deputy General Counsel, FSSA
Melanie Bella, Assistant Secretary, OMPP

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

The agency published its notice of intent to adopt a rule for the captioned document on August 1, 2002 (25 IR 3809). The final rule was adopted by the Secretary of Family and Social Services on March 31, 2003.

Any rule adopted by the agency must be approved by the Family and Social Services Committee (see IC 12-8-3), a committee that meets only once per month. It is possible a monthly meeting could occur without a quorum and therefore without any action being taken on an adopted rule. This would mean delayed approval until the next monthly meeting of the committee and presence of a quorum. Following approval by the FSSA committee, the rule must be submitted to the Attorney General's office. Pursuant to IC 4-22-2-32, the Attorney General has forty-five days to complete his review of a rule. Whether a quorum is present at a monthly meeting of the FSSA Committee and the Attorney General's time frame for rule review are outside of the agency's control. For these reasons, it is possible that the rule will not 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 December 31, 2003.

This notice setting forth the expected date of approval of LSA #02-214 as December 31, 2003, is being submitted in a timely manner. April 8, 2003 is the two hundred fiftieth day after publication of the notice of intent to adopt a rule.

INDIANA ELECTION COMMISSION
ORDER 2003-28

IN THE MATTER OF THE	)	ADMINISTRATIVE CAUSE
ADMINISTRATIVE DISSOLUTION OF:	)	NUMBER: 03-4559-99
Woolery for State Senate Committee	)	
	)	

ORDER ADMINISTRATIVELY DISSOLVING COMMITTEE

This administrative dissolution proceeding came before the Indiana Election Commission (hereinafter "the Commission") at its March 6, 2003 meeting. The Commission, after due consideration of the evidence and record, hereby determines as follows:

1) Notice of hearing has been served pursuant to IC 3-9-1-12 and posted pursuant to IC 5-14-1.5;

2) The above-named committee has not filed any report of expenditures within the previous three (3) calendar years; and

3) The last reported cash on hand does not exceed one thousand dollars ($1000) and the committee filed a report under IC 3-9.

Further, the Commission finds:

1) There is no evidence that the committee continues to receive contributions, make expenditures, or otherwise functions as a committee;

2) The prudent use of public resources makes further efforts to collect any outstanding civil penalty imposed against the committee wasteful or unjust; and

3) According to the best evidence available to the Commission, the dissolution of the committee will not impair any contract or impede the collection of a debt or judgment by any person.

IT IS THEREFORE ORDERED that Woolery for State Senate Committee is hereby administratively dissolved.

IT IS FURTHER ORDERED that all outstanding civil penalties previously imposed by the Commission against Woolery for State Senate Committee are hereby waived.

SO ORDERED THIS 6th DAY OF MARCH, 2003:
THE INDIANA ELECTION COMMISSION:

Dudley Cruea, Chairman — **Butch Morgan, Member**
S. Anthony Long, Vice-Chairman — **Claudia E. Cummings, Member**

INDIANA ELECTION COMMISSION
ORDER 2003-29

IN THE MATTER OF THE	)	ADMINISTRATIVE CAUSE
ADMINISTRATIVE DISSOLUTION OF:	)	NUMBER: 03-4403-100
Clay for the Legislature Committee	)	
	)	

ORDER ADMINISTRATIVELY DISSOLVING COMMITTEE

This administrative dissolution proceeding came before the Indiana Election Commission (hereinafter "the Commission") at its March 6, 2003 meeting. The Commission, after due consideration of the evidence and record, hereby determines as follows:

1) Notice of hearing has been served pursuant to IC 3-9-1-12 and posted pursuant to IC 5-14-1.5;

2) The above-named committee has not filed any report of expenditures within the previous three (3) calendar years; and

3) The last reported cash on hand does not exceed one thousand dollars ($1000) and the committee filed a report under IC 3-9.

Further, the Commission finds:

1) There is no evidence that the committee continues to receive contributions, make expenditures, or otherwise functions as a committee;

2) The prudent use of public resources makes further efforts to collect any outstanding civil penalty imposed against the committee wasteful or unjust; and

3) According to the best evidence available to the Commission, the dissolution of the committee will not impair any contract or impede the collection of a debt or judgment by any person.

IT IS THEREFORE ORDERED that Clay for the Legislature Committee is hereby administratively dissolved.

IT IS FURTHER ORDERED that all outstanding civil penalties previously imposed by the Commission against Clay for the Legislature Committee are hereby waived.

SO ORDERED THIS 6th DAY OF MARCH, 2003:
THE INDIANA ELECTION COMMISSION:

Dudley Cruea, Chairman — **Butch Morgan, Member**
S. Anthony Long, Vice-Chairman — **Claudia E. Cummings, Member**

INDIANA ELECTION COMMISSION
ORDER 2003-30

IN THE MATTER OF THE	)	ADMINISTRATIVE CAUSE
ADMINISTRATIVE DISSOLUTION OF:	)	NUMBER: 03-4105-101
Citizens for Chochos	)	
	)	

ORDER ADMINISTRATIVELY DISSOLVING COMMITTEE

This administrative dissolution proceeding came before the Indiana Election Commission (hereinafter "the Commission") at its March 6, 2003 meeting. The Commission, after due consideration of the evidence and record, hereby determines as follows:

1) Notice of hearing has been served pursuant to IC 3-9-1-12 and posted pursuant to IC 5-14-1.5;
2) The above-named committee has not filed any report of expenditures within the previous three (3) calendar years; and
3) The last reported cash on hand does not exceed one thousand dollars ($1000) and the committee filed a report under IC 3-9.

Further, the Commission finds:

1) There is no evidence that the committee continues to receive contributions, make expenditures, or otherwise functions as a committee;
2) The prudent use of public resources makes further efforts to collect any outstanding civil penalty imposed against the committee wasteful or unjust; and
3) According to the best evidence available to the Commission, the dissolution of the committee will not impair any contract or impede the collection of a debt or judgment by any person.

IT IS THEREFORE ORDERED that Citizens for Chochos is hereby administratively dissolved.
IT IS FURTHER ORDERED that all outstanding civil penalties previously imposed by the Commission against Citizens for Chochos are hereby waived.

SO ORDERED THIS 6th DAY OF MARCH, 2003:
THE INDIANA ELECTION COMMISSION:

Dudley Cruea, Chairman — **Butch Morgan, Member**
S. Anthony Long, Vice-Chairman — **Claudia E. Cummings, Member**

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title: Brownfields Program Comfort and Site Status Letters Policy
Identification Number: W-0051
Date Originally Effective: April 18, 2003
Dates Revised: None
Other Policies Repealed or Amended: None
Brief Description of Subject Matter: IDEM Brownfields Program's policy regarding issuance of a Comfort or Site Status Letter to stakeholders redeveloping contaminated property.
Citations Affected: IC 13-23-13; IC 13-24-1; IC 13-25-4

This nonrule policy document is intended solely as guidance and does not have the effect of law or represent formal Indiana Department of Environmental Management (IDEM) decisions or final actions. This nonrule policy document shall be used in conjunction with applicable laws. It does not replace applicable laws, and if it conflicts with these laws, the laws shall control. This nonrule policy document may be put into effect by IDEM thirty days after presentation to the appropriate board and after it is made available to public inspection and comment, pursuant to IC 13-14-1-11.5. If the nonrule policy is presented to more than one board, it will be effective thirty days after presentation to the last. IDEM will submit the policy to the Indiana Register for publication. Revisions to the policy will follow the same procedure of presentation to the board and publication.

Policy Statement

Pursuant to IDEM's petroleum response authority (IC 13-24-1), its hazardous substance response authority (IC 13-25-4), its leaking underground storage tank response authority (IC 13-23-13), and its duty to evaluate remediation activities associated with the environmental remediation loan fund (IC 13-19-5-5), IDEM hereby informs the public that IDEM may issue a letter under this policy to a stakeholder ("Stakeholder") involved in redevelopment of a brownfield if, at a minimum, the Stakeholder demonstrates to IDEM's satisfaction that:

(1) no State or federal enforcement action at the brownfield is pending;

(2) no federal grant requires an enforcement action at the brownfield;

(3) no condition on the brownfield constitutes an imminent and substantial threat to human health or the environment;

(4) neither the Stakeholder nor an agent or employee of the Stakeholder caused, contributed to, or knowingly exacerbated the release or threat of release of any hazardous substance or petroleum at the brownfield; and,

(5) either the Stakeholder is eligible for an applicable exemption to liability founded in Indiana law or IDEM policy, or current levels of contaminants at the brownfield meet current cleanup criteria as established by IDEM.

Comfort Letter. If the Stakeholder can demonstrate to IDEM's satisfaction that the Stakeholder qualifies for some applicable exemption to liability found in Indiana law or IDEM policy, IDEM may issue a Comfort Letter explaining the liability exemption. If applicable, IDEM may include language that the liability exemption prohibits IDEM from pursuing the Stakeholder or subsequent owners and operators even if cleanup requirements change or if IDEM determines that a response action is necessary.

Site Status Letter. If the Stakeholder can demonstrate to IDEM's satisfaction that the current levels of contaminants at the brownfield substantially meet current cleanup criteria as established by IDEM, IDEM may issue a Site Status Letter explaining that current site conditions do not present a threat to human health or the environment and that IDEM does not plan to take a response action at the brownfield.

Conditions

(A) The Stakeholder must not have caused, contributed to, or knowingly exacerbated the release or threat of release of the hazardous substance or petroleum through an act or omission. Also, the Stakeholder must not have any ownership interest in any entity that caused, contributed to, or knowingly exacerbated the release or threat of release. For the purposes of this policy, the failure to take affirmative steps to mitigate or address contaminants will not, in the absence of exceptional circumstances, constitute an "omission" by the Stakeholder within the meaning of this condition. The Stakeholder must exercise due care with regard to the contaminants, including allowing another party to investigate and remediate the contaminants.

(B) There must be no alternative basis for the Stakeholder's liability for the contaminated property, such as liability as a disposer, generator, or transporter of the contaminants or liability as an owner or operator by reason of the existence of a new source of contaminants on the site.

(C) At the discretion of IDEM, a letter provided under this policy may be conditioned upon the Stakeholder's acceptance of recorded land use restrictions. IDEM may also require recording of the letter and/or a brief memorandum describing the environmental response activities done at the property, particularly if land use restrictions are recommended at the property.

(D) No letter issued by IDEM constitutes assurance that a property is safe or fit for a particular use. Letters issued under this policy are statements of enforcement priority based on known contaminant levels. No letter issued by IDEM can relieve a recipient of liability for contribution of costs incurred by a private party or liability for a cost recovery suit brought by the U.S. EPA. Additionally, a comfort letter does not relieve the recipient of any applicable duty under the Resource Conservation and Recovery Act (42 U.S.C. § 6901), criminal liability, or liability for natural resource damages.

(E) A letter issued under this policy may be revoked if IDEM learns that the information provided to IDEM was inaccurate. IDEM may then pursue any responsible party.

Discussion

A person or entity owning, operating, or considering the purchase or financing of contaminated property faces uncertainty about the liability for remediation of that property under State and federal environmental laws. This uncertainty leads to abandoned, dormant, or underutilized properties commonly known as "brownfields." IDEM is concerned with the unintended adverse effects of environmental laws on property owners, operators, prospective purchasers, and other parties, as well as the ability of communities to redevelop brownfields.

This policy is intended to eliminate unnecessary barriers to the transfer and redevelopment of such property while maintaining the quality of the State's environment. IDEM will seek to exempt from liability those parties who by law or public policy should not be held liable for response costs, and forgo enforcement at only those sites shown to be suitable for redevelopment. IDEM occasionally utilizes its enforcement discretion to forgo pursuit of a party potentially responsible for government response costs related to a release of petroleum or a hazardous substance. In recognition that the perception of an environmental defect on a property imposes a transaction cost upon the transfer of that property, this policy sets guidelines for IDEM personnel to consider when deciding to issue Comfort and Site Status Letters. This policy does not intend to set a legal standard and cannot lawfully do so.

These standards are based upon State and federal laws and policy statements, including:

- statutory liability provisions for hazardous substances and petroleum, and liability exemptions for innocent purchasers, political subdivisions, and fiduciaries;
- conditions of eligibility established for Indiana's Voluntary Remediation Program, Indiana's brownfields tax credit, and the brownfields revitalization zone;
- IDEM's standards of cleanup under various programs; and,
- the contaminated aquifers policies established by IDEM and the United States Environmental Protection Agency (U.S. EPA).

"Current cleanup criteria"

The legislature has authorized IDEM to establish cleanup criteria under its various remediation programs. Additionally, these programs have begun using the Risk Integrated System of Closure standards. Before issuing a Site Status Letter, IDEM will determine which set of standards is appropriate for the site. This determination is within the sole discretion of IDEM. These remediation standards are not "action levels," and property that contains contaminants below these levels should not automatically be considered free from liability.

"Applicable exemption to liability"

When deciding to issue a comfort letter under this policy, IDEM may decide that an "applicable exemption to liability" exists if the Stakeholder can demonstrate to IDEM's satisfaction that the Stakeholder is a person exempted from liability by Indiana law or an adopted IDEM policy. Examples of applicable exemptions include:

- the Stakeholder is a government entity exempted from liability under IC 13-25-4-8(e) or IC 13-11-2-151(b);
- the Stakeholder satisfies the conditions of the IDEM "Property Containing Contaminated Aquifers" nonrule policy document (OER-0008-NPD, 20 IR 1674 (March 1, 1997)), or the IDEM "Property Containing Contaminated Aquifers/Underground Storage Tanks" nonrule policy document (WASTE-0038-NPD, 23 IR 2141 (May 1, 2000))
- the Stakeholder is not the statutory owner of an underground storage tank pursuant to IC 13-11-2-150(a)(2), because the tanks were not used after November 8, 1984 and the Stakeholder was not the person who owned the tank immediately before the discontinuation of the tank's use;
- the Stakeholder is a creditor, lender, or fiduciary exempted from liability under IC 13-23-13-14, IC 13-24-1-10, IC 13-25-4-8(c), or IC 13-25-4-8.2; or
- no direct or indirect contractual relationship (as defined by the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 and interpreted by IDEM) exists between the Stakeholder and any party that caused the contaminants.

References

Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601.
Brownfield Revitalization Zone Tax Abatement, IC 6-1.1-42.
Environmental Remediation Revolving Loan Fund IC 13-19-5.
Underground Storage Tank Corrective Actions, IC 13-23-13.
Petroleum Releases, IC 13-24-1.
Hazardous Substances Response Trust Fund, IC 13-25-4.
Indiana's Voluntary Remediation Program, IC 13-25-5.
"Property Containing Contaminated Aquifers" nonrule policy document, W0047 (formerly OER-0008-NPD), 20 IR 1674 (March 1, 1997).
"Property Containing Contaminated Aquifers/Underground Storage Tanks" nonrule policy document, WASTE-0038-NPD, 23 IR 2141 (May 1, 2000).

INDIANA STATE DEPARTMENT OF HEALTH
MONTHLY CALCULATION
March 2003
INCOME ELIGIBILITY GUIDELINES FOR THE MCH / CSHCS / HOOSIER HEALTHWISE PROGRAMS
BASED ON HEALTH AND HUMAN SERVICES POVERTY INCOME GUIDELINES
PROGRAM IMPLEMENTATION DATES LISTED BELOW
CSHCS: February 7, 2003 MCH/HOOSIER HEALTHWISE: March 31, 2003 WIC: April 1, 2003

The following information must be used by all MCH funded projects, WIC programs, CSHCS programs, and Hoosier Healthwise (HH) recorded on the appropriate enrollment forms. Guidelines for use of this form are as follows: (all calculations other than 185% are calculated from HCFA income guidelines).

MCH: The payment level for MCH Services is at the bottom of the form. It ranges from no charge at or below 100% of federal poverty guidelines to patients being charged the full cost of service (100%) at greater than 250% of federal

poverty guidelines. Assignment of an MCH payment level category is based on the participant's annual family/household (economic unit) gross income and size with regard for extenuating circumstances (i.e., substantial financial debt, family members with extraordinary medical bills). The participant's payment level category must be updated annually. This payment level is for persons without insurance to cover services.

CSHCS: To be financially eligible for CSHCS, the gross household income must be less than or equal to 250% of the federal poverty income guidelines. Household means a group of related or non-related individuals who are not residents of an institution, but who are living as one economic unit. The applicant must also be medically eligible to receive services. MCH and Hoosier Healthwise and WIC define a pregnant woman as two family members. CSHCS defines a pregnant woman as one family member.

HH: For a pregnant woman and/or child 0-19, to be financially eligible for package A and B Hoosier Healthwise, the gross economic unit income must be less than or equal to 150% of the federal poverty income. Children 0-19 are eligible for Package C (required variable premium payment) up to 200% of federal poverty income guidelines.

HOUSE HOLD SIZE:	100% MONTHLY Income Starting At	HH A & B 150% MONTHLY Income Equal To Or Less Than	HH Partial Premium Package C 175% MONTHLY Income Equal To Or Less Than	HH Full Premium Package C 200% MONTHLY Income Equal To Or Less Than	CSHCS 250% MONTHLY Income Equal To Or Less Than	250%+ MONTHLY Income Greater Than
1	$748	$1,123	$1,310	$1,497	$1,871	$1,871
2	$1,010	$1,515	$1,768	$2,020	$2,525	$2,525
3	$1,272	$1,908	$2,225	$2,543	$3,179	$3,179
4	$1,533	$2,300	$2,683	$3,067	$3,833	$3,833
5	$1,795	$2,693	$3,141	$3,590	$4,488	$4,488
6	$2,057	$3,085	$3,599	$4,113	$5,142	$5,142
7	$2,318	$3,478	$4,057	$4,637	$5,796	$5,796
8	$2,580	$3,870	$4,515	$5,160	$6,450	$6,450
9	$2,842	$4,263	$4,973	$5,683	$7,104	$7,104
10	$3,103	$4,655	$5,431	$6,207	$7,758	$7,758
11	$3,365	$5,048	$5,889	$6,730	$8,413	$8,413
12	$3,627	$5,440	$6,347	$7,253	$9,067	$9,067
Each additional member add:	$262					
*MCH	0%	**1-24%	25%	50%	75%	100%

Base Poverty Level is: $8,980. Federal Register Vol. 68, No. 26, February 7, 2003
WIC cannot exceed 185% and there is no charge for WIC services.
***MCH Percentage used to calculate MCH charges. **Clinic choice 1-24% for the cost of service except those covered by HH.**

ANNUAL CALCULATION

March 2003

INCOME ELIGIBILITY GUIDELINES FOR THE WIC / MCH / CSHCS / HOOSIER HEALTHWISE PROGRAMS BASED ON HEALTH AND HUMAN SERVICES POVERTY INCOME GUIDELINES

PROGRAM IMPLEMENTATION DATES LISTED BELOW

CSHCS: February 7, 2003 MCH/HOOSIER HEALTHWISE: March 31, 2003 WIC: April 1, 2003

The following information must be used by all MCH funded projects, WIC programs, CSHCS programs, and Hoosier Healthwise (HH) recorded on the appropriate enrollment forms. Guidelines for use of this form are as follows: (all calculations other than 185% are calculated from HCFA income guidelines).

MCH: The payment level for MCH Services is at the bottom of the form. It ranges from no charge at or below 100% of federal poverty guidelines to patients being charged the full cost of service (100%) at greater than 250% of federal poverty guidelines. Assignment of an MCH payment level category is based on the participant's annual family/household (economic unit) gross income and size with regard for extenuating circumstances (i.e., substantial financial debt, family members with extraordinary medical bills). The participant's payment level category must be updated annually. This payment level is for persons without insurance to cover services.

WIC: Please note that there is no charge for WIC services and WIC income eligibility cannot exceed 185% of the poverty income levels. Proof of income is required to receive WIC benefits. No allowances for extenuating circumstances can be made. Total household income (gross) must be used; except for self-employed persons, such as a farmer or a small business owner. For this special group use gross income less business expenses. Household consists of a group of related or non-related individuals who are not residents of an institution but who are living as one economic unit.

CSHCS: To be financially eligible for CSHCS, the gross household income must be less than or equal to 250% of the federal poverty income guidelines. Household means a group of related or non-related individuals who are not residents of an institution, but who are living as one economic unit. The applicant must also be medically eligible to receive services. MCH and Hoosier Healthwise and WIC define a pregnant woman as two family members. CSHCS defines a pregnant woman as one family member.

HH: For a pregnant woman and/or child 0-19, to be financially eligible for package A and B Hoosier Healthwise, the gross economic unit income must be less than or equal to 150% of the federal poverty income. Children 0-19 are eligible for Package C (required variable premium payment) up to 200% of federal poverty income guidelines.

HOUSE HOLD SIZE:	100% ANNUAL Income Starting At	HH A & B 150% ANNUAL Income Equal To Or Less Than	HH Partial Premium Package C 175% ANNUAL Income Equal To Or Less Than	USDA / WIC Standard 185% ANNUAL Income Equal To Or Less Than	HH Full Premium Package C 200% ANNUAL Income Equal To Or Less Than	CSHCS 250% ANNUAL Income Equal To Or Less Than	250% + ANNUAL Income Greater Than
1	$8,980	$13,470	$15,715	$16,613	$17,960	$22,450	$22,450
2	$12,120	$18,180	$21,210	$22,422	$24,240	$30,300	$30,300
3	$15,260	$22,890	$26,705	$28,231	$30,520	$38,150	$38,150
4	$18,400	$27,600	$32,200	$34,040	$36,800	$46,000	$46,000
5	$21,540	$32,310	$37,695	$39,849	$43,080	$53,850	$53,850
6	$24,680	$37,020	$43,190	$45,658	$49,360	$61,700	$61,700
7	$27,820	$41,730	$48,685	$51,467	$55,640	$69,550	$69,550
8	$30,960	$46,440	$54,180	$57,276	$61,920	$77,400	$77,400
9	$34,100	$51,150	$59,675	$63,085	$68,200	$85,250	$85,250
10	$37,240	$55,860	$65,170	$68,894	$74,480	$93,100	$93,100
11	$40,380	$60,570	$70,665	$74,703	$80,760	$100,950	$100,950
12	$43,520	$65,280	$76,160	$80,512	$87,040	$108,800	$108,800
Each additional member add:	$3,140						
*MCH	0%	**1-24%	25%	25%	50%	75%	100%

Base Poverty Level is: $8,980. Federal Register Vol. 68, No. 26, February 7, 2003
WIC cannot exceed 185% and there is no charge for WIC services.
***MCH Percentage used to calculate MCH charges. **Clinic choice 1-24% for the cost of service except those covered by HH.**

NATURAL RESOURCES COMMISSION
Information Bulletin #37
Submission and Review of Hydraulic Modeling for Permit Applications under the Flood Control Act

Background

The Flood Control Act (IC 14-28-1) prohibits the construction of residences or abodes within a floodway and requires all other construction, excavation, or filling activities within a floodway to receive the prior written approval of the Department. With regard to the Department's approval, the Act further states that the director shall issue a permit only if in the opinion of the director the applicant has clearly proven that the structure, obstruction, deposit, or excavation will not do any of the following:

1) Adversely affect the efficiency of or unduly restrict the capacity of the floodway.
2) Constitute an unreasonable hazard to the safety of life or property.
3) Result in unreasonably detrimental effects upon fish, wildlife, or botanical resources.

Additionally, in deciding whether to issue a permit, the director shall consider the cumulative effects of the structure, obstruction, deposit, or excavation when added to past, present, and reasonably foreseeable future actions.

For years, the Division of Water has provided extensive assistance to individuals and engineering consultants in developing the technical documentation needed to meet the burden of proof under the Flood Control Act. The Division of Water has conducted stream modeling, performed multiple reviews of inadequate submittals, and in many cases corrected, modified, or performed modeling to account for cumulative effects. For many reasons this level of assistance is no longer possible or appropriate.

New modeling guidelines (General Guidelines for the Hydrologic – Hydraulic Assessment of Floodplains in Indiana) have been developed, published, and placed on the Division's web site at www.in.gov/dnr/water/surface_water/pdf/fp_guidelines.pdf.

Additionally, training sessions were held in 2002 in Plymouth, Indianapolis, and Jeffersonville to assist consultants in the development of effective flood modeling submittals.

As outlined below, the Division of Water will no longer participate in project specific flood model development as part of a permit application. Division staff will only serve as reviewers. Additionally, a "Two strikes" policy will be implemented for permit application submittals with modeling errors.

Review Procedures

The procedures for the review of submitted computer modeling as part of a permit application will be as follows:

• All submitted modeling will be evaluated based on the modeling guidelines outlined in the General Guidelines for the Hydrologic – Hydraulic Assessment of Floodplains in Indiana available on the Division's website at www.in.gov/dnr/water/surface_water/pdf/fp_guidelines.pdf

• Submitted modeling should be prepared under the supervision of a professional engineer with knowledge of generally accepted modeling principles.

• Within the Division of Water, Engineering Services Center (ESC) staff will be available to meet with a consultant to discuss modeling for a project, or will answer questions that a consultant may have in the process of developing a model. ESC staff will no longer perform a preliminary review of a model before a permit application is submitted.

• A submitted model will only be reviewed when accompanied by a completed modeling checklist and project evaluation table as described in the General Guidelines for the Hydrologic – Hydraulic Assessment of Floodplains in Indiana. Failure to submit a checklist or project evaluation table does not count as a strike against the review of the model since no review has actually been completed. The applicant will, however, be notified through an abeyance letter that a completed modeling checklist and project evaluation table are required and that refusal to submit these will result in the denial of the permit application.

• ESC staff will review submitted modeling but under no circumstances will they change those models. Neither will ESC staff call or email consultants to work out explicit modeling errors. Staff will comment on the modeling using the abeyance process.

• Only explicit modeling errors will be noted and identified as deficiencies. The rationale behind any aspects of the submitted modeling that are "engineering judgment" (Manning's "n" values, coefficients, etc.) must be documented in the submitted checklist or model report. Failure to document "engineering judgment" is an explicit modeling error.

• An abeyance determination may state the comments are not inclusive. If the modeling is incomplete or contains inaccurate or outdated data, mistakes may not be apparent until the applicant clarifies the model. The submission of an incomplete model or a model that contains inaccurate or outdated data will count as a "strike" against the submitted model.

• ESC staff will be available to discuss projects before a submittal, or after an abeyance letter has been mailed. Design details are the responsibility of the applicant and the consultant, however, and ESC staff will not suggest design changes to make a project approvable.

• The "Two Strikes" policy will be applied to all permit applications with submitted modeling that do not follow the General Guidelines for the Hydrologic – Hydraulic Assessment of Floodplains in Indiana. If after two attempts the submitted computer modeling is determined to be incorrect, the permit application will be denied and the applicant advised of the opportunity to seek administrative review. In the alternative, a new permit application with revised modeling may be submitted.

• A model submittal that has a project evaluation table that shows an excessive surcharge as a result of the proposed project will not be reviewed; the applicant will, however, be notified through an abeyance letter that the project as submitted is not approvable. The submission of a model with an excessive surcharge counts as a "strike", so the applicant will not have the benefit of fixing modeling problems based on ESC staff review comments. One exception is if the surcharge is contained entirely on the applicant's property and the applicant has clearly shown this to be true, then the submitted modeling will be reviewed.

• If a project is redesigned after the abeyance letter has been mailed, the redesigned submittal, if submitted under the same application number, is considered the second submittal and subject to only one review before approval or denial. If the applicant decides to withdraw the application to redesign the project, the subsequent application submittal will be treated as an initial submittal.

• The standard abeyance period for model revisions will be 90 days. A single extension of 90 days may also be granted.

• Any testimony regarding the technical merits of the submitted modeling or project alternatives will be the responsibility of the applicant. ESC staff would provide testimony as to the circumstances of their review.

DEPARTMENT OF STATE REVENUE

02990655.LOF

LETTER OF FINDINGS NUMBER: 99-0655
Adjusted Gross Income Tax – Unitary (Combined) Filing Status
Fiscal Years 1995 and 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Adjusted Gross Income Tax – Unitary Filing Status

Authority: *Mobil Oil Corporation v. Commissioner of Taxes of Vermont*, 445 U.S. 425, 100 S.Ct. 1223 (1980); *Exxon Corp. v. Department of Revenue of Wisconsin*, 447 U.S. 207, 100 S.Ct. 2109 (1980); *ASARCO, Inc. v. Idaho State Tax Commission*, 458 U.S. 307, 102 S.Ct. 3103 (1982); *F.W. Woolworth v. Taxation and Revenue Department of New Mexico*, 458 U.S. 354, 102 S.Ct. 3128 (1982); *Allied-Signal, Inc. v. Director, Division of Taxation*, 504 U.S. 768, 112 S.Ct. 2251 (1992); *Container Corp. v. Franchise Tax Board*, 463 U.S. 159, 180, n. 19, 103 S.Ct. 2933, 2948, n. 19 (1983); IC 6-3-2-2(l); IC 6-3-2-2(p); IC 6-3-2-2(q); 35 ILCS 5/1501(a)(27); Tenn.Code Ann. § 67-4-2004(25)(B)

Taxpayer protests the Audit Division's subsequent disallowance of unitary combined filing status, for purposes of the taxpayer's combined adjusted income tax return for fiscal years 1995 and 1996, on the basis that the combined return inaccurately reported taxpayer's Indiana source income.

II. Adjusted Gross Income Tax – Unitary Filing Status – Retroactive Withdrawal of Permission to File Unitary

Authority: IC 6-3-2-2

Taxpayer claims that if the Department finds that it does not qualify to file on a unitary basis with its parent corporation and the members of the recreational vehicle group for Indiana tax purposes, then alternatively taxpayer and the original members of the recreational vehicle group that filed Indiana tax returns for the tax years in question should have been allowed to file on a consolidated basis with the parent corporation. As such, taxpayer protests the Audit Division's retroactive withdrawal of its grant of permission to allow taxpayer and the original members of the recreational group that filed Indiana tax returns to file unitary combined returns.

III. Adjusted Gross Income Tax – Consolidated Returns

Authority: None

Taxpayer claims that the Department erred in requiring taxpayer and the five additional members of the recreational vehicle group that filed Indiana tax returns to file separate tax returns.

IV. Adjusted Gross Income Tax – Throwback Sales

Authority: *Wisconsin Department of Revenue v. William Wrigley Jr. Co.*, 505 U.S. 214, 112 S.Ct. 2447 (1992); *Indiana Dept. of State Revenue v. Continental Steel Corp.*, 399 N.E.2d 754 (Ind. Ct. App. 1980); IC 6-3-2-2; IC 6-8.1-5-1; 45 IAC 3.1-1-64; Public Law 86-272 (15 U.S.C.A §381-385)

Taxpayer raises for the first time at hearing the following issue: whether taxpayer and the original members of the recreational group that filed Indiana tax returns erred in classifying sales to states other than Indiana as throwback sales.

STATEMENT OF FACTS

Taxpayer's parent corporation (hereinafter, "Parent") is a holding company for various companies located in the United States and Canada which manufacture recreational vehicles. By a letter dated August 25, 1995, Parent petitioned the Department of Revenue for permission to file a combined return with all fourteen of its recreational vehicle subsidiaries (hereinafter referred to collectively as the "RV Subsidiaries") based upon the premise that they formed a unitary group. In its petition, Parent maintained that the RV Subsidiaries were one hundred percent (100%) owned by Parent; that the entities are all engaged in the same line of business; that the entities share common directors and common management; and, that filing separate company returns would not fairly reflect Indiana income.

In a letter dated October 10, 1995, and based upon the information submitted by Parent, the Indiana Department of Revenue granted Parent's petition to file unitary combined returns as a unitary group with five of the fourteen RV Subsidiaries for fiscal year 1995 forward. Specifically, the Department found that Parent and the five members of the RV Subsidiary that filed Indiana income tax returns met the unity requirements through their unity of ownership, centralized management, and centralized financial, administrative and operational services. (*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 2). The Department further found that Parent and the five subsidiaries met the "best method for reporting adjusted gross income" test through their shared industry impact on Indiana adjusted gross income and their non-arms length transactions. *Id*. The Department determined that the remaining nine subsidiaries could not be included in the unitary group or taxed by Indiana because they did not have sufficient contacts with the state of Indiana. Although the Department granted Parent's request, in part, to file unitary, it

nevertheless, reserved the right to revoke its grant of permission for unitary combined filing in the event that, *inter alia*, the facts subsequently established by the Department disclosed material error or misrepresentation of the facts set forth in Parent's original petition. (*See Department of Revenue-Tax Policy Division Letter* dated August 30, 1995, page 3).

In a letter dated March 2, 1996, Parent re-petitioned the Department for permission to file combined returns with all of the RV Subsidiaries. In its letter dated March 20, 1996, the Department denied Parent's second petition, and reiterated that permission was granted for only five of the fourteen subsidiaries. Thereafter, Parent filed unitary combined returns including the five subsidiaries beginning in the fiscal year ending July 31, 1995.

In 1998, Parent amended its 1995 and 1996 Indiana tax returns to expand its combined filings to include all fourteen of its RV Subsidiaries. Parent based its amended returns on its position that the Department had erroneously failed to grant it permission to file combined Indiana income tax returns with the RV Subsidiaries.

The "taxpayer" in the instant case is an Indiana subsidiary of Parent and one of the five RV subsidiaries originally permitted to be included in the combined filings. The audit of taxpayer stems from an audit that was performed on the combined filings of Parent and its RV Subsidiaries for fiscal years 1995 through 1997 (which included the 1995 and 1996 amended returns). The disallowance of Parent's combined filings resulted in separate filing reports being generated for the subsidiaries that were originally granted permission to be included in the combined filing. The audit of taxpayer is of one such separate filing.

Pursuant to the audit performed on taxpayer, the auditor found that the expenses incurred by Parent on behalf of its subsidiary were properly reflected in the books of the subsidiary. As such, the Department determined that the Indiana income of taxpayer was more fairly reflected by filing separate company returns.

I. Adjusted Gross Income Tax – Unitary Filing Status

DISCUSSION

The taxpayer (*i.e.*, one of the RV Subsidiaries that filed Indiana income tax returns and was originally permitted to be included in the combined filings) protests the Department's determination that it may not file unitary combined returns for the fiscal years in question. Taxpayer argues that the combined reporting is the only filing method that fairly represents the flow of value from functional integration, centralized management, and economies of scale, present between taxpayer, Parent, and the remaining RV Subsidiaries.

In addressing this question, we examine: (1) whether a unitary relationship actually existed between Parent, taxpayer, and the remaining RV Subsidiaries; and (2) whether filing a combined return would more fairly represent the Parent's, taxpayer's, and remaining RV Subsidiaries' Indiana income. Hereinafter, the remaining RV Subsidiaries will be collectively referred to as the "RV Group".

The Supreme Court over the years has developed a three-part test in determining whether a unitary relationship exists: common ownership, common management, and common use or operation. *See, e.g., Mobil Oil Corporation v. Commissioner of Taxes of Vermont*, 445 U.S. 425, 100 S.Ct. 1223 (1980); *Exxon Corp. v. Department of Revenue of Wisconsin*, 447 U.S. 207, 100 S.Ct. 2109 (1980); *ASARCO, Inc. v. Idaho State Tax Commission*, 458 U.S. 307, 102 S.Ct. 3103 (1982); *F.W. Woolworth v. Taxation and Revenue Department of New Mexico*, 458 U.S. 354, 102 S.Ct. 3128 (1982); *Allied-Signal, Inc. v. Director, Division of Taxation*, 504 U.S. 768, 112 S.Ct. 2251 (1992). The first item to be considered under this three-part test is common ownership. As a general rule, at least fifty percent (50%) of a corporation's stock must be commonly owned (either directly or indirectly) in order for a corporation to be considered part of a unitary business. *See, e.g.*, 35 ILCS 5/1501(a)(27) and Tenn.Code Ann. § 67-4-2004(25)(B). The information in taxpayer's file shows that during the audit period Parent owned one hundred percent (100%) of the stock of taxpayer and the members of the RV Group. The evidence of file is sufficient to establish common ownership.

The second criteria to be considered is common management. Common management is shown when the parent corporation provides a management role that is grounded in the parent's own operation expertise and overall operational strategy. *See, e.g., Container Corp. V. Franchise Tax Board*, 463 U.S. 159, 180, n. 19, 103 S.Ct. 2933, 2948, n. 19 (1983).

Here, the taxpayer has supplied evidence which shows that Parent exercised control and influence over it and the RV Group. Parent's upper management consisted of a CEO, a Chairman and Treasurer, and a Vice President of Finance and Chief Administrative Officer. These three individuals were responsible operationally for taxpayer and the entire RV Group. Taxpayer and each one of the entities in the RV Group were required to submit to Parent's upper management for review and comment daily sales reports, monthly and annual financial reports, and operating and budget plans and goals. The CEO of Parent approved all capital expenditures in excess of one thousand dollars ($1000.00). Common management existed between Parent, taxpayer, and the RV Group.

The third test is that of common operation or use. Evidence of a common operation exists where certain functions are performed for the group by the parent (such as purchasing, financing, advertising, marketing, research, tax compliance, insurance, and pension plan management) which independent companies would perform for themselves.

In the taxpayer's case, information was supplied which shows that many of the administrative, management, and financing functions for taxpayer and the RV Group were centralized. Parent's upper management employed a purchasing agent who was responsible for negotiating national supply contracts for the RV Group. Upper management selected the independent accountants,

legal counsel, and insurance carriers that provided accounting, legal and insurance services to the RV Group. Parent's upper management also coordinated the administration of the employee benefits plan for the RV Group. Upper management purchased advertising space in various recreational vehicle trade magazines for the RV Group, and the entities of the RV Group often participated in joint presentations.

On the basis of these facts, it appears that taxpayer enjoyed a unitary relationship with Parent and the RV Group. There exists the elements of common ownership and management, and a modicum flow of value between the members of the business group. Using Parent's upper management to provide services for the RV Group that the taxpayer and the RV Group could have provided for themselves, resulted in common operation.

We now turn to the next point of analysis and the question of whether requiring taxpayer and the RV Group to use a standard apportionment or separate company filing method, instead of combined return filing, would result in a distortion of the income Parent reported as Indiana source income. Ultimately, this question requires us to determine whether, under all of the circumstances of the unitary relationship between Parent, taxpayer, and the RV Group, standard apportionment fulfills the statutory purpose of avoiding distortion of and realistically portraying Indiana source income. *See* IC 6-3-2-2(p).

Although IC 6-3-2-2(q) allows a parent corporation to petition the Department to file a combined return, it also incorporates by reference the restrictions imposed on alternative methods of reporting adjusted gross income by subsection (l) of that same section. Subsection (l) states in pertinent part:

> If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:
>
> ...
>
> (4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

The language in subsection (l) indicates that the standard apportionment and the separate accounting filing methods are the preferred methods of representing a taxpayer's income derived from Indiana sources. Other methods of income allocation and apportionment (including the combined reporting method) should only be allowed when those provided for by IC 6-3-2-2 do not fairly reflect a taxpayer's Indiana income. If the Indiana source income in the instant case can be fairly represented on the basis of standard apportionment or separate accounting, then such filing methods should be used.

Despite the finding of a unitary relationship between Parent, taxpayer, and the RV Group, and despite the relationship between the business operations of the entities, it does not appear that the operations of the businesses were so integrated to the point where the filing of separate returns would lead to a distortion of income. The evidence on file establishes that inter-company accounts existed for inter-company transactions between Parent, taxpayer, and the RV Group. Interest was paid and received by Parent on these accounts. The balance of the amounts contained in the inter-company accounts consisted of the earnings and profits of taxpayer and the members of the RV Group. Taxpayer and the members of the RV Group were required to remit to Parent at the end of each fiscal year any and all earnings and profits. If taxpayer or a member of the RV Group was unable to remit its profits for the year, Parent charged the entity interest on the unpaid amount. The delinquent entity paid an interest rate of prime plus one percent (1%).

Additionally, the evidence on file substantiates the finding that Parent was compensated for the services that it performed for taxpayer and the members of the RV Group. The expenses incurred by Parent were allocated to the appropriate entity receiving the benefit. As such, the expenses were properly reflected on each subsidiary's financial statements.

The extensive documentation presented by taxpayer does not demonstrate that the business operations of Parent, taxpayer, and the members of the RV Group were so interconnected that it becomes impossible to accurately determine the Indiana source income attributable to the respective entities.

FINDING

Taxpayer's protest is denied.

II. Adjusted Gross Income Tax – Unitary Filing Status – Retroactive Withdrawal of Permission to File Unitary

DISCUSSION

Taxpayer next argues that it and the original members of the recreational vehicle group that filed Indiana tax returns for the tax years in question should have been allowed to file on a unitary basis with the parent corporation. As such, taxpayer protests the Audit Division's retroactive withdrawal of its grant of permission to allow taxpayer and the original members of the recreational group that filed Indiana tax returns to file unitary combined returns without a finding of some material misstatement of fact.

In a letter dated October 10, 1995, the Department of Revenue granted Parent's petition to file unitary combined returns as a unitary group with five of the fourteen RV Subsidiaries for fiscal year 1995 forward. However, pursuant to an audit of Parent that resulted in the disallowance of Parent's filing on a combined basis with its subsidiaries, Parent was required to generate separate taxed returns for all of its subsidiaries, including the taxpayer and the subsidiaries with which Parent was originally granted permission to file on a unitary basis.

The statute applicable to the permission issue is found in IC 6-3-2-2 which states in pertinent part that:

IC 6-3-2-2 Corporations and nonresidents; "adjusted gross income derived from sources in state" defined...

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana...

(q)... taxpayers may petition the department... for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year.

(*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 1).

The Department's grant of permission to file combined returns was a determination, based upon the facts available to the Department at the time, upon which taxpayer's parent corporation could rely. However, the Department did reserve the right to revoke the grant of permission if, *inter alia*, "the facts subsequently established by the Department disclose material error or misrepresentation to the facts set forth in this petition." (*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 3). This right of revocation was clearly set forth in the letter to Parent. And, the language of the letter clearly warned Parent that should a subsequent audit reveal a misrepresentation of the facts set forth originally, permission to file combined returns would be revoked.

The evidence on file evinces that the Department granted permission to Parent to include certain subsidiaries in a combined filing based upon an assertion made by Parent in its original petition letter dated August 25, 1995. In this letter, Parent stated that, "Management fees are not paid by the subsidiaries to [Parent]. [Parent] is not a profit center; therefore, no income is recognized by [Parent] from services provided to its subsidiaries." (*See Parent's Original Petition Letter* dated August 25, 1995, page 4). Upon examination of the facts purported by Parent in its petition, and pursuant to the audit, the auditor discovered inter-company transactions (including management services) that were provided by Parent to its subsidiaries at arm's length.

Notwithstanding the foregoing, we do not believe that the Audit Division's subsequent reversal of the Department's determination that taxpayer could file combined tax returns was due to a material error or misrepresentation. The original approval letter specifically stated that combined filing status would be revoked if a material error or misrepresentation was discovered. However, through its examination of the books, records, and property of taxpayer, and its determination that separate filing best represented the taxpayer's Indiana income, Audit did not discover any material error or misrepresentation on the part of taxpayer.

Upon review of the instant case, the Department concludes that the original approval letter granting taxpayer permission to file combined tax returns is in error, but was not the result of a material error or misrepresentation on the part of taxpayer in the application process. Therefore, the appropriate remedy is for taxpayer's combined filings with the five RV subsidiaries originally permitted to be included in the combined returns for the years in question to be allowed.

FINDING

Taxpayer's protest is sustained. Taxpayer's combined returns with the five RV subsidiaries originally permitted to be included in the combined returns for the tax years in question will be allowed. However, taxpayer's permission to file combined tax returns with the five RV subsidiaries originally permitted to be included in the combined returns is revoked for tax years beginning after the date of the audit report.

III. Adjusted Gross Income Tax – Consolidated Returns

DISCUSSION

Taxpayer next protests the Audit Division's determination that taxpayer and the members of the recreational vehicle group that filed Indiana tax returns were required to file separate filing reports for fiscal year ends 1995 through 1997. Taxpayer maintains that it should have been allowed to file consolidated returns with the members of the recreational vehicle group that filed Indiana tax returns for fiscal year ends 1995 through 1997, and with Parent for fiscal year ends 1996 and 1997. According to taxpayer, the filing of consolidated returns is the only way to fairly reflect taxpayer's and the subsidiaries' Indiana source income.

As we have already granted taxpayer permission to file combined tax returns with the five RV subsidiaries originally permitted to be included in the combined returns for the tax years encompassed by the audit, this question is moot.

FINDING

Taxpayer's protest is denied.

IV. Adjusted Gross Income Tax – Throwback Sales

DISCUSSION

During the audit period, taxpayer and the subsidiaries that filed Indiana tax returns classified sales of recreational vehicles and parts to customers outside of Indiana (*i.e.*, recreational vehicle dealers and other subsidiaries) as throwback sales. According to taxpayer, it and the subsidiaries were under the mistaken belief that they were not subject to income tax in states other than Indiana, Ohio, and Michigan. Taxpayer believes that because it and the subsidiaries clearly had nexus activity in all the states where the recreational vehicles dealers are located (hereinafter, the "Dealers"), sales destined to those particular states should not have been classified as throwback sales.

Sales made by Indiana corporations to out-of-state purchasers must be apportioned as income to Indiana if the state in which the purchaser resides is without legal authority to claim such income as its own. *See* IC 6-3-2-2(e) and 45 IAC 3.1-1-64. Specifically, if interstate sales are "taxable in another state" - *i.e.*, the state of the purchaser - the sales are not includible in the numerator of the Indiana sales factor. Such sales are defined as throwback sales.

According to IC 6-3-2-2(n):

For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

Indiana's regulatory language further defines "taxable in another state." 45 IAC 3.1-1-64 states in part:

A corporation is "taxable in another state" under the Act when such state has jurisdiction to subject it [the corporation] to a net income tax. This test applies if the taxpayer's business activities are sufficient to give the state jurisdiction to impose a net income tax under the Constitution and statutes of the United States. Jurisdiction to tax is not present where the state is prohibited from imposing the tax by reason of the provision of Public Law 86-272, 15 U.S.C.A. §381-385.

