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TITLE 470 DIVISION OF FAMILY AND CHILDREN

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To: Chairperson, Administrative Rules Oversight Committee
c/o Mr. Chuck Mayfield

From: Erin M. McQueen, Staff Attorney
Office of General Counsel
Family and Social Services Administration

Re: 470 IAC 2-4.7 - Rule for Child Care Center Licensing

Date: July 23, 2003

Cc: Chuck Mayfield, Legislative Services Agency
Gordon White, Deputy Attorney General
Office of the Attorney General

The Indiana Family and Social Services Administration, Division of Family and Children, Bureau of Child Development is in the process of modifying the current rules for the licensing of child care centers in Indiana. The current rules have been in place for a long time and the proposed changes to the rules are substantial, as the rules have not been amended. Since amending the current rule would require significant changes, the division used a method of repealing the current rule and replacing it with a new rule rather than striking large portions of the current rule and adding large amounts of new text.

Statutory authority for adoption of child care center rules has been in place for many years. Under IC 4-22-2-19, promulgation of rules requires beginning the rulemaking process within 60 days of the enactment of such statutory authority unless an exception applies. The rulemaking process did not begin for these rules within 60 days of the effective date of the statutory authority. Rules were already in place pursuant to the statutory authority enacted many years ago. IC 4-22-2-19(a)(2) exempts rules from the application of the 60-day requirement if they are amending existing rules. Our proposed rules do not fall under the amendment exception as the proposed rules will replace the current rules and is not in a strictly amendment format, but the agency's intention is to amend the current rules.

While the division believes that the circumstances of the adoption of this rule do not fall within the intent of IC 4-22-2-19, the division is providing this written notification to the committee to explain why this rule could not comply with the timeframe specified in IC 4-22-2-19(c)(1). The division's rulemaking action to update and amend the current rule was very comprehensive and was undertaken as soon as practicable.

If you need additional information, please contact me at (317) 232-1245.