The taxpayer bears the burden to prove that an assessment by the Department is invalid. IC 6-8.1-5-1.

In *Wisconsin Department of Revenue v. William Wrigley Jr. Co.*, 505 U.S. 214, 112 S.Ct. 2447 (1992), the United States Supreme Court interpreted the term "solicitation" for purposes of P.L. 86-272, the federal law that generally exempts a corporation from state income tax if the company's only activity in the state is solicitation of sales of tangible personal property. Wrigley also established that a *de minimis* amount of nonsolicitation activity will not cause a corporation to lose its exemption from state taxation under P.L. 86-272. In *Wrigley*, the Court found that activities ancillary to the solicitation of orders would not result in a loss of immunity to taxation. Additionally, the Court held that as long as an activity, or activities, did not establish a nontrivial, additional connection with the taxing state it is sufficiently *de minimis* to avoid taxation. (*See also, Indiana Dept. of State Revenue v. Continental Steel Corp.*, 399 N.E.2d 754, 759 (Ind. Ct. App. 1980), where the court set out examples of activity which exceeded "mere solicitation" including "giving spot credit, accepting orders, collecting delinquent accounts and picking up returned goods within the taxing state, collecting deposits and advances on orders within the taxing state, pooling and exchanging technical personnel in a complex mutual endeavor, maintaining personal property... and associated local business activity for purposes not related to soliciting orders within the taxing state.")

The records and evidence presented to the Department lead to the conclusion that taxpayer and the Indiana subsidiaries contracted with Dealers outside of Indiana to perform warranty repair services. Periodic visits made by the employees of taxpayer and the Indiana subsidiaries to other states were to brief Dealers' on the products and the distinguishing features of the products in comparison with competitor's products, and to generate new business and to insure future sales of the products. These activities are all protected as ancillary to solicitation and would not subject taxpayer or any of the Indiana subsidiaries to taxation in other states. The few visits made by employees to brief Dealers on the products could be construed as *de minimis*. The Department concludes that taxpayer has not proven that it is subject to taxation in other states, and that the throwback of sales shipped to the other states were properly added into the numerator of the sales factor.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02990656.LOF

LETTER OF FINDINGS NUMBER: 99-0656
Adjusted Gross Income Tax – Unitary (Combined) Filing Status
Fiscal Years 1994 and 1995

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Adjusted Gross Income Tax – Unitary Filing Status

Authority: *Mobil Oil Corporation v. Commissioner of Taxes of Vermont*, 445 U.S. 425, 100 S.Ct. 1223 (1980); *Exxon Corp. v. Department of Revenue of Wisconsin*, 447 U.S. 207, 100 S.Ct. 2109 (1980); *ASARCO, Inc. v. Idaho State Tax Commission*, 458 U.S. 307, 102 S.Ct. 3103 (1982); *F.W. Woolworth v. Taxation and Revenue Department of New Mexico*, 458 U.S. 354, 102 S.Ct. 3128 (1982); *Allied-Signal, Inc. v. Director, Division of Taxation*, 504 U.S. 768, 112 S.Ct. 2251 (1992); *Container Corp. v. Franchise Tax Board*, 463 U.S. 159, 180, n. 19, 103 S.Ct. 2933, 2948, n. 19 (1983); IC 6-3-2-2(l); IC 6-3-2-2(p); IC 6-3-2-2(q); 35 ILCS 5/1501(a)(27); Tenn.Code Ann. § 67-4-2004(25)(B)

Taxpayer protests the Audit Division's subsequent disallowance of unitary combined filing status, for purposes of the

taxpayer's combined adjusted income tax return for fiscal years 1994 and 1995, on the basis that the combined return inaccurately reported taxpayer's Indiana source income.

II. Adjusted Gross Income Tax – Unitary Filing Status – Retroactive Withdrawal of Permission to File Unitary

Authority: IC 6-3-2-2

Taxpayer claims that if the Department finds that it does not qualify to file on a unitary basis with its parent corporation and the members of the recreational vehicle group for Indiana tax purposes, then alternatively taxpayer and the original members of the recreational vehicle group that filed Indiana tax returns for the tax years in question should have been allowed to file on a consolidated basis with the parent corporation. As such, taxpayer protests the Audit Division's retroactive withdrawal of its grant of permission to allow taxpayer and the original members of the recreational group that filed Indiana tax returns to file unitary combined returns.

III. Adjusted Gross Income Tax – Consolidated Returns

Authority: None

Taxpayer claims that the Department erred in requiring taxpayer and the five additional members of the recreational vehicle group that filed Indiana tax returns to file separate tax returns.

IV. Adjusted Gross Income Tax – Throwback Sales

Authority: *Wisconsin Department of Revenue v. William Wrigley Jr. Co.*, 505 U.S. 214, 112 S.Ct. 2447 (1992); *Indiana Dept. of State Revenue v. Continental Steel Corp.*, 399 N.E.2d 754 (Ind. Ct. App. 1980); IC 6-3-2-2; IC 6-8.1-5-1; 45 IAC 3.1-1-64; Public Law 86-272 (15 U.S.C.A §381-385)

Taxpayer raises for the first time at hearing the following issue: whether taxpayer and the original members of the recreational group that filed Indiana tax returns erred in classifying sales to states other than Indiana as throwback sales.

STATEMENT OF FACTS

Taxpayer's parent corporation (hereinafter, "Parent") is a holding company for various companies located in the United States and Canada which manufacture recreational vehicles. By a letter dated August 25, 1995, Parent petitioned the Department of Revenue for permission to file a combined return with all fourteen of its recreational vehicle subsidiaries (hereinafter referred to collectively as the "RV Subsidiaries") based upon the premise that they formed a unitary group. In its petition, Parent maintained that the RV Subsidiaries were one hundred percent (100%) owned by Parent; that the entities are all engaged in the same line of business; that the entities share common directors and common management; and, that filing separate company returns would not fairly reflect Indiana income.

In a letter dated October 10, 1995, and based upon the information submitted by Parent, the Indiana Department of Revenue granted Parent's petition to file unitary combined returns as a unitary group with five of the fourteen RV Subsidiaries for fiscal year 1995 forward. Specifically, the Department found that Parent and the five members of the RV Subsidiary that filed Indiana income tax returns met the unity requirements through their unity of ownership, centralized management, and centralized financial, administrative and operational services. (*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 2). The Department further found that Parent and the five subsidiaries met the "best method for reporting adjusted gross income" test through their shared industry impact on Indiana adjusted gross income and their non-arms length transactions. *Id*. The Department determined that the remaining nine subsidiaries could not be included in the unitary group or taxed by Indiana because they did not have sufficient contacts with the state of Indiana. Although the Department granted Parent's request, in part, to file unitary, it nevertheless, reserved the right to revoke its grant of permission for unitary combined filing in the event that, *inter alia*, the facts subsequently established by the Department disclosed material error or misrepresentation of the facts set forth in Parent's original petition. (*See Department of Revenue-Tax Policy Division Letter* dated August 30, 1995, page 3).

In a letter dated March 2, 1996, Parent re-petitioned the Department for permission to file combined returns with all of the RV Subsidiaries. In its letter dated March 20, 1996, the Department denied Parent's second petition, and reiterated that permission was granted for only five of the fourteen subsidiaries. Thereafter, Parent filed unitary combined returns including the five subsidiaries beginning in the fiscal year ending July 31, 1995. In fiscal year ending July 31, 1995, Parent also included one additional company in its combined returns. The additional company is the "taxpayer" in the instant case.

In 1998, Parent amended its 1995 and 1996 Indiana tax returns to expand its combined filings to include all fourteen of its RV Subsidiaries. Parent based its amended returns on its position that the Department had erroneously failed to grant it permission to file combined Indiana income tax returns with the RV Subsidiaries.

As stated above, the "taxpayer" in the instant case is an Indiana subsidiary of Parent and the additional company that Parent included in its unitary combined returns for fiscal year 1995, along with the five RV subsidiaries originally permitted to be included in the combined filings. The audit of taxpayer stems from an audit that was performed on the combined filings of Parent and its RV Subsidiaries for fiscal years 1995 through 1997 (which included the 1995 and 1996 amended returns). The disallowance of Parent's combined filings resulted in separate filing reports being generated for the subsidiaries that were originally granted permission to be included in the combined filing. The audit of taxpayer is of one such separate filing.

Pursuant to the audit performed on taxpayer, the auditor found that the expenses incurred by Parent on behalf of its subsidiary

were properly reflected in the books of the subsidiary. As such, the Department determined that the Indiana income of taxpayer was more fairly reflected by filing separate company returns.

I. Adjusted Gross Income Tax – Unitary Filing Status

DISCUSSION

Taxpayer protests the Department's determination that it may not file unitary combined returns for the fiscal years in question. Taxpayer argues that the combined reporting is the only filing method that fairly represents the flow of value from functional integration, centralized management, and economies of scale, present between taxpayer, Parent, and the remaining RV Subsidiaries.

In addressing this question, we examine: (1) whether a unitary relationship actually existed between Parent, taxpayer, and the remaining RV Subsidiaries; and (2) whether filing a combined return would more fairly represent the Parent's, taxpayer's, and remaining RV Subsidiaries' Indiana income. Hereinafter, the remaining RV Subsidiaries will be collectively referred to as the "RV Group".

The Supreme Court over the years has developed a three-part test in determining whether a unitary relationship exists: common ownership, common management, and common use or operation. *See, e.g., Mobil Oil Corporation v. Commissioner of Taxes of Vermont*, 445 U.S. 425, 100 S.Ct. 1223 (1980); *Exxon Corp. v. Department of Revenue of Wisconsin*, 447 U.S. 207, 100 S.Ct. 2109 (1980); *ASARCO, Inc. v. Idaho State Tax Commission*, 458 U.S. 307, 102 S.Ct. 3103 (1982); *F.W. Woolworth v. Taxation and Revenue Department of New Mexico*, 458 U.S. 354, 102 S.Ct. 3128 (1982); *Allied-Signal, Inc. v. Director, Division of Taxation*, 504 U.S. 768, 112 S.Ct. 2251 (1992). The first item to be considered under this three-part test is common ownership. As a general rule, at least fifty percent (50%) of a corporation's stock must be commonly owned (either directly or indirectly) in order for a corporation to be considered part of a unitary business. *See, e.g.*, 35 ILCS 5/1501(a)(27) and Tenn.Code Ann. § 67-4-2004(25)(B). The information in taxpayer's file shows that during the audit period Parent owned one hundred percent (100%) of the stock of taxpayer and the members of the RV Group. The evidence of file is sufficient to establish common ownership.

The second criteria to be considered is common management. Common management is shown when the parent corporation provides a management role that is grounded in the parent's own operation expertise and overall operational strategy. *See, e.g., Container Corp. V. Franchise Tax Board*, 463 U.S. 159, 180, n. 19, 103 S.Ct. 2933, 2948, n. 19 (1983).

Here, the taxpayer has supplied evidence which shows that Parent exercised control and influence over it and the RV Group. Parent's upper management consisted of a CEO, a Chairman and Treasurer, and a Vice President of Finance and Chief Administrative Officer. These three individuals were responsible operationally for taxpayer and the entire RV Group. Taxpayer and each one of the entities in the RV Group were required to submit to Parent's upper management for review and comment daily sales reports, monthly and annual financial reports, and operating and budget plans and goals. The CEO of Parent approved all capital expenditures in excess of one thousand dollars ($1000.00). Common management existed between Parent, taxpayer, and the RV Group.

The third test is that of common operation or use. Evidence of a common operation exists where certain functions are performed for the group by the parent (such as purchasing, financing, advertising, marketing, research, tax compliance, insurance, and pension plan management) which independent companies would perform for themselves.

In the taxpayer's case, information was supplied which shows that many of the administrative, management, and financing functions for taxpayer and the RV Group were centralized. Parent's upper management employed a purchasing agent who was responsible for negotiating national supply contracts for the RV Group. Upper management selected the independent accountants, legal counsel, and insurance carriers that provided accounting, legal and insurance services to the RV Group. Parent's upper management also coordinated the administration of the employee benefits plan for the RV Group. Upper management purchased advertising space in various recreational vehicle trade magazines for the RV Group, and the entities of the RV Group often participated in joint presentations.

On the basis of these facts, it appears that taxpayer enjoyed a unitary relationship with Parent and the RV Group. There exists the elements of common ownership and management, and a modicum flow of value between the members of the business group. Using Parent's upper management to provide services for the RV Group that the taxpayer and the RV Group could have provided for themselves, resulted in common operation.

We now turn to the next point of analysis and the question of whether requiring taxpayer and the RV Group to use a standard apportionment or separate company filing method, instead of combined return filing, would result in a distortion of the income Parent reported as Indiana source income. Ultimately, this question requires us to determine whether, under all of the circumstances of the unitary relationship between Parent, taxpayer, and the RV Group, standard apportionment fulfills the statutory purpose of avoiding distortion of and realistically portraying Indiana source income. *See* IC 6-3-2-2(p).

Although IC 6-3-2-2(q) allows a parent corporation to petition the Department to file a combined return, it also incorporates by reference the restrictions imposed on alternative methods of reporting adjusted gross income by subsection (l) of that same section. Subsection (l) states in pertinent part:

> If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:
>
> ...

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

The language in subsection (l) indicates that the standard apportionment and the separate accounting filing methods are the preferred methods of representing a taxpayer's income derived from Indiana sources. Other methods of income allocation and apportionment (including the combined reporting method) should only be allowed when those provided for by IC 6-3-2-2 do not fairly reflect a taxpayer's Indiana income. If the Indiana source income in the instant case can be fairly represented on the basis of standard apportionment or separate accounting, then such filing methods should be used.

Despite the finding of a unitary relationship between Parent, taxpayer, and the RV Group, and despite the relationship between the business operations of the entities, it does not appear that the operations of the businesses were so integrated to the point where the filing of separate returns would lead to a distortion of income. The evidence on file establishes that inter-company accounts existed for inter-company transactions between Parent, taxpayer, and the RV Group. Interest was paid and received by Parent on these accounts. The balance of the amounts contained in the inter-company accounts consisted of the earnings and profits of taxpayer and the members of the RV Group. Taxpayer and the members of the RV Group were required to remit to Parent at the end of each fiscal year any and all earnings and profits. If taxpayer or a member of the RV Group was unable to remit its profits for the year, Parent charged the entity interest on the unpaid amount. The delinquent entity paid an interest rate of prime plus one percent (1%).

Additionally, the evidence on file substantiates the finding that Parent was compensated for the services that it performed for taxpayer and the members of the RV Group. The expenses incurred by Parent were allocated to the appropriate entity receiving the benefit. As such, the expenses were properly reflected on each subsidiary's financial statements.

The extensive documentation presented by taxpayer does not demonstrate that the business operations of Parent, taxpayer, and the members of the RV Group were so interconnected that it becomes impossible to accurately determine the Indiana source income attributable to the respective entities.

FINDING

Taxpayer's protest is denied.

II. Adjusted Gross Income Tax – Unitary Filing Status – Retroactive Withdrawal of Permission to File Unitary

DISCUSSION

Taxpayer next argues that it and the original members of the recreational vehicle group that filed Indiana tax returns for the tax years in question should have been allowed to file on a unitary basis with the parent corporation. As such, taxpayer protests the Audit Division's retroactive withdrawal of its grant of permission to allow taxpayer and the original members of the recreational group that filed Indiana tax returns to file unitary combined returns without a finding of some material misstatement of fact.

In a letter dated October 10, 1995, the Department of Revenue granted Parent's petition to file unitary combined returns as a unitary group with five of the fourteen RV Subsidiaries for fiscal year 1995 forward. However, pursuant to an audit of Parent that resulted in the disallowance of Parent's filing on a combined basis with its subsidiaries, Parent was required to generate separate taxed returns for all of its subsidiaries, including the taxpayer and the subsidiaries with which Parent was originally granted permission to file on a unitary basis.

The statute applicable to the permission issue is found in IC 6-3-2-2 which states in pertinent part that:

IC 6-3-2-2 Corporations and nonresidents; "adjusted gross income derived from sources in state" defined...

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana...

(q)... taxpayers may petition the department... for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year.

(*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 1).

The Department's grant of permission to file combined returns was a determination, based upon the facts available to the Department at the time, upon which taxpayer's parent corporation could rely. However, the Department did reserve the right to revoke the grant of permission if, *inter alia*, "the facts subsequently established by the Department disclose material error or misrepresentation to the facts set forth in this petition." (*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 3). This right of revocation was clearly set forth in the letter to Parent. And, the language of the letter clearly warned Parent that should a subsequent audit reveal a misrepresentation of the facts set forth originally, permission to file combined returns would be revoked.

The evidence on file evinces that the Department granted permission to Parent to include certain subsidiaries in a combined filing based upon an assertion made by Parent in its original petition letter dated August 25, 1995. In this letter, Parent stated that, "Management fees are not paid by the subsidiaries to [Parent]. [Parent] is not a profit center; therefore, no income is recognized by [Parent] from services provided to its subsidiaries." (*See Parent's Original Petition Letter* dated August 25, 1995, page 4). Upon examination of the facts purported by Parent in its petition, and pursuant to the audit, the auditor discovered inter-company transactions (including management services) that were provided by Parent to its subsidiaries at arm's length.

Notwithstanding the foregoing, we do not believe that the Audit Division's subsequent reversal of the Department's

determination that taxpayer could file combined tax returns was due to a material error or misrepresentation. The original approval letter specifically stated that combined filing status would be revoked if a material error or misrepresentation was discovered. However, through its examination of the books, records, and property of taxpayer, and its determination that separate filing best represented the taxpayer's Indiana income, Audit did not discover any material error or misrepresentation on the part of taxpayer.

Upon review of the instant case, the Department concludes that the original approval letter granting taxpayer permission to file combined tax returns is in error, but was not the result of a material error or misrepresentation on the part of taxpayer in the application process. Therefore, the appropriate remedy is for taxpayer's combined filings with the five RV subsidiaries originally permitted to be included in the combined returns for the years in question to be allowed.

FINDING

Taxpayer's protest is sustained. Taxpayer's combined returns with the five RV subsidiaries originally permitted to be included in the combined returns for the tax years in question will be allowed. However, taxpayer's permission to file combined tax returns with the five RV subsidiaries originally permitted to be included in the combined returns is revoked for tax years beginning after the date of the audit report.

III. Adjusted Gross Income Tax – Consolidated Returns

DISCUSSION

Taxpayer next protests the Audit Division's determination that taxpayer and the members of the recreational vehicle group that filed Indiana tax returns were required to file separate filing reports for fiscal year ends 1995 through 1997. Taxpayer maintains that it should have been allowed to file consolidated returns with the members of the recreational vehicle group that filed Indiana tax returns for fiscal year ends 1995 through 1997, and with Parent for fiscal year ends 1996 and 1997. According to taxpayer, the filing of consolidated returns is the only way to fairly reflect taxpayer's and the subsidiaries' Indiana source income.

As we have already granted taxpayer permission to file combined tax returns with the five RV subsidiaries originally permitted to be included in the combined returns for the tax years encompassed by the audit, this question is moot.

FINDING

Taxpayer's protest of this issue is moot.

IV. Adjusted Gross Income Tax – Throwback Sales

DISCUSSION

During the audit period, taxpayer and the subsidiaries that filed Indiana tax returns classified sales of recreational vehicles and parts to customers outside of Indiana (*i.e.*, recreational vehicle dealers and other subsidiaries) as throwback sales. According to taxpayer, it and the subsidiaries were under the mistaken belief that they were not subject to income tax in states other than Indiana, Ohio, and Michigan. Taxpayer believes that because it and the subsidiaries clearly had nexus activity in all the states where the recreational vehicles dealers are located (hereinafter, the "Dealers"), sales destined to those particular states should not have been classified as throwback sales.

Sales made by Indiana corporations to out-of-state purchasers must be apportioned as income to Indiana if the state in which the purchaser resides is without legal authority to claim such income as its own. *See* IC 6-3-2-2(e) and 45 IAC 3.1-1-64. Specifically, if interstate sales are "taxable in another state" - *i.e.*, the state of the purchaser - the sales are not includible in the numerator of the Indiana sales factor. Such sales are defined as throwback sales.

According to IC 6-3-2-2(n):

For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

Indiana's regulatory language further defines "taxable in another state." 45 IAC 3.1-1-64 states in part:

A corporation is "taxable in another state" under the Act when such state has jurisdiction to subject it [the corporation] to a net income tax. This test applies if the taxpayer's business activities are sufficient to give the state jurisdiction to impose a net income tax under the Constitution and statutes of the United States. Jurisdiction to tax is not present where the state is prohibited from imposing the tax by reason of the provision of Public Law 86-272, 15 U.S.C.A. §381-385.

The taxpayer bears the burden to prove that an assessment by the Department is invalid. IC 6-8.1-5-1.

In *Wisconsin Department of Revenue v. William Wrigley Jr. Co.*, 505 U.S. 214, 112 S.Ct. 2447 (1992), the United States Supreme Court interpreted the term "solicitation" for purposes of P.L. 86-272, the federal law that generally exempts a corporation from state income tax if the company's only activity in the state is solicitation of sales of tangible personal property. Wrigley also established that a *de minimis* amount of nonsolicitation activity will not cause a corporation to lose its exemption from state taxation under P.L. 86-272. In *Wrigley*, the Court found that activities ancillary to the solicitation of orders would not result in a loss of immunity to taxation. Additionally, the Court held that as long as an activity, or activities, did not establish a nontrivial, additional connection with the taxing state it is sufficiently *de minimis* to avoid taxation. (*See also, Indiana Dept. of State Revenue v.*

Continental Steel Corp., 399 N.E.2d 754, 759 (Ind. Ct. App. 1980), where the court set out examples of activity which exceeded "mere solicitation" including "giving spot credit, accepting orders, collecting delinquent accounts and picking up returned goods within the taxing state, collecting deposits and advances on orders within the taxing state, pooling and exchanging technical personnel in a complex mutual endeavor, maintaining personal property... and associated local business activity for purposes not related to soliciting orders within the taxing state.")

The records and evidence presented to the Department lead to the conclusion that taxpayer and the Indiana subsidiaries contracted with Dealers outside of Indiana to perform warranty repair services. Periodic visits made by the employees of taxpayer and the Indiana subsidiaries to other states were to brief Dealers' on the products and the distinguishing features of the products in comparison with competitor's products, and to generate new business and to insure future sales of the products. These activities are all protected as ancillary to solicitation and would not subject taxpayer or any of the Indiana subsidiaries to taxation in other states. The few visits made by employees to brief Dealers on the products could be construed as *de minimis*. The Department concludes that taxpayer has not proven that it is subject to taxation in other states, and that the throwback of sales shipped to the other states were properly added into the numerator of the sales factor.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02990657.LOF

LETTER OF FINDINGS NUMBER: 99-0657
Adjusted Gross Income Tax – Unitary (Combined) Filing Status
Fiscal Years 1995 through 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Adjusted Gross Income Tax – Unitary Filing Status

Authority: *Mobil Oil Corporation v. Commissioner of Taxes of Vermont*, 445 U.S. 425, 100 S.Ct. 1223 (1980); *Exxon Corp. v. Department of Revenue of Wisconsin*, 447 U.S. 207, 100 S.Ct. 2109 (1980); *ASARCO, Inc. v. Idaho State Tax Commission*, 458 U.S. 307, 102 S.Ct. 3103 (1982); *F.W. Woolworth v. Taxation and Revenue Department of New Mexico*, 458 U.S. 354, 102 S.Ct. 3128 (1982); *Allied-Signal, Inc. v. Director, Division of Taxation*, 504 U.S. 768, 112 S.Ct. 2251 (1992); *Container Corp. v. Franchise Tax Board*, 463 U.S. 159, 180, n. 19, 103 S.Ct. 2933, 2948, n. 19 (1983); IC 6-3-2-2(l); IC 6-3-2-2(p); IC 6-3-2-2(q); 35 ILCS 5/1501(a)(27); Tenn.Code Ann. § 67-4-2004(25)(B)

Taxpayer protests the Audit Division's subsequent disallowance of unitary combined filing status, for purposes of the taxpayer's combined adjusted income tax return for fiscal years 1995, 1996 and 1997, on the basis that the combined return inaccurately reported taxpayer's Indiana source income.

II. Adjusted Gross Income Tax – Unitary Filing Status – Retroactive Withdrawal of Permission to File Unitary

Authority: IC 6-3-2-2

Taxpayer claims that if the Department finds that it does not qualify to file on a unitary basis with its parent corporation and the members of the recreational vehicle group for Indiana tax purposes, then alternatively taxpayer and the original members of the recreational vehicle group that filed Indiana tax returns for the tax years in question should have been allowed to file on a consolidated basis with the parent corporation. As such, taxpayer protests the Audit Division's retroactive withdrawal of its grant of permission to allow taxpayer and the original members of the recreational group that filed Indiana tax returns to file unitary combined returns.

III. Adjusted Gross Income Tax – Consolidated Returns

Authority: None

Taxpayer claims that the Department erred in requiring taxpayer and the five additional members of the recreational vehicle group that filed Indiana tax returns to file separate tax returns.

IV. Adjusted Gross Income Tax – Throwback Sales

Authority: *Wisconsin Department of Revenue v. William Wrigley Jr. Co.*, 505 U.S. 214, 112 S.Ct. 2447 (1992); *Indiana Dept. of State Revenue v. Continental Steel Corp.*, 399 N.E.2d 754 (Ind. Ct. App. 1980); IC 6-3-2-2; IC 6-8.1-5-1; 45 IAC 3.1-1-64; Public Law 86-272 (15 U.S.C.A §381-385)

Taxpayer raises for the first time at hearing the following issue: whether taxpayer and the original members of the recreational group that filed Indiana tax returns erred in classifying sales to states other than Indiana as throwback sales.

STATEMENT OF FACTS

Taxpayer's parent corporation (hereinafter, "Parent") is a holding company for various companies located in the United States and Canada which manufacture recreational vehicles. By a letter dated August 25, 1995, Parent petitioned the Department of Revenue for permission to file a combined return with all fourteen of its recreational vehicle subsidiaries (hereinafter referred to collectively as the "RV Subsidiaries") based upon the premise that they formed a unitary group. In its petition, Parent maintained that the RV Subsidiaries were one hundred percent (100%) owned by Parent; that the entities are all engaged in the same line of business; that the entities share common directors and common management; and, that filing separate company returns would not fairly reflect Indiana income.

In a letter dated October 10, 1995, and based upon the information submitted by Parent, the Indiana Department of Revenue granted Parent's petition to file unitary combined returns as a unitary group with five of the fourteen RV Subsidiaries for fiscal year 1995 forward. Specifically, the Department found that Parent and the five members of the RV Subsidiary that filed Indiana income tax returns met the unity requirements through their unity of ownership, centralized management, and centralized financial, administrative and operational services. (*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 2). The Department further found that Parent and the five subsidiaries met the "best method for reporting adjusted gross income" test through their shared industry impact on Indiana adjusted gross income and their non-arms length transactions. *Id*. The Department determined that the remaining nine subsidiaries could not be included in the unitary group or taxed by Indiana because they did not have sufficient contacts with the state of Indiana. Although the Department granted Parent's request, in part, to file unitary, it nevertheless, reserved the right to revoke its grant of permission for unitary combined filing in the event that, *inter alia*, the facts subsequently established by the Department disclosed material error or misrepresentation of the facts set forth in Parent's original petition. (*See Department of Revenue-Tax Policy Division Letter* dated August 30, 1995, page 3).

In a letter dated March 2, 1996, Parent re-petitioned the Department for permission to file combined returns with all of the RV Subsidiaries. In its letter dated March 20, 1996, the Department denied Parent's second petition, and reiterated that permission was granted for only five of the fourteen subsidiaries. Thereafter, Parent filed unitary combined returns including the five subsidiaries beginning in the fiscal year ending July 31, 1995.

In 1998, Parent amended its 1995 and 1996 Indiana tax returns to expand its combined filings to include all fourteen of its RV Subsidiaries. Parent based its amended returns on its position that the Department had erroneously failed to grant it permission to file combined Indiana income tax returns with the RV Subsidiaries.

The "taxpayer" in the instant case is an Indiana subsidiary of Parent and one of the five RV subsidiaries originally permitted to be included in the combined filings. The audit of taxpayer stems from an audit that was performed on the combined filings of Parent and its RV Subsidiaries for fiscal years 1995 through 1997 (which included the 1995 and 1996 amended returns). The disallowance of Parent's combined filings resulted in separate filing reports being generated for the subsidiaries that were originally granted permission to be included in the combined filing. The audit of taxpayer is of one such separate filing.

Pursuant to the audit performed on taxpayer, the auditor found that the expenses incurred by Parent on behalf of its subsidiary were properly reflected in the books of the subsidiary. As such, the Department determined that the Indiana income of taxpayer was more fairly reflected by filing separate company returns.

I. Adjusted Gross Income Tax – Unitary Filing Status

DISCUSSION

The taxpayer (*i.e.*, one of the RV Subsidiaries that filed Indiana income tax returns and was originally permitted to be included in the combined filings) protests the Department's determination that it may not file unitary combined returns for the fiscal years in question. Taxpayer argues that the combined reporting is the only filing method that fairly represents the flow of value from functional integration, centralized management, and economies of scale, present between taxpayer, Parent, and the remaining RV Subsidiaries.

In addressing this question, we examine: (1) whether a unitary relationship actually existed between Parent, taxpayer, and the remaining RV Subsidiaries; and (2) whether filing a combined return would more fairly represent the Parent's, taxpayer's, and remaining RV Subsidiaries' Indiana income. Hereinafter, the remaining RV Subsidiaries will be collectively referred to as the "RV Group".

The Supreme Court over the years has developed a three-part test in determining whether a unitary relationship exists: common ownership, common management, and common use or operation. *See, e.g., Mobil Oil Corporation v. Commissioner of Taxes of Vermont*, 445 U.S. 425, 100 S.Ct. 1223 (1980); *Exxon Corp. v. Department of Revenue of Wisconsin*, 447 U.S. 207, 100 S.Ct. 2109 (1980); *ASARCO, Inc. v. Idaho State Tax Commission*, 458 U.S. 307, 102 S.Ct. 3103 (1982); *F.W. Woolworth v. Taxation and Revenue Department of New Mexico*, 458 U.S. 354, 102 S.Ct. 3128 (1982); *Allied-Signal, Inc. v. Director, Division of Taxation*, 504 U.S. 768, 112 S.Ct. 2251 (1992). The first item to be considered under this three-part test is common ownership. As a general rule, at least fifty percent (50%) of a corporation's stock must be commonly owned (either directly or indirectly) in order for a corporation to be considered part of a unitary business. *See, e.g.*, 35 ILCS 5/1501(a)(27) and Tenn.Code Ann. § 67-4-2004(25)(B). The information in taxpayer's file shows that during the audit period Parent owned one hundred percent (100%) of the stock of taxpayer and the members of the RV Group. The evidence of file is sufficient to establish common ownership.

The second criteria to be considered is common management. Common management is shown when the parent corporation provides a management role that is grounded in the parent's own operation expertise and overall operational strategy. *See, e.g.*, *Container Corp. V. Franchise Tax Board*, 463 U.S. 159, 180, n. 19, 103 S.Ct. 2933, 2948, n. 19 (1983).

Here, the taxpayer has supplied evidence which shows that Parent exercised control and influence over it and the RV Group. Parent's upper management consisted of a CEO, a Chairman and Treasurer, and a Vice President of Finance and Chief Administrative Officer. These three individuals were responsible operationally for taxpayer and the entire RV Group. Taxpayer and each one of the entities in the RV Group were required to submit to Parent's upper management for review and comment daily sales reports, monthly and annual financial reports, and operating and budget plans and goals. The CEO of Parent approved all capital expenditures in excess of one thousand dollars ($1000.00). Common management existed between Parent, taxpayer, and the RV Group.

The third test is that of common operation or use. Evidence of a common operation exists where certain functions are performed for the group by the parent (such as purchasing, financing, advertising, marketing, research, tax compliance, insurance, and pension plan management) which independent companies would perform for themselves.

In the taxpayer's case, information was supplied which shows that many of the administrative, management, and financing functions for taxpayer and the RV Group were centralized. Parent's upper management employed a purchasing agent who was responsible for negotiating national supply contracts for the RV Group. Upper management selected the independent accountants, legal counsel, and insurance carriers that provided accounting, legal and insurance services to the RV Group. Parent's upper management also coordinated the administration of the employee benefits plan for the RV Group. Upper management purchased advertising space in various recreational vehicle trade magazines for the RV Group, and the entities of the RV Group often participated in joint presentations.

On the basis of these facts, it appears that taxpayer enjoyed a unitary relationship with Parent and the RV Group. There exists the elements of common ownership and management, and a modicum flow of value between the members of the business group. Using Parent's upper management to provide services for the RV Group that the taxpayer and the RV Group could have provided for themselves, resulted in common operation.

We now turn to the next point of analysis and the question of whether requiring taxpayer and the RV Group to use a standard apportionment or separate company filing method, instead of combined return filing, would result in a distortion of the income Parent reported as Indiana source income. Ultimately, this question requires us to determine whether, under all of the circumstances of the unitary relationship between Parent, taxpayer, and the RV Group, standard apportionment fulfills the statutory purpose of avoiding distortion of and realistically portraying Indiana source income. *See* IC 6-3-2-2(p).

Although IC 6-3-2-2(q) allows a parent corporation to petition the Department to file a combined return, it also incorporates by reference the restrictions imposed on alternative methods of reporting adjusted gross income by subsection (l) of that same section. Subsection (l) states in pertinent part:

> If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:
>
> ...
>
> (4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

The language in subsection (l) indicates that the standard apportionment and the separate accounting filing methods are the preferred methods of representing a taxpayer's income derived from Indiana sources. Other methods of income allocation and apportionment (including the combined reporting method) should only be allowed when those provided for by IC 6-3-2-2 do not fairly reflect a taxpayer's Indiana income. If the Indiana source income in the instant case can be fairly represented on the basis of standard apportionment or separate accounting, then such filing methods should be used.

Despite the finding of a unitary relationship between Parent, taxpayer, and the RV Group, and despite the relationship between the business operations of the entities, it does not appear that the operations of the businesses were so integrated to the point where the filing of separate returns would lead to a distortion of income. The evidence on file establishes that inter-company accounts existed for inter-company transactions between Parent, taxpayer, and the RV Group. Interest was paid and received by Parent on these accounts. The balance of the amounts contained in the inter-company accounts consisted of the earnings and profits of taxpayer and the members of the RV Group. Taxpayer and the members of the RV Group were required to remit to Parent at the end of each fiscal year any and all earnings and profits. If taxpayer or a member of the RV Group was unable to remit its profits for the year, Parent charged the entity interest on the unpaid amount. The delinquent entity paid an interest rate of prime plus one percent (1%).

Additionally, the evidence on file substantiates the finding that Parent was compensated for the services that it performed for taxpayer and the members of the RV Group. The expenses incurred by Parent were allocated to the appropriate entity receiving the benefit. As such, the expenses were properly reflected on each subsidiary's financial statements.

The extensive documentation presented by taxpayer does not demonstrate that the business operations of Parent, taxpayer, and the members of the RV Group were so interconnected that it becomes impossible to accurately determine the Indiana source income attributable to the respective entities.

FINDING

Taxpayer's protest is denied.

II. Adjusted Gross Income Tax – Unitary Filing Status – Retroactive Withdrawal of Permission to File Unitary

DISCUSSION

Taxpayer next argues that it and the original members of the recreational vehicle group that filed Indiana tax returns for the tax years in question should have been allowed to file on a unitary basis with the parent corporation. As such, taxpayer protests the Audit Division's retroactive withdrawal of its grant of permission to allow taxpayer and the original members of the recreational group that filed Indiana tax returns to file unitary combined returns without a finding of some material misstatement of fact.

In a letter dated October 10, 1995, the Department of Revenue granted Parent's petition to file unitary combined returns as a unitary group with five of the fourteen RV Subsidiaries for fiscal year 1995 forward. However, pursuant to an audit of Parent that resulted in the disallowance of Parent's filing on a combined basis with its subsidiaries, Parent was required to generate separate taxed returns for all of its subsidiaries, including the taxpayer and the subsidiaries with which Parent was originally granted permission to file on a unitary basis.

The statute applicable to the permission issue is found in IC 6-3-2-2 which states in pertinent part that:

IC 6-3-2-2 Corporations and nonresidents; "adjusted gross income derived from sources in state" defined...

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana...

(q)... taxpayers may petition the department... for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year.

(*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 1).

The Department's grant of permission to file combined returns was a determination, based upon the facts available to the Department at the time, upon which taxpayer's parent corporation could rely. However, the Department did reserve the right to revoke the grant of permission if, *inter alia*, "the facts subsequently established by the Department disclose material error or misrepresentation to the facts set forth in this petition." (*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 3). This right of revocation was clearly set forth in the letter to Parent. And, the language of the letter clearly warned Parent that should a subsequent audit reveal a misrepresentation of the facts set forth originally, permission to file combined returns would be revoked.

The evidence on file evinces that the Department granted permission to Parent to include certain subsidiaries in a combined filing based upon an assertion made by Parent in its original petition letter dated August 25, 1995. In this letter, Parent stated that, "Management fees are not paid by the subsidiaries to [Parent]. [Parent] is not a profit center; therefore, no income is recognized by [Parent] from services provided to its subsidiaries." (*See Parent's Original Petition Letter* dated August 25, 1995, page 4). Upon examination of the facts purported by Parent in its petition, and pursuant to the audit, the auditor discovered inter-company transactions (including management services) that were provided by Parent to its subsidiaries at arm's length.

Notwithstanding the foregoing, we do not believe that the Audit Division's subsequent reversal of the Department's determination that taxpayer could file combined tax returns was due to a material error or misrepresentation. The original approval letter specifically stated that combined filing status would be revoked if a material error or misrepresentation was discovered. However, through its examination of the books, records, and property of taxpayer, and its determination that separate filing best represented the taxpayer's Indiana income, Audit did not discover any material error or misrepresentation on the part of taxpayer.

Upon review of the instant case, the Department concludes that the original approval letter granting taxpayer permission to file combined tax returns is in error, but was not the result of a material error or misrepresentation on the part of taxpayer in the application process. Therefore, the appropriate remedy is for taxpayer's combined filings with the five RV subsidiaries originally permitted to be included in the combined returns for the years in question to be allowed.

FINDING

Taxpayer's protest is sustained. Taxpayer's combined returns with the five RV subsidiaries originally permitted to be included in the combined returns for the tax years in question will be allowed. However, taxpayer's permission to file combined tax returns with the five RV subsidiaries originally permitted to be included in the combined returns is revoked for tax years beginning after the date of the audit report.

III. Adjusted Gross Income Tax – Consolidated Returns

DISCUSSION

Taxpayer next protests the Audit Division's determination that taxpayer and the members of the recreational vehicle group that filed Indiana tax returns were required to file separate filing reports for fiscal year ends 1995 through 1997. Taxpayer maintains that it should have been allowed to file consolidated returns with the members of the recreational vehicle group that filed Indiana tax returns for fiscal year ends 1995 through 1997, and with Parent for fiscal year ends 1996 and 1997. According to taxpayer, the filing of consolidated returns is the only way to fairly reflect taxpayer's and the subsidiaries' Indiana source income.

As we have already granted taxpayer permission to file combined tax returns with the five RV subsidiaries originally permitted to be included in the combined returns for the tax years encompassed by the audit, this question is moot.

FINDING

Taxpayer's protest is denied.

IV. Adjusted Gross Income Tax – Throwback Sales

DISCUSSION

During the audit period, taxpayer and the subsidiaries that filed Indiana tax returns classified sales of recreational vehicles and parts to customers outside of Indiana (*i.e.*, recreational vehicle dealers and other subsidiaries) as throwback sales. According to taxpayer, it and the subsidiaries were under the mistaken belief that they were not subject to income tax in states other than Indiana, Ohio, and Michigan. Taxpayer believes that because it and the subsidiaries clearly had nexus activity in all the states where the recreational vehicles dealers are located (hereinafter, the "Dealers"), sales destined to those particular states should not have been classified as throwback sales.

Sales made by Indiana corporations to out-of-state purchasers must be apportioned as income to Indiana if the state in which the purchaser resides is without legal authority to claim such income as its own. *See* IC 6-3-2-2(e) and 45 IAC 3.1-1-64. Specifically, if interstate sales are "taxable in another state" - *i.e.*, the state of the purchaser - the sales are not includible in the numerator of the Indiana sales factor. Such sales are defined as throwback sales.

According to IC 6-3-2-2(n):

For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

Indiana's regulatory language further defines "taxable in another state." 45 IAC 3.1-1-64 states in part:

A corporation is "taxable in another state" under the Act when such state has jurisdiction to subject it [the corporation] to a net income tax. This test applies if the taxpayer's business activities are sufficient to give the state jurisdiction to impose a net income tax under the Constitution and statutes of the United States. Jurisdiction to tax is not present where the state is prohibited from imposing the tax by reason of the provision of Public Law 86-272, 15 U.S.C.A. §381-385.

The taxpayer bears the burden to prove that an assessment by the Department is invalid. IC 6-8.1-5-1.

In *Wisconsin Department of Revenue v. William Wrigley Jr. Co.*, 505 U.S. 214, 112 S.Ct. 2447 (1992), the United States Supreme Court interpreted the term "solicitation" for purposes of P.L. 86-272, the federal law that generally exempts a corporation from state income tax if the company's only activity in the state is solicitation of sales of tangible personal property. Wrigley also established that a *de minimis* amount of nonsolicitation activity will not cause a corporation to lose its exemption from state taxation under P.L. 86-272. In *Wrigley*, the Court found that activities ancillary to the solicitation of orders would not result in a loss of immunity to taxation. Additionally, the Court held that as long as an activity, or activities, did not establish a nontrivial, additional connection with the taxing state it is sufficiently *de minimis* to avoid taxation. (*See also, Indiana Dept. of State Revenue v. Continental Steel Corp.*, 399 N.E.2d 754, 759 (Ind. Ct. App. 1980), where the court set out examples of activity which exceeded "mere solicitation" including "giving spot credit, accepting orders, collecting delinquent accounts and picking up returned goods within the taxing state, collecting deposits and advances on orders within the taxing state, pooling and exchanging technical personnel in a complex mutual endeavor, maintaining personal property... and associated local business activity for purposes not related to soliciting orders within the taxing state.")

The records and evidence presented to the Department lead to the conclusion that taxpayer and the Indiana subsidiaries contracted with Dealers outside of Indiana to perform warranty repair services. Periodic visits made by the employees of taxpayer and the Indiana subsidiaries to other states were to brief Dealers' on the products and the distinguishing features of the products in comparison with competitor's products, and to generate new business and to insure future sales of the products. These activities are all protected as ancillary to solicitation and would not subject taxpayer or any of the Indiana subsidiaries to taxation in other states. The few visits made by employees to brief Dealers on the products could be construed as *de minimis*. The Department concludes that taxpayer has not proven that it is subject to taxation in other states, and that the throwback of sales shipped to the other states were properly added into the numerator of the sales factor.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02990658.LOF

LETTER OF FINDINGS NUMBER: 99-0658
Adjusted Gross Income Tax – Unitary (Combined) Filing Status
Fiscal Years 1995 through 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana

Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Adjusted Gross Income Tax – Unitary Filing Status

Authority: *Mobil Oil Corporation v. Commissioner of Taxes of Vermont*, 445 U.S. 425, 100 S.Ct. 1223 (1980); *Exxon Corp. v. Department of Revenue of Wisconsin*, 447 U.S. 207, 100 S.Ct. 2109 (1980); *ASARCO, Inc. v. Idaho State Tax Commission*, 458 U.S. 307, 102 S.Ct. 3103 (1982); *F.W. Woolworth v. Taxation and Revenue Department of New Mexico*, 458 U.S. 354, 102 S.Ct. 3128 (1982); *Allied-Signal, Inc. v. Director, Division of Taxation*, 504 U.S. 768, 112 S.Ct. 2251 (1992); *Container Corp. v. Franchise Tax Board*, 463 U.S. 159, 180, n. 19, 103 S.Ct. 2933, 2948, n. 19 (1983); IC 6-3-2-2(l); IC 6-3-2-2(p); IC 6-3-2-2(q); 35 ILCS 5/1501(a)(27); Tenn.Code Ann. § 67-4-2004(25)(B)

Taxpayer protests the Audit Division's subsequent disallowance of unitary combined filing status, for purposes of the taxpayer's combined adjusted income tax return for fiscal years 1995, 1996 and 1997, on the basis that the combined return inaccurately reported taxpayer's Indiana source income.

II. Adjusted Gross Income Tax – Unitary Filing Status – Retroactive Withdrawal of Permission to File Unitary

Authority: IC 6-3-2-2

Taxpayer claims that if the Department finds that it does not qualify to file on a unitary basis with its parent corporation and the members of the recreational vehicle group for Indiana tax purposes, then alternatively taxpayer and the original members of the recreational vehicle group that filed Indiana tax returns for the tax years in question should have been allowed to file on a consolidated basis with the parent corporation. As such, taxpayer protests the Audit Division's retroactive withdrawal of its grant of permission to allow taxpayer and the original members of the recreational group that filed Indiana tax returns to file unitary combined returns.

III. Adjusted Gross Income Tax – Consolidated Returns

Authority: None

Taxpayer claims that the Department erred in requiring taxpayer and the five additional members of the recreational vehicle group that filed Indiana tax returns to file separate tax returns.

IV. Adjusted Gross Income Tax – Throwback Sales

Authority: *Wisconsin Department of Revenue v. William Wrigley Jr. Co.*, 505 U.S. 214, 112 S.Ct. 2447 (1992); *Indiana Dept. of State Revenue v. Continental Steel Corp.*, 399 N.E.2d 754 (Ind. Ct. App. 1980); IC 6-3-2-2; IC 6-8.1-5-1; 45 IAC 3.1-1-64; Public Law 86-272 (15 U.S.C.A §381-385)

Taxpayer raises for the first time at hearing the following issue: whether taxpayer and the original members of the recreational group that filed Indiana tax returns erred in classifying sales to states other than Indiana as throwback sales.

STATEMENT OF FACTS

Taxpayer's parent corporation (hereinafter, "Parent") is a holding company for various companies located in the United States and Canada which manufacture recreational vehicles. By a letter dated August 25, 1995, Parent petitioned the Department of Revenue for permission to file a combined return with all fourteen of its recreational vehicle subsidiaries (hereinafter referred to collectively as the "RV Subsidiaries") based upon the premise that they formed a unitary group. In its petition, Parent maintained that the RV Subsidiaries were one hundred percent (100%) owned by Parent; that the entities are all engaged in the same line of business; that the entities share common directors and common management; and, that filing separate company returns would not fairly reflect Indiana income.

In a letter dated October 10, 1995, and based upon the information submitted by Parent, the Indiana Department of Revenue granted Parent's petition to file unitary combined returns as a unitary group with five of the fourteen RV Subsidiaries for fiscal year 1995 forward. Specifically, the Department found that Parent and the five members of the RV Subsidiary that filed Indiana income tax returns met the unity requirements through their unity of ownership, centralized management, and centralized financial, administrative and operational services. (*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 2). The Department further found that Parent and the five subsidiaries met the "best method for reporting adjusted gross income" test through their shared industry impact on Indiana adjusted gross income and their non-arms length transactions. *Id*. The Department determined that the remaining nine subsidiaries could not be included in the unitary group or taxed by Indiana because they did not have sufficient contacts with the state of Indiana. Although the Department granted Parent's request, in part, to file unitary, it nevertheless, reserved the right to revoke its grant of permission for unitary combined filing in the event that, *inter alia*, the facts subsequently established by the Department disclosed material error or misrepresentation of the facts set forth in Parent's original petition. (*See Department of Revenue-Tax Policy Division Letter* dated August 30, 1995, page 3).

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In 1998, Parent amended its 1995 and 1996 Indiana tax returns to expand its combined filings to include all fourteen of its RV Subsidiaries. Parent based its amended returns on its position that the Department had erroneously failed to grant it permission to file combined Indiana income tax returns with the RV Subsidiaries.

The "taxpayer" in the instant case is an Indiana subsidiary of Parent and one of the five RV subsidiaries originally permitted to be included in the combined filings. The audit of taxpayer stems from an audit that was performed on the combined filings of Parent and its RV Subsidiaries for fiscal years 1995 through 1997 (which included the 1995 and 1996 amended returns). The disallowance of Parent's combined filings resulted in separate filing reports being generated for the subsidiaries that were originally granted permission to be included in the combined filing. The audit of taxpayer is of one such separate filing.

Pursuant to the audit performed on taxpayer, the auditor found that the expenses incurred by Parent on behalf of its subsidiary were properly reflected in the books of the subsidiary. As such, the Department determined that the Indiana income of taxpayer was more fairly reflected by filing separate company returns.

I. Adjusted Gross Income Tax – Unitary Filing Status

DISCUSSION

The taxpayer (*i.e.*, one of the RV Subsidiaries that filed Indiana income tax returns and was originally permitted to be included in the combined filings) protests the Department's determination that it may not file unitary combined returns for the fiscal years in question. Taxpayer argues that the combined reporting is the only filing method that fairly represents the flow of value from functional integration, centralized management, and economies of scale, present between taxpayer, Parent, and the remaining RV Subsidiaries.

In addressing this question, we examine: (1) whether a unitary relationship actually existed between Parent, taxpayer, and the remaining RV Subsidiaries; and (2) whether filing a combined return would more fairly represent the Parent's, taxpayer's, and remaining RV Subsidiaries' Indiana income. Hereinafter, the remaining RV Subsidiaries will be collectively referred to as the "RV Group".

The Supreme Court over the years has developed a three-part test in determining whether a unitary relationship exists: common ownership, common management, and common use or operation. *See, e.g., Mobil Oil Corporation v. Commissioner of Taxes of Vermont*, 445 U.S. 425, 100 S.Ct. 1223 (1980); *Exxon Corp. v. Department of Revenue of Wisconsin*, 447 U.S. 207, 100 S.Ct. 2109 (1980); *ASARCO, Inc. v. Idaho State Tax Commission*, 458 U.S. 307, 102 S.Ct. 3103 (1982); *F.W. Woolworth v. Taxation and Revenue Department of New Mexico*, 458 U.S. 354, 102 S.Ct. 3128 (1982); *Allied-Signal, Inc. v. Director, Division of Taxation*, 504 U.S. 768, 112 S.Ct. 2251 (1992). The first item to be considered under this three-part test is common ownership. As a general rule, at least fifty percent (50%) of a corporation's stock must be commonly owned (either directly or indirectly) in order for a corporation to be considered part of a unitary business. *See, e.g.*, 35 ILCS 5/1501(a)(27) and Tenn.Code Ann. § 67-4-2004(25)(B). The information in taxpayer's file shows that during the audit period Parent owned one hundred percent (100%) of the stock of taxpayer and the members of the RV Group. The evidence of file is sufficient to establish common ownership.

The second criteria to be considered is common management. Common management is shown when the parent corporation provides a management role that is grounded in the parent's own operation expertise and overall operational strategy. *See, e.g., Container Corp. V. Franchise Tax Board*, 463 U.S. 159, 180, n. 19, 103 S.Ct. 2933, 2948, n. 19 (1983).

Here, the taxpayer has supplied evidence which shows that Parent exercised control and influence over it and the RV Group. Parent's upper management consisted of a CEO, a Chairman and Treasurer, and a Vice President of Finance and Chief Administrative Officer. These three individuals were responsible operationally for taxpayer and the entire RV Group. Taxpayer and each one of the entities in the RV Group were required to submit to Parent's upper management for review and comment daily sales reports, monthly and annual financial reports, and operating and budget plans and goals. The CEO of Parent approved all capital expenditures in excess of one thousand dollars ($1000.00). Common management existed between Parent, taxpayer, and the RV Group.

The third test is that of common operation or use. Evidence of a common operation exists where certain functions are performed for the group by the parent (such as purchasing, financing, advertising, marketing, research, tax compliance, insurance, and pension plan management) which independent companies would perform for themselves.

In the taxpayer's case, information was supplied which shows that many of the administrative, management, and financing functions for taxpayer and the RV Group were centralized. Parent's upper management employed a purchasing agent who was responsible for negotiating national supply contracts for the RV Group. Upper management selected the independent accountants, legal counsel, and insurance carriers that provided accounting, legal and insurance services to the RV Group. Parent's upper management also coordinated the administration of the employee benefits plan for the RV Group. Upper management purchased advertising space in various recreational vehicle trade magazines for the RV Group, and the entities of the RV Group often participated in joint presentations.

On the basis of these facts, it appears that taxpayer enjoyed a unitary relationship with Parent and the RV Group. There exists the elements of common ownership and management, and a modicum flow of value between the members of the business group. Using Parent's upper management to provide services for the RV Group that the taxpayer and the RV Group could have provided for themselves, resulted in common operation.

We now turn to the next point of analysis and the question of whether requiring taxpayer and the RV Group to use a standard apportionment or separate company filing method, instead of combined return filing, would result in a distortion of the income Parent reported as Indiana source income. Ultimately, this question requires us to determine whether, under all of the circumstances of the unitary relationship between Parent, taxpayer, and the RV Group, standard apportionment fulfills the statutory purpose of avoiding distortion of and realistically portraying Indiana source income. *See* IC 6-3-2-2(p).

Although IC 6-3-2-2(q) allows a parent corporation to petition the Department to file a combined return, it also incorporates by reference the restrictions imposed on alternative methods of reporting adjusted gross income by subsection (l) of that same section. Subsection (l) states in pertinent part:

> If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:
>
> ...
>
> (4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

The language in subsection (l) indicates that the standard apportionment and the separate accounting filing methods are the preferred methods of representing a taxpayer's income derived from Indiana sources. Other methods of income allocation and apportionment (including the combined reporting method) should only be allowed when those provided for by IC 6-3-2-2 do not fairly reflect a taxpayer's Indiana income. If the Indiana source income in the instant case can be fairly represented on the basis of standard apportionment or separate accounting, then such filing methods should be used.

Despite the finding of a unitary relationship between Parent, taxpayer, and the RV Group, and despite the relationship between the business operations of the entities, it does not appear that the operations of the businesses were so integrated to the point where the filing of separate returns would lead to a distortion of income. The evidence on file establishes that inter-company accounts existed for inter-company transactions between Parent, taxpayer, and the RV Group. Interest was paid and received by Parent on these accounts. The balance of the amounts contained in the inter-company accounts consisted of the earnings and profits of taxpayer and the members of the RV Group. Taxpayer and the members of the RV Group were required to remit to Parent at the end of each fiscal year any and all earnings and profits. If taxpayer or a member of the RV Group was unable to remit its profits for the year, Parent charged the entity interest on the unpaid amount. The delinquent entity paid an interest rate of prime plus one percent (1%).

Additionally, the evidence on file substantiates the finding that Parent was compensated for the services that it performed for taxpayer and the members of the RV Group. The expenses incurred by Parent were allocated to the appropriate entity receiving the benefit. As such, the expenses were properly reflected on each subsidiary's financial statements.

The extensive documentation presented by taxpayer does not demonstrate that the business operations of Parent, taxpayer, and the members of the RV Group were so interconnected that it becomes impossible to accurately determine the Indiana source income attributable to the respective entities.

FINDING

Taxpayer's protest is denied.

II. Adjusted Gross Income Tax – Unitary Filing Status – Retroactive Withdrawal of Permission to File Unitary

DISCUSSION

Taxpayer next argues that it and the original members of the recreational vehicle group that filed Indiana tax returns for the tax years in question should have been allowed to file on a unitary basis with the parent corporation. As such, taxpayer protests the Audit Division's retroactive withdrawal of its grant of permission to allow taxpayer and the original members of the recreational group that filed Indiana tax returns to file unitary combined returns without a finding of some material misstatement of fact.

In a letter dated October 10, 1995, the Department of Revenue granted Parent's petition to file unitary combined returns as a unitary group with five of the fourteen RV Subsidiaries for fiscal year 1995 forward. However, pursuant to an audit of Parent that resulted in the disallowance of Parent's filing on a combined basis with its subsidiaries, Parent was required to generate separate taxed returns for all of its subsidiaries, including the taxpayer and the subsidiaries with which Parent was originally granted permission to file on a unitary basis.

The statute applicable to the permission issue is found in IC 6-3-2-2 which states in pertinent part that:

> IC 6-3-2-2 Corporations and nonresidents; "adjusted gross income derived from sources in state" defined...
>
> (l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana...
>
> (q)... taxpayers may petition the department... for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year.
>
> (*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 1).

The Department's grant of permission to file combined returns was a determination, based upon the facts available to the Department at the time, upon which taxpayer's parent corporation could rely. However, the Department did reserve the right to

revoke the grant of permission if, *inter alia*, "the facts subsequently established by the Department disclose material error or misrepresentation to the facts set forth in this petition." (*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 3). This right of revocation was clearly set forth in the letter to Parent. And, the language of the letter clearly warned Parent that should a subsequent audit reveal a misrepresentation of the facts set forth originally, permission to file combined returns would be revoked.

The evidence on file evinces that the Department granted permission to Parent to include certain subsidiaries in a combined filing based upon an assertion made by Parent in its original petition letter dated August 25, 1995. In this letter, Parent stated that, "Management fees are not paid by the subsidiaries to [Parent]. [Parent] is not a profit center; therefore, no income is recognized by [Parent] from services provided to its subsidiaries." (*See Parent's Original Petition Letter* dated August 25, 1995, page 4). Upon examination of the facts purported by Parent in its petition, and pursuant to the audit, the auditor discovered inter-company transactions (including management services) that were provided by Parent to its subsidiaries at arm's length.

Notwithstanding the foregoing, we do not believe that the Audit Division's subsequent reversal of the Department's determination that taxpayer could file combined tax returns was due to a material error or misrepresentation. The original approval letter specifically stated that combined filing status would be revoked if a material error or misrepresentation was discovered. However, through its examination of the books, records, and property of taxpayer, and its determination that separate filing best represented the taxpayer's Indiana income, Audit did not discover any material error or misrepresentation on the part of taxpayer.

Upon review of the instant case, the Department concludes that the original approval letter granting taxpayer permission to file combined tax returns is in error, but was not the result of a material error or misrepresentation on the part of taxpayer in the application process. Therefore, the appropriate remedy is for taxpayer's combined filings with the five RV subsidiaries originally permitted to be included in the combined returns for the years in question to be allowed.

FINDING

Taxpayer's protest is sustained. Taxpayer's combined returns with the five RV subsidiaries originally permitted to be included in the combined returns for the tax years in question will be allowed. However, taxpayer's permission to file combined tax returns with the five RV subsidiaries originally permitted to be included in the combined returns is revoked for tax years beginning after the date of the audit report.

III. Adjusted Gross Income Tax – Consolidated Returns

DISCUSSION

Taxpayer next protests the Audit Division's determination that taxpayer and the members of the recreational vehicle group that filed Indiana tax returns were required to file separate filing reports for fiscal year ends 1995 through 1997. Taxpayer maintains that it should have been allowed to file consolidated returns with the members of the recreational vehicle group that filed Indiana tax returns for fiscal year ends 1995 through 1997, and with Parent for fiscal year ends 1996 and 1997. According to taxpayer, the filing of consolidated returns is the only way to fairly reflect taxpayer's and the subsidiaries' Indiana source income.

As we have already granted taxpayer permission to file combined tax returns with the five RV subsidiaries originally permitted to be included in the combined returns for the tax years encompassed by the audit, this question is moot.

FINDING

Taxpayer's protest is denied.

IV. Adjusted Gross Income Tax – Throwback Sales

DISCUSSION

During the audit period, taxpayer and the subsidiaries that filed Indiana tax returns classified sales of recreational vehicles and parts to customers outside of Indiana (*i.e.*, recreational vehicle dealers and other subsidiaries) as throwback sales. According to taxpayer, it and the subsidiaries were under the mistaken belief that they were not subject to income tax in states other than Indiana, Ohio, and Michigan. Taxpayer believes that because it and the subsidiaries clearly had nexus activity in all the states where the recreational vehicles dealers are located (hereinafter, the "Dealers"), sales destined to those particular states should not have been classified as throwback sales.

Sales made by Indiana corporations to out-of-state purchasers must be apportioned as income to Indiana if the state in which the purchaser resides is without legal authority to claim such income as its own. *See* IC 6-3-2-2(e) and 45 IAC 3.1-1-64. Specifically, if interstate sales are "taxable in another state" - *i.e.*, the state of the purchaser - the sales are not includible in the numerator of the Indiana sales factor. Such sales are defined as throwback sales.

According to IC 6-3-2-2(n):

For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

Indiana's regulatory language further defines "taxable in another state." 45 IAC 3.1-1-64 states in part:

A corporation is "taxable in another state" under the Act when such state has jurisdiction to subject it [the corporation] to a net income tax. This test applies if the taxpayer's business activities are sufficient to give the state jurisdiction to impose a net income tax under the Constitution and statutes of the United States. Jurisdiction to tax is not present where the state is prohibited from imposing the tax by reason of the provision of Public Law 86-272, 15 U.S.C.A. §381-385.

The taxpayer bears the burden to prove that an assessment by the Department is invalid. IC 6-8.1-5-1.

In *Wisconsin Department of Revenue v. William Wrigley Jr. Co.*, 505 U.S. 214, 112 S.Ct. 2447 (1992), the United States Supreme Court interpreted the term "solicitation" for purposes of P.L. 86-272, the federal law that generally exempts a corporation from state income tax if the company's only activity in the state is solicitation of sales of tangible personal property. Wrigley also established that a *de minimis* amount of nonsolicitation activity will not cause a corporation to lose its exemption from state taxation under P.L. 86-272. In *Wrigley*, the Court found that activities ancillary to the solicitation of orders would not result in a loss of immunity to taxation. Additionally, the Court held that as long as an activity, or activities, did not establish a nontrivial, additional connection with the taxing state it is sufficiently *de minimis* to avoid taxation. (*See also, Indiana Dept. of State Revenue v. Continental Steel Corp.*, 399 N.E.2d 754, 759 (Ind. Ct. App. 1980), where the court set out examples of activity which exceeded "mere solicitation" including "giving spot credit, accepting orders, collecting delinquent accounts and picking up returned goods within the taxing state, collecting deposits and advances on orders within the taxing state, pooling and exchanging technical personnel in a complex mutual endeavor, maintaining personal property... and associated local business activity for purposes not related to soliciting orders within the taxing state.")

The records and evidence presented to the Department lead to the conclusion that taxpayer and the Indiana subsidiaries contracted with Dealers outside of Indiana to perform warranty repair services. Periodic visits made by the employees of taxpayer and the Indiana subsidiaries to other states were to brief Dealers' on the products and the distinguishing features of the products in comparison with competitor's products, and to generate new business and to insure future sales of the products. These activities are all protected as ancillary to solicitation and would not subject taxpayer or any of the Indiana subsidiaries to taxation in other states. The few visits made by employees to brief Dealers on the products could be construed as *de minimis*. The Department concludes that taxpayer has not proven that it is subject to taxation in other states, and that the throwback of sales shipped to the other states were properly added into the numerator of the sales factor.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02990659.LOF

LETTER OF FINDINGS NUMBER: 99-0659
Adjusted Gross Income Tax – Unitary (Combined) Filing Status
Fiscal Years 1995 through 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Adjusted Gross Income Tax – Unitary Filing Status

Authority: *Mobil Oil Corporation v. Commissioner of Taxes of Vermont*, 445 U.S. 425, 100 S.Ct. 1223 (1980); *Exxon Corp. v. Department of Revenue of Wisconsin*, 447 U.S. 207, 100 S.Ct. 2109 (1980); *ASARCO, Inc. v. Idaho State Tax Commission*, 458 U.S. 307, 102 S.Ct. 3103 (1982); *F.W. Woolworth v. Taxation and Revenue Department of New Mexico*, 458 U.S. 354, 102 S.Ct. 3128 (1982); *Allied-Signal, Inc. v. Director, Division of Taxation*, 504 U.S. 768, 112 S.Ct. 2251 (1992); *Container Corp. v. Franchise Tax Board*, 463 U.S. 159, 180, n. 19, 103 S.Ct. 2933, 2948, n. 19 (1983); IC 6-3-2-2(l); IC 6-3-2-2(p); IC 6-3-2-2(q); 35 ILCS 5/1501(a)(27); Tenn.Code Ann. § 67-4-2004(25)(B)

Taxpayer protests the Audit Division's subsequent disallowance of unitary combined filing status, for purposes of the taxpayer's combined adjusted income tax return for fiscal years 1995, 1996 and 1997, on the basis that the combined return inaccurately reported taxpayer's Indiana source income.

II. Adjusted Gross Income Tax – Unitary Filing Status – Retroactive Withdrawal of Permission to File Unitary

Authority: IC 6-3-2-2

Taxpayer claims that if the Department finds that it does not qualify to file on a unitary basis with its parent corporation and the members of the recreational vehicle group for Indiana tax purposes, then alternatively taxpayer and the original members of the recreational vehicle group that filed Indiana tax returns for the tax years in question should have been allowed to file on a

consolidated basis with the parent corporation. As such, taxpayer protests the Audit Division's retroactive withdrawal of its grant of permission to allow taxpayer and the original members of the recreational group that filed Indiana tax returns to file unitary combined returns.

III. Adjusted Gross Income Tax – Consolidated Returns

Authority: None

Taxpayer claims that the Department erred in requiring taxpayer and the five additional members of the recreational vehicle group that filed Indiana tax returns to file separate tax returns.

IV. Adjusted Gross Income Tax – Throwback Sales

Authority: *Wisconsin Department of Revenue v. William Wrigley Jr. Co.*, 505 U.S. 214, 112 S.Ct. 2447 (1992); *Indiana Dept. of State Revenue v. Continental Steel Corp.*, 399 N.E.2d 754 (Ind. Ct. App. 1980); IC 6-3-2-2; IC 6-8.1-5-1; 45 IAC 3.1-1-64; Public Law 86-272 (15 U.S.C.A §381-385)

Taxpayer raises for the first time at hearing the following issue: whether taxpayer and the original members of the recreational group that filed Indiana tax returns erred in classifying sales to states other than Indiana as throwback sales.

STATEMENT OF FACTS

Taxpayer's parent corporation (hereinafter, "Parent") is a holding company for various companies located in the United States and Canada which manufacture recreational vehicles. By a letter dated August 25, 1995, Parent petitioned the Department of Revenue for permission to file a combined return with all fourteen of its recreational vehicle subsidiaries (hereinafter referred to collectively as the "RV Subsidiaries") based upon the premise that they formed a unitary group. In its petition, Parent maintained that the RV Subsidiaries were one hundred percent (100%) owned by Parent; that the entities are all engaged in the same line of business; that the entities share common directors and common management; and, that filing separate company returns would not fairly reflect Indiana income.

In a letter dated October 10, 1995, and based upon the information submitted by Parent, the Indiana Department of Revenue granted Parent's petition to file unitary combined returns as a unitary group with five of the fourteen RV Subsidiaries for fiscal year 1995 forward. Specifically, the Department found that Parent and the five members of the RV Subsidiary that filed Indiana income tax returns met the unity requirements through their unity of ownership, centralized management, and centralized financial, administrative and operational services. (*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 2). The Department further found that Parent and the five subsidiaries met the "best method for reporting adjusted gross income" test through their shared industry impact on Indiana adjusted gross income and their non-arms length transactions. *Id*. The Department determined that the remaining nine subsidiaries could not be included in the unitary group or taxed by Indiana because they did not have sufficient contacts with the state of Indiana. Although the Department granted Parent's request, in part, to file unitary, it nevertheless, reserved the right to revoke its grant of permission for unitary combined filing in the event that, *inter alia*, the facts subsequently established by the Department disclosed material error or misrepresentation of the facts set forth in Parent's original petition. (*See Department of Revenue-Tax Policy Division Letter* dated August 30, 1995, page 3).

In a letter dated March 2, 1996, Parent re-petitioned the Department for permission to file combined returns with all of the RV Subsidiaries. In its letter dated March 20, 1996, the Department denied Parent's second petition, and reiterated that permission was granted for only five of the fourteen subsidiaries. Thereafter, Parent filed unitary combined returns including the five subsidiaries beginning in the fiscal year ending July 31, 1995.

In 1998, Parent amended its 1995 and 1996 Indiana tax returns to expand its combined filings to include all fourteen of its RV Subsidiaries. Parent based its amended returns on its position that the Department had erroneously failed to grant it permission to file combined Indiana income tax returns with the RV Subsidiaries.

The "taxpayer" in the instant case is an Indiana subsidiary of Parent and one of the five RV subsidiaries originally permitted to be included in the combined filings. The audit of taxpayer stems from an audit that was performed on the combined filings of Parent and its RV Subsidiaries for fiscal years 1995 through 1997 (which included the 1995 and 1996 amended returns). The disallowance of Parent's combined filings resulted in separate filing reports being generated for the subsidiaries that were originally granted permission to be included in the combined filing. The audit of taxpayer is of one such separate filing.

Pursuant to the audit performed on taxpayer, the auditor found that the expenses incurred by Parent on behalf of its subsidiary were properly reflected in the books of the subsidiary. As such, the Department determined that the Indiana income of taxpayer was more fairly reflected by filing separate company returns.

I. Adjusted Gross Income Tax – Unitary Filing Status

DISCUSSION

The taxpayer (*i.e.*, one of the RV Subsidiaries that filed Indiana income tax returns and was originally permitted to be included in the combined filings) protests the Department's determination that it may not file unitary combined returns for the fiscal years in question. Taxpayer argues that the combined reporting is the only filing method that fairly represents the flow of value from functional integration, centralized management, and economies of scale, present between taxpayer, Parent, and the remaining RV Subsidiaries.

In addressing this question, we examine: (1) whether a unitary relationship actually existed between Parent, taxpayer, and the remaining RV Subsidiaries; and (2) whether filing a combined return would more fairly represent the Parent's, taxpayer's, and remaining RV Subsidiaries' Indiana income. Hereinafter, the remaining RV Subsidiaries will be collectively referred to as the "RV Group".

The Supreme Court over the years has developed a three-part test in determining whether a unitary relationship exists: common ownership, common management, and common use or operation. *See, e.g., Mobil Oil Corporation v. Commissioner of Taxes of Vermont*, 445 U.S. 425, 100 S.Ct. 1223 (1980); *Exxon Corp. v. Department of Revenue of Wisconsin*, 447 U.S. 207, 100 S.Ct. 2109 (1980); *ASARCO, Inc. v. Idaho State Tax Commission*, 458 U.S. 307, 102 S.Ct. 3103 (1982); *F.W. Woolworth v. Taxation and Revenue Department of New Mexico*, 458 U.S. 354, 102 S.Ct. 3128 (1982); *Allied-Signal, Inc. v. Director, Division of Taxation*, 504 U.S. 768, 112 S.Ct. 2251 (1992). The first item to be considered under this three-part test is common ownership. As a general rule, at least fifty percent (50%) of a corporation's stock must be commonly owned (either directly or indirectly) in order for a corporation to be considered part of a unitary business. *See, e.g.,* 35 ILCS 5/1501(a)(27) and Tenn.Code Ann. § 67-4-2004(25)(B). The information in taxpayer's file shows that during the audit period Parent owned one hundred percent (100%) of the stock of taxpayer and the members of the RV Group. The evidence of file is sufficient to establish common ownership.

The second criteria to be considered is common management. Common management is shown when the parent corporation provides a management role that is grounded in the parent's own operation expertise and overall operational strategy. *See, e.g., Container Corp. V. Franchise Tax Board*, 463 U.S. 159, 180, n. 19, 103 S.Ct. 2933, 2948, n. 19 (1983).

Here, the taxpayer has supplied evidence which shows that Parent exercised control and influence over it and the RV Group. Parent's upper management consisted of a CEO, a Chairman and Treasurer, and a Vice President of Finance and Chief Administrative Officer. These three individuals were responsible operationally for taxpayer and the entire RV Group. Taxpayer and each one of the entities in the RV Group were required to submit to Parent's upper management for review and comment daily sales reports, monthly and annual financial reports, and operating and budget plans and goals. The CEO of Parent approved all capital expenditures in excess of one thousand dollars ($1000.00). Common management existed between Parent, taxpayer, and the RV Group.

The third test is that of common operation or use. Evidence of a common operation exists where certain functions are performed for the group by the parent (such as purchasing, financing, advertising, marketing, research, tax compliance, insurance, and pension plan management) which independent companies would perform for themselves.

In the taxpayer's case, information was supplied which shows that many of the administrative, management, and financing functions for taxpayer and the RV Group were centralized. Parent's upper management employed a purchasing agent who was responsible for negotiating national supply contracts for the RV Group. Upper management selected the independent accountants, legal counsel, and insurance carriers that provided accounting, legal and insurance services to the RV Group. Parent's upper management also coordinated the administration of the employee benefits plan for the RV Group. Upper management purchased advertising space in various recreational vehicle trade magazines for the RV Group, and the entities of the RV Group often participated in joint presentations.

On the basis of these facts, it appears that taxpayer enjoyed a unitary relationship with Parent and the RV Group. There exists the elements of common ownership and management, and a modicum flow of value between the members of the business group. Using Parent's upper management to provide services for the RV Group that the taxpayer and the RV Group could have provided for themselves, resulted in common operation.

We now turn to the next point of analysis and the question of whether requiring taxpayer and the RV Group to use a standard apportionment or separate company filing method, instead of combined return filing, would result in a distortion of the income Parent reported as Indiana source income. Ultimately, this question requires us to determine whether, under all of the circumstances of the unitary relationship between Parent, taxpayer, and the RV Group, standard apportionment fulfills the statutory purpose of avoiding distortion of and realistically portraying Indiana source income. *See* IC 6-3-2-2(p).

Although IC 6-3-2-2(q) allows a parent corporation to petition the Department to file a combined return, it also incorporates by reference the restrictions imposed on alternative methods of reporting adjusted gross income by subsection (l) of that same section. Subsection (l) states in pertinent part:

> If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:
>
> ...
>
> (4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

The language in subsection (l) indicates that the standard apportionment and the separate accounting filing methods are the preferred methods of representing a taxpayer's income derived from Indiana sources. Other methods of income allocation and apportionment (including the combined reporting method) should only be allowed when those provided for by IC 6-3-2-2 do not fairly reflect a taxpayer's Indiana income. If the Indiana source income in the instant case can be fairly represented on the basis of standard apportionment or separate accounting, then such filing methods should be used.

Despite the finding of a unitary relationship between Parent, taxpayer, and the RV Group, and despite the relationship between the business operations of the entities, it does not appear that the operations of the businesses were so integrated to the point where the filing of separate returns would lead to a distortion of income. The evidence on file establishes that inter-company accounts existed for inter-company transactions between Parent, taxpayer, and the RV Group. Interest was paid and received by Parent on these accounts. The balance of the amounts contained in the inter-company accounts consisted of the earnings and profits of taxpayer and the members of the RV Group. Taxpayer and the members of the RV Group were required to remit to Parent at the end of each fiscal year any and all earnings and profits. If taxpayer or a member of the RV Group was unable to remit its profits for the year, Parent charged the entity interest on the unpaid amount. The delinquent entity paid an interest rate of prime plus one percent (1%).

Additionally, the evidence on file substantiates the finding that Parent was compensated for the services that it performed for taxpayer and the members of the RV Group. The expenses incurred by Parent were allocated to the appropriate entity receiving the benefit. As such, the expenses were properly reflected on each subsidiary's financial statements.

The extensive documentation presented by taxpayer does not demonstrate that the business operations of Parent, taxpayer, and the members of the RV Group were so interconnected that it becomes impossible to accurately determine the Indiana source income attributable to the respective entities.

FINDING

Taxpayer's protest is denied.

II. Adjusted Gross Income Tax – Unitary Filing Status – Retroactive Withdrawal of Permission to File Unitary

DISCUSSION

Taxpayer next argues that it and the original members of the recreational vehicle group that filed Indiana tax returns for the tax years in question should have been allowed to file on a unitary basis with the parent corporation. As such, taxpayer protests the Audit Division's retroactive withdrawal of its grant of permission to allow taxpayer and the original members of the recreational group that filed Indiana tax returns to file unitary combined returns without a finding of some material misstatement of fact.

In a letter dated October 10, 1995, the Department of Revenue granted Parent's petition to file unitary combined returns as a unitary group with five of the fourteen RV Subsidiaries for fiscal year 1995 forward. However, pursuant to an audit of Parent that resulted in the disallowance of Parent's filing on a combined basis with its subsidiaries, Parent was required to generate separate taxed returns for all of its subsidiaries, including the taxpayer and the subsidiaries with which Parent was originally granted permission to file on a unitary basis.

The statute applicable to the permission issue is found in IC 6-3-2-2 which states in pertinent part that:

IC 6-3-2-2 Corporations and nonresidents; "adjusted gross income derived from sources in state" defined...

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana...

(q)... taxpayers may petition the department... for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year.

(*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 1).

The Department's grant of permission to file combined returns was a determination, based upon the facts available to the Department at the time, upon which taxpayer's parent corporation could rely. However, the Department did reserve the right to revoke the grant of permission if, *inter alia*, "the facts subsequently established by the Department disclose material error or misrepresentation to the facts set forth in this petition." (*See Department of Revenue-Tax Policy Division Letter* dated October 10, 1995, page 3). This right of revocation was clearly set forth in the letter to Parent. And, the language of the letter clearly warned Parent that should a subsequent audit reveal a misrepresentation of the facts set forth originally, permission to file combined returns would be revoked.

The evidence on file evinces that the Department granted permission to Parent to include certain subsidiaries in a combined filing based upon an assertion made by Parent in its original petition letter dated August 25, 1995. In this letter, Parent stated that, "Management fees are not paid by the subsidiaries to [Parent]. [Parent] is not a profit center; therefore, no income is recognized by [Parent] from services provided to its subsidiaries." (*See Parent's Original Petition Letter* dated August 25, 1995, page 4). Upon examination of the facts purported by Parent in its petition, and pursuant to the audit, the auditor discovered inter-company transactions (including management services) that were provided by Parent to its subsidiaries at arm's length.

Notwithstanding the foregoing, we do not believe that the Audit Division's subsequent reversal of the Department's determination that taxpayer could file combined tax returns was due to a material error or misrepresentation. The original approval letter specifically stated that combined filing status would be revoked if a material error or misrepresentation was discovered. However, through its examination of the books, records, and property of taxpayer, and its determination that separate filing best represented the taxpayer's Indiana income, Audit did not discover any material error or misrepresentation on the part of taxpayer.

Upon review of the instant case, the Department concludes that the original approval letter granting taxpayer permission to file combined tax returns is in error, but was not the result of a material error or misrepresentation on the part of taxpayer in the

application process. Therefore, the appropriate remedy is for taxpayer's combined filings with the five RV subsidiaries originally permitted to be included in the combined returns for the years in question to be allowed.

FINDING

Taxpayer's protest is sustained. Taxpayer's combined returns with the five RV subsidiaries originally permitted to be included in the combined returns for the tax years in question will be allowed. However, taxpayer's permission to file combined tax returns with the five RV subsidiaries originally permitted to be included in the combined returns is revoked for tax years beginning after the date of the audit report.

III. Adjusted Gross Income Tax – Consolidated Returns

DISCUSSION

Taxpayer next protests the Audit Division's determination that taxpayer and the members of the recreational vehicle group that filed Indiana tax returns were required to file separate filing reports for fiscal year ends 1995 through 1997. Taxpayer maintains that it should have been allowed to file consolidated returns with the members of the recreational vehicle group that filed Indiana tax returns for fiscal year ends 1995 through 1997, and with Parent for fiscal year ends 1996 and 1997. According to taxpayer, the filing of consolidated returns is the only way to fairly reflect taxpayer's and the subsidiaries' Indiana source income.

As we have already granted taxpayer permission to file combined tax returns with the five RV subsidiaries originally permitted to be included in the combined returns for the tax years encompassed by the audit, this question is moot.

FINDING

Taxpayer's protest is denied.

IV. Adjusted Gross Income Tax – Throwback Sales

DISCUSSION

During the audit period, taxpayer and the subsidiaries that filed Indiana tax returns classified sales of recreational vehicles and parts to customers outside of Indiana (*i.e.*, recreational vehicle dealers and other subsidiaries) as throwback sales. According to taxpayer, it and the subsidiaries were under the mistaken belief that they were not subject to income tax in states other than Indiana, Ohio, and Michigan. Taxpayer believes that because it and the subsidiaries clearly had nexus activity in all the states where the recreational vehicles dealers are located (hereinafter, the "Dealers"), sales destined to those particular states should not have been classified as throwback sales.

Sales made by Indiana corporations to out-of-state purchasers must be apportioned as income to Indiana if the state in which the purchaser resides is without legal authority to claim such income as its own. *See* IC 6-3-2-2(e) and 45 IAC 3.1-1-64. Specifically, if interstate sales are "taxable in another state" - *i.e.*, the state of the purchaser - the sales are not includible in the numerator of the Indiana sales factor. Such sales are defined as throwback sales.

According to IC 6-3-2-2(n):

For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

Indiana's regulatory language further defines "taxable in another state." 45 IAC 3.1-1-64 states in part:

A corporation is "taxable in another state" under the Act when such state has jurisdiction to subject it [the corporation] to a net income tax. This test applies if the taxpayer's business activities are sufficient to give the state jurisdiction to impose a net income tax under the Constitution and statutes of the United States. Jurisdiction to tax is not present where the state is prohibited from imposing the tax by reason of the provision of Public Law 86-272, 15 U.S.C.A. §381-385.

The taxpayer bears the burden to prove that an assessment by the Department is invalid. IC 6-8.1-5-1.

In *Wisconsin Department of Revenue v. William Wrigley Jr. Co.*, 505 U.S. 214, 112 S.Ct. 2447 (1992), the United States Supreme Court interpreted the term "solicitation" for purposes of P.L. 86-272, the federal law that generally exempts a corporation from state income tax if the company's only activity in the state is solicitation of sales of tangible personal property. Wrigley also established that a *de minimis* amount of nonsolicitation activity will not cause a corporation to lose its exemption from state taxation under P.L. 86-272. In *Wrigley*, the Court found that activities ancillary to the solicitation of orders would not result in a loss of immunity to taxation. Additionally, the Court held that as long as an activity, or activities, did not establish a nontrivial, additional connection with the taxing state it is sufficiently *de minimis* to avoid taxation. (*See also, Indiana Dept. of State Revenue v. Continental Steel Corp.*, 399 N.E.2d 754, 759 (Ind. Ct. App. 1980), where the court set out examples of activity which exceeded "mere solicitation" including "giving spot credit, accepting orders, collecting delinquent accounts and picking up returned goods within the taxing state, collecting deposits and advances on orders within the taxing state, pooling and exchanging technical personnel in a complex mutual endeavor, maintaining personal property... and associated local business activity for purposes not related to soliciting orders within the taxing state.")

The records and evidence presented to the Department lead to the conclusion that taxpayer and the Indiana subsidiaries

contracted with Dealers outside of Indiana to perform warranty repair services. Periodic visits made by the employees of taxpayer and the Indiana subsidiaries to other states were to brief Dealers' on the products and the distinguishing features of the products in comparison with competitor's products, and to generate new business and to insure future sales of the products. These activities are all protected as ancillary to solicitation and would not subject taxpayer or any of the Indiana subsidiaries to taxation in other states. The few visits made by employees to brief Dealers on the products could be construed as *de minimis*. The Department concludes that taxpayer has not proven that it is subject to taxation in other states, and that the throwback of sales shipped to the other states were properly added into the numerator of the sales factor.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

1820000159.LOF

LETTER OF FINDINGS NUMBER: 00-0159
Financial Institutions Tax
For Tax Periods: 1993 through 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning specific issues.

ISSUE

Financial Institutions Tax – Unitary Filing

Authority: IC 6-5.5-5-1, IC 6-5.5-2-1, IC 6-5.5-1-18, IC 6-8.1-5-1(b)

The taxpayer protests the exclusion of certain affiliates from the unitary group.

STATEMENT OF FACTS

The taxpayer is a bank holding company based in the state of New York. Several of its subsidiaries conduct the business of a financial institution in Indiana. The Indiana Department of Revenue, hereinafter referred to as the "department," audited the taxpayer for the tax years 1993-1996. Prior to the audit, the taxpayer's subsidiaries filed returns as separate entities. The department calculated the taxpayer's financial institutions tax liability on a unitary basis. The taxpayer protested this assessment contending that additional affiliates should be included in the unitary group. A hearing was held to determine which affiliates should be included in the unitary group.

Financial Institutions Tax – Unitary Filing

DISCUSSION

IC 6-5.5-2-1 imposes a franchise tax on the income of financial institutions. The department determined the taxpayer's financial institutions tax liability on a unitary basis following the provisions of IC 6-5.5-5-1 as follows:

> ... a unitary group consisting of at least two (2) taxpayers shall file a combined return covering the operations of the unitary business and including all of the members of the unitary business.

A unitary group is defined at IC 6-5.5-1-18 as follows:

> ... unitary business means business activities or operations that are of mutual benefit, dependent upon, or contributory to one another, individually or as a group, in transacting the business of a financial institution... Unity is presumed whenever there is unity of ownership, operation, and use evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction among entities...

The department included the members of the taxpayer's federal consolidated filing group and its direct and indirectly owned subsidiaries in the unitary group upon which tax was assessed. The taxpayer contends that the unitary group should also have included the additional members historically filing on a combined basis in the states of California and Illinois. The issue to be determined is which business activities and operations should be considered members of the taxpayer's unitary group.

All tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b). The taxpayer failed to provide any documentary evidence in either its original letter of protest or after the hearing that the department's determination of the entities to be included in the unitary group was incorrect. Therefore, the taxpayer did not sustain its burden of proof that the department did not include the proper business activities and operations in the taxpayer's unitary group.

FINDING

The taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420000345.LOF

LETTER OF FINDINGS NUMBER: 00-0345
Sales/Use Tax
For the Tax Period: 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Use Tax – Imposition

Authority: IC 6-2.5-3-1 through IC 6-2.5-3-6

Taxpayer protests the assessment of tax on an aircraft.

STATEMENT OF FACTS

Taxpayer was a full year resident of Indiana in 1997. Taxpayer registered its aircraft, which was based at the White County airport, with the FAA on November 7, 1997. The department issued its proposed tax assessment on November 19, 1999 for the year 1997. The "Aviation Locator" indicates the aircraft was registered to WSCI from February 1, 1991 through February 19, 1997. Taxpayer states he does not have a sales/use tax liability since the aircraft purchase was out of state by an out of state resident and the aircraft was maintained out of state. Taxpayer further states that he remained an out of state resident for approximately three years following the purchase. The Department received notification that the taxpayer was the owner of the subject aircraft and found that the aircraft was not properly registered with the State of Indiana. On September 26, 1997, the taxpayer was informed that the aircraft was not registered and a proposed assessment would be issued if he did not reply within ten days of that letter. The department issued a proposed assessment based upon an average retail value for the type and year of the aircraft on November 19, 1999.

I. Use Tax – Imposition

DISCUSSION

In numerous arguments, taxpayer states he does not owe sales/use tax on the purchase of his plane. He argues that he purchased the aircraft while an out of state resident in 1988.

FAA records, however, indicate the taxpayer was not the registered owner of said aircraft until 1997. IC 6-2.5-3-6 requires the owner to pay the sales/use tax to the registering agency when the person **registers** (emphasis added) the aircraft.

"The notice of proposed assessment is *prima facie evidence* that the department's claim for unpaid tax is valid, and the burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." IC 6-8.1-5-1 (emphasis added). Taxpayer has not submitted any evidence or documentation to rebut the validity of the tax imposed on said aircraft. Therefore, the Department finds that the assessment is valid.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120010175.LOF

LETTER OF FINDINGS NUMBER: 01-0175
Individual Income Tax
For the Tax Year 1998 and 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. "S" Corporation's Vehicle / Advertising Expense Deduction

Authority: 45 IAC 3.1-1-66; I.R.C. § 179

Taxpayer argues that the audit erred in disallowing the purchase price of a vehicle as a business expense.

II. Disallowance of "S" Corporation Business Gift

Authority: I.R.C. § 162(a); I.R.C. § 274(b)(1); I.R.C. § 2503(b)

Taxpayer maintains that the audit improperly disallowed, as a business expense, the value of a computer which had been given to a family member as a gift.

III. Home Office Expenses for "S" Corporation

Authority: I.R.C. § 162(a); I.R.C. § 280A

Taxpayer argues that the S-Corporation is entitled to claim home office expenses as a business deduction.

STATEMENT OF FACTS

There are two independent players involved in this protest; the individual taxpayer and the taxpayer's business (*Hereinafter* "S-Corporation"). The business is qualified to file as an "S" corporation and did so for a number of years. However, in 1998 and 1999, the taxpayer filed incomplete tax returns for the S-Corporation. For 1998, taxpayer – on behalf of the S-Corporation – submitted the appropriate federal S corporation (1120S) return but did not submit or prepare the state S corporation return (IT-20S). In 1999, taxpayer prepared neither the state or federal S corporation returns. However, on taxpayer's own individual 1040 return, taxpayer attached a "Schedule C" (Profit or Loss From Business – Sole Partnership). On that Schedule C attachment, taxpayer claimed certain business expenses attributed to the S-Corporation.

Both the taxpayer and the S-Corporation were audited. Because the taxpayer failed to file Indiana S corporation returns for 1998 and 1999, those particular returns were completed on behalf of the S-Corporation. The audit prepared two S corporation returns based upon the existing 1998 S corporation federal return and the information contained within the taxpayer's individual 1999 Schedule C. The audit made certain adjustments and disallowed certain business expenses claimed on the 1999 Schedule C. It is those particular adjustments which form the basis for the protest which follows.

No tax was assessed against the S-Corporation. However, the disallowance of the S-Corporation's 1999 expenses resulted in additional income which flowed through to the taxpayer as – apparently – the sole shareholder of the S-Corporation. Therefore, although the protest stems from the assessment of *individual* income taxes, because of the relationship between taxpayer and the S-Corporation, the resolution of the issues raised by that assessment requires consideration of both S corporation and individual income tax questions.

Taxpayer – acting for both himself and the S-Corporation – challenged the assessment of the additional 1999 individual income taxes, an administrative hearing was held, and this Letter of Findings follows.

DISCUSSION

I. "S" Corporation's Vehicle / Advertising Expense Deduction

An S corporation normally does not pay income tax. 45 IAC 3.1-1-66, states that, "Corporations electing Subchapter S status under Internal Revenue Code § 1372... are exempt from adjusted gross and supplemental net income tax on all income except capital gains...." Rather than taxing the income at the business level, the S corporation's income is passed through to the shareholders. The shareholders then must report the income on their own income tax return. 45 IAC 3.1-1-66 states that, "Subchapter S corporation shareholders are taxed on their distributive shares of income at the individual income tax rate." This is the dilemma in which taxpayer finds himself; because certain of the S-Corporation's deductions were disallowed, additional taxable income flowed through to the taxpayer as the S-Corporation's shareholder. It was this additional flow-through income which led to the imposition of additional, individual income taxes.

The S-Corporation purchased a vehicle in 1999 for approximately $5,800. Taxpayer – on behalf of the S-Corporation – argues that the S-Corporation was entitled to deduct immediately the total purchase price of the vehicle under I.R.C. § 179. Taxpayer – again on behalf of the S-Corporation – maintains that the vehicle is not a "vehicle" for purposes of state or federal income tax. According to taxpayer, the vehicle is "used as advertising in front of the [S-Corporation's] retail store. Therefore, the taxpayer maintains that the purchase of the "vehicle" was more akin to the acquisition of a stationary, permanent, advertising display.

The audit disagreed with the taxpayer's argument. Instead of treating the purchase of the vehicle as an ordinary business expense under I.R.C. § 179, the audit – under I.R.C. § 280F – "depreciated" the entire vehicle cost over a five-year period because the vehicle was used exclusively for business purposes. That is, rather than allowing the entire $5,800 as a wholesale business expense deduction, the audit allowed the S-Corporation to claim a $1,160 deduction on the S-Corporation's 1999 tax return. Presumably, the same "straight line" deduction will be available to the S-Corporation in 2000, 2001, 2002, and 2003.

Taxpayer states that the vehicle is permanently parked in front of the S-Corporation's retail site and that such an arrangement is necessary in order to attract attention to the site's location. In addition, taxpayer indicates that– at least temporarily – the vehicle is immobile because the battery has been removed. However, it should also be noted that the audit report indicated that the vehicle had certain "mileage" during the tax period.

This does not seem to be an instance in which a vehicle has been purchased, reconditioned, immobilized, and permanently adopted as a fixed advertising structure. However necessary it may be that the vehicle remain parked in front of the S-Corporation's business location, the vehicle remains a "vehicle." The audit did not err in requiring that the original purchase price be depreciated over the five-year period.

FINDING

Taxpayer's protest is respectfully denied.

II. Disallowance of "S" Corporation Business Gift

The S-Corporation gave a disused computer to taxpayer's daughter. The computer was assigned a value of $650 and was claimed by the S-Corporation as a business expense in 1999. The gift may have been a sensible way in which to dispose of a

computer which had become obsolete for purposes of the S-Corporation; however, taxpayer fails to explain in what manner the S-Corporation is entitled to claim the gift as a "business expense." Taxpayer claims that the S-Corporation is entitled to give up to $10,000 in gifts. Insofar as it relates to the S-Corporation's state income tax liability, taxpayer is mistaken. Under I.R.C. § 274(b)(1), the S-Corporation is limited to claiming a deduction for business gifts, made either directly or indirectly, up to $25 per recipient each year.

Taxpayer's assertion – that the S-Corporation is entitled to make an annual gift of up to $10,000 per year – may be a reference to the gift tax exclusion which the donor of a gift is entitled to claim under I.R.C. § 2503(b). Under that provision, the first $10,000 of gifts made by a donor to any recipient is not included in the total amount of the donor's taxable gifts during that year. However taxpayer – or more accurately, the S-Corporation – is seeking relief from an assessment of additional income taxes. Whether or not the S-Corporation is entitled to the $10,000 gift tax exclusion is irrelevant; the issue is whether or not the S-Corporation may claim the $650 as a "business expense." On this question, taxpayer's protest fails because there is no indication that the cost of giving away a computer is an "ordinary and necessary business expense...." I.R.C. § 162(a). Taxpayer's relief is limited to the extent that the S-Corporation is entitled to claim the $25 business gift deduction provided under I.R.C. § 274(b)(1).

FINDING

Taxpayer's protest is respectfully denied.

III. Home Office Expenses for "S" Corporation

Taxpayer – on behalf of the S-Corporation – argues that the S-Corporation was entitled to claim a deduction for business expenses based upon the taxpayer's own individual home office deduction. Simply stated, taxpayer – as an individual and shareholder – performed the necessary calculations and determined that he was entitled to claim an approximately $3,000 "home office" deduction on his individual 1999 federal income tax return. Consequently, according to taxpayer, the S-Corporation is entitled to claim an identical amount as one of S-Corporation's ordinary business expenses.

Taxpayer is correct in his assertion that he may be individually entitled to claim a deduction for home office expenses under I.R.C. § 280A. The Department does not challenge the taxpayer's claim to a home office deduction on his individual income tax return for 1999.

The S-Corporation – as a separate entity – is entitled to claim under I.R.C. § 162(a) a deduction for "all the ordinary and necessary expenses paid or incurred... in carrying on any trade or business." However, the S-Corporation and the taxpayer cannot have it both ways. If, under I.R.C. § 280A, taxpayer individually incurred expenses attributable to operating the business from his home, then taxpayer was entitled to deduct the general "home office" deduction on his individual federal income tax returns. If the S-Corporation incurs particularized "ordinary and necessary business expenses," then the S-Corporation was entitled to claim those *particular* expenses as a deduction under I.R.C. § 162(a). It is immaterial whether the S-Corporations business expenses are attributable to its retail location or to the business activities conducted at the taxpayer's own home. However, taxpayer mistakenly regards his own expenses and the expenses of the S-Corporation as two sides of the same coin. The taxpayer may be entitled to claim home office expenses on his individual tax return. The S-Corporation may be able to demonstrate that it incurred its own "ordinary and necessary expenses." Nevertheless, an individual employee's home office expenses and a corporation's "ordinary and necessary expenses" are not the same; the two sets of expenses are incurred by two distinct entities, the two are computed differently, and they are attributable to entirely different taxpayers.

Taxpayer makes much of the fact that the nature of the S-Corporation requires it to have two federal licenses. However, whether the S-Corporation has two or twenty licenses is unconnected with the question of whether the S-Corporation did not or did not incur "ordinary and necessary expenses." In this instance, taxpayer may be legitimately entitled to claim the home office deduction on his personal federal income tax return. However, the S-Corporation – as a separate taxable entity – must search elsewhere in order to locate and specifically identify its own "ordinary and business expenses."

Taxpayer is entitled to organize his business as an S corporation under federal and state law and to obtain the distinct advantages attributable to such an arrangement. However, having done so, taxpayer is required to distinguish between those expenses he incurred and those expenses the S-Corporation incurred.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0420010292.LOF

LETTER OF FINDINGS NUMBER: 01–0292
Gross Retail and Use Tax – Adequate Documentation
Tax Administration – Penalty
For Tax Years 1998-1999

NOTICE: Under Ind. Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana

Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Gross Retail and Use Tax – Adequate Documentation

Authority: IC § 6-8.1-5-1; 45 IAC 15-5-4

Taxpayer protests the proposed assessments of Indiana's gross retail and use taxes.

II. Tax Administration – Penalty

Authority: IC § 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the proposed assessment of the negligence penalty.

STATEMENT OF FACTS

Taxpayer sells used medical equipment, primarily ultra sound machines. In August of 2000, the Audit Division notified taxpayer he had been selected for auditing and that certain records should be available to complete the audit in a timely fashion. *See*, discussion, *infra*. Because taxpayer and his representative were uncooperative in providing the required documentation, the Audit Division assessed gross retail and use tax based on the best information available to the auditor. Taxpayer and his representative then filed a protest, claiming the documents were then available; taxpayer and his representative then cancelled two meetings with the auditor. The file came to the Legal Division for resolution. Thereafter, the auditor was able to examine documentation made available pursuant to an agreement between the Department and taxpayer's representative.

Taxpayer protests the proposed assessment of Indiana's gross retail and use taxes based on the best information available to the auditor at the time of the audit. Because there was little information available at the time of the original audit, a projection was used to determine gross retail tax liability for 1998. The auditor also assessed use tax on a variety of expense item purchases, using a projection for 1999 because of the same lack of available information. Finally, the 10% negligence penalty was imposed. The auditor returned to taxpayer's representative's office to examine thoroughly additional documentation made available after a protest hearing was held. The auditor was unable to determine taxpayer's liability based on the new documentation and again relied on the projections used in the original audit exam, concluding the review in December of 2002. Additional facts will be added as necessary.

I. Gross Retail and Use Tax – Adequate Documentation

DISCUSSION

Taxpayer protests the proposed assessments of Indiana's gross retail and use taxes. Because of taxpayer's and his representative's reluctance to timely provide the proper documents to the auditor, and their continuing failure to cooperate with the Department, a hearing was set before one of the Legal Division's Hearing Officers. At the hearing, taxpayer's representative stated that records for tax year 1998 were now ready for inspection. Since the proposed assessment for 1998 was based on a projection backward from tax year 1999, the availability of 1998's records would have presented a more accurate basis for a proposed assessment. Therefore, a supplemental audit was performed pursuant to IC § 6-8.1-5-1 and 45 IAC 15-5-4. However, the auditor, after thoroughly reviewing the new documentation, determined that there were numerous invoices that were needed, but not provided, for his inspection. Further, there were numerous problems with the documents actually provided. In short, taxpayer, after being given numerous opportunities to provide appropriately reliable documentation in support of his protest, failed to provide what was needed in order to refute the Department's projection method.

As just one example from the many listed in the auditor's supplemental examination memorandum, the auditor noted that taxpayer should have been able to provide a 1998 Sales Journal "clearly showing Indiana and non-Indiana sales" and 1998 Sales invoices with "ship to" information on it. Instead, taxpayer only provided "deal jackets" for 1998, some of which were sequentially missing and showed no Indiana buyers. Taxpayer's income tax return did not have any apportionment, and all sales were shown as Indiana sales.

FINDING

Taxpayer's protest concerning the proposed assessments of Indiana's gross retail and use taxes is denied.

II. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the imposition of the 10% negligence penalty. Taxpayer argues that it had reasonable cause for failing to pay the appropriate amount of tax due. Taxpayer's representative stated at the hearing that there was no intent to defraud the state, and that taxpayer's failure to pay the proper amount of tax was due to faulty corporate financial structuring and failure to keep proper records in a form and place readily accessible.

Indiana Code Section 6-8.1-10-2.1(d) states that if a taxpayer subject to the negligence penalty imposed under this section can show that the failure to file a return, pay the full amount of tax shown on the person's return, timely remit taxes held in trust, or pay the deficiency determined by the department was due to reasonable cause and not due to willful neglect, the department shall waive the penalty. Indiana Administrative Code, Title 45, Rule 15, section 11-2 defines negligence as the failure to use reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence results from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by Indiana's tax statutes and administrative regulations.

In order for the Department to waive the negligence penalty, taxpayer must prove that its failure to pay the full amount of tax due was due to reasonable cause. Taxpayer may establish reasonable cause by "demonstrat[ing] that it exercised ordinary business care and prudence in carrying or failing to carry out a duty giving rise to the penalty imposed...." In determining whether reasonable cause existed, the Department may consider the nature of the tax involved, previous judicial precedents, previous department instructions, and previous audits.

Taxpayer has failed to set forth a basis whereby the Department could conclude taxpayer exercised the degree of care statutorily imposed upon an ordinarily reasonable taxpayer. It is undisputed that taxpayer failed to keep proper records. Given the totality of the circumstances, waiver of the penalty is inappropriate in this instance because taxpayer was negligent in keeping proper corporate records of its business transactions.

FINDING

Taxpayer's protest concerning the proposed assessment of the 10% negligence penalty is denied.

DEPARTMENT OF STATE REVENUE

0420010302.LOF

LETTER OF FINDINGS NUMBER: 01-0302
Use Tax
For Tax Year 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Use Tax – Volvo Loader

Authority: Mechanics Laundry & Supply, Inc. v. Indiana Department of State Revenue, 650 N.E.2d 1223 (Ind. Tax 1995); IC 6-2.5-5-3; 45 IAC 2.2-3-13; 45 IAC 2.2-5-61

Taxpayer protests the imposition of use tax on its purchase of a Volvo loader.

STATEMENT OF FACTS

Taxpayer operates a trucking company, which hauls stone, dirt, sand, and other materials for hire. As the result of an audit, the Indiana Department of Revenue ("Department") issued a proposed use tax assessment. Taxpayer protests that a Volvo loader taxed by the Department is exempt from sales and use tax. Further facts will be supplied as necessary.

I. Use Tax – Volvo Loader

DISCUSSION

Taxpayer protests the imposition of use tax on a Volvo loader. The Department issued a proposed use tax assessment on the loader based on its finding that the loader is not used exclusively for the mining of sand and public transportation, and that taxpayer's use of the loader does not constitute a mining operation, but rather is a service provided by taxpayer to its customers. The Department refers to 45 IAC 2.2-3-13, which states:

Tangible personal property, purchased in Indiana or elsewhere in a retail transaction from a retail merchant, and stored, used, or otherwise consumed in Indiana is subject to Indiana use tax measured by the gross retail income received from such property, unless the Indiana gross retail tax has been collected at the point of purchase.

Taxpayer protests that it uses the loader to extract sand from a pit owned by its customer and load it onto trucks it owns for transport to its customer's locations. The relevant statute is IC 6-2.5-5-3(b), which states:

Transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for direct use in the production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or furnishing of other tangible personal property.

In support of its protest, taxpayer supplied documentation establishing that it did extract and then transport sand for its customers.

While it is true that taxpayer extracted the sand for its customer from the customer's pit, the Indiana Tax Court explained in Mechanics Laundry:

In the case of the equipment exemption, our supreme court has held that the terms used are not separate and distinct. *Indiana Department of State Revenue v. Cave Stone, Inc. (1983), N.E.2d 520*. Indeed, the supreme court stated that the terms used "are not mutually exclusive;…[rather, they] overlap and at times encompass each other." *Id. at 524*.

Mechanics Laundry & Supply, Inc. v. Indiana Department of State Revenue, 650 N.E.2d 1223, 1228 (Ind. Tax 1995)

Therefore, in order to qualify for the exemption provided in IC 6-2.5-5-3(b), a purchaser must use the equipment in the

production of tangible personal property. In the instant case, taxpayer did not own the sand when it was in the ground, on its trucks, or at any other time. Taxpayer was not extracting and producing sand for sale, but rather was extracting and transporting sand as a service for its customer. Since taxpayer was not producing sand for sale, the exemption provided in IC 6-2.5-5-3(b) does not apply here.

Taxpayer also argues that the loader is used in public transportation. The relevant regulation is 45 IAC 2.2-5-61. 45 IAC 2.2-5-61(a) states:

> The state gross retail tax shall not apply to the sale and storage or use in this state of tangible personal property which is directly used in the rendering of public transportation of persons or property.
>
> 45 IAC 2.2-5-61(f) states in relevant part:
>
> The purchase, storage, or use of tangible personal property used for activities prior to or subsequent to the rendition of public transportation is subject to tax. For purposes of this regulation *[45 IAC 2.2]*, transportation means the movement, transporting, or carrying of persons or property from one place to another and includes loading and unloading of persons or property into or from transportation vehicles.

Since the loader is used in the loading of property (sand) into transportation vehicles, it is involved in public transportation, and so is exempt under 45 IAC 2.2-5-61.

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0420020021.LOF

LETTER OF FINDINGS NUMBER: 02-0021
State Gross Retail Tax
For Tax Years 1999 through 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. State Gross Retail Tax – Manufacturing Exemption

Authority: IC 6-2.5-2-1; IC 6-2.5-5-3(b); 45 IAC 2.2-5-8; 45 IAC 2.2-5-12(a)

Taxpayer protests the Department's determination that certain items of equipment did not qualify for the manufacturing exemption from sales tax because they lacked an essential and integral relationship with the taxpayer's manufacturing process.

II. Tax Administration – Abatement of Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests imposition of a ten percent (10%) negligence penalty.

STATEMENT OF FACTS

Taxpayer is a manufacturer of dies and molds. At issue are the Department's proposed assessments of sales and use tax on taxpayer's equipment. Additional facts are discussed below.

I. State Gross Retail Tax – Manufacturing Exemption

DISCUSSION

Taxpayer protests the Department's determination that certain items of equipment do not qualify for exemption from sales tax, under the manufacturing exemption set forth in 45 IAC 2.2-5-8, because the equipment does not have an essential and integral relationship with taxpayer's manufacturing process. These items include an air dryer and a 3D scanning machine.

Pursuant to IC 6-2.5-2-1, a sales tax, known as the state gross retail tax, is imposed on retail transactions made in Indiana unless a valid exemption is applicable. Under IC 6-2.5-5-3(b), 45 IAC 2.2-5-12(a), an exemption from the state gross retail tax is provided for transactions involving manufacturing machinery, tools, and equipment if the person acquiring that property acquires it for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property. (Emphasis added). 45 IAC 2.2-5-8(c) defines "direct use" as use having an immediate effect on the article being produced. Property has such an immediate effect if it is an essential and integral part of an integrated process that produces tangible personal property. 45 IAC 2.2-5-8(g).

AIR DRYER

Taxpayer argues that its air dryer is exempt from the state's retail tax because it is an item of equipment having a direct and immediate effect on the production of taxpayer's mold and die products. According to taxpayer, many of its production machines

(*e.g.*, airlift tables, air clutches, air brakes, air logic controls/valves, and air clamps) are operated by an air compressor system that requires clean and dry air to operate. Specifically, the air dryer acts as a filter that filters condensation out of the system and prevents moisture from penetrating the manufacturing lines. Although it is not attached directly to the air compressor, the air dryer works with the air compressor. Should water penetrate the manufacturing lines, rust would be created and the manufacturing process would be seriously, adversely affected.

Here, taxpayer has demonstrated that many of the machines used within the production process are operated by an interconnected production process comprised of an air compressor and an air dryer. The most closely analogous regulatory example is found at 45 IAC 2.2-5-8(g)(3) which states that:

> The manufacture of certain extruded rubber products uses an interconnected production process of an air compressor, and air dryer, and injection molding machines which work together to force rubber through dies in order to form the desired shapes. The component parts of the production process are exempt since the production process has an immediate effect upon the article being produced.

3D SCANNING MACHINE

Taxpayer also argues that the purchase of its 3D scanning machine is exempt from the state's gross retail tax. Taxpayer maintains that it uses the machine within the production process.

Taxpayer's scanning machine is a PC-based system used primarily for "reverse engineering". Taxpayer's customers routinely send to taxpayer dies and molds that are in need of repair, replacement blocks, or engineering changes. Typically, taxpayer receives the dies and molds without computer aided design (CAD) data, and without the tool drawings with which they were originally built. Taxpayer's scanning machine is therefore used to measure the size of the work piece, any hole locations, and the 3-D contoured surfaces.

As the scanning machine scans the surface of the work piece, the information is sent to a computer (attached to the 3D scanning machine) and eventually recorded on a disc. The information recorded on the disc is then reprogrammed (using computer aided manufacturing (CAM)) into a language that taxpayer's vertical machining center (VMC) understands. The VMC is the machine that cuts the metal into the specific die or mold.

Once the information has been reprogrammed, the machinist removes the disc from the scanning machine's computer and places it into the VMC's operating system (*i.e.*, the computer numerical control or CNC). The operating system feeds the information recorded on the disc to the VMC; and, the VMC begins to produce the die or mold. Once the new piece is completed, taxpayer uses the 3D scanning machine to re-scan the piece and verify that the shape and size are correct. According to taxpayer, a piece cannot be produced without first using the 3D scanning machine to determine the surface data of the piece.

The Department's regulations at 45 IAC 2.2-5-8(g)(6) state that "[c]omputers which are interconnected with and control other production machinery or are used to make tapes which control computerized production machinery are exempt from tax." However, 45 IAC 2.2-5-8(g)(7) states that "[c]omputers which produce designs which are not sold as products are not exempt." Here, taxpayer's scanning machine is a PC-based system used to capture data regarding the work pieces taxpayer is hired to produce. The data collected by the scanning machine is recorded on a disc. The recorded information is then transferred to a VMC which machines the particular work piece desired. The evidence of file establishes that the scanning machine performs a computer aided design function; and, the designs captured by the machine are not sold as products. As such, taxpayer's scanning machine is not exempt from tax.

FINDING

Taxpayer's protest regarding the retail tax exemption of the air dryer is sustained; however, taxpayer's protest regarding the retail tax exemption of the 3D scanning machine is denied.

II. Tax Administration – Abatement of Penalty

DISCUSSION

Taxpayer protests the imposition of a ten percent (10%) negligence penalty.

IC 6-8.1-10-2.1(d) states that if a person subject to the negligence penalty imposed under said section can show that the failure to file a return, pay the full amount of tax shown on the person's return, timely remit tax held in trust, or pay the deficiency determined by the department was due to reasonable cause and not due to willful neglect, the department shall waive the penalty. 45 IAC 15-11-2 defines negligence as the failure to use reasonable care, caution or diligence as would be expected of an ordinary reasonable taxpayer. Negligence results from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or Department regulations.

In order to waive the negligence penalty, taxpayer must prove that its failure to pay the full amount of tax due was due to reasonable cause. 45 IAC 15-11-2. Taxpayer may establish reasonable cause by "demonstrat[ing] that it exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed...." 45 IAC 15-11-2(c). In determining whether reasonable cause existed, the Department may consider the nature of the tax involved, previous judicial precedents, previous department instructions, and previous audits. *Id*.

In the instant case, the Department finds that taxpayer has failed to established "reasonable cause" sufficient to warrant abating the ten percent negligence penalty.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0220020304.LOF

LETTER OF FINDINGS NUMBER: 02-0304
Indiana Corporate Income Tax
For the Tax Years 1996, 1997, and 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Excess-Value Reinsurance Premiums – Adjusted Gross Income Tax

Authority: IC 6-3-2-2(l); Gregory v. Helvering, 293 U.S. 465 (1935); Horn v. Commissioner of Internal Revenue, 968 F.2d 1229 (D.C. Cir. 1992); Commissioner v. Transp. Trading and Terminal Corp., 176 F.2d 570 (2nd Cir. 1949); Bethlehem Steel Corp. v. Ind. Dept. of State Revenue, 597 N.E.2d 1327 (Ind. Tax Ct. 1992)

Taxpayer challenges the audit's decision to adjust its Indiana tax returns to include, as taxpayer's own income, reinsurance premiums received from its customers and ultimately paid over to a foreign insurance company directly or indirectly associated with the taxpayer.

II. Combined Water's Edge Unitary Return

Authority: IC 6-3-2-2(o); IC 6-3-2-2(q); IC 6-3-2-2.4; Securities Corp. v. Dept. of State Revenue, 704 N.E.2d 1122 (Ind. Tax Ct. 1998); Ind. Dept. of Rev. Tax Policy Directive No. 6 (1992)

Taxpayer maintains that the audit erred in denying it permission to report its business activities on a "world-wide" unitary basis and the audit's consequent exclusion of net income attributable to taxpayer's foreign subsidiaries.

III. Unitary Partnerships – Adjusted Gross Income Tax

Authority: Allied-Signal Inc. v. Dir., Div. of Taxation, 504 U.S. 768 (1992); Container Corp. v. Franchise Tax Board, 463 U.S. 159 (1983). F.W. Woolworth v. Taxation and Revenue Dep't of New Mexico, 458 U.S. 354 (1982); ASARCO, Inc. v. Idaho State Tax Comm'n, 458 U.S. 307 (1982); Exxon Corp. v. Dep't of Revenue of Wisconsin, 447 U.S. 207 (1980); Mobil Oil Corp. v. Comm'r of Taxes of Vermont, 445 U.S. 425 (1980); 45 IAC 3.1-1-153(a), (b)

Taxpayer contests the audit's determination that five partnership entities were "unitary" with the taxpayer.

IV. Abatement of the Ten Percent Negligence Penalty

Authority: IC 6-8.1-10-2.1; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2(b); 45 IAC 15-11-2(c)

Taxpayer argues that the ten percent negligence should not have been imposed and that the Department should exercise its discretion to entirely abate the penalty.

STATEMENT OF FACTS

Taxpayer is in the business of shipping packages and is the primary operating subsidiary of the parent company. The taxpayer filed Indiana tax returns which included its various domestic and foreign affiliates. The Department of Revenue (Department) conducted an audit of taxpayer's business records and tax returns spanning the years 1996, 1997, and 1998. The audit made a number of adjustments certain of which resulted in the assessment of additional Indiana corporate income taxes. Taxpayer submitted a protest challenging a number of the audit's determinations, an administrative hearing was held, and this Letter of Findings follows.

DISCUSSION

I. Excess-Value Reinsurance Premiums – Adjusted Gross Income Tax

Taxpayer earns money by shipping packages. If one of a customer's packages is lost or damaged during shipping, taxpayer will automatically pay the customer up to $100 of the package's declared value. If the customer wishes to insure a package worth more than $100, taxpayer will do so and charge an additional amount for each additional $100 in declared value. This additional amount is called an "excess value charge." The amount taxpayer is entitled to charge for excess value insurance is governed by various federal and state tariffs.

At one time, taxpayer simply retained these excess value charges and paid for any losses out of its corporate pocket. The difference between what the taxpayer charged as excess value charges and the amount it paid as losses was simply retained as one portion of the taxpayer's profit.

Taxpayer rearranged its business organization to minimize the potential tax effect on profits derived from insuring its customers' packages. It did so by forming and capitalizing a Bermuda corporation. Thereafter, the Bermuda corporation's shares were distributed to taxpayer's own shareholders; the Bermuda corporation's shareholders were essentially identical to taxpayer's own shareholders.

Subsequently, taxpayer purchased an insurance policy – on behalf of the excess value insureds – from a domestic insurance company. The domestic insurance company assumed the risk of damage or loss to excess value packages. However, taxpayer agreed to administer the day-to-day claims submitted by taxpayer's insured customers.

The domestic insurance company then entered into a reinsurance treaty with the Bermuda corporation. The Bermuda corporation agreed to assume the entire amount of risk borne by domestic insurance company and owed to taxpayer.

Under this new arrangement, taxpayer collected the customer's excess value insurance payments, investigated any insurance claims, settled for any verified claims, and then paid over the remaining premium amounts to the domestic insurance company. The difference between the amount of money taxpayer received from its customers and the amount of money taxpayer paid for losses to excess value packages, constituted the premiums on the policy with the domestic insurance company. Therefore, depending on the amount of claims paid to its customers, the premium amount paid over to the domestic insurer would vary from month to month.

The domestic insurer collected the premiums, retained a portion of the premiums for its own fees, commission, and taxes and forwarded the remainder of the premiums to the Bermuda corporation as consideration for the reinsurance agreement. In practical application, the domestic insurer paid approximately 95 percent of the premiums received from the taxpayer over to the Bermuda corporation.

Taxpayer did not report on its federal return the amount of excess value insurance premiums it received from its shipping customers. The Internal Revenue Service disagreed with this decision and determined a deficiency equal of the value of the excess value charges taxpayer collected. The Internal Revenue Service found that the value of the excess value charges should be treated as taxpayer's own gross income. Taxpayer appealed the IRS finding. In a 1999 Tax Court Memo, the United States Tax Court agreed with the IRS determination and concluded that taxpayer's insurance arrangement was a "sham." Subsequently, taxpayer appealed the Tax Court's decision to the federal court of appeals. In 2001, the court of appeals reversed the Tax Court's decision and remanded the issue to the Tax Court in order to allow it to address the IRS's contentions challenging the reinsurance arrangement under I.R.C. §§ 482, 845(a).

The total amount of excess value charges was reported on the taxpayer's 1998 federal tax return. During the state's own audit of taxpayer 1996, 1997, and 1998 state returns, the amount of excess value charges reported on the federal return was included as one of the state adjustments on the 1998 Indiana return. In addition, the audit included "projected amounts" of these premiums for the 1996 and 1997 in those amounts to be apportioned to the state.

Taxpayer challenges the audit's determination as both inappropriate and premature. According to taxpayer, following remand to the Tax Court, taxpayer entered into discussions with the IRS in order to achieve a compromise settlement. Taxpayer urges the Department to hold the assessment of additional taxes – based upon the income received from excess value premiums – in abeyance until the compromise settlement with the IRS has been finalized.

The "sham transaction" doctrine is well established both in state and federal tax jurisprudence dating back to Gregory v. Helvering 293 U.S. 465 (1935). In that case, the Court held that in order to qualify for a favorable tax treatment, a corporate reorganization must be motivated by the furtherance of a legitimate corporate business purpose. Id at 469. A corporate business activity undertaken merely for the purpose of avoiding taxes was without substance and "[t]o hold otherwise would be to exalt artifice above reality and to deprive the statutory provision in question of all serious purpose." Id at 470. The courts have subsequently held that "in construing words of a tax statute which describe [any] commercial transactions [the court is] to understand them to refer to transactions entered upon for commercial or industrial purposes and not to include transactions entered upon for no other motive but to escape taxation." Commissioner v. Transp. Trading and Terminal Corp., 176 F.2d 570, 572 (2nd Cir. 1949), *cert denied*, 338 U.S. 955 (1950). "[t]ransactions that are invalidated by the [sham transaction] doctrine are those motivated by nothing other than the taxpayer's desire to secure the attached tax benefit" but are devoid of any economic substance. Horn v. Commissioner of Internal Revenue, 968 F.2d 1229, 1236-37 (D.C. Cir. 1992). In determining whether a business transaction was an economic sham, two factors can be considered; "(1) did the transaction have a reasonable prospect, ex ante, for economic gain (profit), and (2) was the transaction undertaken for a business purpose other than the tax benefits?" Id. at 1337.

In applying these standards to the particular insurance arrangement taxpayer entered into with the domestic insurer and the Bermuda corporation, the Department concludes that the arrangement comes within the definition of the sham transaction doctrine. It is apparent that the reinsurance arrangements were entered into for no independent purpose other than obtaining the tax benefits attendant upon those arrangements and that it is the taxpayer who is earning this money and not the domestic insurer and not the Bermuda corporation.

Under the reinsurance agreements, taxpayer collects the excess value premiums from its customers, deposits the premiums into its own accounts, receives and processes the claims, pays for losses incurred as the result of damaged or missing excess value packages, and pays the amount remaining to the domestic insurer as "premiums." The domestic insurer thereafter – after retaining

approximately 5 percent of the amount – passes the premiums over to the Bermuda corporation which is entirely owned by taxpayer's own shareholders. As between taxpayer and its shipping customers, the insurance agreement is entirely transparent.

The domestic insurer's only risk exposure is in the event of the sort of catastrophic loss for which taxpayer provides no material evidence or historical experience. In any event, this negligible risk of catastrophic loss is simply shifted from taxpayer, to the domestic insurer, to the Bermuda corporation and – ultimately – the Bermuda corporation's shareholders. By the terms of this roundabout insurance arrangement, the risk of catastrophic loss finds its way back to the same shareholders who bore it in the first place. Taxpayer is paying substantial amounts of money for little discernible benefit and its arguments – that the reinsurance arrangement has a purpose other than obtaining tax benefits – are insubstantial, inconsequential, or speculative.

Under such circumstances, the Department is entitled to ignore the effect of the reinsurance arrangements and require that the taxpayer report the entirety of the excess value premiums as taxpayer's own income because the taxpayer's reinsurance agreements have no substantive economic substance or business purpose. The plain language of the law states that "[i]f the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana... the department may require, in respect *to all or any part of the taxpayer's business activity*... the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income." IC 6-3-2-2(l) (*Emphasis added*). The Department is not required to accept the assertion that taxpayer divested itself of a large portion of the highly profitable excess value charges when the divestiture had no economic impact on the taxpayer other than the accompanying tax benefits.

Taxpayer is, of course, entitled to organize its package transport business in any manner its sees fit and to vigorously pursue any tax advantage attendant upon such an arrangement. However, in determining the nature of any business transaction and the resultant tax consequences, the Department is required to look at "the substance rather than the form of the transaction." Bethlehem Steel Corp. v. Ind. Dept. of State Revenue, 597 N.E.2d 1327, 1331 (Ind. Tax Ct. 1992).

FINDING

Taxpayer's protest is respectfully denied.

II. Combined Water's Edge Unitary Return

The audit report – completed in 2001 – accepted taxpayer's combined unitary tax returns. However, the audit rejected the taxpayer's decision to file the unitary returns using a worldwide reporting method. As a result, the audit excluded income received from foreign sources because, under a "water's edge" basis, that net income should not have been included on the Indiana returns.

Taxpayer takes exception to the audit's decision rejecting the worldwide method of reporting its income. Taxpayer argues that it has consistently filed its corporate income tax returns on a worldwide basis since 1983 and that this method of reporting has been accepted by the Department during previous audit cycles. In addition, taxpayer maintains that, "there is nothing in the statutes or regulations that requires or permits the Department to reject a worldwide return that is voluntarily filed by the taxpayer and which fairly reflects Indiana income." According to taxpayer, having accepted taxpayer's past worldwide returns, the Department may not now reject the 1996, 1997, and 1998 returns filed on a world-wide basis.

IC 6-3-2-2(q) permits a taxpayer to petition the Department for permission to file a combined return. Specifically, the rule states that, "Notwithstanding subsections (o) and (p), one (1) or more taxpayers may petition the department under subsection (l) for permission to file a combined income tax return for a taxable year." "The basic premise in filing combined/unitary returns is that all activities carried on by separate entitles are part of a single unitary business (one taxpayer)." Ind. Dept. of Rev. Tax Policy Directive No. 6 (1992).

However, IC 6-3-2-2(o) contains a "water's edge" provision directed at the Department. "Notwithstanding subsections (l) and (m), the department may not, under any circumstances, require that income, deductions, and credits attributable to a taxpayer and another entity be reported in a combined income tax return for any taxable year, if the other entity is: (1) a foreign corporation...." IC 6-3-2-2(o).

The rule is then that the Department may never require a taxpayer to file a "worldwide" return although a taxpayer may request permission to do so. IC 6-3-2-2(o), (q).

There is nothing to indicate that taxpayer has either sought or received permission to file a worldwide return as required under IC 6-3-2-2(q). There is nothing to indicate that even if taxpayer had sought permission to file a worldwide return, the Department would have found it appropriate to deviate from the unambiguous statutory aversion to employing the worldwide reporting methodology. IC 6-3-2-2(o) ("The department may not, *under any circumstances require* that income" of a foreign corporation "be reported in a combined income tax return for any taxable year...." (*Emphasis added*). There is nothing substantive to establish that even if taxpayer had sought permission to file worldwide returns, the Department would have determined that the standard apportionment methods – employing a "water's edge" formulation – did not fairly reflect the taxpayer's Indiana income. *See* IC 6-3-2-2(o), (q); IC 6-3-2-2.4. The taxpayer's assertion, that the foreign companies are owned and managed by taxpayer and that "nothing could be more unitary," does not establish that the "water's edge" reporting method fails to fairly reflect taxpayer's Indiana income.

Nonetheless, the plain fact is that the Department has permitted taxpayer to file worldwide returns during previous audit cycles. According to taxpayer, this past acquiescence to the worldwide reporting method – in and of itself – requires the Department to consent to the worldwide reporting method on the 1996, 1997, and 1998 returns. Taxpayer's argument fails because – again – there

is no indication taxpayer ever *sought* the requisite permission to file worldwide returns, that the Department ever *granted* taxpayer permission to file on a worldwide basis, or that such a proposed reporting methodology would *more fairly reflect* taxpayer's Indiana income.

In addition, taxpayer is not entitled to prospective treatment of the determination reached within this Letter of Findings because there is no indication that the audit report, completed in 2001, "reinterpreted" taxpayer's then current tax liability. *See* Securities Corp. v. Dept. of State Revenue, 704 N.E.2d 1122, 1129 (Ind. Tax Ct. 1998). To the contrary, information contained within a previous audit report – stemming from a review taxpayer's 1990, 1991, and 1994 returns – specifically noted that taxpayer was incorrectly reporting on a worldwide basis and that this method of reporting was unwarranted. Although the audit did not require the elimination of the foreign income during that particular reporting period, the report noted that "taxpayer has been notified that no future filings with Indiana will be allowed on a [worldwide] unitary basis." There is no indication that there was a statutory basis for permitting worldwide reporting during the previous audit cycles. Taxpayer was placed on notice by at least August 1994 that it would not be permitted to file on a worldwide basis in the future. Taxpayer may not now be heard to complain that it is entitled to prospective treatment of a decision regarding the appropriateness of the worldwide reporting method reached in 2003.

FINDING

Taxpayer's protest is respectfully denied.

III. Unitary Partnerships – Adjusted Gross Income Tax

Taxpayer filed unitary returns. The audit determined that five partnerships, in which the taxpayer had made investments, should be considered "unitary" with the taxpayer. The audit arrived at this conclusion because of the partnership's "relationship to parcel shipping or by virtue of the fact that the [t]axpayer exercises control of these [five] partnerships." After arriving at this conclusion, the audit made adjustments to taxpayer's non-business income and to the various components of the apportionment factor.

Taxpayer challenges this decision. Taxpayer argues that the partnerships are simply hands-off business arrangements entered into for the purpose of investing excess cash. According to taxpayer, the five partnerships are managed by unaffiliated companies; all major and minor operational and policy decisions are made by unaffiliated management companies; and that taxpayer's own personnel are not involved in any aspect of the five partnership businesses.

In support of the argument that the five partnerships did not have a unitary relationship with taxpayer, taxpayer cites to 45 IAC 3.1-1-153. The rules states, in relevant part, as follows:

> A corporate partner's share of profit or loss from a partnership will be included in its federal taxable income and therefore generally subject to the same rules as any other adjusted gross income (b) If the corporate partner's activities constitute a unitary business under established standards, disregarding ownership requirements, the business income of the unitary business attributable to Indiana shall be determined by [the] three (3) factor formula. 45 IAC 3.1-1-153(a), (b).

The Supreme Court has set out a three-part test to determine whether a unitary relationship exists. The three-part test consists of: common ownership; common management; and common use or operation. *See* Allied-Signal Inc. v. Dir., Div. of Taxation, 504 U.S. 768 (1992); F.W. Woolworth v. Taxation and Revenue Dep't of New Mexico, 458 U.S. 354 (1982); ASARCO, Inc. v. Idaho State Tax Comm'n, 458 U.S. 307 (1982); Exxon Corp. v. Dep't of Revenue of Wisconsin, 447 U.S. 207 (1980); Mobil Oil Corp. v. Comm'r of Taxes of Vermont, 445 U.S. 425 (1980).

The first issue to be determined is the question of "common ownership." In this instance, taxpayer owned between 70 to 80 percent of the five partnerships. According to taxpayer, this degree of ownership interest was significant in the audit's determination because the audit excluded two partnerships in which taxpayer owned less than a 50 percent ownership. 45 IAC 3.1-1-153(b) provides no specific guidance as to the degree of common ownership necessary to establish a "unitary relationship." However, taxpayer owns between 70 to 80 percent of the five partnerships and this evidence is sufficient to establish that taxpayer and the five partnerships share "common ownership."

The second element considered in establishing a unitary relationship is common management. Common management is demonstrated when the parent company provides a management role that is "grounded in [the parent company's] own operational expertise and its overall operational Strategy." Container Corp. v. Franchise Tax Board, 463 U.S. 159, 180 n.19 (1983). In determining this second element, the audit report provides no specific information as to the degree of operational control taxpayer exercises over the five partnership interests.

The five partnerships are involved in various business enterprises including satellite ownership, aircraft leasing, oil drilling operations, office leasing, and hotel investments. According to taxpayer, the aircraft owned by the partnership interest are not leased for use in taxpayer's own package shipping business but are leased to commercial airlines for use in providing passenger service. Given the disparity between taxpayer's business and the five partnership's businesses and the absence of any information that taxpayer exercises any managerial control over the five partnerships, it is reasonable to conclude that the second element – common management – is absent.

The third element is that of common operation or use. Evidence of a "common operation" exists where certain functions are performed for the outside group by the parent (such as purchasing, financing, advertising, marketing, research, tax compliance, insurance, and pension plan management) which entirely independent companies would otherwise perform for themselves.

There is no information that taxpayer and the five partnerships share in any degree of "common operation." Given the information provided by taxpayer – that the relationship between itself and the five partnerships is entirely "hands-off" and that the five partnerships are simply investment vehicles for taxpayer's excess cash reserves – it is reasonable to conclude that the third element, common operation or use, is lacking.

Although the taxpayer possesses a substantial degree of ownership in the five partnerships, because the elements of common management and common operation are entirely absent, the taxpayer is correct in its assertion that, under 45 IAC 3.1-1-153(a), it did not have a unitary relationship with the five partnerships.

FINDING

Taxpayer's protest is sustained.

IV. Abatement of the Ten Percent Negligence Penalty

Taxpayer maintains that its "Indiana returns were substantially correct as filed" and that "no penalties should be assessed in this matter."

IC 6-8.1-10-2.1 requires that a ten percent penalty be imposed if the tax deficiency results from the taxpayer's negligence. Departmental regulation 45 IAC 15-11-2(b) defines negligence as "the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer." Negligence is to "be determined on a case-by-case basis according to the facts and circumstances of each taxpayer." Id.

IC 6-8.1-10-2.1(d) allows the Department to waive the penalty upon a showing that the failure to pay the deficiency was based on "reasonable cause and not due to willful neglect." Departmental regulation 45 IAC 15-11-2(c) requires that in order to establish "reasonable cause," the taxpayer must demonstrate that it "exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed..."

Despite additional assessments determined at the time of the original audit and the issues raised within taxpayer's protest, under the facts and circumstances as indicated in the record, taxpayer has demonstrated that it "exercised ordinary business care" and is therefore entitled to abatement of the ten percent negligence penalty.

FINDING

Taxpayer's protest is sustained.

DEPARTMENT OF STATE REVENUE

0420020395.LOF

LETTER OF FINDINGS NUMBER: 02-0395
Use Tax
Calendar Years 1999 and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific Issue.

ISSUE

I. Use Tax – Computerized Golf Booth

Authority: IC 6-2.5-3-2; 45 IAC 2.2-3-4

The taxpayer protests the assessment of use tax on its golf booth.

II. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the penalty.

III. Tax Administration – Interest

Authority: IC 6-8.1-10.1

The taxpayer protests the interest.

STATEMENT OF FACTS

Upon audit, it was discovered that the taxpayer failed to remit Use Tax on a computerized golf booth, cameras, signs, stone, baskets, and rubber tees. Taxpayer had no use tax accrual system in place.

I. Use Tax – Computerized Golf Booth

DISCUSSION

The taxpayer protests the Department's assessment of use tax on its computerized golf booth.

Taxpayer states that the company from whom it purchased the golf booth is out of business and it could not get a copy of the invoice. Taxpayer states that the company is out of state and has no way of checking to see if sales tax was charged.

The hearing officer explained that a company must be registered with the Indiana Department of Revenue to collect the sales tax and offered to check with the Department. Since the company from whom the taxpayer purchased the golf booth is not registered with the Indiana Department of Revenue, Indiana sales tax could not have been remitted. Use tax is due from the taxpayer.

FINDINGS

The taxpayer's protest is denied.

II. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and has not provided reasons.

Taxpayer had no use tax accrual system in place. The ST-103 clearly has a line for use tax for items that had no sales tax assessed. The Indiana Code and Regulations are clear regarding the payment of use tax.

FINDINGS

Taxpayer's protest is denied.

III. Tax Administration – Interest

DISCUSSION

Taxpayer protests the interest assessed. The Department has no authority to waive interest.

FINDINGS

Taxpayer's protest is denied.

CONCLUSION

Taxpayer's protest is denied for issues I, II, and III.

DEPARTMENT OF STATE REVENUE

0120020537.LOF

LETTER OF FINDINGS NUMBER: 02-0537
Individual Income Tax
Calendar Year 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Taxpayer's Indiana Income Tax Exemptions

Authority: IC 6-3-1-3.5(a)(3) and (4); IC 6-3-1-3.5(a)(5)(A); IC 6-8.1-3-3(a); Johnson County Farm Bureau v. Dep't of Revenue, 568N.E.2d 578 (Ind. Tax Ct. 1991); 45 IAC 3.1-1-5(b)(4)

Taxpayer protests the disallowance of an exemption for a dependent child.

STATEMENT OF FACTS

Taxpayer filed a joint 1040 federal return reporting income received during 1999. Taxpayer submitted a divorce decree where she could claim the federal exemption for one child and her ex husband claims the other. Taxpayer claimed both dependent children for Indiana State Tax purposes because both children live with her in Indiana.

On July 30, 2002, the Department issued taxpayer a notice of "Proposed Assessment". The assessment of additional taxes was based upon the inconsistency between taxpayer's federal and state returns.

I. Taxpayer's Indiana Income Tax Exemptions

DISCUSSION

Taxpayer claimed herself, her husband, and two dependent children as exemptions on the state tax return. The Department issued its proposed assessment because the federal return did not agree with the exemptions reported on the state return. In the divorce decree, the taxpayer was allowed the right for income tax purposes to claim the dependency exemption for one child.

Taxpayer argues that she was legitimately entitled to claim all four exemptions on her state return. Taxpayer maintains that both children lived with her in Indiana.

Insofar as relevant to taxpayer's "Line 8" deductions, IC 6-3-1-3.5(a)(3) and (4) state that the Indiana taxpayer is to "Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000). Subtract one thousand dollars ($1,000) for each of the exemptions provided by Section 151(c) of the Internal Revenue Code. Insofar as relevant to taxpayer's "Line 9" deductions, IC 6-3-1-3.5(a)(5)(A) permits an Indiana taxpayer to "subtract one thousand ($1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996."

The statutory formula is straightforward; an Indiana taxpayer may claim a $1,000 exemption on line 8 of its Indiana return if that exemption is allowed under I.R.C. 151(c). The Indiana taxpayer may claim a $1,500 deduction on line 9 of her Indiana return if that exemption is allowed under I.R.C. 151(c)(1)(B).

The explanatory language on the 1999 IT-40 return is equally straightforward; line eight on the form states that the taxpayer is to report the "[n]umber of exemptions claimed on your federal return." The IT-40 also states that the taxpayer is entitled to claim an [a]dditional exemption for certain dependent children" and to report that number on line nine.

Relevant to line eight, the Department's accompanying instructional booklet states that "You are allowed a $1,000 exemption on your Indiana tax return for each exemption *you claim on your federal return." (Emphasis added).* Relevant to line nine, the booklet states that, "An additional exemption, which has been increased to $1,500, is allowed for certain dependent children."

The instructions printed on the Indiana tax form, the accompanying instructional booklet, and the Department's regulation preclude an Indiana taxpayer from claiming an exemption unless the exemption has also been claimed on the corresponding federal return. The tax form, the instructional booklet, and accompanying regulation have interpreted the applicable statutes as being consistent with federal requirements for claiming dependent exemptions.

The legislature has delegated to the Department the authority to interpret and apply the tax statutes. IC 6-8.1-3-3(a) states that "The department shall adopt, under IC 4-22-2, rules governing: (1) the administration, collection, and enforcement of the listed taxes; (2) the interpretation of the statutes governing the listed taxes; (3) the procedures relating to the listed taxes; and (4) the methods of valuing the items subject to the listed taxes."

There is nothing to indicate that the Department acted beyond its authority in promulgating a regulation mandating that Indiana taxpayers first claim the exemption on their federal returns before claiming the exemption on the corresponding Indiana return. Specifically, there is nothing to indicate that the Department acted beyond the scope of its authority in noting the discrepancy between taxpayer's federal and state 1999 returns and rendering an additional assessment based upon that discrepancy. "A rule issued by an agency pursuant to its statutory authority to implement the statute has the force of law." Johnson County Farm Bureau v. Dep't of Revenue, 568 N.E.2d 578, 584 (Ind. Tax Ct. 1991).

Taxpayer argues that "Indiana law allows exemptions where they are qualified and [does not] intend to deprive taxpayers of receiving an exemption." Taxpayer makes an argument – based on general principles of equity and fairness – that the Department circumvent the regulation and permit taxpayer to maximize the tax advantages attendant on her decision to claim four exemptions on her 1999 state return. The Department has no such equitable authority and must decline taxpayer's request.

FINDING

Taxpayer's protest is respectfully denied.

DEPARTMENT OF STATE REVENUE

0320020561P.LOF

LETTER OF FINDINGS NUMBER: 02-0561P
Withholding Tax
Month Ending 04/30/01

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed a late payment penalty for the month of April 2001. In a letter dated November 20, 2002, taxpayer requests a waiver because its accountant and attorney each thought that the other was filing for its tax accounts. Taxpayer states that it wasn't until June that it was determined that nothing had been filed. Taxpayer registered on June 15, 2001. Taxpayer prepared its own payroll in February, March, and three weeks in April before turning it over it an agent.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer failed to remit its withholding tax timely and was assessed a late payment penalty. Taxpayer states that it believed either the accountant or its attorney was filing for its tax accounts.

Taxpayer's failure to remit the tax timely was not the result of reasonable cause. Taxpayer should have assured itself that either

the accountant or attorney was following through with its duty to properly register with the Department. Payment for February, March, and April were clearly late and the Taxpayer has failed to substantiate reasonable cause for a waiver of the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0120020612.LOF

LETTER OF FINDINGS NUMBER: 02-0612
Individual Income Tax
For the Tax Period: 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Individual Income Tax – Exemptions

Authority: IC 6-3-1-3.5, IC 6-8.1-3-3, IC 6-8.1-5-1, 45 IAC 3.1-1-5, *Johnson County Farm Bureau v. Dep't of* Revenue, 568 N.E.2d 578 (Ind. Tax Ct. 1991), 1999 *IT-40 Instruction Booklet*

Taxpayer argues that the Department erred in its assessment of additional income taxes on the ground that Taxpayer overstated the number of exemptions claimed on his 1999 Indiana individual income tax return.

II. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1, 45 IAC 15-11-2

The Taxpayer protests the Department's assessment of a negligence penalty.

STATEMENT OF FACTS

Taxpayer was assessed individual income tax after an adjustment was made to his 1999 IT-40 Indiana Full-Year Resident Individual Income Tax Return.

Taxpayer claimed two exemptions on line 6 on his federal Form 1040 consisting of himself and one dependent child. Thereafter, Taxpayer filed a single IT-40 state return reporting income received during 1999. On the IT-40 return, Taxpayer claimed two exemptions on line 8 (exemptions claimed on your federal return) plus three (additional exemptions for dependant children) on line 9.

On September 27, 2000, the Department issued Taxpayer a Form PFC disallowing all the exemptions claimed on Line 9 with the reason of "[e]xtra exemptions claimed". On July 23, 2001, the Department issued a notice of "Proposed Assessment".

On August 10, 2001, the "Proposed Assessment" was canceled. Subsequently, a second "Proposed Assessment" was issued on August 26, 2002 for the adjustments made to the 1999 IT-40. More facts supplied as necessary.

I. Individual Income Tax – Exemptions

DISCUSSION

On his federal return, Taxpayer claimed himself and one of his dependent children as exemptions. Taxpayer chose not to claim two dependent children on the federal return. Taxpayer argues that he was entitled to claim all three exemptions on his state return even though he chose to claim only one on the corresponding federal return. Taxpayer maintains that his decision, not to claim two of his three dependent children on the federal return, did not preclude him from claiming them as "Additional Exemptions" on the state return.

Taxpayer argues the IT-40 instruction booklet does not state that the he is required to limit the exemptions claimed on "Line 9" to either what was claimed on the federal return or what he reported on "Line 8". Rather, he states he is entitled to claim those exemptions in which he was eligible to take on the federal return. Specifically, he points to the 1999 IT-40 instruction booklet which states: "If any dependent(s) you are eligible to claim on your federal return also meet the *Dependent Child Definition* above, enter that number in the box on line 9". He states that since the three dependents claimed on Line 9 meet the "Dependent Child Definition", the Department erred when it adjusted his return.

In understanding whether Taxpayer is allowed to claim the three "Additional Exemptions" on Line 9 of the Indiana IT-40, we must also look to Line 8. Insofar as relevant to Taxpayer's "Line 8" deductions, IC 6-3-1-3.5(a)(3), (4) states that the Indiana taxpayer is to "Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000). Subtract one thousand dollars ($1,000) for each of the exemptions provided by Section 151(c) of the Internal Revenue Code. Insofar as relevant to Taxpayer's "Line 9" deductions, IC 6-3-1-3.5(a)(5)(A) permits an Indiana taxpayer to "subtract one thousand five hundred dollars ($1,500) for each of the exemptions allowed under Section 151 (c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996."

The statutory formula is straightforward; an Indiana taxpayer may claim a $1,000 exemption on Line 8 of his Indiana return if that exemption is allowed under I.R.C. § 151(c). The Indiana taxpayer may claim a $1,500 deduction on "Line 9" of his Indiana return if that exemption is allowed under I.R.C. §151(c)(1)(B). There is nothing apparent in the statute which requires –as a condition precedent to claiming those Indiana exemptions – that Taxpayer first claim the identical exemptions on his federal return. The explanatory language on the 1999 IT-40 return is equally straightforward; Line 8 on the form states that the taxpayer is to report the "[n]umber of exemptions claimed on your federal return." In this case, Taxpayer claimed two exemptions which is what he claimed on his federal return.

The IT-40 also states that the taxpayer is entitled to claim an [a]dditional exemption for certain dependent children" and to report that number on Line 9. The instruction booklet states that, "An additional exemption, which has been increased to $1,500, is allowed for certain dependent children".

Taxpayer contends that the number that may be "eligible" to be taken on the federal return is distinguishable from the number that was actually taken on the federal return. However, Taxpayer misinterprets the instructions for Line 9 to include exemptions for additional dependents to those exemptions claimed on Line 8, when in fact, Taxpayer is allowed an additional exemption for certain dependents claimed on Line 8. This is clarified in the instructions which state in relevant part:

> Line 9 – *Additional Exemption* for Dependent Child
>
> An *additional exemption*, which has been increased to $1,500, is allowed for certain dependent children….
>
> If any dependent(s) you are eligible to claim on your federal return also meet the *Dependent Child Definition* above, enter that number in the box on line 9.
>
> *Example* – John and Lisa *claimed* their 12 year old daughter Sarah as an *exemption on their federal return*. Since Sarah is their daughter, is under the age of 19 and *was claimed as an exemption on her parent's federal tax return*, John and Lisa will claim one (1) exemption on line 9 for a total of $1,500. (*Emphasis added*)
>
> Note: Not all dependent children eligible to be claimed as exemptions on the federal tax return will be eligible for this additional exemption. For instance, if you claimed a grandson or nephew as an exemption on your federal tax return, you should also claim an exemption for them on line 8. However, since he doesn't meet the *Dependent Child Definition* above, you won't be able to claim the additional exemption on line 9.
>
> *1999 IT-40 Instruction Booklet,* pg. 15.

Nevertheless, 45 IAC 3.1-1-5(B)(4) directs Taxpayer to "[s]ubtract $1000 for each exemption taken on the Federal return for taxpayer or spouse aged 65 or above…" and to subtract "$500 [now $1,500] for each exemption *taken on the Federal return* for a qualified dependent". (*Emphasis added*).

The legislature has delegated to the Department the authority to interpret and apply the tax statutes. IC 6-8.1-3-3(a) states the "The department shall adopt, under IC 4-22-1, rules governing: (1) the administration, collection, and enforcement of the listed taxes; (2) the interpretation of the statutes governing the listed taxes; (3) the procedures relating to the listed taxes; and (4) the methods of valuing the items subject to the listed taxes."

There is nothing to indicate that the Department acted beyond its authority in promulgating a regulation mandating that Indiana taxpayers first claim the exemption on their federal returns before claiming the exemption on the corresponding Indiana return. "A rule issued by an agency pursuant to its statutory authority to implement the statute has the force of law." *Johnson County Farm Bureau v. Dep't of Revenue*, 568 N.E.2d 578, 584 (Ind. Tax Ct. 1991).

Consequently, The Department correctly denied two of the three exemptions. However, Taxpayer is entitled to one exemption on Line 9 for a dependent he claimed on Line 8.

Taxpayer also argues that since the original "Proposed Assessment" was canceled on August 10, 2001, the Department cannot create an assessment for the same adjustment. Pursuant to IC 6-8.1-5-1(a), "If the Department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment on the amount of the unpaid tax on the basis of the best information available to the department." Here, the first assessment was canceled in error. The Department reasonably believed that Taxpayer incorrectly reported the amount of tax due and correctly issued the second "Proposed Assessment".

FINDING

The Taxpayer's protest is denied in part and sustained in part. The Department correctly denied two exemptions which were not claimed on Line 8 of his 1999 IT-40. However, Taxpayer is entitled to claim one exemption on Line 9.

II. Tax Administration – Penalty

IC 6-8.1-10-2.1(d) allows a penalty to be waived upon a showing that the failure to pay the deficiency was due to reasonable cause. Also, 45 IAC 15-11-2(c) requires that in order to establish reasonable cause, the taxpayers must show that they exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed. The Department finds that Taxpayer demonstrated reasonable cause for their failure to pay tax.

FINDING

The Taxpayer's protest of the penalty is sustained.

DEPARTMENT OF STATE REVENUE

4220030005.LOF

LETTER OF FINDINGS NUMBER: 03-0005
International Fuel Tax Agreement (IFTA)
For the Year 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. IFTA – Sufficiency of documentation

Authority: IFTA.VII.R700; IFTA A550; IFTA P510; IFTA.R 540

The taxpayer protested the auditor's rejection of new fuel tax records prepared and submitted by taxpayer after an IFTA audit assessment was made based on taxpayer's original invoices.

STATEMENT OF FACTS

The taxpayer is a private carrier using vehicles for hauling. An IFTA fuel audit was conducted and taxpayer did not provide complete records for the audit review. The audit found that the origins and destinations listed on the taxpayer's pay records were coded into a computer system and the codes were not explained, nor was a key provided to the auditor. The mileage records did not include jurisdictional miles, routes, or odometer readings. The taxpayer also failed to maintain monthly and/or quarterly vehicle mileage summaries. The taxpayer failed to maintain all the fuel purchase receipts, instead the taxpayer divided the reported total miles by a predetermined MPG factor of 6.75 to determine the reported total gallons. The taxpayer also failed to maintain monthly and/or quarterly vehicle fuel summaries. The audit reviewed what records were available with an assessment resulting; taxpayer is protesting said assessment. Taxpayer's failed to appear for the scheduled hearing and this letter of finding was prepared based on information within the file.

I. IFTA – Sufficiency of documentation

DISCUSSION

The department, pursuant to an IFTA audit, requested taxpayer records pursuant to IFTA.Article VII, R700 requirements. After the assessment, taxpayer submitted a protest to the audit findings and assessment outlining three arguments against the assessment.

Taxpayer argues that by its calculations the fuel consumption used in the audit determination was incorrect. IFTA article A550 requires that in the absence of adequate records, a standard 4.00 MPG rate can be used to compute total fuel consumption. Given the absence of records to establish mileage and fuel consumption this was an appropriate method of calculation by the audit.

Taxpayer then argues that another entity was using, or leasing, the vehicles at issue. Taxpayer maintains that in the event of a lease arrangement that is silent as to tax duty, lessee, not taxpayer, is responsible for the taxes. Taxpayer does not reconcile this position with the requirements in IFTA P510:

> Every licensee shall preserve the records for a period of four years from the due date of the return or the date filed, whichever is later. Such records shall be made available upon request by any member jurisdiction.

And IFTA R 540:

> No member jurisdiction shall require the filing of such leases, but such leases shall be made available upon request of any member jurisdiction.

While IFTA does not address the tax burden in the event of a silent lease, taxpayer is explicitly directed within the code section cited to make copies of such leases "available upon request." Taxpayer did not provide any record related to the alleged lessees. Given the incomplete proof of the leasing arrangements and the requirement to document such arrangements imposed by IFTA on taxpayer, taxpayer fails to shift the responsibility for these taxes to the entities it identifies as lessees.

Finally, taxpayer argues that the audit calculations are based upon presumptions that are at variance with industry norms. Taxpayer does not cite any IFTA provisions- nor explain- taxpayer's protest based on "industry standards, " and Department will note that a logical inference that industry standards would require compliance with IFTA record keeping requirements can be drawn.

Taxpayer arguments and evidence fail to provide proof that the assessment was either erroneous or excessive.

FINDINGS

Taxpayer's appeal is denied.

DEPARTMENT OF STATE REVENUE

4220030006.LOF

LETTER OF FINDINGS NUMBER: 03-0006
International Fuel Tax Agreement (IFTA)
For the Year 1999 and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of

publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

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STATEMENT OF FACTS

The taxpayer is a private carrier using vehicles for hauling. An IFTA fuel audit was conducted and taxpayer did not provide complete records for the audit review. The audit found that the origins and destinations listed on the taxpayer's pay records were coded into a computer system and the codes were not explained, nor was a key provided to the auditor. The mileage records did not include jurisdictional miles, routes, or odometer readings. The taxpayer also failed to maintain monthly and/or quarterly vehicle mileage summaries. The taxpayer failed to maintain all the fuel purchase receipts, instead the taxpayer divided the reported total miles by a predetermined MPG factor of 6.75 to determine the reported total gallons. The taxpayer also failed to maintain monthly and/or quarterly vehicle fuel summaries. The audit reviewed what records were available with an assessment resulting; taxpayer is protesting said assessment. Taxpayer's failed to appear for the scheduled hearing and this letter of finding was prepared based on information within the file.

I. IFTA – Sufficiency of documentation

DISCUSSION

The department, pursuant to an IFTA audit, requested taxpayer records pursuant to IFTA.Article VII, R700 requirements. After the assessment, taxpayer submitted a protest to the audit findings and assessment outlining three arguments against the assessment.

Taxpayer argues that by its calculations the fuel consumption used in the audit determination was incorrect. IFTA article A550 requires that in the absence of adequate records, a standard 4.00 MPG rate can be used to compute total fuel consumption. Given the absence of records to establish mileage and fuel consumption this was an appropriate method of calculation by the audit.

Taxpayer then argues that another entity was using, or leasing, the vehicles at issue. Taxpayer maintains that in the event of a lease arrangement that is silent as to tax duty, lessee, not taxpayer, is responsible for the taxes. Taxpayer does not reconcile this position with the requirements in IFTA P510:

> Every licensee shall preserve the records for a period of four years from the due date of the return or the date filed, whichever is later. Such records shall be made available upon request by any member jurisdiction.

And IFTA R 540:

> No member jurisdiction shall require the filing of such leases, but such leases shall be made available upon request of any member jurisdiction.

While IFTA does not address the tax burden in the event of a silent lease, taxpayer is explicitly directed within the code section cited to make copies of such leases "available upon request." Taxpayer did not provide any record related to the alleged lessees. Given the incomplete proof of the leasing arrangements and the requirement to document such arrangements imposed by IFTA on taxpayer, taxpayer fails to shift the responsibility for these taxes to the entities it identifies as lessees.

Finally, taxpayer argues that the audit calculations are based upon presumptions that are at variance with industry norms. Taxpayer does not cite any IFTA provisions- nor explain- taxpayer's protest based on "industry standards, " and Department will note that a logical inference that industry standards would require compliance with IFTA record keeping requirements can be drawn.

Taxpayer arguments and evidence fail to provide proof that the assessment was either erroneous or excessive.

FINDINGS

Taxpayer's appeal is denied.

DEPARTMENT OF STATE REVENUE

0220030007P.LOF

LETTER OF FINDINGS NUMBER: 03-0007P
Gross Income Tax
For Calendar Years 1998, 1999, and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

At audit it was determined that the taxpayer failed to report gross receipts for Indiana. Taxpayer receives income from a subsidiary for services provided under a management agreement. Adjustments were also necessary for Adjusted Gross Income under the apportionment schedules for Indiana sales that had no effect for AGI as the taxpayer had considerable losses.

Taxpayer filed a penalty protest dated November 21, 2002 stating that it did not willfully underpay taxes to the state of Indiana and has filed all subsequent returns in compliance with Indiana statutes.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states it did not willfully underpay taxes to the state of Indiana. Taxpayer states that as a result of the audit, it filed its 2001 return under the same guidelines prescribed by the audit.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer failed to report Indiana income although it had rented property and payrolls in the state. Taxpayer did not make itself aware of the Indiana tax laws when doing business in this state and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

1020030008P.LOF

LETTER OF FINDINGS NUMBER: 03-0008P
Food and Beverage Tax
For the Month Ended May 31, 2002

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer filed its return with payment on July 15, 2002 and was assessed a late penalty. The original due date of the return was July 1, 2002.

Taxpayer filed a penalty protest dated December 9, 2002. Taxpayer states that an oversight and not intentional disregard caused the late remittance.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it was late due to an administrative oversight. Taxpayer further states that it has a punctual remittance history for the past three years.

Taxpayer failed to remit its tax timely and has not provided reasonable cause to allow the department to waive the penalty. An oversight is not reasonable cause.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420030009P.LOF

LETTER OF FINDINGS NUMBER: 03-0009P
Sales Tax
For the Month ended October 31, 2002

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer filed its return with payment late and was assessed a penalty.

Taxpayer filed a penalty protest dated December 11, 2002. Taxpayer states that it was late by one day and states that the error was unintentional and due solely to human error.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it was late due to human error. Taxpayer further states that it has always paid its taxes in full and timely.

Taxpayer failed to remit its tax timely and has not provided reasonable cause to allow the department to waive the penalty. An oversight is not reasonable cause.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220030011P.LOF

LETTER OF FINDINGS NUMBER: 03-0011P
Gross and Adjusted Gross Income Tax
Calendar Years 1997, 1998, 1999, and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalties assessed.

STATEMENT OF FACTS

Taxpayer manufactures abrasive products used in industry and by consumers to cut, grind, shape, sharpen, or finish metal, glass, ceramic, plastic and wood. Taxpayer sells the products throughout the United States and in several foreign countries. The taxpayer had a sales office and distribution center in Indiana. Upon audit it was discovered that the taxpayer failed to report a significant portion of its Indiana sales for gross income tax. All sales were the result of the efforts of salesmen's activities conducted from the Indiana sales office.

Taxpayer's audit revealed that it failed to report Indiana destination sales shipped from out of state to Indiana customers that were serviced from the Indiana sales office.

To address the penalty issues, reference is made to taxpayer's letter dated December 5, 2002 that objects to the ten percent (10%) penalty for under payment of tax paid with its return and an additional ten percent (10%) penalty for the underpayment of its estimated payments.

Taxpayer states that its tax department did everything that responsible people could have been expected to do in order to comply with the tax laws of Indiana. Its estimates were based on the best information it had at the time the payments were made. Taxpayer further states that it has always filed its estimates and returns in a timely fashion and for those reasons feels that the penalties assessed are unreasonable.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer was assessed a penalty at audit for calendar years 1997 through 2000 for failing to report Indiana destination sales in gross income. The underreporting was for over ninety percent of the gross income tax for all years at audit.

Taxpayer also received underpayment penalty assessments for the IT-20's it filed.

Taxpayer, in a letter dated December 5, 2002 protests the penalties assessed because it did everything possible in order to comply with the tax laws of Indiana. Taxpayer further states that its estimates were based on the best information it had at the time the payments were made and has always filed its estimates and returns in a timely fashion. Taxpayer requests a refund of the penalties.

Taxpayer, however, failed to report more than ninety percent (90%) of its gross income tax for all years at audit. Taxpayer has not provided reasonable cause for its failure to report all of its income.

The Underpayment Penalty for failing to correctly estimate and pay the quarterly estimated taxes was assessed concurrently with the audit.

To avoid the penalty, the quarterly estimate must equal at least twenty percent (20%) of the total income tax liability for the current taxable year or twenty-five percent (25%) of the final income tax liability for the prior taxable year. Taxpayer failed to provide reasonable cause to allow a penalty waiver.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420030024P.LOF

LETTER OF FINDINGS NUMBER: 03-0024P
Sales Tax
For Calendar Years 1996, 1997, 1998, 1999, 2000, and 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was audited for calendar years 1996 through 2001. The auditor's review of taxpayer's business activity revealed that the taxpayer had been conducting business in Indiana since its incorporation in 1996. The taxpayer sells, delivers, installs, and repairs lubrication equipment. The examination revealed that the taxpayer was not registered with the Department of Revenue to collect Indiana Gross Retail Sales Tax and tax returns had not been filed. Sales of equipment and parts delivered or shipped to Indiana customers without valid exemption certificates are included in the audit report.

Taxpayer requests abatement of the penalty because it was not aware that sales tax should be paid to Indiana.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it was unaware that sales tax is due to the state of Indiana.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer sold, delivered, and installed lubrication equipment in Indiana. Taxpayer has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420030025P.LOF

LETTER OF FINDINGS NUMBER: 03-0025P
Use Tax
For Calendar Years 1999 and 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer's audit was completed on September 6, 2002. Taxpayer in a written protest requests an abatement of the penalty. Taxpayer's audit revealed that it failed to self-assess and remit use tax on clearly taxable items such as copier maintenance items, office supplies, maintenance repairs, advertising items, office equipment parts, first aid supplies, and other miscellaneous items. Taxpayer was audited previously with the same issues.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that the amount of tax assessed during the tax audit was not a result of negligence but high turnover in the accounting department. Taxpayer states the procedures relating to the accrual of use tax have been put in place and should help correct any future use tax issues.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer failed to remit use tax on clearly taxable items, has had a prior audit with the same issues, and was aware of the consequences of not paying use tax due. Taxpayer has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420030026P.LOF

LETTER OF FINDINGS NUMBER: 03-0026P
Sales and Use Tax
For the Period October 1, 2000 through December 31, 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Upon audit it was discovered that the taxpayer failed to remit use tax on clearly taxable items such as uniforms, office supplies, maintenance and janitorial supplies, and other miscellaneous items. Taxpayer also failed to obtain an exemption certificate from one of its customers and was given the opportunity to obtain the *Special Sales/Use Tax Exemption Certificate*, Form AD-70.

Taxpayer requests abatement of the penalty because it took immediate steps to correct the issues and has an excellent compliance history.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it has "instated" a use tax system for future capital purchases and has taken steps to correct the issues that led to the assessment.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer was previously audited and failed to remit use tax due on clearly taxable items, primarily fixed assets, and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420030044P.LOF

LETTER OF FINDINGS NUMBER: 03-0044P
Sales and Use Tax
For Calendar Years 1999, 2000, and 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was audited for calendar years 1999, 2000, and 2001. Upon audit it was discovered that the taxpayer failed to self-assess use tax on similar items as in a prior audit which consists of a company vehicle, product scanners, materials for equipment movement, maintenance items, and other miscellaneous purchases.

Taxpayer requests abatement of the penalty because it does not feel it was negligent in any of the instances in which tax was due on a purchase. In addition the majority of the items were capital assets that taxpayer believes are part of its production process.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer was audited for calendar years 1999, 2000, and 2001. Upon audit, it was discovered that the taxpayer failed to self assess use tax on clearly taxable items which were also issues in a prior audit.

Taxpayer states that the majority of the items considered taxable are capital assets that it feels are part of its production process and should be exempt. However, upon subsequent research by the auditor, taxpayer agreed that the auditor had a stronger case on treating these assets as "one step away from the production process."

The hearing officer, in reviewing the audit, found many items that are not a part of the production process. These include items such as a company automobile, computer software licenses, forklifts to move equipment, outdoor lighting, product code scanners, and other miscellaneous items classified as fixed assets.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer was previously audited and failed to remit use tax on clearly taxable items. Taxpayer failed to remit 40.43%, 49.40%, and 17.88% in use tax due for calendar years 1999, 2000, and 2001, respectively, and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420030046P.LOF

LETTER OF FINDINGS NUMBER: 03-0046P
Use Tax
Calendar Years 1999, 2000, and 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, a retail merchant and commercial printer, produces and sells marketing materials, envelopes, cards, and other types of printed materials.

At audit it was determined that the taxpayer purchased cleaning supplies such as towels, mops, mats, soap, and other miscellaneous items and failed to self assess use tax even though it had a prior Letter of Findings denying the same issue. Taxpayer also failed to pay tax on publications and computer hardware.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it does not agree with the Department's definition of the "printing production process and taxpayer maintains that cleaning supplies are an integral part of the printing process. The cleaning and maintaining of printing equipment was clearly a taxable issue in Taxpayer's Letter of Findings Number 04-970542.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The taxpayer failed to remit tax on an issue that was previously denied and has not provided reasonable cause to allow a penalty waiver.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220030047P.LOF

LETTER OF FINDINGS NUMBER: 03-0047P
Adjusted Gross Income Tax
For Calendar Ended December 31, 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the proposed penalty assessment for the late payment of its income tax. The due date of the return was April 15, 2000. Taxpayer filed its return late with payment of forty-eight percent of its tax liability. The Department issued its late payment assessment on June 26, 2002.

Taxpayer filed a penalty and interest protest letter dated July 16, 2002 and states that it could not reasonably estimate its tax due to various prior acquisitions.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty and interest assessed and states that it was unable to reasonably estimate its Indiana apportionment factor at the initial due date of the return because of prior acquisitions.

Taxpayer did not make payment by the original due date of the return nor attempt to make a partial payment when it had property and payroll in the state of Indiana. Taxpayer had income from Indiana sources and failed to remit approximately forty-eight percent (48%) of its tax by the original due date of the return.

Taxpayer has not provided reasonable cause to allow the Department to waive the penalty and has no authority to waive interest.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220030053P.LOF

LETTER OF FINDINGS NUMBER: 03-0053P
Income Tax
For Fiscal Ended August 31, 2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the proposed penalty assessments for the underpayment of estimated income tax and the late payment thereof. The due date of the return was December 15, 2000. Taxpayer filed its return late with payment of one hundred (100%) percent of its tax liability. The Department issued its late payment assessments on December 9, 2002.

Taxpayer's representative filed a penalty protest letter dated January 24, 2003 and states that it could not ascertain the facts that resulted in the penalty being imposed. Taxpayer is also unable to determine if those facts would constitute "reasonable cause" for abatement of the penalty but asks the Department to consider the new parent's history.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalties assessed and states that it could not ascertain the facts that resulted in the penalties being imposed.

Taxpayer did not make payment by the original due date which resulted in the late payment penalty. Payment for one hundred percent of the tax was made after the due date of the return on May 15, 2001.

Taxpayer also failed to make quarterly estimated payments although it had done so in prior years.

The penalties assessed are "pre-acquisition" penalties, therefore, irrelevant to the new parent's history.

Taxpayer has not provided reasonable cause to allow the Department to waive the penalties.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220030059P.L0F

LETTER OF FINDINGS NUMBER: 03-0059P
Gross Income Tax
Fiscal Year Ended 09-30-2000

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana

Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed a late payment penalty and a penalty for failing to remit estimated taxes. Taxpayer had a tax liability of $11, 339.84. Taxpayer requests an abatement of the penalties.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer states it changed its mailing address twice and went though an acquisition that involved significant changes in recordkeeping, as well as changes in personnel. As a result of those circumstances, and other factors, the company was not able to estimate its Indiana State tax liability until the 2000 year tax return was filed. Taxpayer paid the tax liability in full with the return and paid the interest on August 14, 2002. Taxpayer requests a penalty waiver on its account.

Taxpayer was assessed a penalty for the late payment of its income taxes which it remitted on September 17, 2001. The due date was January 15, 2001. Taxpayer has not provided reasonable cause to allow the waiver.

Taxpayer was also assessed a penalty for the underpayment of quarterly estimated taxes. Taxpayer made no attempt to pay quarterly taxes. The only payment on record is a carryover from a previous year that amounted to eight percent (8%) of the total tax.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer has not provided reasonable cause to allow penalty waivers.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0420030060P.LOF

LETTER OF FINDINGS NUMBER: 03-0060P
Use Tax
Calendar Years 1999, 2000, and 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was previously audited and an agreement was signed that utilized a "Formulary Use Tax Treatment on Applicable Purchases". At audit, it was determined that the taxpayer failed to self assess and remit use tax for several accounts that were previously agreed upon to be included in calculating use tax due.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and contends that it acted in good faith, without negligence and with no intent to defraud the state. Taxpayer further states that it made every effort to be in compliance with Indiana sales and use tax laws which had been filed and paid timely.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness,

thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The taxpayer failed to remit use tax upon items that were clearly listed in an agreement between the taxpayer and the Indiana Department of Revenue. Taxpayer has not provided reasonable cause for the failure to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

0220030061P.L0F

LETTER OF FINDINGS NUMBER: 03-0061P
Gross and Adjusted Gross Income Tax
Calendar Years 1997, 1998, and 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was audited and found to have placed its service income into low rate gross income that amounted to more than seventy-five percent (75%) of its gross income tax liability. Taxpayer requests an abatement of the penalty.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer states that it believed the low rate should be utilized to determine income tax due on the gross receipts because income derived from its business would be considered "selling at retail", pursuant to the requirements of 45 IAC 1-1-13.

Taxpayer provides educational programming to its customers via satellite or videotape formats. A set fee is paid for the training. Taxpayer's customer has its own equipment on its premises and receives the service by satellite.

Taxpayer misread 45 IAC 1-1-13 because he must meet all of the four standards. Information contained in the audit indicates the taxpayer's customer owns the equipment. Taxpayer charges a fee for its services and the income it received should have been reported at the high rate of tax.

Taxpayer was also assessed a penalty for the underpayment of quarterly estimated taxes. Taxpayer states that it overpaid quarterly estimate taxes in the beginning of that year. Taxpayer provided a copy of its Schedule IT-2220. The 2220, however, is for the return as filed, and not the audited figures. The audited figures indicate the taxpayer remitted less than ninety percent of the tax due.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer failed to correctly tax its gross income at the high rate of tax. Taxpayer failed to assure that the tax returns were correctly filed and apparently failed to verify the tax rates, which is clearly negligent. The taxpayer has not provided reasonable cause to allow penalty waivers.

FINDING

Taxpayer's protest is denied.

DEPARTMENT OF STATE REVENUE

02970043.SLOF

SUPPLEMENTAL LETTER OF FINDINGS NUMBER: 97-0043SLOF
Indiana Corporation Income Tax
For the Tax Periods: 1990 through 1992

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Indiana Gross Income Tax – Inter-company Sales

Authority: IC 6-2.1-2-2, IC 6-2.1-5-5, IC 6-2.1-4-6, IC 6-8.1-5-4

Taxpayer protests the Department's inclusion of inter-company sales in gross income.

II. Indiana Gross Income Tax – Proceeds from Asset Sales

Authority: I.R.C. § 338, I.R.C § 351, IC 6-2.1-2-2, IC 6-2.1-1-2, 45IAC 1-1-58, 45 IAC 1.1-6-2

Taxpayer protests the Department's inclusion of proceeds from asset sales in gross income.

III. Indiana Adjusted Gross Income Tax – State Income Tax

Taxpayer protests the amounts of state income tax used to calculate gross income tax.

IV. Indiana Adjusted Gross Income Tax – Federal Taxable Income Adjustment

Taxpayer protests the Department's federal taxable income adjustment.

V. Indiana Adjusted Gross Income Tax – Payments

Taxpayer protests certain payments that were not refunded.

VI. Indiana Gross Income Tax – Out-of-State Sales

Authority: IC 6-2.1-2-2, IC 6-2.1-3-3, 45 IAC 1-1-120

Taxpayer protests the Department's inclusion of certain wholesale sales in gross income.

STATEMENT OF FACTS

Taxpayer is an international corporation engaged in the production and distribution of computers and computer equipment. A re-hearing was granted to resolve several issues relating to a 1990 to 1992 corporate income tax audit. Taxpayer has provided the Department with additional information pertaining to the issues. This Letter of Findings is based upon the Department's discussion with taxpayer at hearings, the information contained in the file, taxpayer's written brief, and the auditor's extensive notes in response to issues raised in taxpayer's original protest. More facts will be supplied as necessary.

I. Indiana Gross Income Tax – Inter-company Sales

DISCUSSION

The auditor disallowed the deduction of unsubstantiated inter-company receipts for the audit years. Taxpayer states that certain receipts represented inter-company sales.

"An income tax, known as the gross income tax, is imposed upon the receipt of…the taxable gross income derived from activities or businesses or any other sources within Indiana by a taxpayer who is not a resident or a domiciliary of Indiana." IC 6-2.1-2-2. Also, IC 6-2.1-5-5 states in relevant part:

(a) Corporations are affiliated if a least eighty percent (80%) of the voting stock of one (1) corporation (exclusive of directors' qualifying shares) is owned by the other corporation. Every corporation affiliated with another corporation is affiliated with every corporation that is affiliated with such other corporation. All corporations so affiliated constitute an affiliated group.

(b) Corporate members of an affiliated group that are incorporated in the state of Indiana or are authorized to do business in the state of Indiana may file a consolidated gross income tax return.

IC 6-2.1-4-6 states:

(a) Except as provided in subsections (b) and (c), each taxable year an affiliated group or corporations filing a consolidated return pursuant to IC 6-2.1-5-5 is entitled to a deduction from the gross income reported on such a return. The amount of the deduction equals the total amount of gross income received during the taxable year from transactions between members of the group that are incorporated or authorized to do business in Indiana.

(b) The deduction provided by this section does not apply to gross income received by a member of an affiliated group and derived from sources outside Indiana.

(c) The deduction provided by this section does not apply to gross income that is received by a member of an affiliated group in a distribution in connection with the dissolution of any other member of the affiliated group.

Also, IC 6-8.1-5-4(a) states that "[e]very person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records."

Taxpayer provided a spreadsheet to demonstrate where the figures they used for the returns originated. However, the deduction was disallowed because the figures were unsubstantiated. Taxpayer has not provided any documentation to verify the amounts used on the spreadsheet are correct.

FINDING

Taxpayer's protest is denied.

II. Indiana Gross Income Tax – Proceeds from Asset Sales

DISCUSSION

During the audit, the auditor picked up additional receipts from the sale of fixed assets for 1991. The total adjustment is made up of two items: A drop-down of assets to a subsidiary corporation and an Indiana apportioned gain from an I.R.C. § 338(h)(10) disposition gain on fixed assets.

Gross income tax is imposed on the taxable gross income of a non-domiciliary or non-resident of Indiana if the income is derived from activities or sources within Indiana. IC 6-2.1-2-2. Gross income is defined in IC 6-2.1-1-2(a)(3) as gross receipts received "from the sale, transfer, or exchange of property, real or personal, tangible or intangible…."

First, Taxpayer contends that the auditor incorrectly included contributions of capital in receipts from a drop-down of assets to a subsidiary corporation. 45 IAC 1-1-58 states: "Contributions of capital to a corporation, joint venture or partnership are exempt from gross income tax. No gross receipts result to the recipient of the capital and none result to the donee upon his receipt of stock in exchange for the capital." Taxpayer notes this section is consistent with I.R.C. § 351 and contends that only a percentage of the gain which is in excess of the property exchanged for the stock is taxable. I.R.C. § 351 states in relevant part:

(a) General Rule.- No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock in such corporation and immediately after the exchange such person or persons are in control (as defined in section 368(c)) of the corporation.

(b) Receipt of Property. – If subsection (a) would apply to an exchange but for the fact that there is received, in addition to the stock permitted to be received under subsection (a). other property or money, than-

(1) gain (if any) to such recipient shall be recognized, but not in excess of-

(A) the amount of money received, plus

(B) the fair market value of such other property received; and

(2) no loss to such recipient shall be recognized.

….

Based on the information used to make the adjustment, sixty two percent (62%) of the realized gain was taxable pursuant to I.R.C. § 351(b). Consequently, this reduces the apportioned gross proceeds taxable by Indiana.

Second, Taxpayer asserts that the auditor included proceeds relating to an I.R.C. § 338(h)(10) transaction. I.R.C. § 338 states in relevant parts:

(a) GENERAL RULE. – For purposes of this subtitle, if a purchasing corporation makes an election under this section (or is treated under subsection (e) as having made such an election), then, in the case of any qualified stock purchase, the target corporation—

(1) shall be treated as having sold all of its assets at the close of the acquisition date at fair market value in a single transaction, and

(2) shall be treated as a new corporation which purchased all of the assets referred to in paragraph (1) as of the beginning of the day after the acquisition date.

…

(h) ELECTIVE RECOGNITION OF GAIN OR LOSS BY TARGET CORPORATION, TOGETHER WITH NONRECOGNITION OF GAIN OR LOSS ON STOCK SOLD BY SELLING CONSOLIDATED GROUP.

(A) IN GENERAL.- Under regulations prescribed by the Secretary, an election may be made under which if-

(i) the target corporation was, before the transaction, a member of the selling consolidated group, and

(ii) the target corporation recognizes gain or loss with respect to the transaction as if it sold all of its assets in a single transaction,

then the target corporation shall be treated as a member of the selling consolidated group with respect to such sale, and (to the extent provided in regulations) no gain or loss will be recognized on stock sold or exchanged in the transaction by members of the selling consolidated group….

However, in accordance with IC 6-2.1-1-2, the transaction is taxed as a stock sale. Nevertheless, 45 IAC 1.1-6-2(*formerly* 45 IAC 1-1-51) states in part:

(c) Receipts derived from an intangible are not included in gross income under the following situations:

(1) The intangible forms an integral part of:

(A) a trade or business situated and regularly carried on at a business situs outside Indiana; or

(B) activities incident to such trade or business.

(2) The intangible does not form an integral part of a trade or business situated and regularly carried on at a business situs in Indiana, and the taxpayer's commercial domicile is located outside Indiana.

(3) The receipts from the intangible or otherwise excluded from gross income under IC 6-2.1-1-2 or 45 IAC 1.1-3-3(c)(7).

(d) In determining whether an intangible forms an integral part of a trade or business or activities incident thereto under subsection (c), it is the connection of the intangible itself to such trade or business or activities incident thereto under subsection (c), it is the connection of the intangible itself to such trade or business or activities incident thereto that is the controlling factor. The physical location of the evidence of the intangible (share of stock, bond, etc.) is not a controlling factor. Also, any activities related to the sale of an intangible occur after the fact and are never determinative….

The stock does not form an integral part of trade or business regularly carried on at a business situs in Indiana. As such, it is not subject to the Indiana gross income tax.

FINDING

Taxpayer's protest is sustained.

III. Indiana Adjusted Gross Income Tax – State Income Tax

DISCUSSION

Taxpayer protests the Department's addback of certain state taxes during the audit. Taxpayer argues that certain tax amounts were added back that were not based on income. Taxpayer subsequently provided documentation dated January 10, 1997 which providing a description on the amounts to be used for the addback. Therefore, the audit should be adjusted to reflect these figures upon verification.

FINDING

Taxpayer's protest is sustained subject to audit verification.

IV. Indiana Adjusted Gross Income Tax – Federal Taxable Income Adjustment

DISCUSSION

Taxpayer protests an adjustment made to federal taxable income on its consolidated federal tax return. Taxpayer disputes the figure the auditor determined to be Taxpayer's 1992 Adjusted Federal Taxable income. The original adjustment was based on information supplied by Taxpayer during the audit. Taxpayer subsequently submitted a schedule that reconciled the variance in income between the federal schedules and that reported to Indiana. Taxpayer's protest is sustained.

FINDING

Taxpayer's protest is sustained.

V. Indiana Adjusted Gross Income Tax – Payments

DISCUSSION

Taxpayer protests a payment that was not credited toward its Indiana Corporate Income Tax. During the audit, the auditor relied on departmental records in calculating the credits. Although workpapers attached to the original return indicate Taxpayer was entitled to a refund, the Department has no record of the refund ever being sent to Taxpayer. Consequently, Taxpayer should receive credit.

FINDING

Taxpayer's protest is sustained.

VI. Indiana Gross Income Tax – Out-of-State Sales

DISCUSSION

Taxpayer is an out-of-state corporation who maintains sales offices and a repair facility in Indiana. Taxpayer sold personal computers and related hardware and software to Company A, an out-of-state corporation, who maintained a warehouse in Indiana. Taxpayer shipped these computers from an out-of-state location to Company A's Indiana warehouse. The auditor disallowed Taxpayer's exemption for these sales because Taxpayer did not provide sufficient information to show that these sales were in fact exempt.

Gross income tax is imposed upon "the taxable gross income derived from activities or businesses or any other sources within Indiana by a taxpayer who is not a resident or a domiciliary of Indiana." IC 6-2.1-2-2(a)(2). If the gross income is derived from business commerce between Indiana and another state, it is exempt from the gross income tax to the extent Indiana is prohibited from taxing that income by the United States Constitution. IC 6-2.1-3-3. Consequently, gross income "is not subject to the Indiana income tax unless the seller was engaged in business activity within the State and such activity was connected with or facilitated the sales". 45 IAC 1-1-120.

45 IAC 1-1-120(1)(b) describes a nontaxable in-shipment as:

> Sales made by a nonresident who has a business situs or business activities within the State, but the situs or activities are not significantly associated with the sales, and the goods are shipped directly to the buyer upon receipt of a prior order... This situation arises most frequently…where a seller's home office, which is located outside Indiana, handles the accounts of some Indiana customers as "house accounts", instead of having such customers served by its in-state employees. For the sales to be considered as nontaxable under this rule, they must be initiated, negotiated and serviced by out-of-state personnel, and contact with the Indiana business situs or with employees operating within the state must be no more than incidental.

Taxpayer has provided evidence that these sales were not connected with or facilitated by their Indiana business activity. Rather, they claim that the sales were handled as a "house account" by one of Taxpayer's out-of-state offices dealing directly with Company A's out-of-state office. Also, payments to Taxpayer were not paid by Company A from Indiana and were not received at Taxpayer's Indiana offices. Contracts executing the sale of products were executed out-of-state. Taxpayer's out-of-state office maintained a team of six to eight people who were responsible for all sales, marketing programs and inventory management for Company A. Taxpayer established that all products sold to Company A were manufactured and stored out-of-state. Consequently, Taxpayer's protest with regards to this issue is sustained.

FINDING

Taxpayer's protest is sustained.

TITLE 11 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL

11 IAC 1-1-3.5	N	02-238	26 IR 420	*AROC (26 IR 883)
				26 IR 2300
11 IAC 2-5-4				*ERR (26 IR 35)
11 IAC 2-5-5	N	02-324	26 IR 1598	*AROC (26 IR 2134)
11 IAC 2-6-1	A	02-110	25 IR 3213	**26 IR 6**
11 IAC 2-6-5	A	02-110	25 IR 3213	**26 IR 6**
11 IAC 2-6-6	N	02-110	25 IR 3213	**26 IR 6**

TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION

25 IAC 2-19	R	02-150	26 IR 86	
25 IAC 2-20	R	02-150	26 IR 86	
25 IAC 5	N	02-150	26 IR 67	

TITLE 31 STATE PERSONNEL DEPARTMENT

31 IAC 1-9-3	A	02-10	25 IR 3214	
31 IAC 1-9-4	A	02-10	25 IR 3215	
31 IAC 1-9-4.5	A	02-10	25 IR 3215	
31 IAC 1-12.1	R	02-10	25 IR 3219	
31 IAC 2-11-3	A	02-10	25 IR 3216	
31 IAC 2-11-4	A	02-10	25 IR 3217	
31 IAC 2-11-4.5	A	02-10	25 IR 3217	
31 IAC 2-17.1	R	02-10	25 IR 3219	
31 IAC 4	R	02-10	25 IR 3219	
31 IAC 5	N	02-10	25 IR 3218	

TITLE 35 BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT FUND

35 IAC 8-1-1	A	02-163	25 IR 4134	
35 IAC 8-1-2	A	02-163	25 IR 4134	
35 IAC 8-2-1	A	02-163	25 IR 4135	
35 IAC 9-1-1	A	02-163	25 IR 4136	
35 IAC 9-1-2	A	02-163	25 IR 4136	
35 IAC 9-1-3	A	02-163	25 IR 4136	
35 IAC 9-1-4	A	02-163	25 IR 4136	
35 IAC 10	N	02-163	25 IR 4137	

TITLE 45 DEPARTMENT OF STATE REVENUE

45 IAC 3.1-1-99.1	N	02-305	26 IR 817	*ARR (26 IR 2376)
45 IAC 18-1-2	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-1-3	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-1-4	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-1-5	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-1-6	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-1-7	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-1-8	R	02-40	25 IR 3238	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2313
				*AROC (26 IR 2472)
45 IAC 18-1-9	N	02-40	25 IR 3220	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2300
				*AROC (26 IR 2472)
45 IAC 18-1-10	N	02-40	25 IR 3220	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2301
				*AROC (26 IR 2472)
45 IAC 18-1-11	N	02-40	25 IR 3220	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2301
				*AROC (26 IR 2472)
45 IAC 18-1-12	N	02-40	25 IR 3220	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2301
				*AROC (26 IR 2472)
45 IAC 18-1-13	N	02-40	25 IR 3220	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2301
				*AROC (26 IR 2472)
45 IAC 18-1-14	N	02-40	25 IR 3221	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2301
				*AROC (26 IR 2472)
45 IAC 18-1-15	N	02-40	25 IR 3221	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2301
				*AROC (26 IR 2472)
45 IAC 18-1-16	N	02-40	25 IR 3221	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2302
				*AROC (26 IR 2472)
45 IAC 18-1-17	N	02-40	25 IR 3221	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2302
				*AROC (26 IR 2472)
45 IAC 18-1-18	N	02-40	25 IR 3221	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2302
				*AROC (26 IR 2472)
45 IAC 18-1-19	N	02-40	25 IR 3221	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2302
				*AROC (26 IR 2472)
45 IAC 18-1-20	N	02-40	25 IR 3221	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2302
				*AROC (26 IR 2472)
45 IAC 18-1-21	N	02-40	25 IR 3222	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2302
				*AROC (26 IR 2472)
45 IAC 18-1-22	N	02-40	25 IR 3222	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2302
				*AROC (26 IR 2472)
45 IAC 18-1-23	N	02-40	25 IR 3222	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2303
				*AROC (26 IR 2472)
45 IAC 18-1-24	N	02-40	25 IR 3222	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2303
				*AROC (26 IR 2472)
45 IAC 18-1-25	N	02-40	25 IR 3222	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2303
				*AROC (26 IR 2472)

45 IAC 18-1-26	N	02-40	25 IR 3222	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2303** *AROC (26 IR 2472)
45 IAC 18-1-27	N	02-40	25 IR 3222	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2303** *AROC (26 IR 2472)
45 IAC 18-1-28	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2303** *AROC (26 IR 2472)
45 IAC 18-1-29	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2304** *AROC (26 IR 2472)
45 IAC 18-1-30	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2304** *AROC (26 IR 2472)
45 IAC 18-1-31	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2304** *AROC (26 IR 2472)
45 IAC 18-1-32	N	02-40	25 IR 3223	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2304** *AROC (26 IR 2472)
45 IAC 18-1-33	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2305** *AROC (26 IR 2472)
45 IAC 18-1-34	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2305** *AROC (26 IR 2472)
45 IAC 18-1-35	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2305** *AROC (26 IR 2472)
45 IAC 18-1-36	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2305** *AROC (26 IR 2472)
45 IAC 18-1-37	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2305** *AROC (26 IR 2472)
45 IAC 18-1-38	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2305** *AROC (26 IR 2472)
45 IAC 18-1-39	N	02-40	25 IR 3224	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2305** *AROC (26 IR 2472)
45 IAC 18-1-40	N	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2306** *AROC (26 IR 2472)
45 IAC 18-1-41	N	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2306** *AROC (26 IR 2472)
45 IAC 18-1-42	N	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2306** *AROC (26 IR 2472)
45 IAC 18-1-43	N	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2306** *AROC (26 IR 2472)
45 IAC 18-2-1	A	02-40	25 IR 3225	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2306** *AROC (26 IR 2472)
45 IAC 18-2-2	A	02-40	25 IR 3226	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-2-3	A	02-40	25 IR 3227	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-2-4	A	02-40	25 IR 3228	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-3-1	A	02-40	25 IR 3228	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-3-2	A	02-40	25 IR 3229	*CPH (25 IR 4129) *ARR (26 IR 2376) *AROC (26 IR 2472)
45 IAC 18-3-3	R	02-40	25 IR 3238	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2313** *AROC (26 IR 2472)
45 IAC 18-3-4	N	02-40	25 IR 3231	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2307** *AROC (26 IR 2472)
45 IAC 18-3-5	N	02-40	25 IR 3232	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2307** *AROC (26 IR 2472)
45 IAC 18-3-6	N	02-40	25 IR 3232	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2308** *AROC (26 IR 2472)
45 IAC 18-3-7	N	02-40	25 IR 3232	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2308** *AROC (26 IR 2472) *ERR (26 IR 2375)
45 IAC 18-3-8	N	02-40	25 IR 3233	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2308** *AROC (26 IR 2472)
45 IAC 18-4-1	A	02-40	25 IR 3233	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2309** *AROC (26 IR 2472)
45 IAC 18-4-2	A	02-40	25 IR 3234	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2309** *AROC (26 IR 2472)
45 IAC 18-5-2	A	02-40	25 IR 3235	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2310** *AROC (26 IR 2472)
45 IAC 18-6-1	R	02-40	25 IR 3238	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2313** *AROC (26 IR 2472)
45 IAC 18-6-2	R	02-40	25 IR 3238	*CPH (25 IR 4129) *ARR (26 IR 2376) **26 IR 2313** *AROC (26 IR 2472)

45 IAC 18-6-3	A	02-40	25 IR 3235	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2310
				*AROC (26 IR 2472)
45 IAC 18-7	N	02-40	25 IR 3236	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				*AROC (26 IR 2472)
45 IAC 18-8	N	02-40	25 IR 3236	*CPH (25 IR 4129)
				*ARR (26 IR 2376)
				26 IR 2311
				*AROC (26 IR 2472)

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

50 IAC 2.3-1-1	A	01-305	25 IR 835	**26 IR 6**
	A	01-402	26 IR 86	*AROC (26 IR 183)
				*AROC (26 IR 184)
				26 IR 2314
	A	02-240	26 IR 88	**26 IR 2315**
50 IAC 2.3-1-2	A	01-366	25 IR 1200	*ARR (25 IR 3760)
				*AWR (26 IR 39)
	A	01-402	26 IR 87	*AROC (26 IR 183)
				*AROC (26 IR 184)
				26 IR 2314
50 IAC 3.1-1	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-1	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-5	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-6	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-7	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-8	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.1-2-9	R	01-367	25 IR 2550	**26 IR 328**
50 IAC 3.2	N	01-367	25 IR 2548	**26 IR 326**
				*ERR (26 IR 382)
50 IAC 12-16-30				*ERR (26 IR 793)
50 IAC 14				*ERR (26 IR 382)
50 IAC 15-1-1.5	N	01-266		††26 IR 1516
50 IAC 15-1-2.5	N	01-266	25 IR 410	*AROC (25 IR 2591)
				26 IR 1516
50 IAC 15-1-2.6	N	01-266	25 IR 410	*AROC (25 IR 2591)
				26 IR 1516
50 IAC 15-1-3	R	01-266	25 IR 416	*AROC (25 IR 2591)
				26 IR 1522
50 IAC 15-1-5	R	01-266	25 IR 416	*AROC (25 IR 2591)
				26 IR 1522
50 IAC 15-1-6	N	01-266	25 IR 410	*AROC (25 IR 2591)
50 IAC 15-3-1	A	01-266	25 IR 410	*AROC (25 IR 2591)
				26 IR 1516
50 IAC 15-3-2	A	01-266	25 IR 410	*AROC (25 IR 2591)
				26 IR 1516
50 IAC 15-3-3	A	01-266	25 IR 411	*AROC (25 IR 2591)
				26 IR 1517
50 IAC 15-3-4	A	01-266	25 IR 411	*AROC (25 IR 2591)
				26 IR 1517
50 IAC 15-3-5	A	01-266	25 IR 411	*AROC (25 IR 2591)
				26 IR 1517
50 IAC 15-3-6	N	01-266	25 IR 411	*AROC (25 IR 2591)
				26 IR 1518
50 IAC 15-4-1	A	01-266	25 IR 412	*AROC (25 IR 2591)
				26 IR 1518
50 IAC 15-5-1	A	01-266	25 IR 413	*AROC (25 IR 2591)
				26 IR 1519
50 IAC 15-5-2	A	01-266	25 IR 414	*AROC (25 IR 2591)
				26 IR 1520
50 IAC 15-5-4	A	01-266	25 IR 414	*AROC (25 IR 2591)
				26 IR 1520
50 IAC 15-5-5	A	01-266	25 IR 414	*AROC (25 IR 2591)
				26 IR 1520
50 IAC 15-5-6	A	01-266	25 IR 415	*AROC (25 IR 2591)
				26 IR 1521
50 IAC 15-5-7	A	01-266	25 IR 415	*AROC (25 IR 2591)
				26 IR 1521
50 IAC 15-5-8	A	01-266	25 IR 415	*AROC (25 IR 2591)
				26 IR 1521
50 IAC 18	N	02-81	26 IR 1117	*AROC (26 IR 1263)
50 IAC 19	N	02-342	26 IR 2397	

TITLE 52 INDIANA BOARD OF TAX REVIEW

52 IAC 1	N	02-206	26 IR 89	**26 IR 2316**

TITLE 60 OVERSIGHT COMMITTEE ON PUBLIC RECORDS

60 IAC 2-1-1	A	02-261	26 IR 1118	**26 IR 2604**
60 IAC 2-1-2	R	02-261	26 IR 1121	**26 IR 2607**
60 IAC 2-1-3	R	02-261	26 IR 1121	**26 IR 2607**
60 IAC 2-2-1	A	02-261	26 IR 1118	**26 IR 2604**
60 IAC 2-2-2	A	02-261	26 IR 1118	**26 IR 2604**
60 IAC 2-2-3	A	02-261	26 IR 1119	**26 IR 2605**
60 IAC 2-2-3.1	N	02-261	26 IR 1120	**26 IR 2605**
60 IAC 2-2-4	A	02-261	26 IR 1120	**26 IR 2605**
60 IAC 2-2-5	A	02-261	26 IR 1120	**26 IR 2606**
60 IAC 2-2-5.1	N	02-261	26 IR 1121	**26 IR 2606**
60 IAC 2-2-6	R	02-261	26 IR 1121	**26 IR 2607**
60 IAC 2-2-7	R	02-261	26 IR 1121	**26 IR 2607**

TITLE 65 STATE LOTTERY COMMISSION

65 IAC 3-3-3	A	02-252	*ER (26 IR 40)
65 IAC 3-3-10	A	02-252	*ER (26 IR 40)
65 IAC 3-4-4	A	02-252	*ER (26 IR 41)
65 IAC 3-4-5	A	02-252	*ER (26 IR 42)
65 IAC 4-2-4	A	02-253	*ER (26 IR 42)
65 IAC 4-2-8	A	02-253	*ER (26 IR 43)
65 IAC 4-452	N	02-353	*ER (26 IR 1585)
65 IAC 4-453	N	02-350	*ER (26 IR 1580)
65 IAC 5-2-4	A	02-253	*ER (26 IR 43)
65 IAC 5-2-8	A	02-253	*ER (26 IR 43)
65 IAC 5-12-2	A	02-254	*ER (26 IR 44)
65 IAC 5-12-3	A	02-254	*ER (26 IR 45)
65 IAC 5-12-4	A	02-254	*ER (26 IR 45)
65 IAC 5-12-5	A	02-254	*ER (26 IR 46)
65 IAC 5-12-6	A	02-254	*ER (26 IR 46)
65 IAC 5-12-7	A	02-254	*ER (26 IR 47)
65 IAC 5-12-9	A	02-254	*ER (26 IR 47)
65 IAC 5-12-10	A	02-254	*ER (26 IR 47)
65 IAC 5-12-11	A	02-254	*ER (26 IR 48)
65 IAC 5-12-12	A	02-254	*ER (26 IR 49)
65 IAC 5-12-12.5	A	02-254	*ER (26 IR 49)
65 IAC 5-12-14	A	02-254	*ER (26 IR 51)
65 IAC 5-15-10	N	03-14	*ER (26 IR 1946)
65 IAC 5-15-11	N	03-14	*ER (26 IR 1946)
65 IAC 6-1-1.1	N	02-255	*ER (26 IR 51)
65 IAC 6-1-1.2	N	02-255	*ER (26 IR 51)
65 IAC 6-1-2.1	N	02-255	*ER (26 IR 51)
65 IAC 6-1-2.2	N	02-255	*ER (26 IR 51)
65 IAC 6-1-4.1	N	02-255	*ER (26 IR 51)
65 IAC 6-1-10	N	02-255	*ER (26 IR 52)
65 IAC 6-2-3	A	02-255	*ER (26 IR 52)
65 IAC 6-2-4	A	02-255	*ER (26 IR 52)
65 IAC 6-2-5	A	02-255	*ER (26 IR 52)
65 IAC 6-2-8	A	02-255	*ER (26 IR 53)
65 IAC 6-2-9	A	02-255	*ER (26 IR 53)
65 IAC 6-3-2	A	02-255	*ER (26 IR 53)
65 IAC 6-3-3	R	02-255	*ER (26 IR 54)
65 IAC 6-4-6	R	02-255	*ER (26 IR 54)
65 IAC 6-4-7	R	02-255	*ER (26 IR 54)
65 IAC 6-4-8	R	02-255	*ER (26 IR 54)
65 IAC 6-4-9	R	02-255	*ER (26 IR 54)
65 IAC 6-4-10	R	02-255	*ER (26 IR 54)
65 IAC 6-4-11	R	02-255	*ER (26 IR 54)
65 IAC 6-4-12	R	02-255	*ER (26 IR 54)

TITLE 68 INDIANA GAMING COMMISSION

68 IAC 3	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 4	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
68 IAC 5	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 10	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 11	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 12	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 13	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 14	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 15	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 16	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 17	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 18	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261
68 IAC 19	RA	01-418	25 IR 2589	*CPH (25 IR 3208)
				26 IR 1261

TITLE 71 INDIANA HORSE RACING COMMISSION

71 IAC 1-1-41.5	N	02-282	*ER (26 IR 394)
71 IAC 1.5-1-37.5	N	02-282	*ER (26 IR 394)
			*ERR (26 IR 793)
71 IAC 3-2-9	A	03-52	*ER (26 IR 2380)
71 IAC 3.5-2-9	A	03-52	*ER (26 IR 2380)
71 IAC 4-2-4	A	03-52	*ER (26 IR 2380)
71 IAC 4-2-5	A	03-52	*ER (26 IR 2381)
71 IAC 4-3-1	A	03-52	*ER (26 IR 2381)
71 IAC 4.5-2-4	A	03-52	*ER (26 IR 2381)
71 IAC 4.5-2-5	A	03-52	*ER (26 IR 2382)
71 IAC 4.5-3-1	A	03-52	*ER (26 IR 2382)
71 IAC 5.5-4-4	A	03-52	*ER (26 IR 2382)
71 IAC 5.5-5-3	A	02-250	*ER (26 IR 55)
71 IAC 6.5-1-4	A	02-250	*ER (26 IR 55)
71 IAC 7-1-15	A	03-52	*ER (26 IR 2383)
71 IAC 7-1-28	A	03-52	*ER (26 IR 2383)
71 IAC 7-1-37	R	03-52	*ER (26 IR 2388)
71 IAC 7.5-1-4	A	03-52	*ER (26 IR 2383)
71 IAC 7.5-1-14	N	03-52	*ER (26 IR 2383)
71 IAC 7.5-6-1	A	03-52	*ER (26 IR 2384)
71 IAC 7.5-10	N	02-250	*ER (26 IR 56)
71 IAC 8-1-1	A	03-52	*ER (26 IR 2384)
71 IAC 8-4-1	A	03-52	*ER (26 IR 2385)
71 IAC 8-6-2	N	03-52	*ER (26 IR 2385)
71 IAC 8.5-1-1	A	03-52	*ER (26 IR 2385)
71 IAC 8.5-3-1	A	03-52	*ER (26 IR 2386)
71 IAC 8.5-4-8	N	02-250	*ER (26 IR 57)
71 IAC 8.5-5-2	N	02-250	*ER (26 IR 57)
	N	03-52	*ER (26 IR 2386)
71 IAC 8.5-10-6	A	02-250	*ER (26 IR 58)
71 IAC 10-2-9	A	03-52	*ER (26 IR 2387)
71 IAC 12-2-15	A	02-251	*ER (26 IR 58)
	A	02-282	*ER (26 IR 394)
	A	03-52	*ER (26 IR 2387)
71 IAC 12-2-18	A	03-52	*ER (26 IR 2388)
71 IAC 12-2-19	A	02-251	*ER (26 IR 59)
			*ERR (26 IR 382)
71 IAC 12-2-20	A	02-282	*ER (26 IR 395)
71 IAC 13.5-3-3	A	03-25	*ER (26 IR 1952)
71 IAC 14.5-1-3	A	03-25	*ER (26 IR 1952)

TITLE 80 STATE FAIR COMMISSION

80 IAC 4-3-3	A	02-200	26 IR 420
80 IAC 4-3-5	A	02-200	26 IR 420
80 IAC 4-4	N	02-243	26 IR 2398

TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION

105 IAC 9-1-1	A	03-17	26 IR 2400
105 IAC 9-1-2	A	03-17	26 IR 2400
105 IAC 9-2-1	A	02-231	26 IR 421

TITLE 135 INDIANA TRANSPORTATION FINANCE AUTHORITY

135 IAC 2	RA	02-175	25 IR 4219	**26 IR 882**
135 IAC 2-1-1	A	02-171	25 IR 4138	
135 IAC 2-2-1	A	02-171	25 IR 4140	
135 IAC 2-2-3	A	02-171	25 IR 4140	
135 IAC 2-2-5	A	02-171	25 IR 4140	
135 IAC 2-2-10	A	02-171	25 IR 4141	
135 IAC 2-2-12	A	02-171	25 IR 4141	
135 IAC 2-3-1	A	02-171	25 IR 4141	
135 IAC 2-3-2	A	02-171	25 IR 4141	
135 IAC 2-4-1	A	02-171	25 IR 4141	
135 IAC 2-4-4	A	02-171	25 IR 4142	
135 IAC 2-5-1	A	02-171	25 IR 4142	
135 IAC 2-5-2	A	02-171	25 IR 4142	
135 IAC 2-6-1	A	02-171	25 IR 4148	
135 IAC 2-7-1	A	02-171	25 IR 4148	
135 IAC 2-7-3	A	02-171	25 IR 4148	
135 IAC 2-7-7	A	02-171	25 IR 4148	
135 IAC 2-7-11	A	02-171	25 IR 4149	
135 IAC 2-7-15	A	02-171	25 IR 4149	
135 IAC 2-7-18	A	02-171	25 IR 4149	
135 IAC 2-7-19	R	02-171	25 IR 4151	
135 IAC 2-7-20	A	02-171	25 IR 4149	
135 IAC 2-7-23	A	02-171	25 IR 4149	
135 IAC 2-8-1	A	02-171	25 IR 4149	
135 IAC 2-8-3	A	02-171	25 IR 4150	
135 IAC 2-8-5	A	02-171	25 IR 4150	
135 IAC 2-8-7	A	02-171	25 IR 4150	
135 IAC 2-8-11	A	02-171	25 IR 4150	
135 IAC 2-10-1	A	02-171	25 IR 4151	
135 IAC 2-10-2	A	02-171	25 IR 4151	
135 IAC 3	RA	02-175	25 IR 4219	**26 IR 882**

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

170 IAC 4-1-26	A	02-44	25 IR 2751	**26 IR 328**
170 IAC 7-1.2				*ERR (26 IR 382)
170 IAC 7-1.3				*ERR (26 IR 382)
170 IAC 7-1.3-2				*ERR (26 IR 1565)
				*ERR (26 IR 2375)

TITLE 210 DEPARTMENT OF CORRECTION

210 IAC 1-6-1	A	02-259	26 IR 817	
210 IAC 1-6-2	A	02-259	26 IR 818	
210 IAC 1-6-3	R	02-259	26 IR 829	
210 IAC 1-6-4	A	02-259	26 IR 818	
210 IAC 1-6-5	A	02-259	26 IR 819	
210 IAC 1-6-6	A	02-259	26 IR 820	
210 IAC 1-6-7	A	02-259	26 IR 821	
210 IAC 1-10	N	02-259	26 IR 821	
210 IAC 5-1-1	A	02-259	26 IR 823	
210 IAC 5-1-2	A	02-259	26 IR 824	
210 IAC 5-1-3	A	02-259	26 IR 824	
210 IAC 5-1-4	A	02-259	26 IR 827	
210 IAC 6-1-1	A	02-173	25 IR 4152	**26 IR 1064**
210 IAC 6-2-1	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-2	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-3	A	02-173	25 IR 4152	**26 IR 1064**
210 IAC 6-2-4	A	02-173	25 IR 4152	**26 IR 1064**
210 IAC 6-2-5	A	02-173	25 IR 4152	**26 IR 1064**

210 IAC 6-2-6	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-7	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-8	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-9	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-10	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-11	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-12	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-2-13	A	02-173	25 IR 4152	**26 IR 1064**
210 IAC 6-3-1	A	02-173	25 IR 4152	**26 IR 1064**
210 IAC 6-3-2	A	02-173	25 IR 4153	**26 IR 1065**
210 IAC 6-3-3	A	02-173	25 IR 4153	**26 IR 1065**
210 IAC 6-3-4	A	02-173	25 IR 4154	**26 IR 1066**
210 IAC 6-3-5	A	02-173	25 IR 4155	**26 IR 1067**
210 IAC 6-3-6	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-3-7	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-3-8	RA	02-174	25 IR 4219	**26 IR 882**
210 IAC 6-3-9	A	02-173	25 IR 4155	**26 IR 1067**
210 IAC 6-3-10	A	02-173	25 IR 4155	**26 IR 1068**
210 IAC 6-3-11	A	02-173	25 IR 4155	**26 IR 1068**
210 IAC 6-3-12	RA	02-174	25 IR 4219	**26 IR 882**

TITLE 240 STATE POLICE DEPARTMENT

240 IAC 7-1-6	RA	02-139	25 IR 3882	**26 IR 546**

TITLE 250 LAW ENFORCEMENT TRAINING BOARD

250 IAC 1-1.1	RA	02-149	25 IR 3882	
250 IAC 1-2	RA	02-149	25 IR 3882	
250 IAC 1-3-1	RA	02-149	25 IR 3882	
250 IAC 1-3-3	RA	02-149	25 IR 3882	
250 IAC 1-3-6	RA	02-149	25 IR 3882	
250 IAC 1-3-7	RA	02-149	25 IR 3882	
250 IAC 1-3-8	RA	02-149	25 IR 3882	
250 IAC 1-3-9	RA	02-149	25 IR 3882	
250 IAC 1-3-10	RA	02-149	25 IR 3882	
250 IAC 1-3-11	RA	02-149	25 IR 3882	
250 IAC 1-3-12	RA	02-149	25 IR 3882	
250 IAC 1-3-13	RA	02-149	25 IR 3882	
250 IAC 1-5	RA	02-149	25 IR 3882	
250 IAC 1-5.l	RA	02-149	25 IR 3882	
250 IAC 1-5.2	RA	02-149	25 IR 3882	
250 IAC 1-5.3	RA	02-149	25 IR 3882	
250 IAC 1-5.4	RA	02-149	25 IR 3882	
250 IAC 1-5.5	RA	02-149	25 IR 3882	
250 IAC 1-6-1	RA	02-149	25 IR 3882	
250 IAC 1-6-2	RA	02-149	25 IR 3882	
250 IAC 1-6-3	RA	02-149	25 IR 3882	
250 IAC 1-6-4	RA	02-149	25 IR 3882	
250 IAC 1-6-5	RA	02-149	25 IR 3882	
250 IAC 1-6-6	RA	02-149	25 IR 3882	
250 IAC 1-7	RA	02-149	25 IR 3882	

TITLE 305 INDIANA BOARD OF LICENSURE FOR PROFESSIONAL GEOLOGISTS

305 IAC 1-2-6	A	02-328	26 IR 1598	
305 IAC 1-3-4	A	02-328	26 IR 1599	
305 IAC 1-4-1	A	02-328	26 IR 1599	
305 IAC 1-4-2	A	02-328	26 IR 1599	
305 IAC 1-5	N	02-328	26 IR 1600	

TITLE 307 INDIANA BOARD OF REGISTRATION FOR SOIL SCIENTISTS

307 IAC	N	03-32	26 IR 2652	

TITLE 312 NATURAL RESOURCES COMMISSION

312 IAC 2	RA	02-72	25 IR 3461	**26 IR 546**
312 IAC 2-4-1	A	02-236	26 IR 1126	
312 IAC 2-4-2	A	02-236	26 IR 1126	
312 IAC 2-4-4	A	02-236	26 IR 1127	
312 IAC 2-4-6	A	02-236	26 IR 1127	
312 IAC 2-4-7	A	02-236	26 IR 1127	
312 IAC 2-4-8	R	02-236	26 IR 1131	
312 IAC 2-4-9	A	02-236	26 IR 1128	
312 IAC 2-4-9.5	A	02-236	26 IR 1128	
312 IAC 2-4-10	R	02-236	26 IR 1131	
312 IAC 2-4-12	A	02-236	26 IR 1128	
312 IAC 2-4-13	N	02-236	26 IR 1129	
312 IAC 3	RA	02-72	25 IR 3461	**26 IR 546**
312 IAC 3-1-1	A	02-2	25 IR 2552	**26 IR 7**
312 IAC 3-1-2	A	02-2	25 IR 2553	**26 IR 8**
312 IAC 3-1-3	A	02-2	25 IR 2553	**26 IR 8**
312 IAC 3-1-8	A	02-2	25 IR 2553	**26 IR 8**
312 IAC 3-1-12	A	02-294	26 IR 1131	
312 IAC 3-1-14	A	02-2	25 IR 2554	**26 IR 9**
312 IAC 3-1-18	A	02-2	25 IR 2554	**26 IR 9**
312 IAC 5-2-47	A	03-24	26 IR 2401	
312 IAC 5-3-1	A	02-236	26 IR 1130	
312 IAC 5-3-2	A	02-236	26 IR 1130	
312 IAC 5-3-3	A	02-236	26 IR 1130	
312 IAC 5-6-6	A	02-162	25 IR 4165	**26 IR 1900**
	A	03-29	26 IR 2660	
312 IAC 5-13-2	A	03-24	26 IR 2401	
312 IAC 6	RA	02-331	26 IR 2133	
312 IAC 7	RA	02-331	26 IR 2133	
312 IAC 9	RA	02-331	26 IR 2133	
312 IAC 9-2-13	A	02-68	25 IR 2751	**26 IR 1068**
312 IAC 9-6-1	A	02-318	26 IR 1966	
312 IAC 9-6-7	A	02-318	26 IR 1967	
312 IAC 9-10-4	A	02-232	26 IR 1602	
312 IAC 9-10-6	A	02-68	25 IR 2752	**26 IR 1069**
312 IAC 9-10-11	A	01-444	25 IR 2551	**26 IR 692**
312 IAC 9-11-14	A	02-322	26 IR 1603	
312 IAC 11-5-1	A	03-30	26 IR 2661	
312 IAC 12-3-2				*ERR (26 IR 1565)
312 IAC 14	RA	02-331	26 IR 2133	
312 IAC 15	RA	02-331	26 IR 2133	
312 IAC 16-3-2	A	02-73	25 IR 4156	**26 IR 1896**
312 IAC 16-3.5	N	02-73	25 IR 4158	**26 IR 1898**
312 IAC 16-4-1	A	02-73	25 IR 4158	**26 IR 1898**
312 IAC 16-4-2	A	02-73	25 IR 4159	**26 IR 1898**
312 IAC 16-4-5	A	02-73	25 IR 4159	**26 IR 1899**
312 IAC 18	RA	02-72	25 IR 3461	**26 IR 546**
312 IAC 18-3-8	A	02-202	26 IR 1123	
312 IAC 18-3-12	A	02-201	26 IR 1121	
312 IAC 20-5	N	02-329	26 IR 2658	
312 IAC 22.5				*ERR (26 IR 383)
312 IAC 24	RA	02-331	26 IR 2133	
312 IAC 25-1-45.5	N	02-104	25 IR 4160	*AROC (26 IR 1736)
312 IAC 25-1-60.5	N	02-104	25 IR 4160	*AROC (26 IR 1736)
312 IAC 25-4-43	A	02-104	25 IR 4160	*AROC (26 IR 1736)
312 IAC 25-4-47	A	02-104	25 IR 4161	*AROC (26 IR 1736)
312 IAC 25-4-85	A	02-104	25 IR 4162	*AROC (26 IR 1736)
312 IAC 25-4-93	A	02-104	25 IR 4163	*AROC (26 IR 1736)
312 IAC 25-6-12.5	N	02-104	25 IR 4164	*AROC (26 IR 1736)
312 IAC 25-6-76.5	N	02-104	25 IR 4164	*AROC (26 IR 1736)

TITLE 326 AIR POLLUTION CONTROL BOARD

326 IAC 1-1-3	A	02-337	26 IR 1997	
326 IAC 1-1-3.5	A	02-337	26 IR 1997	
326 IAC 1-2-65	A	02-337	26 IR 1997	
326 IAC 1-2-90	A	02-337	26 IR 1998	
326 IAC 1-4-1	A	02-88	25 IR 3240	**26 IR 1077**
326 IAC 1-5-2				*ERR (26 IR 1565)
326 IAC 2-2-13				*ERR (26 IR 1565)
	A	02-337	26 IR 1998	
326 IAC 2-2-16				*ERR (26 IR 1565)
	A	02-337	26 IR 1999	
326 IAC 2-3-1				*ERR (26 IR 1565)
	A	02-337	26 IR 2000	
326 IAC 2-6-1	A	01-249	24 IR 3700	*CPH (24 IR 4012)

326 IAC 2-6-2	A	01-249	24 IR 3700	*CPH (24 IR 4012)
326 IAC 2-6-3	A	01-249	24 IR 3702	*CPH (24 IR 4012)
326 IAC 2-6-4	A	01-249	24 IR 3703	*CPH (24 IR 4012)
				*ERR (26 IR 1566)
	A	02-337	26 IR 2005	
326 IAC 2-6-5	N	01-249	24 IR 3705	*CPH (24 IR 4012)
326 IAC 2-7-3				*ERR (26 IR 1566)
	A	02-337	26 IR 2006	
326 IAC 2-7-8				*ERR (26 IR 1566)
	A	02-337	26 IR 2006	
326 IAC 2-7-18				*ERR (26 IR 1566)
	A	02-337	26 IR 2007	
326 IAC 2-8-3				*ERR (26 IR 1566)
	A	02-337	26 IR 2008	
326 IAC 2-9-7				*ERR (26 IR 1566)
	A	02-337	26 IR 2009	
326 IAC 2-9-8				*ERR (26 IR 1566)
	A	02-337	26 IR 2010	
326 IAC 2-9-9				*ERR (26 IR 1566)
	A	02-337	26 IR 2012	
326 IAC 2-9-10				*ERR (26 IR 1566)
	A	02-337	26 IR 2013	
326 IAC 2-9-13				*ERR (26 IR 1566)
	A	02-337	26 IR 2014	
326 IAC 3-4-1				*ERR (26 IR 1566)
	A	02-337	26 IR 2016	
326 IAC 3-4-3				*ERR (26 IR 1566)
	A	02-337	26 IR 2016	
326 IAC 3-5-2				*ERR (26 IR 1566)
	A	02-337	26 IR 2017	
326 IAC 3-5-3				*ERR (26 IR 1567)
	A	02-337	26 IR 2019	
326 IAC 3-5-4				*ERR (26 IR 1567)
	A	02-337	26 IR 2019	
326 IAC 3-5-5				*ERR (26 IR 1567)
	A	02-337	26 IR 2020	
326 IAC 3-6-1				*ERR (26 IR 1567)
	A	02-337	26 IR 2022	
326 IAC 3-6-3				*ERR (26 IR 1567)
	A	02-337	26 IR 2022	
326 IAC 3-6-5				*ERR (26 IR 1567)
	A	02-337	26 IR 2023	
326 IAC 3-7-2				*ERR (26 IR 1567)
	A	02-337	26 IR 2024	
326 IAC 3-7-4				*ERR (26 IR 1567)
	A	02-337	26 IR 2025	
326 IAC 4-1-4.1	A	02-88	25 IR 3240	**26 IR 1077**
326 IAC 4-1-8				*ERR (26 IR 1567)
326 IAC 4-2-1	A	00-44	24 IR 2754	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
				26 IR 1071
326 IAC 4-2-2	A	00-44	24 IR 2754	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
				26 IR 1071
326 IAC 5-1-2				*ERR (26 IR 1567)
	A	01-407	26 IR 2026	*CPH (26 IR 2391)
326 IAC 5-1-4				*ERR (26 IR 1567)
	A	02-337	26 IR 2026	
326 IAC 5-1-5				*ERR (26 IR 1567)
	A	02-337	26 IR 2027	
326 IAC 6-1-1				*ERR (26 IR 383)
326 IAC 6-1-10.1	A	01-407	26 IR 1970	*CPH (26 IR 2391)
326 IAC 6-1-10.2	A	01-407	26 IR 1994	*CPH (26 IR 2391)
326 IAC 6-1-14	A	02-122	26 IR 98	*CPH (26 IR 811)
				26 IR 2318
326 IAC 6-2-3				*ERR (26 IR 1567)
326 IAC 6-4-5				*ERR (26 IR 1567)
326 IAC 6-5-7				*ERR (26 IR 1568)
326 IAC 6-6-2				*ERR (26 IR 1568)
326 IAC 6-6-4				*ERR (26 IR 1568)
326 IAC 7-2-1				*ERR (26 IR 1565)
	A	02-337	26 IR 2028	
326 IAC 7-4-10				*ERR (26 IR 1568)
	A	02-337	26 IR 2029	
326 IAC 7-4-14				*ERR (26 IR 1568)
326 IAC 8-1-2	A	01-251	25 IR 2754	**26 IR 1073**
326 IAC 8-1-4				*ERR (26 IR 1565)
	A	02-337	26 IR 2030	
326 IAC 8-2-9	A	02-88	25 IR 3241	**26 IR 1078**
326 IAC 8-4-6	A	02-337	26 IR 2032	
326 IAC 8-4-9				*ERR (26 IR 1568)
	A	02-337	26 IR 2035	
326 IAC 8-7-7				*ERR (26 IR 1568)
	A	02-337	26 IR 2036	
326 IAC 8-7-10				*ERR (26 IR 1568)
326 IAC 8-8.1-1				*ERR (26 IR 1568)
326 IAC 8-9-2				*ERR (26 IR 1568)
	A	02-337	26 IR 2037	
326 IAC 8-9-3				*ERR (26 IR 1568)
	A	02-337	26 IR 2037	
326 IAC 8-9-4				*ERR (26 IR 1568)
	A	02-337	26 IR 2038	
326 IAC 8-9-5				*ERR (26 IR 1568)
	A	02-337	26 IR 2040	
326 IAC 8-9-6				*ERR (26 IR 1568)
	A	02-337	26 IR 2042	
326 IAC 8-10-5				*ERR (26 IR 1568)
326 IAC 8-10-6				*ERR (26 IR 1568)
326 IAC 8-10-7				*ERR (26 IR 1568)
	A	02-337	26 IR 2044	
326 IAC 8-11-2				*ERR (26 IR 1568)
	A	02-337	26 IR 2044	
326 IAC 8-11-3				*ERR (26 IR 1568)
326 IAC 8-11-6				*ERR (26 IR 1568)
	A	02-337	26 IR 2046	
326 IAC 8-11-7				*ERR (26 IR 1569)
	A	02-337	26 IR 2050	
326 IAC 8-12-3				*ERR (26 IR 1569)
	A	02-337	26 IR 2050	
326 IAC 8-12-5				*ERR (26 IR 1569)
	A	02-337	26 IR 2052	
326 IAC 8-12-6				*ERR (26 IR 1565)
	A	02-337	26 IR 2053	
326 IAC 8-12-7	A	02-337	26 IR 2054	
326 IAC 8-13-5				*ERR (26 IR 1569)
	A	02-337	26 IR 2055	
326 IAC 9-1-1	A	00-44	24 IR 2777	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
				26 IR 1072
326 IAC 9-1-2	A	00-44	24 IR 2777	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
				26 IR 1072
326 IAC 10-1-2				*ERR (26 IR 1569)
	A	02-337	26 IR 2056	
326 IAC 10-1-4				*ERR (26 IR 1569)
	A	02-337	26 IR 2057	
326 IAC 10-1-5				*ERR (26 IR 1569)
	A	02-337	26 IR 2059	
326 IAC 10-1-6				*ERR (26 IR 1569)
	A	02-337	26 IR 2059	
326 IAC 10-3-1	A	02-54	26 IR 1134	*CPH (26 IR 2391)
326 IAC 10-3-3				*ERR (26 IR 1569)
326 IAC 10-4-1	A	02-54	26 IR 1134	*CPH (26 IR 2391)
326 IAC 10-4-2	A	02-54	26 IR 1136	*CPH (26 IR 2391)
326 IAC 10-4-3				*ERR (26 IR 1569)
326 IAC 10-4-4				*ERR (26 IR 1569)
326 IAC 10-4-8				*ERR (26 IR 1569)
326 IAC 10-4-9	A	02-54	26 IR 1142	*CPH (26 IR 2391)

326 IAC 10-4-10	A	02-54	26 IR 1148	*CPH (26 IR 2391)
326 IAC 10-4-12				*ERR (26 IR 1569)
326 IAC 10-4-13	A	02-54	26 IR 1152	*CPH (26 IR 2391)
326 IAC 10-4-14	A	02-54	26 IR 1155	*CPH (26 IR 2391)
326 IAC 10-4-15	A	02-54	26 IR 1156	*CPH (26 IR 2391)
326 IAC 11-3-4				*ERR (26 IR 1569)
	A	01-407	26 IR 2060	*CPH (26 IR 2391)
326 IAC 11-4-5	A	00-43	25 IR 2285	**26 IR 10**
326 IAC 11-5	R	99-177	25 IR 1984	**26 IR 10**
326 IAC 11-7-1	A	02-337	26 IR 2061	
326 IAC 13-1.1-1				*ERR (26 IR 1570)
	A	02-337	26 IR 2062	
326 IAC 13-1.1-8				*ERR (26 IR 1570)
	A	02-337	26 IR 2063	
326 IAC 13-1.1-10				*ERR (26 IR 1570)
	A	02-337	26 IR 2063	
326 IAC 13-1.1-13				*ERR (26 IR 1570)
	A	02-337	26 IR 2064	
326 IAC 13-1.1-14				*ERR (26 IR 1570)
	A	02-337	26 IR 2065	
326 IAC 13-1.1-16				*ERR (26 IR 1570)
	A	02-337	26 IR 2066	
326 IAC 13-2.1-3				*ERR (26 IR 1570)
326 IAC 13-3-1	A	02-88	25 IR 3242	**26 IR 1079**
326 IAC 13-3-2				*ERR (26 IR 1570)
326 IAC 13-3-5				*ERR (26 IR 1570)
326 IAC 13-3-6				*ERR (26 IR 1570)
326 IAC 14-1-1	A	02-337	26 IR 2066	
326 IAC 14-1-2	A	02-337	26 IR 2067	
326 IAC 14-1-4	R	02-337	26 IR 2099	
326 IAC 14-3-1				*ERR (26 IR 1570)
	A	02-337	26 IR 2067	
326 IAC 14-4-1				*ERR (26 IR 1571)
	A	02-337	26 IR 2067	
326 IAC 14-5-1				*ERR (26 IR 1571)
	A	02-337	26 IR 2068	
326 IAC 14-6-1				*ERR (26 IR 1571)
326 IAC 14-7-1				*ERR (26 IR 1571)
	A	02-337	26 IR 2068	
326 IAC 14-8-1	A	02-337	26 IR 2068	
326 IAC 14-8-3	A	02-337	26 IR 2069	
326 IAC 14-8-4	A	02-337	26 IR 2069	
326 IAC 14-8-5	A	02-337	26 IR 2069	
326 IAC 14-9-5	A	02-337	26 IR 2070	
326 IAC 14-9-7				*ERR (26 IR 1571)
326 IAC 14-9-8	A	02-337	26 IR 2071	
326 IAC 14-9-9				*ERR (26 IR 1571)
	A	02-337	26 IR 2071	
326 IAC 14-10-1				*ERR (26 IR 1571)
	A	02-337	26 IR 2072	
326 IAC 14-10-2				*ERR (26 IR 1571)
	A	02-337	26 IR 2074	
326 IAC 14-10-3				*ERR (26 IR 1571)
	A	02-337	26 IR 2076	
326 IAC 14-10-4				*ERR (26 IR 1571)
	A	02-337	26 IR 2078	
326 IAC 15-1-2				*ERR (26 IR 1565)
	A	02-337	26 IR 2080	
326 IAC 15-1-4				*ERR (26 IR 1571)
	A	02-337	26 IR 2083	
326 IAC 16-2-3				*ERR (26 IR 1571)
326 IAC 16-3-1				*ERR (26 IR 1571)
	A	02-337	26 IR 2084	
326 IAC 18-1-2				*ERR (26 IR 1572)
	A	02-337	26 IR 2084	
326 IAC 18-1-5				*ERR (26 IR 1572)
	A	02-337	26 IR 2086	
326 IAC 18-1-7				*ERR (26 IR 1572)
	A	02-337	26 IR 2087	
326 IAC 18-1-8	A	02-337	26 IR 2088	
326 IAC 18-2-2				*ERR (26 IR 1572)
	A	02-337	26 IR 2088	
326 IAC 18-2-3				*ERR (26 IR 1572)
	A	02-337	26 IR 2090	
326 IAC 18-2-6	A	02-337	26 IR 2096	
326 IAC 18-2-7	A	02-337	26 IR 2097	
326 IAC 19-1	R	00-44	24 IR 2791	*CPH (25 IR 2542)
				*CPH (25 IR 3208)
				26 IR 1073
326 IAC 20-25-1	A	02-55	26 IR 92	*CPH (26 IR 811)
				26 IR 2607
326 IAC 20-25-3	A	02-55	26 IR 92	*CPH (26 IR 811)
				26 IR 2607
326 IAC 20-25-4	A	02-55	26 IR 94	*CPH (26 IR 811)
				26 IR 2609
326 IAC 20-25-5	A	02-55	26 IR 94	*CPH (26 IR 811)
				26 IR 2610
326 IAC 20-25-7	A	02-55	26 IR 95	*CPH (26 IR 811)
				26 IR 2610
326 IAC 20-48	N	02-55	26 IR 95	*CPH (26 IR 811)
				26 IR 2611
326 IAC 22-1-1				*ERR (26 IR 1572)
	A	02-337	26 IR 2098	
326 IAC 23-1-4	A	02-189	26 IR 2407	
326 IAC 23-1-5	A	02-189	26 IR 2408	
326 IAC 23-1-5.5	N	02-189	26 IR 2408	
326 IAC 23-1-6.5	N	02-189	26 IR 2408	
326 IAC 23-1-7.5	N	02-189	26 IR 2408	
326 IAC 23-1-7.6	N	02-189	26 IR 2408	
326 IAC 23-1-9	A	02-189	26 IR 2408	
326 IAC 23-1-10	A	02-189	26 IR 2409	
326 IAC 23-1-11	A	02-189	26 IR 2409	
326 IAC 23-1-11.5	N	02-189	26 IR 2409	
326 IAC 23-1-12.5	N	02-189	26 IR 2409	
326 IAC 23-1-17	A	02-189	26 IR 2409	
326 IAC 23-1-21	A	02-189	26 IR 2410	
326 IAC 23-1-21.5	N	02-189	26 IR 2410	
326 IAC 23-1-22	R	02-189	26 IR 2437	
326 IAC 23-1-23	R	02-189	26 IR 2437	
326 IAC 23-1-26.5	N	02-189	26 IR 2410	
326 IAC 23-1-27	A	02-189	26 IR 2410	
326 IAC 23-1-27.5	N	02-189	26 IR 2410	
326 IAC 23-1-31	A	02-337	26 IR 2099	
326 IAC 23-1-32.1	N	02-189	26 IR 2410	
326 IAC 23-1-32.2	N	02-189	26 IR 2411	
326 IAC 23-1-34	A	02-189	26 IR 2411	
326 IAC 23-1-34.5	N	02-189	26 IR 2411	
326 IAC 23-1-34.8	N	02-189	26 IR 2411	
326 IAC 23-1-37	R	02-189	26 IR 2437	
326 IAC 23-1-40	R	02-189	26 IR 2437	
326 IAC 23-1-42	R	02-189	26 IR 2437	
326 IAC 23-1-43	R	02-189	26 IR 2437	
326 IAC 23-1-44	R	02-189	26 IR 2437	
326 IAC 23-1-45	R	02-189	26 IR 2437	
326 IAC 23-1-46	R	02-189	26 IR 2437	
326 IAC 23-1-47	R	02-189	26 IR 2437	
326 IAC 23-1-48.5	N	02-189	26 IR 2411	
326 IAC 23-1-52	A	02-189	26 IR 2411	
326 IAC 23-1-52.5	N	02-189	26 IR 2411	
326 IAC 23-1-54.5	N	02-189	26 IR 2412	
326 IAC 23-1-55.5	N	02-189	26 IR 2412	
326 IAC 23-1-58.5	N	02-189	26 IR 2412	
326 IAC 23-1-58.7	N	02-189	26 IR 2412	
326 IAC 23-1-60.1	N	02-189	26 IR 2412	
326 IAC 23-1-60.5	N	02-189	26 IR 2412	
326 IAC 23-1-60.6	N	02-189	26 IR 2413	
326 IAC 23-1-61.5	N	02-189	26 IR 2413	
326 IAC 23-1-62.5	N	02-189	26 IR 2413	

326 IAC 23-1-62.6	N	02-189	26 IR 2413	
326 IAC 23-1-63	A	02-189	26 IR 2413	
326 IAC 23-1-64	A	02-189	26 IR 2414	
326 IAC 23-1-69.5	N	02-189	26 IR 2414	
326 IAC 23-1-69.6	N	02-189	26 IR 2414	
326 IAC 23-1-69.7	N	02-189	26 IR 2414	
326 IAC 23-1-71	N	02-189	26 IR 2414	
326 IAC 23-2-1	A	02-189	26 IR 2414	
326 IAC 23-2-3	A	02-189	26 IR 2415	
326 IAC 23-2-4	A	02-189	26 IR 2416	
326 IAC 23-2-5	A	02-189	26 IR 2418	
326 IAC 23-2-6	A	02-189	26 IR 2419	
326 IAC 23-2-6.5	N	02-189	26 IR 2419	
326 IAC 23-2-7	A	02-189	26 IR 2420	
326 IAC 23-2-8	A	02-189	26 IR 2421	
326 IAC 23-2-9	A	02-189	26 IR 2422	
326 IAC 23-3-1	A	02-189	26 IR 2422	
326 IAC 23-3-2	A	02-189	26 IR 2422	
326 IAC 23-3-3	A	02-189	26 IR 2423	
326 IAC 23-3-5	A	02-189	26 IR 2426	
326 IAC 23-3-7	A	02-189	26 IR 2426	
326 IAC 23-3-11	A	02-189	26 IR 2428	
326 IAC 23-3-12	A	02-189	26 IR 2428	
326 IAC 23-3-13	A	02-189	26 IR 2428	
326 IAC 23-4-1	A	02-189	26 IR 2429	
326 IAC 23-4-2	A	02-189	26 IR 2429	
326 IAC 23-4-3	A	02-189	26 IR 2429	
326 IAC 23-4-4	A	02-189	26 IR 2430	
326 IAC 23-4-5	A	02-189	26 IR 2431	
326 IAC 23-4-6	A	02-189	26 IR 2432	
326 IAC 23-4-7	A	02-189	26 IR 2434	
326 IAC 23-4-9	A	02-189	26 IR 2434	
326 IAC 23-4-11	A	02-189	26 IR 2435	
326 IAC 23-4-12	A	02-189	26 IR 2435	
326 IAC 23-4-13	A	02-189	26 IR 2435	
326 IAC 23-5	N	02-189	26 IR 2436	

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327 IAC 5-2-9	A	00-136	26 IR 427	**26 IR 2613**
327 IAC 5-2.1	N	00-136	26 IR 427	**26 IR 2613**
327 IAC 5-4-6	A	01-96	26 IR 845	*CPH (26 IR 1113)
327 IAC 6.1-1-1	A	01-238	26 IR 1165	
327 IAC 6.1-1-3	A	01-238	26 IR 1166	
327 IAC 6.1-1-4	A	01-238	26 IR 1166	
327 IAC 6.1-1-5	A	01-238	26 IR 1167	
327 IAC 6.1-1-7	A	01-238	26 IR 1167	
327 IAC 6.1-2-3	A	01-238	26 IR 1167	
327 IAC 6.1-2-6	A	01-238	26 IR 1167	
327 IAC 6.1-2-7	A	01-238	26 IR 1167	
327 IAC 6.1-2-7.5	N	01-238	26 IR 1167	
327 IAC 6.1-2-8	A	01-238	26 IR 1168	
327 IAC 6.1-2-10	R	01-238	26 IR 1201	
327 IAC 6.1-2-12	R	01-238	26 IR 1201	
327 IAC 6.1-2-13	A	01-238	26 IR 1168	
327 IAC 6.1-2-14	A	01-238	26 IR 1168	
327 IAC 6.1-2-20.5	N	01-238	26 IR 1168	
327 IAC 6.1-2-28	A	01-238	26 IR 1169	
327 IAC 6.1-2-30	A	01-238	26 IR 1169	
327 IAC 6.1-2-31.5	N	01-238	26 IR 1169	
327 IAC 6.1-2-35	A	01-238	26 IR 1169	
327 IAC 6.1-2-42	A	01-238	26 IR 1169	
327 IAC 6.1-2-43	A	01-238	26 IR 1170	
327 IAC 6.1-2-54	A	01-238	26 IR 1170	
327 IAC 6.1-2-55	A	01-238	26 IR 1170	
327 IAC 6.1-2-55.5	N	01-238	26 IR 1170	
327 IAC 6.1-2-61	R	01-238	26 IR 1201	
327 IAC 6.1-3-1	A	01-238	26 IR 1170	
327 IAC 6.1-3-2	A	01-238	26 IR 1171	
327 IAC 6.1-3-3	A	01-238	26 IR 1172	
327 IAC 6.1-3-4	A	01-238	26 IR 1172	
327 IAC 6.1-3-7	A	01-238	26 IR 1172	
327 IAC 6.1-3-8	N	01-238	26 IR 1173	
327 IAC 6.1-4-1	A	01-238	26 IR 1173	
327 IAC 6.1-4-3	A	01-238	26 IR 1173	
327 IAC 6.1-4-4	A	01-238	26 IR 1174	
327 IAC 6.1-4-5	A	01-238	26 IR 1175	
327 IAC 6.1-4-5.5	N	01-238	26 IR 1175	
327 IAC 6.1-4-6	A	01-238	26 IR 1176	
327 IAC 6.1-4-7	A	01-238	26 IR 1177	
327 IAC 6.1-4-8	A	01-238	26 IR 1178	
327 IAC 6.1-4-9	A	01-238	26 IR 1179	
327 IAC 6.1-4-10	A	01-238	26 IR 1181	
327 IAC 6.1-4-11	A	01-238	26 IR 1182	
327 IAC 6.1-4-13	A	01-238	26 IR 1182	
327 IAC 6.1-4-16	A	01-238	26 IR 1184	
327 IAC 6.1-4-17	A	01-238	26 IR 1186	
327 IAC 6.1-4-18	A	01-238	26 IR 1187	
327 IAC 6.1-4-19	A	01-238	26 IR 1187	
327 IAC 6.1-5-1	A	01-238	26 IR 1187	
327 IAC 6.1-5-2	A	01-238	26 IR 1187	
327 IAC 6.1-5-3	A	01-238	26 IR 1188	
327 IAC 6.1-5-4	A	01-238	26 IR 1188	
327 IAC 6.1-6-1	A	01-238	26 IR 1189	
327 IAC 6.1-6-2	A	01-238	26 IR 1189	
327 IAC 6.1-6-3	A	01-238	26 IR 1190	
327 IAC 6.1-7-1	A	01-238	26 IR 1191	
327 IAC 6.1-7-2	A	01-238	26 IR 1191	
327 IAC 6.1-7-3	A	01-238	26 IR 1192	
327 IAC 6.1-7-4	A	01-238	26 IR 1193	
327 IAC 6.1-7-5	A	01-238	26 IR 1193	
327 IAC 6.1-7-6	A	01-238	26 IR 1194	
327 IAC 6.1-7-9	A	01-238	26 IR 1195	
327 IAC 6.1-7-10	A	01-238	26 IR 1195	
327 IAC 6.1-7-11	A	01-238	26 IR 1196	
327 IAC 6.1-7.5	N	01-238	26 IR 1197	
327 IAC 6.1-8-1	A	01-238	26 IR 1198	
327 IAC 6.1-8-2	A	01-238	26 IR 1199	
327 IAC 6.1-8-3	A	01-238	26 IR 1199	
327 IAC 6.1-8-4	A	01-238	26 IR 1199	
327 IAC 6.1-8-5	A	01-238	26 IR 1200	
327 IAC 6.1-8-6	A	01-238	26 IR 1200	
327 IAC 6.1-8-7	A	01-238	26 IR 1200	
327 IAC 6.1-8-8	A	01-238	26 IR 1201	
327 IAC 8-2-1	A	01-348	26 IR 101	*CPH (26 IR 812)
327 IAC 8-2-5	A	01-348	26 IR 105	*CPH (26 IR 812)
327 IAC 8-2-5.3	A	01-348	26 IR 107	*CPH (26 IR 812)
327 IAC 8-2-6	R	01-348	26 IR 152	*CPH (26 IR 812)
327 IAC 8-2-8.5	A	01-348	26 IR 109	*CPH (26 IR 812)
327 IAC 8-2-13	A	01-348	26 IR 110	*CPH (26 IR 812)
327 IAC 8-2-29	R	01-348	26 IR 152	*CPH (26 IR 812)
327 IAC 8-2-30	A	01-348	26 IR 110	*CPH (26 IR 812)
327 IAC 8-2-31	A	01-348	26 IR 111	*CPH (26 IR 812)
327 IAC 8-2-48	N	01-348	26 IR 111	*CPH (26 IR 812)
327 IAC 8-2.1-3	A	01-348	26 IR 112	*CPH (26 IR 812)
327 IAC 8-2.1-4	A	01-348	26 IR 114	*CPH (26 IR 812)
327 IAC 8-2.1-6	A	01-348	26 IR 115	*CPH (26 IR 812)
327 IAC 8-2.1-8	A	01-348	26 IR 121	*CPH (26 IR 812)
327 IAC 8-2.1-16	A	01-348	26 IR 122	*CPH (26 IR 812)
327 IAC 8-2.1-17	A	01-348	26 IR 126	*CPH (26 IR 812)
327 IAC 8-2.5	N	01-348	26 IR 133	*CPH (26 IR 812)
327 IAC 8-2.6	N	01-348	26 IR 146	*CPH (26 IR 812)
327 IAC 15-2-3	A	01-95	26 IR 1615	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-2-6	A	01-95	26 IR 1615	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)

327 IAC 15-2-8	A	01-95	26 IR 1615	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-2-9	A	01-95	26 IR 1615	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-3-1	A	01-95	26 IR 1616	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-3-2	A	01-95	26 IR 1616	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-3-3	A	01-95	26 IR 1617	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-1	A	01-95	26 IR 1617	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-2	A	01-95	26 IR 1617	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-3	A	01-95	26 IR 1618	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-4	A	01-95	26 IR 1619	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-5	A	01-95	26 IR 1620	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-6	A	01-95	26 IR 1621	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-6.5	N	01-95	26 IR 1622	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-7	A	01-95	26 IR 1625	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-7.5	N	01-95	26 IR 1627	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-8	A	01-95	26 IR 1628	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-10	A	01-95	26 IR 1629	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-11	R	01-95	26 IR 1646	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-5-12	N	01-95	26 IR 1629	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-1	A	01-95	26 IR 1629	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-2	A	01-95	26 IR 1629	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-4	A	01-95	26 IR 1632	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-5	A	01-95	26 IR 1635	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-6	A	01-95	26 IR 1635	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-7	A	01-95	26 IR 1635	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-7.3	N	01-95	26 IR 1641	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-7.5	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-8.5	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-10	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-11	N	01-95	26 IR 1643	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-6-12	N	01-95	26 IR 1644	*CPH (26 IR 1961) *CPH (26 IR 2392) *CPH (26 IR 2645)
327 IAC 15-13	N	01-96	26 IR 847	*CPH (26 IR 1113)

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329 IAC 3.1-1-7	A	02-235	26 IR 1240	*CPH (26 IR 1962) *CPH (26 IR 2647)
329 IAC 3.1-4-1	A	02-235	26 IR 1240	*CPH (26 IR 1962) *CPH (26 IR 2647)
329 IAC 3.1-7-2	A	02-235	26 IR 1240	*CPH (26 IR 1962) *CPH (26 IR 2647)
329 IAC 3.1-9-2	A	02-235	26 IR 1241	*CPH (26 IR 1962) *CPH (26 IR 2647)
329 IAC 3.1-10-2	A	02-235	26 IR 1242	*CPH (26 IR 1962) *CPH (26 IR 2647)
329 IAC 9-1-1	A	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-4	A	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-10.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-10.2	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-10.4	N	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-10.6	N	01-161	26 IR 1209	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-10.8	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-14	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-14.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-14.3	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-14.5	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-14.7	N	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-25	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-27	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-29.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-36	A	01-161	26 IR 1210	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-39.5	N	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646)

329 IAC 9-1-41	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-41.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-41.5	N	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-42.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-47	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-1-47.1	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-2-1	A	01-161	26 IR 1211	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-2-2	A	01-161	26 IR 1214	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-2.1-1	A	01-161	26 IR 1215	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-3-1	A	01-161	26 IR 1216	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-3-2	N	01-161	26 IR 1218	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-3.1-1	A	01-161	26 IR 1218	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-3.1-2	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-3.1-3	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-3.1-4	A	01-161	26 IR 1219	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-4-3	A	01-161	26 IR 1220	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-4-4	A	01-161	26 IR 1221	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-5-1	A	01-161	26 IR 1221	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-5-2	A	01-161	26 IR 1223	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-5-3.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-5-3.2	N	01-161	26 IR 1223	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-5-4.1	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-5-4.2	N	01-161	26 IR 1224	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-5-5.1	A	01-161	26 IR 1224	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-5-6	A	01-161	26 IR 1226	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-5-7	A	01-161	26 IR 1227	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-6-1	A	01-161	26 IR 1229	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-6-2	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-6-2.5	N	01-161	26 IR 1230	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-6-3	A	01-161	26 IR 1234	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-6-4	A	01-161	26 IR 1234	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-6-5	A	01-161	26 IR 1235	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-7-1	A	01-161	26 IR 1235	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-7-2	A	01-161	26 IR 1236	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-7-4	A	01-161	26 IR 1237	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 9-7-6	R	01-161	26 IR 1239	*CPH (26 IR 1962) *CPH (26 IR 2646)
329 IAC 10-1-4	A	00-185	26 IR 432	*CPH (26 IR 2392)
329 IAC 10-1-4.5	N	00-185	26 IR 433	*CPH (26 IR 2392)
329 IAC 10-2-6	R	00-185	26 IR 511	*CPH (26 IR 2392)
329 IAC 10-2-11	A	00-185	26 IR 433	*CPH (26 IR 2392)
329 IAC 10-2-29	R	00-185	26 IR 511	*CPH (26 IR 2392)
329 IAC 10-2-29.5	N	01-288	26 IR 1653	*CPH (26 IR 2647)
329 IAC 10-2-32	A	01-288	26 IR 1653	*CPH (26 IR 2647)
329 IAC 10-2-33	R	00-185	26 IR 511	*CPH (26 IR 2392)
329 IAC 10-2-41	A	00-185	26 IR 433	*CPH (26 IR 2392)
329 IAC 10-2-41.1	A	00-185	26 IR 434	*CPH (26 IR 2392)
329 IAC 10-2-53	R	00-185	26 IR 511	*CPH (26 IR 2392)
329 IAC 10-2-60	R	00-185	26 IR 511	*CPH (26 IR 2392)
329 IAC 10-2-63.5	N	00-185	26 IR 434	*CPH (26 IR 2392)
329 IAC 10-2-64	A	00-185	26 IR 434	*CPH (26 IR 2392)
329 IAC 10-2-66.1	N	00-185	26 IR 434	*CPH (26 IR 2392)
329 IAC 10-2-66.2	N	00-185	26 IR 434	*CPH (26 IR 2392)
329 IAC 10-2-66.3	N	00-185	26 IR 434	*CPH (26 IR 2392)
329 IAC 10-2-69	A	00-185	26 IR 435	*CPH (26 IR 2392)
329 IAC 10-2-72.1	A	01-288	26 IR 1654	*CPH (26 IR 2647)
329 IAC 10-2-74	A	00-185	26 IR 435	*CPH (26 IR 2392)
329 IAC 10-2-75	A	00-185	26 IR 435	*CPH (26 IR 2392)
329 IAC 10-2-75.1	N	00-185	26 IR 435	*CPH (26 IR 2392)
329 IAC 10-2-76	R	00-185	26 IR 511	*CPH (26 IR 2392)
329 IAC 10-2-96	A	00-185	26 IR 435	*CPH (26 IR 2392)
329 IAC 10-2-97.1	A	00-185	26 IR 435	*CPH (26 IR 2392)
329 IAC 10-2-99	A	00-185	26 IR 436	*CPH (26 IR 2392)
329 IAC 10-2-100	A	00-185	26 IR 436	*CPH (26 IR 2392)
329 IAC 10-2-105.3	N	00-185	26 IR 436	*CPH (26 IR 2392)
329 IAC 10-2-106	A	00-185	26 IR 436	*CPH (26 IR 2392)
329 IAC 10-2-109	A	00-185	26 IR 436	*CPH (26 IR 2392)
329 IAC 10-2-111.5	N	00-185	26 IR 436	*CPH (26 IR 2392)
329 IAC 10-2-112	A	00-185	26 IR 436	*CPH (26 IR 2392)
329 IAC 10-2-115	A	01-288	26 IR 1654	*CPH (26 IR 2647)
329 IAC 10-2-116	A	01-288	26 IR 1654	*CPH (26 IR 2647)
329 IAC 10-2-117	A	01-288	26 IR 1654	*CPH (26 IR 2647)
329 IAC 10-2-121.1	A	00-185	26 IR 437	*CPH (26 IR 2392)
329 IAC 10-2-127	R	00-185	26 IR 511	*CPH (26 IR 2392)
329 IAC 10-2-128	R	00-185	26 IR 511	*CPH (26 IR 2392)
329 IAC 10-2-130	A	01-288	26 IR 1655	*CPH (26 IR 2647)
329 IAC 10-2-132.2	N	00-185	26 IR 437	*CPH (26 IR 2392)
329 IAC 10-2-132.3	N	00-185	26 IR 437	*CPH (26 IR 2392)
329 IAC 10-2-135.1	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 10-2-135.5	N	01-288	26 IR 1655	*CPH (26 IR 2647)
329 IAC 10-2-142.5	N	00-185	26 IR 437	*CPH (26 IR 2392)
329 IAC 10-2-147.2	N	00-185	26 IR 437	*CPH (26 IR 2392)
329 IAC 10-2-149	R	00-185	26 IR 511	*CPH (26 IR 2392)
329 IAC 10-2-158	A	00-185	26 IR 437	*CPH (26 IR 2392)
329 IAC 10-2-165.5	N	00-185	26 IR 438	*CPH (26 IR 2392)
329 IAC 10-2-172.5	N	00-185	26 IR 438	*CPH (26 IR 2392)
329 IAC 10-2-174	A	01-288	26 IR 1655	*CPH (26 IR 2647)
329 IAC 10-2-177	R	00-185	26 IR 511	*CPH (26 IR 2392)
329 IAC 10-2-179	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 10-2-181.2	N	00-185	26 IR 438	*CPH (26 IR 2392)
329 IAC 10-2-181.5	N	00-185	26 IR 438	*CPH (26 IR 2392)
329 IAC 10-2-181.6	N	00-185	26 IR 438	*CPH (26 IR 2392)
329 IAC 10-2-187.5	N	00-185	26 IR 438	*CPH (26 IR 2392)
329 IAC 10-2-197.1	A	01-288	26 IR 1656	*CPH (26 IR 2647)
329 IAC 10-2-199.1	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 10-2-201.1	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 10-2-203	R	00-185	26 IR 511	*CPH (26 IR 2392)
329 IAC 10-2-205	R	00-185	26 IR 511	*CPH (26 IR 2392)
329 IAC 10-3-1	A	00-185	26 IR 438	*CPH (26 IR 2392)
329 IAC 10-3-2	A	00-185	26 IR 439	*CPH (26 IR 2392)
329 IAC 10-3-3	A	00-185	26 IR 439	*CPH (26 IR 2392)
329 IAC 10-5-1	A	01-288	26 IR 1656	*CPH (26 IR 2647)

329 IAC 10-6-4	A	00-185	26 IR 440	*CPH (26 IR 2392)
329 IAC 10-7.1	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 10-7.2	N	01-288	26 IR 1656	*CPH (26 IR 2647)
329 IAC 10-8.1	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 10-8.2	N	01-288	26 IR 1657	*CPH (26 IR 2647)
329 IAC 10-9-2	A	01-288	26 IR 1659	*CPH (26 IR 2647)
329 IAC 10-9-4	A	01-288	26 IR 1659	*CPH (26 IR 2647)
329 IAC 10-10-1	A	00-185	26 IR 440	*CPH (26 IR 2392)
329 IAC 10-10-2	A	00-185	26 IR 440	*CPH (26 IR 2392)
329 IAC 10-11-2.1	A	00-185	26 IR 440	*CPH (26 IR 2392)
329 IAC 10-11-2.5	A	00-185	26 IR 441	*CPH (26 IR 2392)
329 IAC 10-11-5.1	A	00-185	26 IR 443	*CPH (26 IR 2392)
329 IAC 10-11-6	A	00-185	26 IR 443	*CPH (26 IR 2392)
329 IAC 10-12-1	A	00-185	26 IR 443	*CPH (26 IR 2392)
329 IAC 10-13-1	A	00-185	26 IR 445	*CPH (26 IR 2392)
329 IAC 10-13-5	A	00-185	26 IR 445	*CPH (26 IR 2392)
329 IAC 10-13-6	A	00-185	26 IR 446	*CPH (26 IR 2392)
329 IAC 10-14-1	A	00-185	26 IR 446	*CPH (26 IR 2392)
329 IAC 10-14-2	A	01-288	26 IR 1661	*CPH (26 IR 2647)
329 IAC 10-15-1	A	00-185	26 IR 447	*CPH (26 IR 2392)
329 IAC 10-15-2	A	00-185	26 IR 448	*CPH (26 IR 2392)
329 IAC 10-15-5	A	00-185	26 IR 449	*CPH (26 IR 2392)
329 IAC 10-15-8	A	00-185	26 IR 450	*CPH (26 IR 2392)
329 IAC 10-15-12	N	00-185	26 IR 451	*CPH (26 IR 2392)
329 IAC 10-16-1	A	00-185	26 IR 452	*CPH (26 IR 2392)
329 IAC 10-16-8	A	00-185	26 IR 453	*CPH (26 IR 2392)
329 IAC 10-17-2	A	00-185	26 IR 453	*CPH (26 IR 2392)
329 IAC 10-17-7	A	00-185	26 IR 454	*CPH (26 IR 2392)
329 IAC 10-17-9	A	00-185	26 IR 456	*CPH (26 IR 2392)
329 IAC 10-17-12	A	00-185	26 IR 457	*CPH (26 IR 2392)
329 IAC 10-17-18	A	00-185	26 IR 458	*CPH (26 IR 2392)
329 IAC 10-19-1	A	00-185	26 IR 458	*CPH (26 IR 2392)
329 IAC 10-20-3	A	00-185	26 IR 459	*CPH (26 IR 2392)
329 IAC 10-20-8	A	00-185	26 IR 460	*CPH (26 IR 2392)
329 IAC 10-20-11	A	00-185	26 IR 461	*CPH (26 IR 2392)
329 IAC 10-20-12	A	00-185	26 IR 462	*CPH (26 IR 2392)
329 IAC 10-20-13	A	00-185	26 IR 463	*CPH (26 IR 2392)
329 IAC 10-20-14.1	A	01-288	26 IR 1662	*CPH (26 IR 2647)
329 IAC 10-20-20	A	00-185	26 IR 463	*CPH (26 IR 2392)
329 IAC 10-20-24	A	00-185	26 IR 464	*CPH (26 IR 2392)
329 IAC 10-20-26	A	00-185	26 IR 464	*CPH (26 IR 2392)
329 IAC 10-20-28	A	00-185	26 IR 464	*CPH (26 IR 2392)
329 IAC 10-20-29	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 10-21-1	A	00-185	26 IR 465	*CPH (26 IR 2392)
329 IAC 10-21-2	A	00-185	26 IR 468	*CPH (26 IR 2392)
329 IAC 10-21-4	A	00-185	26 IR 474	*CPH (26 IR 2392)
329 IAC 10-21-6	A	00-185	26 IR 477	*CPH (26 IR 2392)
329 IAC 10-21-7	A	00-185	26 IR 479	*CPH (26 IR 2392)
329 IAC 10-21-8	A	00-185	26 IR 480	*CPH (26 IR 2392)
329 IAC 10-21-9	A	00-185	26 IR 481	*CPH (26 IR 2392)
329 IAC 10-21-10	A	00-185	26 IR 482	*CPH (26 IR 2392)
329 IAC 10-21-13	A	00-185	26 IR 484	*CPH (26 IR 2392)
329 IAC 10-21-15	A	00-185	26 IR 488	*CPH (26 IR 2392)
329 IAC 10-21-16	A	00-185	26 IR 488	*CPH (26 IR 2392)
329 IAC 10-22-2	A	00-185	26 IR 493	*CPH (26 IR 2392)
329 IAC 10-22-3	A	00-185	26 IR 494	*CPH (26 IR 2392)
329 IAC 10-22-5	A	00-185	26 IR 494	*CPH (26 IR 2392)
329 IAC 10-22-6	A	00-185	26 IR 494	*CPH (26 IR 2392)
329 IAC 10-22-7	A	00-185	26 IR 495	*CPH (26 IR 2392)
329 IAC 10-22-8	A	00-185	26 IR 496	*CPH (26 IR 2392)
329 IAC 10-23-2	A	00-185	26 IR 496	*CPH (26 IR 2392)
329 IAC 10-23-3	A	00-185	26 IR 497	*CPH (26 IR 2392)
329 IAC 10-23-4	A	00-185	26 IR 498	*CPH (26 IR 2392)
329 IAC 10-24-4	A	00-185	26 IR 499	*CPH (26 IR 2392)
329 IAC 10-28-21	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 10-28-24	A	01-288	26 IR 1664	*CPH (26 IR 2647)
329 IAC 10-29-1	A	00-185	26 IR 499	*CPH (26 IR 2392)
329 IAC 10-30-4	A	00-185	26 IR 500	*CPH (26 IR 2392)
329 IAC 10-36-19	A	01-288	26 IR 1665	*CPH (26 IR 2647)
329 IAC 10-37-4	A	00-185	26 IR 501	*CPH (26 IR 2392)
329 IAC 10-39-1	A	00-185	26 IR 501	*CPH (26 IR 2392)
329 IAC 10-39-2	A	00-185	26 IR 502	*CPH (26 IR 2392)
329 IAC 10-39-3	A	00-185	26 IR 508	*CPH (26 IR 2392)
329 IAC 10-39-7	A	00-185	26 IR 509	*CPH (26 IR 2392)
329 IAC 10-39-9	A	00-185	26 IR 509	*CPH (26 IR 2392)
329 IAC 10-39-10	A	00-185	26 IR 510	*CPH (26 IR 2392)
329 IAC 11-2-19.5	N	01-288	26 IR 1665	*CPH (26 IR 2647)
329 IAC 11-2-39	A	01-288	26 IR 1666	*CPH (26 IR 2647)
329 IAC 11-2-44	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 11-3-2	A	01-288	26 IR 1666	*CPH (26 IR 2647)
329 IAC 11-6-1	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 11-7	R	01-288	26 IR 1674	*CPH (26 IR 2647)
329 IAC 11-8-2	A	01-288	26 IR 1666	*CPH (26 IR 2647)
329 IAC 11-8-2.5	N	01-288	26 IR 1666	*CPH (26 IR 2647)
329 IAC 11-8-3	A	01-288	26 IR 1667	*CPH (26 IR 2647)
329 IAC 11-9-6	N	01-288	26 IR 1667	*CPH (26 IR 2647)
329 IAC 11-13-4	A	01-288	26 IR 1667	*CPH (26 IR 2647)
329 IAC 11-13-6	A	01-288	26 IR 1668	*CPH (26 IR 2647)
329 IAC 11-15-1	A	01-288	26 IR 1668	*CPH (26 IR 2647)
329 IAC 11-19-2	A	01-288	26 IR 1669	*CPH (26 IR 2647)
329 IAC 11-19-3	A	01-288	26 IR 1670	*CPH (26 IR 2647)
329 IAC 11-20-1	A	01-288	26 IR 1670	*CPH (26 IR 2647)
329 IAC 11-21-4	A	01-288	26 IR 1671	*CPH (26 IR 2647)
329 IAC 11-21-5	A	01-288	26 IR 1671	*CPH (26 IR 2647)
329 IAC 11-21-6	A	01-288	26 IR 1671	*CPH (26 IR 2647)
329 IAC 11-21-7	A	01-288	26 IR 1671	*CPH (26 IR 2647)
329 IAC 11-21-8	A	01-288	26 IR 1672	*CPH (26 IR 2647)
329 IAC 12-8-4	A	01-288	26 IR 1672	*CPH (26 IR 2647)
329 IAC 13-3-1	A	01-288	26 IR 1673	*CPH (26 IR 2647)

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345 IAC 1-3-3	A	02-107	25 IR 4170	**26 IR 1523**
345 IAC 1-3-4	A	02-107	25 IR 4171	**26 IR 1524**
345 IAC 1-3-8	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 1-3-11	A	02-107	25 IR 4171	**26 IR 1524**
345 IAC 1-3-12	A	02-107	25 IR 4172	**26 IR 1525**
345 IAC 1-3-13	A	02-107	25 IR 4172	**26 IR 1525**
345 IAC 1-3-14	A	02-107	25 IR 4173	**26 IR 1526**
345 IAC 1-3-15	A	02-107	25 IR 4173	**26 IR 1527**
345 IAC 1-3-16	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 1-3-16.5	N	02-107	25 IR 4174	**26 IR 1527**
345 IAC 1-3-30	A	01-413	25 IR 2774	**26 IR 345**
345 IAC 2-7-1	A	01-413	25 IR 2775	**26 IR 346**
345 IAC 2-7-3	A	01-413	25 IR 2776	**26 IR 347**
345 IAC 2-7-4	A	01-413	25 IR 2777	**26 IR 348**
345 IAC 2-7-5	A	01-413	25 IR 2778	**26 IR 349**
345 IAC 3-5.1-1.2	A	02-107	25 IR 4175	**26 IR 1528**
345 IAC 3-5.1-1.5	A	02-107	25 IR 4176	**26 IR 1529**
345 IAC 3-5.1-2	A	02-107	25 IR 4176	**26 IR 1529**
345 IAC 3-5.1-3	A	02-107	25 IR 4176	**26 IR 1530**
345 IAC 3-5.1-3.5	N	02-107	25 IR 4177	**26 IR 1530**
345 IAC 3-5.1-4	A	02-107	25 IR 4177	**26 IR 1530**
345 IAC 3-5.1-6	A	02-107	25 IR 4177	**26 IR 1531**
345 IAC 3-5.1-7	A	02-107	25 IR 4178	**26 IR 1531**
345 IAC 3-5.1-8.5	A	02-107	25 IR 4179	**26 IR 1533**
345 IAC 3-5.1-8.7	A	02-107	25 IR 4180	**26 IR 1533**
345 IAC 3-5.1-8.8	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 3-5.1-8.9	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 3-5.1-9	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 3-5.1-10	A	02-107	25 IR 4181	**26 IR 1535**
345 IAC 3-5.1-12	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 3-5.1-14	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 3-5.1-15	R	02-107	25 IR 4182	**26 IR 1535**
345 IAC 7-5-1	A	02-126	25 IR 4182	**26 IR 1535**
345 IAC 7-5-2.1	N	02-126	25 IR 4183	**26 IR 1536**
345 IAC 7-5-2.5	A	02-126	25 IR 4183	**26 IR 1536**
345 IAC 7-5-3	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-4	R	02-126	25 IR 4187	**26 IR 1540**

345 IAC 7-5-5	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-6	A	02-126	25 IR 4184	**26 IR 1537**
345 IAC 7-5-7	A	02-126	25 IR 4184	**26 IR 1537**
345 IAC 7-5-8	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-9	A	02-126	25 IR 4184	**26 IR 1538**
345 IAC 7-5-11	A	02-126	25 IR 4185	**26 IR 1538**
345 IAC 7-5-15.1	A	02-126	25 IR 4185	**26 IR 1539**
345 IAC 7-5-16	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-16.1	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-21	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-22	A	02-126	25 IR 4186	**26 IR 1539**
345 IAC 7-5-24	A	02-126	25 IR 4186	**26 IR 1539**
345 IAC 7-5-25.7	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-26	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-27	R	02-126	25 IR 4187	**26 IR 1540**
345 IAC 7-5-28	A	02-126	25 IR 4186	**26 IR 1540**
345 IAC 7-7-1.5	N	01-377	25 IR 1991	*ARR (25 IR 3770)
			25 IR 4166	**26 IR 693**
345 IAC 7-7-2	A	01-377	25 IR 1991	*ARR (25 IR 3770)
			25 IR 4166	**26 IR 694**
345 IAC 7-7-3	A	01-377	25 IR 1992	*ARR (25 IR 3770)
			25 IR 4167	**26 IR 694**
345 IAC 7-7-3.5	N	01-377	25 IR 1993	*ARR (25 IR 3770)
			25 IR 4168	**26 IR 695**
345 IAC 7-7-4	A	01-377	25 IR 1993	*ARR (25 IR 3770)
			25 IR 4168	**26 IR 695**
345 IAC 7-7-5	A	01-377	25 IR 1993	*ARR (25 IR 3770)
			25 IR 4168	**26 IR 696**
345 IAC 7-7-6	R	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 7-7-7	A	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 7-7-8	R	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 7-7-9	R	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 7-7-10	A	01-377	25 IR 1994	*ARR (25 IR 3770)
			25 IR 4169	**26 IR 696**
345 IAC 8-2-1.1	A	01-392	25 IR 2758	**26 IR 329**
345 IAC 8-2-1.5	N	01-392	25 IR 2760	**26 IR 331**
345 IAC 8-2-1.7	N	01-392	25 IR 2760	**26 IR 331**
345 IAC 8-2-1.9	N	01-392	25 IR 2761	**26 IR 332**
345 IAC 8-2-2	A	01-392	25 IR 2762	**26 IR 333**
345 IAC 8-2-3	A	01-392	25 IR 2764	**26 IR 335**
345 IAC 8-2-3.5	N	01-392	25 IR 2766	**26 IR 337**
345 IAC 8-2-4	A	01-392	25 IR 2767	**26 IR 338**
345 IAC 8-3-1	A	01-392	25 IR 2769	**26 IR 340**
345 IAC 8-3-2	A	01-392	25 IR 2770	**26 IR 341**
345 IAC 8-3-3	N	01-392	25 IR 2770	
345 IAC 8-3-4	N	01-392	25 IR 2771	
345 IAC 8-3-9	N	01-392		**††26 IR 341**
				*ERR (26 IR 793)
345 IAC 8-3-10	N	01-392		**††26 IR 342**
				*ERR (26 IR 793)
345 IAC 8-4-1	A	01-392	25 IR 2771	**26 IR 342**
345 IAC 9-2.1-1	A	02-127	25 IR 4187	**26 IR 1540**
345 IAC 10-2.1-1	A	02-127	25 IR 4188	**26 IR 1541**

TITLE 357 INDIANA PESTICIDE REVIEW BOARD

357 IAC 1-10	N	02-292	26 IR 1243	

TITLE 370 STATE EGG BOARD

370 IAC 1-1-1	A	01-419	26 IR 153	**26 IR 1542**
370 IAC 1-1-2	A	01-419	26 IR 153	**26 IR 1542**
370 IAC 1-1-3	A	01-419	26 IR 153	**26 IR 1542**
370 IAC 1-1-4	A	01-419	26 IR 153	**26 IR 1542**
370 IAC 1-1-5	A	01-419	26 IR 153	**26 IR 1542**
370 IAC 1-2-1	A	01-419	26 IR 154	**26 IR 1543**
370 IAC 1-2-2	A	01-419	26 IR 154	**26 IR 1543**
370 IAC 1-2-3	N	01-419	26 IR 154	**26 IR 1543**
370 IAC 1-3-1	A	01-419	26 IR 154	**26 IR 1543**
370 IAC 1-3-2	A	01-419	26 IR 154	**26 IR 1543**
370 IAC 1-3-3	A	01-419	26 IR 154	**26 IR 1543**
370 IAC 1-3-4	A	01-419	26 IR 155	**26 IR 1544**
370 IAC 1-4-1	A	01-419	26 IR 155	**26 IR 1544**
370 IAC 1-4-2	A	01-419	26 IR 155	**26 IR 1545**
370 IAC 1-4-3	A	01-419	26 IR 156	**26 IR 1545**
370 IAC 1-5-1	A	01-419	26 IR 156	**26 IR 1545**
370 IAC 1-6-1	A	01-419	26 IR 156	**26 IR 1545**
370 IAC 1-8-1	A	01-419	26 IR 156	**26 IR 1545**
370 IAC 1-9-1	A	01-419	26 IR 156	**26 IR 1545**
370 IAC 1-10-1	A	01-419	26 IR 156	**26 IR 1546**
370 IAC 1-10-2	A	01-419	26 IR 157	**26 IR 1546**

TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

405 IAC 1-12-1	A	02-16	25 IR 2791	*NRA (25 IR 4128)
				26 IR 718
405 IAC 1-12-2	A	02-16	25 IR 2791	*NRA (25 IR 4128)
				26 IR 718
405 IAC 1-12-4	A	02-16	25 IR 2793	*NRA (25 IR 4128)
				26 IR 720
405 IAC 1-12-5	A	02-16	25 IR 2794	*NRA (25 IR 4128)
				26 IR 721
405 IAC 1-12-6	A	02-16	25 IR 2795	*NRA (25 IR 4128)
				26 IR 722
405 IAC 1-12-7	A	02-16	25 IR 2796	*NRA (25 IR 4128)
				26 IR 723
405 IAC 1-12-8	A	02-16	25 IR 2796	*NRA (25 IR 4128)
				26 IR 723
405 IAC 1-12-9	A	02-16	25 IR 2797	*NRA (25 IR 4128)
				26 IR 724
405 IAC 1-12-12	A	02-16	25 IR 2797	*NRA (25 IR 4128)
				26 IR 724
405 IAC 1-12-13	A	02-16	25 IR 2798	*NRA (25 IR 4128)
				26 IR 725
405 IAC 1-12-14	A	02-16	25 IR 2799	*NRA (25 IR 4128)
				26 IR 726
405 IAC 1-12-15	A	02-16	25 IR 2799	*NRA (25 IR 4128)
				26 IR 726
405 IAC 1-12-16	A	02-16	25 IR 2800	*NRA (25 IR 4128)
				26 IR 727
405 IAC 1-12-17	A	02-16	25 IR 2801	*NRA (25 IR 4128)
				26 IR 728
405 IAC 1-12-19	A	02-16	25 IR 2802	*NRA (25 IR 4128)
				26 IR 729
405 IAC 1-12-24	A	02-16	25 IR 2802	*NRA (25 IR 4128)
				26 IR 730
405 IAC 1-12-26	A	02-16	25 IR 2803	*NRA (25 IR 4128)
				26 IR 730
405 IAC 1-14.5-13	A	02-144	25 IR 3826	*NRA (26 IR 415)
				26 IR 1080
405 IAC 1-14.5-14	A	02-144	25 IR 3827	*NRA (26 IR 415)
				26 IR 1081
405 IAC 1-14.5-15	A	02-144	25 IR 3827	*NRA (26 IR 415)
				26 IR 1081
405 IAC 1-14.6-2	A	02-13	25 IR 2779	*NRA (26 IR 61)
				26 IR 707
	A	02-340	26 IR 2099	
405 IAC 1-14.6-4	A	02-13	25 IR 2782	*NRA (26 IR 61)
				26 IR 709
405 IAC 1-14.6-6	A	02-13	25 IR 2784	*NRA (26 IR 61)
				26 IR 712
	A	02-340	26 IR 2102	
405 IAC 1-14.6-7	A	02-13	25 IR 2785	*NRA (26 IR 61)
				26 IR 712
				*ERR (26 IR 2375)
	A	02-340	26 IR 2103	

405 IAC 1-14.6-9	A	02-13	25 IR 2786	*NRA (26 IR 61)
				26 IR 714
	A	02-340	26 IR 2104	
405 IAC 1-14.6-12	A	02-13	25 IR 2787	*NRA (26 IR 61)
				26 IR 715
405 IAC 1-14.6-16	A	02-13	25 IR 2788	*NRA (26 IR 61)
				26 IR 716
	A	02-340	26 IR 2105	
405 IAC 1-14.6-22	A	02-13	25 IR 2788	*NRA (26 IR 61)
				26 IR 716
	A	02-340	26 IR 2106	
405 IAC 1-16-2	A	02-214	26 IR 158	*NRA (2644)
				*AROC (26 IR 2695)
405 IAC 1-16-4	A	02-214	26 IR 159	*NRA (2644)
				*AROC (26 IR 2695)
405 IAC 1-18-2	A	02-121	25 IR 3243	*NRA (26 IR 61)
				26 IR 1079
405 IAC 1-18-3	R	02-121	25 IR 3243	*NRA (26 IR 61)
				26 IR 1080
405 IAC 1-19	N	02-184	26 IR 511	*NRA (26 IR 1960)
405 IAC 1-20	N	02-184	26 IR 512	*NRA (26 IR 1960)
405 IAC 2-3-1.2				*ERR (26 IR 35)
405 IAC 2-3-17	A	02-234	26 IR 516	*NRA (26 IR 1960)
405 IAC 2-3-21	A	02-234	26 IR 517	*NRA (26 IR 1960)
405 IAC 2-3-23	N	02-45	25 IR 2555	*NRA (25 IR 3804)
				26 IR 731
405 IAC 2-8-1	A	02-87	25 IR 2804	*NRA (26 IR 61)
				26 IR 731
405 IAC 2-8-1.1	N	02-87	25 IR 2805	*NRA (26 IR 61)
				26 IR 732
405 IAC 2-9				*ERR (26 IR 35)
405 IAC 2-10	N	02-145	25 IR 3829	*NRA (26 IR 415)
				26 IR 1547
405 IAC 4-1	RA	02-275	26 IR 544	**26 IR 1261**
405 IAC 4-1-1				*ERR (26 IR 383)
405 IAC 5-12-1	A	02-49	25 IR 2555	*AROC (26 IR 884)
				*NRA (26 IR 1960)
				*ARR (26 IR 2625)
				*NRA (2644)
405 IAC 5-12-2	R	02-49	25 IR 2556	*AROC (26 IR 884)
				*NRA (26 IR 1960)
				*ARR (26 IR 2625)
				*NRA (2644)
405 IAC 5-12-3	A	02-49	25 IR 2556	*AROC (26 IR 884)
				*NRA (26 IR 1960)
				*ARR (26 IR 2625)
				*NRA (2644)
405 IAC 5-12-4	R	02-49	25 IR 2556	*AROC (26 IR 884)
				*NRA (26 IR 1960)
				*ARR (26 IR 2625)
				*NRA (2644)
405 IAC 5-12-5	R	02-49	25 IR 2556	*AROC (26 IR 884)
				*NRA (26 IR 1960)
				*ARR (26 IR 2625)
				*NRA (2644)
405 IAC 5-12-6	R	02-49	25 IR 2556	*AROC (26 IR 884)
				*NRA (26 IR 1960)
				*ARR (26 IR 2625)
				*NRA (2644)
405 IAC 5-12-7	R	02-49	25 IR 2556	*AROC (26 IR 884)
				*NRA (26 IR 1960)
				*ARR (26 IR 2625)
				*NRA (2644)
405 IAC 5-14-1	A	02-50	25 IR 2556	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 415)
				26 IR 1546
405 IAC 5-14-2	A	02-140	25 IR 3823	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
				*ARR (26 IR 1573)
				*NRA (26 IR 1960)
	A	02-277	26 IR 864	
405 IAC 5-14-2.5	N	02-140	25 IR 3823	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
				*ARR (26 IR 1573)
				*NRA (26 IR 1960)
405 IAC 5-14-3	A	02-140	25 IR 3824	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
				*ARR (26 IR 1573)
				*NRA (26 IR 1960)
	A	02-277	26 IR 865	
405 IAC 5-14-4	A	02-140	25 IR 3824	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
				*ARR (26 IR 1573)
				*NRA (26 IR 1960)
405 IAC 5-14-6	A	02-140	25 IR 3824	*NRA (26 IR 61)
				*ARR (26 IR 384)
				*NRA (26 IR 809)
				*ARR (26 IR 1573)
				*NRA (26 IR 1960)
	A	02-277	26 IR 865	
405 IAC 5-14-10	R	02-277	26 IR 866	
405 IAC 5-14-11	A	02-277	26 IR 865	
405 IAC 5-14-15	A	02-277	26 IR 865	
405 IAC 5-14-16	A	02-277	26 IR 866	
405 IAC 5-14-17	A	02-277	26 IR 866	
405 IAC 5-14-18	A	02-277	26 IR 866	
405 IAC 5-19-1	A	01-301	25 IR 3811	*NRA (26 IR 809)
				26 IR 1901
405 IAC 5-19-3	A	02-207	26 IR 514	*NRA (2644)
405 IAC 5-24-4				*ERR (26 IR 35)
405 IAC 5-24-7	A	02-141	25 IR 3825	*NRA (26 IR 62)
				26 IR 732
405 IAC 5-24-13	N	02-207	26 IR 515	*NRA (2644)
405 IAC 5-31-4	A	02-207	26 IR 515	*NRA (2644)
405 IAC 5-34-1	A	02-214	26 IR 159	*NRA (2644)
				*AROC (26 IR 2695)
405 IAC 5-34-2	A	02-214	26 IR 159	*NRA (2644)
				*AROC (26 IR 2695)
405 IAC 5-34-3	A	02-214	26 IR 160	*NRA (2644)
				*AROC (26 IR 2695)
405 IAC 5-34-4	A	02-214	26 IR 160	*NRA (2644)
				*AROC (26 IR 2695)
405 IAC 5-34-4.1	N	02-214	26 IR 162	*NRA (2644)
				*AROC (26 IR 2695)
405 IAC 5-34-4.2	N	02-214	26 IR 162	*NRA (2644)
				*AROC (26 IR 2695)
405 IAC 5-34-5	A	02-214	26 IR 162	*NRA (2644)
				*AROC (26 IR 2695)
405 IAC 5-34-6	A	02-214	26 IR 162	*NRA (2644)
				*AROC (26 IR 2695)
405 IAC 5-34-7	A	02-214	26 IR 163	*NRA (2644)
				*AROC (26 IR 2695)
405 IAC 6-2-3	A	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 697
405 IAC 6-2-5	A	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 697
405 IAC 6-2-5.3	N	01-373	25 IR 3813	*AROC (25 IR 3885)
				*NRA (26 IR 61)
				26 IR 697

405 IAC 6-2-5.5	N	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 697**
405 IAC 6-2-9	A	01-373	25 IR 3813	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 698**
405 IAC 6-2-12	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 698**
405 IAC 6-2-12.5	N	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 698**
405 IAC 6-2-14	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 698**
405 IAC 6-2-16.5	N	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 698**
405 IAC 6-2-18	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 698**
405 IAC 6-2-20	A	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 698**
405 IAC 6-2-20.5	N	01-373	25 IR 3814	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 699**
405 IAC 6-2-21	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 699**
405 IAC 6-2-22.5	N	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 699**
405 IAC 6-3-2	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 699**
405 IAC 6-3-3	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 699**
405 IAC 6-4-2	A	01-373	25 IR 3815	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 699**
405 IAC 6-5-1	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 700**
405 IAC 6-5-2	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 700**
405 IAC 6-5-3	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 700**
405 IAC 6-5-4	A	01-373	25 IR 3816	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 701**
405 IAC 6-5-5	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 701**
405 IAC 6-5-6	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 701**
405 IAC 6-6-2	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 701**
405 IAC 6-6-3	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 701**
405 IAC 6-6-4	A	01-373	25 IR 3817	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 702**
405 IAC 6-8	N	01-373	25 IR 3818	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 702**
405 IAC 6-9	N	01-373	25 IR 3818	*AROC (25 IR 3885) *NRA (26 IR 61) **26 IR 702**
405 IAC 7	N	02-234	26 IR 518	*NRA (26 IR 1960)

TITLE 407 OFFICE OF THE CHILDREN'S HEALTH INSURANCE PROGRAM

407 IAC 2-3-1				*ERR (26 IR 383)

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

410 IAC 6-2	R	02-142	25 IR 4197	*CPH (26 IR 812)
410 IAC 6-2.1	N	02-142	25 IR 4188	*CPH (26 IR 812)
410 IAC 6-7.1				*ERR (26 IR 36)
410 IAC 6-7.2				*ERR (26 IR 36)
410 IAC 6-7.2-17	A	02-295	26 IR 2662	
410 IAC 6-7.2-29	A	02-295	26 IR 2662	
410 IAC 6-7.2-30	A	02-295	26 IR 2663	
410 IAC 7-22	N	02-266	26 IR 1245	
410 IAC 15-1.5-4	A	02-43	26 IR 164	**26 IR 1550**
410 IAC 15-1.5-5	A	02-43	26 IR 166	**26 IR 1551**
410 IAC 16.2-1-0.5	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-1	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-2	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-2.1	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-2.2	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-3	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-3.5	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-5	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-6	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-6.5	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-7	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-8	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-9	R	02-89	25 IR 3276	**26 IR 1936**
410 IAC 16.2-1-10.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-10.2	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-11	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-12.5	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-14	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-14.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-14.2	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-15	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-15.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-15.2	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-15.3	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-16	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-17	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-18	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-18.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-18.2	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-19	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-19.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-20	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-21	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-22	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-22.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-22.2	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-23	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-24	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-25	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-26	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-26.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-27	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-27.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-28	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-29	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-29.1	R	02-89	25 IR 3277	**26 IR 1936**

410 IAC 16.2-1-30	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-31	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-31.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-32	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-32.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-32.2	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-33	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-34	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-35	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-36	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-37	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-38	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-39	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-39.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-41.1	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-42	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-44	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-45	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-46	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-47	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1-48	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-1.1	N	02-89	25 IR 3244	**26 IR 1902**
410 IAC 16.2-5-0.5	N	02-89	25 IR 3252	**26 IR 1911**
410 IAC 16.2-5-1.1	A	02-89	25 IR 3252	**26 IR 1912**
410 IAC 16.2-5-1.2	A	02-89	25 IR 3254	**26 IR 1914**
410 IAC 16.2-5-1.3	A	02-89	25 IR 3259	**26 IR 1919**
410 IAC 16.2-5-1.4	A	02-89	25 IR 3261	**26 IR 1921**
410 IAC 16.2-5-1.5	A	02-89	25 IR 3263	**26 IR 1923**
410 IAC 16.2-5-1.6	A	02-89	25 IR 3265	**26 IR 1925**
410 IAC 16.2-5-1.7	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-2	A	02-89	25 IR 3269	**26 IR 1929**
410 IAC 16.2-5-3	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-4	A	02-89	25 IR 3270	**26 IR 1929**
410 IAC 16.2-5-5	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-5.1	N	02-89	25 IR 3271	**26 IR 1931**
410 IAC 16.2-5-6	A	02-89	25 IR 3272	**26 IR 1932**
410 IAC 16.2-5-7	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-7.1	N	02-89	25 IR 3274	**26 IR 1933**
410 IAC 16.2-5-8	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-8.1	N	02-89	25 IR 3274	**26 IR 1934**
410 IAC 16.2-5-9	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-10	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-11	R	02-89	25 IR 3277	**26 IR 1936**
410 IAC 16.2-5-11.1	N	02-89	25 IR 3275	**26 IR 1935**
410 IAC 16.2-5-12	N	02-89	25 IR 3276	**26 IR 1935**

TITLE 412 INDIANA HEALTH FACILITIES COUNCIL

412 IAC 2				*ERR (26 IR 36)
				*ERR (26 IR 1572)
412 IAC 2-1-1	A	02-41	25 IR 4198	**26 IR 1937**
412 IAC 2-1-2.1	N	02-41	25 IR 4198	**26 IR 1937**
				*ERR (26 IR 2375)
412 IAC 2-1-2.2	N	02-41	25 IR 4198	**26 IR 1937**
				*ERR (26 IR 2375)
412 IAC 2-1-6	A	02-41	25 IR 4199	**26 IR 1937**
412 IAC 2-1-8	A	02-41	25 IR 4199	**26 IR 1938**
412 IAC 2-1-10	N	02-41	25 IR 4199	**26 IR 1938**
412 IAC 2-1-11	N	02-41	25 IR 4200	**26 IR 1939**
412 IAC 2-1-12	N	02-41	25 IR 4200	**26 IR 1939**
412 IAC 2-1-13	N	02-41	25 IR 4200	**26 IR 1939**
412 IAC 2-1-14	N	02-41	25 IR 4200	**26 IR 1939**

TITLE 431 COMMUNITY RESIDENTIAL FACILITIES COUNCIL

431 IAC 1.1-1-2				*ERR (26 IR 36)
431 IAC 7	N	02-211	26 IR 2108	

TITLE 440 DIVISION OF MENTAL HEALTH AND ADDICTION

440 IAC 1-1.5	R	02-42	25 IR 3289	*NRA (26 IR 62)
				26 IR 745
440 IAC 1.5	N	02-42	25 IR 3277	*NRA (26 IR 62)
				26 IR 733
440 IAC 4-3-1	A	02-218	26 IR 519	*NRA (26 IR 2390)
				26 IR 2616
440 IAC 4.1-2-1	A	02-218	26 IR 519	*NRA (26 IR 2390)
				26 IR 2616
440 IAC 4.1-2-4	A	02-218	26 IR 520	*NRA (26 IR 2390)
				26 IR 2617
440 IAC 4.1-2-5	A	02-218	26 IR 521	*NRA (26 IR 2390)
				26 IR 2618
440 IAC 4.1-2-9	A	02-218	26 IR 521	*NRA (26 IR 2390)
				26 IR 2618
440 IAC 4.1-3	N	02-218	26 IR 522	*NRA (26 IR 2390)
				26 IR 2619
440 IAC 5-1-1	A	02-105	25 IR 3289	*NRA (26 IR 62)
				26 IR 745
440 IAC 5-1-2	A	02-105	25 IR 3290	*NRA (26 IR 62)
				26 IR 746
440 IAC 5-1-3.5	N	02-105	25 IR 3290	*NRA (26 IR 62)
				26 IR 747
440 IAC 6-2-2				*ERR (26 IR 1572)
440 IAC 9-2-10	N	02-106	25 IR 4201	*NRA (26 IR 1112)
				26 IR 1940
440 IAC 9-2-11	N	02-106	25 IR 4202	*NRA (26 IR 1112)
				26 IR 1941
440 IAC 9-2-12	N	02-106	25 IR 4203	*NRA (26 IR 1112)
				26 IR 1942
440 IAC 9-2-13	N	02-265	26 IR 867	

TITLE 460 DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES

460 IAC 1-3-1	R	02-319	26 IR 2112	
460 IAC 1-3-2	R	02-319	26 IR 2112	
460 IAC 1-3-3	RA	02-262	26 IR 544	**26 IR 1261**
	R	02-319	26 IR 2112	
460 IAC 1-3-4	R	02-319	26 IR 2112	
460 IAC 1-3-5	R	02-319	26 IR 2112	
460 IAC 1-3-6	RA	02-262	26 IR 544	**26 IR 1261**
	R	02-319	26 IR 2112	
460 IAC 1-3-7	RA	02-262	26 IR 544	**26 IR 1261**
	R	02-319	26 IR 2112	
460 IAC 1-3-8	R	02-319	26 IR 2112	
460 IAC 1-3-9	R	02-319	26 IR 2112	
460 IAC 1-3-10	R	02-319	26 IR 2112	
460 IAC 1-3-12	RA	02-262	26 IR 544	**26 IR 1261**
	R	02-319	26 IR 2112	
460 IAC 1-3-13	R	02-319	26 IR 2112	
460 IAC 1-3-14	R	02-319	26 IR 2112	
460 IAC 1-3-15	R	02-319	26 IR 2112	
460 IAC 1-3.3	N	02-319	26 IR 2111	
460 IAC 1-8	N	01-337	25 IR 2557	**26 IR 350**
460 IAC 2-3-1	A	02-9	25 IR 2286	**26 IR 747**
460 IAC 2-3-2	A	02-9	25 IR 2286	**26 IR 747**
460 IAC 2-3-3	A	02-9	25 IR 2287	**26 IR 748**
460 IAC 3.5	RA	02-237	26 IR 2694	
460 IAC 5-1-13	A	02-151	26 IR 524	
460 IAC 6	N	02-46	25 IR 3832	**26 IR 749**
				*AROC (26 IR 883)
460 IAC 6-3-2.1	N	02-326	26 IR 2664	
460 IAC 6-3-5.1	N	02-326	26 IR 2665	
460 IAC 6-3-5.2	N	02-326	26 IR 2665	
460 IAC 6-3-6.1	N	02-326	26 IR 2665	
460 IAC 6-3-10.1	N	02-326	26 IR 2665	
460 IAC 6-3-15.1	N	02-326	26 IR 2665	
460 IAC 6-3-15.2	N	02-326	26 IR 2665	
460 IAC 6-3-18	A	02-326	26 IR 2666	
460 IAC 6-3-25	A	02-326	26 IR 2666	
460 IAC 6-3-29.5	N	02-326	26 IR 2666	
460 IAC 6-3-31	A	02-326	26 IR 2666	

460 IAC 6-3-32	A	02-326	26 IR 2666	
460 IAC 6-3-38.5	N	02-326	26 IR 2666	
460 IAC 6-3-38.6	N	02-326	26 IR 2667	
460 IAC 6-3-41.1	N	02-326	26 IR 2667	
460 IAC 6-3-52.1	N	02-326	26 IR 2667	
460 IAC 6-3-56	A	02-326	26 IR 2667	
460 IAC 6-4-1	A	02-326	26 IR 2667	
460 IAC 6-5-4	A	02-326	26 IR 2668	
460 IAC 6-5-7	A	02-326	26 IR 2669	
460 IAC 6-5-21	A	02-326	26 IR 2669	
460 IAC 6-5-32	N	02-326	26 IR 2669	
460 IAC 6-5-33	N	02-326	26 IR 2670	
460 IAC 6-5-34	N	02-326	26 IR 2670	
460 IAC 6-5-35	N	02-326	26 IR 2670	
460 IAC 6-5-36	N	02-326	26 IR 2670	
460 IAC 6-6-2	A	02-326	26 IR 2670	
460 IAC 6-6-3	A	02-326	26 IR 2670	
460 IAC 6-7-2	A	02-326	26 IR 2671	
460 IAC 6-7-3	A	02-326	26 IR 2671	
460 IAC 6-9-5	A	02-326	26 IR 2672	
460 IAC 6-9-7	N	02-326	26 IR 2673	
460 IAC 6-10-5	A	02-326	26 IR 2673	
460 IAC 6-10-8	A	02-326	26 IR 2674	
460 IAC 6-10-13	A	02-326	26 IR 2674	
460 IAC 6-13-2	A	02-326	26 IR 2675	
460 IAC 6-14-4	A	02-326	26 IR 2675	
460 IAC 6-17-3	A	02-326	26 IR 2675	
460 IAC 6-17-4	A	02-326	26 IR 2676	
460 IAC 6-19-6	A	02-326	26 IR 2676	
460 IAC 6-24-1	A	02-236	26 IR 2677	
460 IAC 6-24-2	A	02-326	26 IR 2677	
460 IAC 6-25-10	A	02-326	26 IR 2677	
460 IAC 6-29-4	A	02-326	26 IR 2678	
460 IAC 6-29-9	N	02-326	26 IR 2678	
460 IAC 6-35	N	02-326	26 IR 2678	
460 IAC 7	N	02-210	26 IR 525	*ARR (26 IR 1110)
			26 IR 1247	*AROC (26 IR 2472)

TITLE 470 DIVISION OF FAMILY AND CHILDREN

470 IAC 3-4.1	R	02-298	26 IR 1719	
470 IAC 3-4.2	R	02-298	26 IR 1719	
470 IAC 3-4.7	N	02-298	26 IR 1675	
470 IAC 3.1-12-2	A	02-74	26 IR 167	*NRA (26 IR 1112)
				*AROC (26 IR 1264)
				26 IR 2320
470 IAC 3.1-12-7	N	02-74	26 IR 168	*NRA (26 IR 1112)
				*AROC (26 IR 1264)
				26 IR 2320
470 IAC 8.1-2-12	A	02-152	26 IR 530	
470 IAC 10.1-3-4	R	03-33	26 IR 2682	
470 IAC 10.1-3-4.1	R	03-33	26 IR 2682	
470 IAC 10.1-3-5	R	03-33	26 IR 2682	
470 IAC 10.2	N	03-33	26 IR 2680	
470 IAC 11.1-1-5	A	02-203	26 IR 169	*NRA (26 IR 1112)
				26 IR 2321

TITLE 511 INDIANA STATE BOARD OF EDUCATION

511 IAC 5-1-2	A	02-67	25 IR 2807	**26 IR 786**
511 IAC 5-1-3.5	A	02-67	25 IR 2807	**26 IR 787**
511 IAC 5-1-5	A	02-67	25 IR 2807	**26 IR 787**
511 IAC 5-1-6	A	02-67	25 IR 2807	**26 IR 787**
511 IAC 5-2-3	A	02-170	25 IR 4204	
511 IAC 5-2-4	A	02-170	25 IR 4205	
511 IAC 6-7-6.5	A	02-177	25 IR 4205	
511 IAC 6.1-1-11.5				*ERR (26 IR 36)
511 IAC 6.1-5.1-5	A	02-177	25 IR 4206	
	A	02-178	25 IR 4207	
511 IAC 6.1-5.1-8	A	02-274	26 IR 1252	
511 IAC 6.2-6-4	A	02-264	26 IR 1719	
511 IAC 6.2-6-6.1	N	02-264	26 IR 1720	
511 IAC 6.2-6-8	A	02-264	26 IR 1720	
511 IAC 6.2-6-12	A	02-264	26 IR 1720	
511 IAC 6.2-7	N	02-264	26 IR 1720	

TITLE 515 PROFESSIONAL STANDARDS BOARD

515 IAC 1-3	R	02-314	26 IR 1257	
515 IAC 1-4-1	A	02-75	25 IR 4207	**26 IR 2322**
515 IAC 1-4-2	A	02-75	25 IR 4208	**26 IR 2323**
515 IAC 1-6				*ERR (26 IR 36)
515 IAC 1-7	N	02-314	26 IR 1254	
515 IAC 3				*ERR (26 IR 37)
515 IAC 4	N	02-8	25 IR 2292	*ARR (25 IR 3183)
				*ARR (25 IR 3770)
515 IAC 5	N	02-80	25 IR 2808	**26 IR 2325**
515 IAC 8	N	03-10	26 IR 2437	
515 IAC 9	N	03-11	26 IR 2451	*CPH (26 IR 2648)

TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY

540 IAC 1-7-2	A	02-287	26 IR 1257	*CPH (26 IR 1593)
540 IAC 1-8-2	A	02-287	26 IR 1258	*CPH (26 IR 1593)
540 IAC 1-9-2.6	R	02-287	26 IR 1258	*CPH (26 IR 1593)
540 IAC 1-10-1	A	02-287	26 IR 1258	*CPH (26 IR 1593)

TITLE 550 BOARD OF TRUSTEES OF THE INDIANA STATE TEACHERS' RETIREMENT FUND

550 IAC 3-1-1	A	02-325	26 IR 2112	
550 IAC 3-1-2	A	02-325	26 IR 2113	
550 IAC 3-1-3	A	02-325	26 IR 2113	
550 IAC 3-2-1	A	02-325	26 IR 2113	
550 IAC 3-2-2	A	02-325	26 IR 2114	
550 IAC 5	N	02-325	26 IR 2114	
550 IAC 6	N	02-325	26 IR 2115	

TITLE 570 INDIANA COMMISSION ON PROPRIETARY EDUCATION

570 IAC 1-14	N	02-233	26 IR 867	

TITLE 575 STATE SCHOOL BUS COMMITTEE

575 IAC 1-1-4.6	N	02-315	26 IR 1723	

TITLE 610 DEPARTMENT OF LABOR

610 IAC 4-2-1	A	03-36	26 IR 2463	
610 IAC 4-2-11	R	03-36	26 IR 2464	
610 IAC 4-4	R	01-340	25 IR 891	*ARR (25 IR 3770)
				26 IR 370
				*AROC (26 IR 547)
610 IAC 4-6	N	01-340	25 IR 874	*ARR (25 IR 3770)
				26 IR 353
				*AROC (26 IR 547)
610 IAC 4-6-11	A	03-37	26 IR 2464	

TITLE 655 BOARD OF FIREFIGHTING PERSONNEL STANDARDS AND EDUCATION

655 IAC 1-1				*ERR (26 IR 383)
655 IAC 1-2.1	RA	02-128	25 IR 3883	*CPH (26 IR 416)
				26 IR 1262

TITLE 675 FIRE PREVENTION AND BUILDING SAFETY COMMISSION

675 IAC 12-3-13	N	02-90	25 IR 2573	**26 IR 1556**
675 IAC 12-3-14	N	02-90	25 IR 2574	**26 IR 1557**
675 IAC 12-3-15	N	02-90		**††26 IR 1558**
675 IAC 13-1-4	RA	03-48	26 IR 2693	
675 IAC 13-1-5	RA	03-48	26 IR 2693	
675 IAC 13-1-8	A	02-51	25 IR 2561	**26 IR 1095**
675 IAC 13-1-9.5	RA	03-48	26 IR 2693	
675 IAC 13-1-9.6	RA	03-48	26 IR 2693	
675 IAC 13-1-10	A	02-51	25 IR 2564	**26 IR 1098**
675 IAC 13-1-28	RA	03-48	26 IR 2693	
675 IAC 13-2.3	R	02-115	25 IR 3366	*ARR (26 IR 2376)

675 IAC 13-2.4	N	02-115	25 IR 3291	*ARR (26 IR 2376)
675 IAC 14-4.2-181.1	N	01-376		**††26 IR 11**
675 IAC 14-4.2-182.1	N	01-376	25 IR 1248	**26 IR 11**
675 IAC 14-4.2-185.1	N	01-376	25 IR 1248	**26 IR 11**
675 IAC 14-4.2-187	A	01-376	25 IR 1248	**26 IR 11**
675 IAC 14-4.2-187.1	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-187.2	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-187.3	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-187.4	N	01-376	25 IR 1248	**26 IR 12**
675 IAC 14-4.2-190.1	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.2	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.3	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.4	N	01-376	25 IR 1249	**26 IR 12**
675 IAC 14-4.2-190.5	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.1	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.2	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.3	N	01-376	25 IR 1249	**26 IR 13**
675 IAC 14-4.2-191.4	N	01-376		**††26 IR 13**
675 IAC 14-4.2-191.5	N	01-376		**††26 IR 13**
675 IAC 14-4.2-192.1	N	01-376	25 IR 1250	**26 IR 13**
675 IAC 14-4.2-192.2	N	01-376	25 IR 1251	**26 IR 13**
675 IAC 14-4.2-192.3	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-192.4	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-192.5	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-192.6	N	01-376	25 IR 1250	**26 IR 14**
675 IAC 14-4.2-193.1	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.2	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.3	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.4	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-193.5	N	01-376	25 IR 1251	**26 IR 14**
675 IAC 14-4.2-194.1	N	01-376	25 IR 1251	**26 IR 15**
675 IAC 14-4.2-194.2	N	01-376	25 IR 1251	**26 IR 15**
675 IAC 14-4.2-194.3	N	01-376	25 IR 1251	**26 IR 15**
675 IAC 14-4.2-194.4	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 14-4.2-194.5	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 14-4.2-194.6	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 14-4.2-194.7	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 17-1.5	R	01-376	25 IR 1255	**26 IR 19**
675 IAC 17-1.6	N	01-376	25 IR 1252	**26 IR 15**
675 IAC 18-1.3	R	02-116	25 IR 3381	*ARR (26 IR 2376)
675 IAC 18-1.4	N	02-116	25 IR 3366	*ARR (26 IR 2376)
675 IAC 20-2-17	A	02-52	25 IR 2566	**26 IR 1100**
675 IAC 20-2-20	A	02-52	25 IR 2566	**26 IR 1101**
675 IAC 20-2-24	A	02-52	25 IR 2567	**26 IR 1102**
675 IAC 20-2-26	A	02-52	25 IR 2567	**26 IR 1102**
675 IAC 20-3-5	A	02-52	25 IR 2568	**26 IR 1102**
675 IAC 20-3-6	A	02-52	25 IR 2568	**26 IR 1103**
675 IAC 20-3-7	A	02-52	25 IR 2569	**26 IR 1103**
675 IAC 21-1-1	A	01-430	25 IR 2031	*ARR (26 IR 38) **26 IR 1083**
675 IAC 21-1-1.5	N	01-430	25 IR 2031	*ARR (26 IR 38) **26 IR 1084**
675 IAC 21-1-2	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-1-2.1	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-1-3	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-1-3.1	A	01-430	25 IR 2032	*ARR (26 IR 38) **26 IR 1085**
675 IAC 21-1-4	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-1-6	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-1-7	A	01-430	25 IR 2033	*ARR (26 IR 38) **26 IR 1085**
675 IAC 21-1-8	R	01-430		**††26 IR 1095**
675 IAC 21-1-9	A	01-430	25 IR 2033	*ARR (26 IR 38) **26 IR 1086**
675 IAC 21-1-10	N	01-430	25 IR 2034	*ARR (26 IR 38) **26 IR 1086**
675 IAC 21-2	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-3-1	A	01-430	25 IR 2034	*ARR (26 IR 38) **26 IR 1087**
675 IAC 21-3-2	A	01-430	25 IR 2034	*ARR (26 IR 38) **26 IR 1087**
675 IAC 21-4-1	A	01-430	25 IR 2037	*ARR (26 IR 38) **26 IR 1090**
675 IAC 21-4-2	A	01-430	25 IR 2037	*ARR (26 IR 38) **26 IR 1090**
675 IAC 21-5-1	A	01-430	25 IR 2039	*ARR (26 IR 38) **26 IR 1092**
675 IAC 21-5-3	N	01-430	25 IR 2039	*ARR (26 IR 38) **26 IR 1092**
675 IAC 21-6	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-7	R	01-430	25 IR 2042	*ARR (26 IR 38) **26 IR 1095**
675 IAC 21-8	N	01-430	25 IR 2040	*ARR (26 IR 38) **26 IR 1093**
675 IAC 22-2.2	R	02-117	25 IR 3442	*ARR (26 IR 2376)
675 IAC 22-2.2-14	A	02-53	25 IR 2569	**26 IR 1553**
675 IAC 22-2.3	N	02-117	25 IR 3382	*ARR (26 IR 2376)
675 IAC 25	N	02-118	25 IR 3444	*ARR (26 IR 2376)

TITLE 760 DEPARTMENT OF INSURANCE

760 IAC 1-5	R	01-399	25 IR 2582	*AROC (26 IR 183) *ARR (26 IR 38) **26 IR 26**
760 IAC 1-5.1	N	01-399	25 IR 2575	*AROC (26 IR 183) *ARR (26 IR 38) **26 IR 19**
760 IAC 1-14	R	01-399	25 IR 2582	*AROC (26 IR 183) *ARR (26 IR 38) **26 IR 26**
760 IAC 1-21-2	A	02-299	26 IR 1724	
760 IAC 1-21-5	A	02-299	26 IR 1724	
760 IAC 1-21-8	A	02-299	26 IR 1724	
760 IAC 1-59-1	A	02-124	26 IR 170	**26 IR 2326**
760 IAC 1-59-2	A	02-124	26 IR 170	**26 IR 2326**
760 IAC 1-59-3	A	02-124	26 IR 171	**26 IR 2327**
760 IAC 1-59-4	A	02-124	26 IR 171	**26 IR 2327**
760 IAC 1-59-5	A	02-124	26 IR 171	**26 IR 2327**
760 IAC 1-59-6	A	02-124	26 IR 172	**26 IR 2328**
760 IAC 1-59-7	A	02-124	26 IR 172	**26 IR 2329**
760 IAC 1-59-8	A	02-124	26 IR 173	**26 IR 2329**
760 IAC 1-59-9	A	02-124	26 IR 174	**26 IR 2330**
760 IAC 1-59-10	A	02-124	26 IR 174	**26 IR 2330**
760 IAC 1-59-11	A	02-124	26 IR 174	**26 IR 2330**
760 IAC 1-59-12	A	02-124	26 IR 175	**26 IR 2331**
760 IAC 1-59-13	R	02-124	26 IR 177	**26 IR 2333**
760 IAC 1-59-14	A	02-124	26 IR 175	**26 IR 2331**
760 IAC 1-68	N	02-137	26 IR 531	*AROC (26 IR 883)

TITLE 762 INDIANA POLITICAL SUBDIVISION RISK MANAGEMENT COMMISSION

762 IAC 2	N	02-24	25 IR 2301	*ARR (25 IR 4114) **26 IR 27**

TITLE 804 BOARD OF REGISTRATION FOR ARCHITECTS AND LANDSCAPE ARCHITECTS

804 IAC 1.1-3-1	A	02-20	25 IR 3446	**26 IR 370** *ERR (26 IR 793)

TITLE 808 STATE BOXING COMMISSION

808 IAC 2-6-1	A	02-120	25 IR 4210	**26 IR 1104**

TITLE 816 BOARD OF BARBER EXAMINERS

816 IAC 1-3-1	A	02-320	26 IR 1725	

TITLE 820 STATE BOARD OF COSMETOLOGY EXAMINERS

820 IAC 4-4-5				*ERR (26 IR 1109)
820 IAC 4-4-14				*ERR (26 IR 1109)
820 IAC 6-2-1				*ERR (26 IR 1109)

TITLE 825 INDIANA GRAIN INDEMNITY CORPORATION

825 IAC 1	RA	02-176	25 IR 4220	**26 IR 1262**
825 IAC 1-1-5	R	02-179	25 IR 4211	
825 IAC 1-5-1	R	02-179	25 IR 4211	
825 IAC 1-5-2	R	02-179	25 IR 4211	

TITLE 828 STATE BOARD OF DENTISTRY

828 IAC 0.5-2-3	A	02-114	25 IR 3452	**26 IR 376**
828 IAC 0.5-2-4	A	02-114	25 IR 3453	**26 IR 376**
828 IAC 0.5-2-6	N	02-112	25 IR 3447	**26 IR 371**
828 IAC 1-3-1	R	02-113	25 IR 3452	**26 IR 375**
828 IAC 1-3-1.1	N	02-113	25 IR 3450	**26 IR 373**
				*ERR (26 IR 383)
828 IAC 1-3-1.5	N	02-113	25 IR 3451	**26 IR 374**
828 IAC 1-3-2	A	02-113	25 IR 3452	**26 IR 375**
828 IAC 1-3-3	A	02-113	25 IR 3452	**26 IR 375**
828 IAC 1-5-1	A	02-112	25 IR 3448	**26 IR 371**
828 IAC 1-5-1.5	N	02-112	25 IR 3448	**26 IR 371**
828 IAC 1-5-2	A	02-112	25 IR 3448	**26 IR 372**
828 IAC 1-5-2.5	N	02-112	25 IR 3449	**26 IR 372**
828 IAC 1-6-1	A	02-112	25 IR 3449	**26 IR 373**
828 IAC 1-7-1	A	02-114	25 IR 3453	**26 IR 376**
828 IAC 1-7-2	N	02-114	25 IR 3453	**26 IR 377**

TITLE 832 STATE BOARD OF FUNERAL AND CEMETERY SERVICE

832 IAC 2-1-2	A	02-147	26 IR 870	**26 IR 2622**

TITLE 836 INDIANA EMERGENCY MEDICAL SERVICES COMMISSION

836 IAC 1-1-1	A	02-91	25 IR 2810	*CPH (25 IR 3807) **26 IR 2333**
836 IAC 1-1-2	N	02-91	25 IR 2812	*CPH (25 IR 3807) **26 IR 2335**
836 IAC 1-1-3	N	02-91	25 IR 2812	*CPH (25 IR 3807) **26 IR 2336**
836 IAC 1-2-1	A	02-91	25 IR 2813	*CPH (25 IR 3807) **26 IR 2337**
836 IAC 1-2-2	A	02-91	25 IR 2814	*CPH (25 IR 3807) **26 IR 2338**
836 IAC 1-2-3	A	02-91	25 IR 2815	*CPH (25 IR 3807) **26 IR 2339**
836 IAC 1-2-4	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 1-3-5	A	02-91	25 IR 2818	*CPH (25 IR 3807) **26 IR 2342**
836 IAC 1-3-6	N	02-91	25 IR 2819	*CPH (25 IR 3807) **26 IR 2343**
836 IAC 1-8-1	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 1-11-1	A	02-91	25 IR 2819	*CPH (25 IR 3807) **26 IR 2343**
836 IAC 1-11-2	A	02-91	25 IR 2820	*CPH (25 IR 3807) **26 IR 2344**
836 IAC 1-11-4	A	02-91	25 IR 2821	*CPH (25 IR 3807) **26 IR 2345**
836 IAC 1-11-5	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 2	RA	01-40	24 IR 2580	
836 IAC 2-1-1	A	02-91	25 IR 2821	*CPH (25 IR 3807) **26 IR 2345**
836 IAC 2-2-1	A	02-91	25 IR 2824	*CPH (25 IR 3807) **26 IR 2348** *ERR (26 IR 2624)
836 IAC 2-7.1-1	A	02-91	25 IR 2826	*CPH (25 IR 3807) **26 IR 2350**
836 IAC 2-7.2	N	02-91	25 IR 2828	*CPH (25 IR 3807) **26 IR 2353**
836 IAC 2-12-1	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 2-13-1	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 2-14-5	A	02-91	25 IR 2833	*CPH (25 IR 3807) **26 IR 2357**
836 IAC 3	RA	01-40	24 IR 2580	
836 IAC 3-2-4	A	02-91	25 IR 2834	*CPH (25 IR 3807) **26 IR 2358**
836 IAC 3-2-5	A	02-91	25 IR 2835	*CPH (25 IR 3807) **26 IR 2360**
836 IAC 3-2-8	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 3-3-4	A	02-91	25 IR 2836	*CPH (25 IR 3807) **26 IR 2360**
836 IAC 3-3-5	A	02-91	25 IR 2837	*CPH (25 IR 3807) **26 IR 2362**
836 IAC 3-3-8	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 3-4-1	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 4-1-1	A	02-91	25 IR 2838	*CPH (25 IR 3807) **26 IR 2362**
836 IAC 4-2-1	A	02-91	25 IR 2840	*CPH (25 IR 3807) **26 IR 2364**
836 IAC 4-2-2	A	02-91	25 IR 2841	*CPH (25 IR 3807) **26 IR 2365**
836 IAC 4-2-5	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 4-3-2	A	02-91	25 IR 2841	*CPH (25 IR 3807) **26 IR 2366**
836 IAC 4-4-1	A	02-91	25 IR 2842	*CPH (25 IR 3807) **26 IR 2366**
836 IAC 4-5-2	A	02-91	25 IR 2843	*CPH (25 IR 3807) **26 IR 2367**
836 IAC 4-6.1	N	02-91	25 IR 2843	*CPH (25 IR 3807) **26 IR 2368**
836 IAC 4-7-2	A	02-91	25 IR 2844	*CPH (25 IR 3807) **26 IR 2368**
836 IAC 4-7-3.5	N	01-297	25 IR 499	**25 IR 2517**
836 IAC 4-7.1	N	02-91	25 IR 2844	*CPH (25 IR 3807) **26 IR 2369**
836 IAC 4-9-3	A	02-91	25 IR 2847	*CPH (25 IR 3807) **26 IR 2372**
836 IAC 4-10-1	R	02-91	25 IR 2848	*CPH (25 IR 3807) **26 IR 2372**

TITLE 839 SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND MENTAL HEALTH COUNSELOR BOARD

839 IAC 1-2-2.1	A	02-271	26 IR 874	**26 IR 2622**
839 IAC 1-2-5	A	02-271	26 IR 875	**26 IR 2623**
839 IAC 1-3-2	A	02-270	26 IR 871	*ARR (26 IR 1945)
839 IAC 1-4-5	A	02-270	26 IR 871	*ARR (26 IR 1945)
839 IAC 1-5-1	A	02-270	26 IR 872	*ARR (26 IR 1945)
839 IAC 1-5-1.5	N	02-270	26 IR 874	*ARR (26 IR 1945)

TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS

840 IAC 1-1-4	A	02-219	26 IR 540	**26 IR 1943**

TITLE 844 MEDICAL LICENSING BOARD OF INDIANA

844 IAC 2.2-2-1	A	02-180	26 IR 177	**26 IR 1558**
844 IAC 2.2-2-2	A	02-180	26 IR 178	**26 IR 1559**
844 IAC 2.2-2-5	A	02-180	26 IR 179	**26 IR 1560**
844 IAC 2.2-2-8	A	02-180	26 IR 179	**26 IR 1560**
844 IAC 4-1-1	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-1	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-2	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-3.1	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-4.1	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-5	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-6	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-7	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-8	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-9	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-10	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.1-11	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-4.5	N	02-12	25 IR 2302	*CPH (25 IR 2746) **26 IR 28**
844 IAC 4-5-1	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-2	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-2.1	N	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-5	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-6-8	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 4-7-5	R	02-12	25 IR 2308	*CPH (25 IR 2746) **26 IR 34**
844 IAC 5-1-1	A	02-268	26 IR 2117	
844 IAC 5-1-3	A	02-268	26 IR 2118	
844 IAC 5-3	N	02-268	26 IR 2118	
844 IAC 5-4	N	02-268	26 IR 2120	
844 IAC 6-1-4	A	01-431	25 IR 3454	**26 IR 377**
844 IAC 6-3-5	A	01-432	25 IR 3455	**26 IR 378**
844 IAC 6-4-1	A	02-181	26 IR 541	**26 IR 2373**

TITLE 845 BOARD OF PODIATRIC MEDICINE

845 IAC 1-3-1	A	03-46	26 IR 2683	
845 IAC 1-3-2	A	03-46	26 IR 2683	
845 IAC 1-3-3	N	03-46	26 IR 2684	
845 IAC 1-4.1-1	A	03-46	26 IR 2684	
845 IAC 1-4.1-2	A	03-46	26 IR 2684	
845 IAC 1-4.1-4	R	03-46	26 IR 2686	
845 IAC 1-4.1-7	A	03-46	26 IR 2685	
845 IAC 1-5-1	A	03-46	26 IR 2685	
845 IAC 1-5-2	R	01-363	25 IR 3456	*I (26 IR 1104)
	R	02-341	26 IR 2682	
845 IAC 1-5-2.1	N	01-363	25 IR 3455	*I (26 IR 1104)
	N	02-341	26 IR 2682	
845 IAC 1-5-3	A	03-46	26 IR 2685	
845 IAC 1-6-8	R	03-47	26 IR 2686	
845 IAC 1-6-9	N	03-47	26 IR 2686	

TITLE 848 INDIANA STATE BOARD OF NURSING

848 IAC 1-1-2.1	A	02-247	26 IR 2124	
848 IAC 1-1-6	A	02-247	26 IR 2124	
848 IAC 1-1-7	A	02-247	26 IR 2125	
848 IAC 1-1-14	A	02-183	26 IR 2123	
848 IAC 6	N	02-183	26 IR 2121	

TITLE 852 INDIANA OPTOMETRY BOARD

852 IAC 1-1.1-4	A	02-131	25 IR 3869	**26 IR 1944**
852 IAC 1-13-1	A	02-132	25 IR 3869	**26 IR 2373**
852 IAC 1-13-2	A	02-132	25 IR 3870	**26 IR 2374**
852 IAC 1-17	N	02-133	25 IR 3870	**26 IR 1561**

TITLE 856 INDIANA BOARD OF PHARMACY

856 IAC 1-35-1	A	02-172	25 IR 4211	**26 IR 1561**
856 IAC 1-35-4	A	02-172	25 IR 4212	**26 IR 1562**
856 IAC 1-35-6	R	02-172	25 IR 4212	**26 IR 1562**
856 IAC 2-7	N	02-258	26 IR 1725	

TITLE 857 INDIANA OPTOMETRIC LEGEND DRUG PRESCRIPTION ADVISORY COMMITTEE

857 IAC 1-4-1	RA	02-78	25 IR 3883	**26 IR 546**
857 IAC 2-3-16	A	02-123	25 IR 3873	**26 IR 1104**

TITLE 862 PRIVATE DETECTIVES LICENSING BOARD

862 IAC 1-1-6	A	02-302	26 IR 1728	

TITLE 864 STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS

864 IAC 1.1-2-2	A	01-405	25 IR 2848	**26 IR 379**
864 IAC 1.1-2-4	A	01-405	25 IR 2849	**26 IR 380**
864 IAC 1.1-12-1	A	01-405	25 IR 2850	**26 IR 380**

TITLE 865 STATE BOARD OF REGISTRATION FOR LAND SURVEYORS

865 IAC 1-4-8	A	02-56	25 IR 3456	**26 IR 1105**
865 IAC 1-12-28	A	02-56	25 IR 3456	**26 IR 1105**

TITLE 872 INDIANA BOARD OF ACCOUNTANCY

872 IAC 1-1-6.1	A	02-213	26 IR 2465	
872 IAC 1-1-10	A	02-301	26 IR 2126	
872 IAC 1-1-12	A	02-213	26 IR 2466	
872 IAC 1-3-14	A	02-213	26 IR 2466	
872 IAC 1-4	N	02-301	26 IR 2127	
872 IAC 1-5	N	02-213	26 IR 2467	

TITLE 876 INDIANA REAL ESTATE COMMISSION

876 IAC 1-1-23	A	01-427	25 IR 3874	**26 IR 789**
876 IAC 1-1-30.1	N	02-244	26 IR 2127	
876 IAC 1-4-2	A	01-427	25 IR 3874	**26 IR 789**
876 IAC 2-16-1	A	02-244	26 IR 2127	
876 IAC 3-2-4	A	02-148	25 IR 4213	**26 IR 1106**
876 IAC 3-2-5	A	02-148	25 IR 4213	**26 IR 1107**
876 IAC 3-2-7	A	02-148	25 IR 4213	**26 IR 1107**
876 IAC 3-3-6				*ERR (26 IR 1109)
876 IAC 3-3-21				*ERR (26 IR 1109)
876 IAC 3-3-22	A	02-148	25 IR 4214	**26 IR 1107**
876 IAC 3-6-2	A	02-246	26 IR 1728	
876 IAC 3-6-3	A	02-246	26 IR 1729	
876 IAC 3-6-9	A	02-148	25 IR 4214	**26 IR 1108**
876 IAC 4-1-3	A	01-427	25 IR 3876	**26 IR 791**
876 IAC 4-2-2	A	01-369	26 IR 180	**26 IR 788**
876 IAC 4-2-3	A	01-369	26 IR 180	**26 IR 788**
876 IAC 4-2-3.5	N	02-300	26 IR 1730	
876 IAC 4-2-9	A	01-369	26 IR 180	**26 IR 788**

TITLE 880 SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD

880 IAC 1-2	R	02-269	26 IR 879	*AWR (26 IR 2377)
880 IAC 1-2.1	N	02-269	26 IR 876	*AWR (26 IR 2377)

TITLE 888 INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS				
888 IAC 1.1-6-1	A	02-134	25 IR 3877	**26 IR 1563**
888 IAC 1.1-6-3	A	02-135	25 IR 3878	
888 IAC 1.1-11	N	02-136	25 IR 3879	**26 IR 1563**
TITLE 905 ALCOHOL AND TOBACCO COMMISSION				
905 IAC 1-5.2-9	R	03-38	26 IR 2688	
905 IAC 1-5.2-9.1	N	03-38	26 IR 2687	
905 IAC 1-5.2-9.2	N	03-38	26 IR 2687	
905 IAC 1-11.1-1	A	03-39	26 IR 2688	
905 IAC 1-11.1-2	A	03-39	26 IR 2688	
905 IAC 1-13-3	A	03-40	26 IR 2689	
905 IAC 1-13-6	N	03-40	26 IR 2689	
905 IAC 1-39	RA	02-272	26 IR 545	**26 IR 1735**
905 IAC 1-40	RA	02-272	26 IR 545	**26 IR 1735**
905 IAC 1-41	RA	02-272	26 IR 545	**26 IR 1735**
905 IAC 1-45	N	02-338	26 IR 2128	*ERR (26 IR 2375)

NONCODE RULES

Education Savings Authority, Indiana			
	N	02-256	*ETR (26 IR 59)
	N	02-307	*ETR (26 IR 808)
Family and Social Services, Office of the Secretary of			
	N	02-278	*ETR (26 IR 396)
	N	02-279	*ETR (26 IR 396)
	N	02-280	*ETR (26 IR 406)
	N	02-281	*ETR (26 IR 407)
Health, Indiana State Department of			
	N	03-1	*ETR (26 IR 1954)
	N	03-2	*ETR (26 IR 1956)
	N	03-86	*ETR (26 IR 2638)
	N	03-87	*ETR (26 IR 2642)
Horse Racing Commission, Indiana			
	R	02-296	*ETR (26 IR 395)
Lottery Commission, State			
	N	02-257	*ETR (26 IR 54)
	N	02-283	*ETR (26 IR 385)
	N	02-284	*ETR (26 IR 385)
	N	02-285	*ETR (26 IR 386)
	N	02-286	*ETR (26 IR 387)
	N	02-288	*ETR (26 IR 388)
	N	02-289	*ETR (26 IR 389)
	N	02-290	*ETR (26 IR 390)
			*ERR (26 IR 793)
	N	02-291	*ETR (26 IR 392)
	N	02-308	*ETR (26 IR 800)
	N	02-309	*ETR (26 IR 801)
	N	02-310	*ETR (26 IR 803)
	N	02-311	*ETR (26 IR 804)
	N	02-312	*ETR (26 IR 805)
	N	02-313	*ETR (26 IR 807)
	N	02-346	*ETR (26 IR 1574)
	N	02-347	*ETR (26 IR 1575)
	N	02-348	*ETR (26 IR 1577)
	N	02-349	*ETR (26 IR 1578)
	N	02-351	*ETR (26 IR 1582)
	N	02-352	*ETR (26 IR 1583)
	N	02-354	*ETR (26 IR 1587)
	N	02-355	*ETR (26 IR 1587)
	N	02-356	*ETR (26 IR 1588)
	N	02-357	*ETR (26 IR 1589)
	N	02-358	*ETR (26 IR 1590)
	N	03-15	*ETR (26 IR 1946)
	N	03-16	*ETR (26 IR 1948)
	N	03-49	*ETR (26 IR 2378)
	N	03-78	*ETR (26 IR 2628)
	N	03-79	*ETR (26 IR 2629)
	N	03-80	*ETR (26 IR 2630)
	N	03-81	*ETR (26 IR 2632)
	N	03-82	*ETR (26 IR 2634)
	N	03-83	*ETR (26 IR 2635)
	N	03-84	*ETR (26 IR 2636)
Natural Resources Commission			
	N	02-293	*ETR (26 IR 395)
	N	02-330	*ETR (26 IR 1111)
	N	03-26	*ETR (26 IR 1952)
	N	03-27	*ETR (26 IR 1954)
	N	03-28	*ETR (26 IR 2388)
	N	03-51	*ETR (26 IR 2389)
	N	03-85	*ETR (26 IR 2637)
	N	03-88	*ETR (26 IR 2638)
Revenue, Department of State			
	N	02-316	*ETR (26 IR 794)

*Key:

A:	Amended Text
AGA:	Attorney General's Action
AROC:	Administrative Rules Oversight Committee Notice
ARR:	Agency Recalls Rule
AWR:	Agency Withdrew Rule
CPH:	Change in Public Hearing
DAG:	Disapproved by Attorney General
DG:	Disapproved by Governor
ER:	Emergency Rule
ERR:	Errata
ETR:	Emergency Temporary Rule
ETS:	Emergency Temporary Standard
GRAT:	Governor Requires Additional Time
I:	Document Ineffective
N:	New Text
NRA:	Notice of Rule Adoption
OAC:	Objection to Errata
ON:	Other Notices of Administrative Action
R:	Repealed Text
RA:	Readopted Rule
SAC:	Solicitation of Advance Comment
SPE:	Statutory Period for Promulgation Expired
SPE-SE:	Statutory Period for Promulgation Expired; Signed After Expiration
††:	Renumbered or Added in Final Rule

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*The index is cumulative for all proposed and final rulemaking actions published after September 1, 2002. Final rules published before that date have been incorporated into the 2003 edition of the Indiana Administrative Code. Indiana Register citations in roman type are to the volume and page on which the proposed version of the rule appears. Entries in **bold** type indicate the page on which a final rule filed with the Secretary of State appears.

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