



February 14, 2023

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## HOUSE BILL No. 1623

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DIGEST OF HB 1623 (Updated February 14, 2023 2:17 pm - DI 75)

**Citations Affected:** IC 4-3; IC 4-21.5; IC 4-22; IC 12-10.5; IC 13-14; IC 13-19; IC 25-1; noncode.

**Synopsis:** Administrative rulemaking. Requires: (1) authorization from the budget agency and the office of management and budget; and (2) two public comment periods of 30 days for all proposed rules (except emergency rules and agency corrections); before the rules may be adopted. Standardizes the economic and fiscal impact information that must be prepared by an agency in order to adopt a rule. Requires rules to either expire or be readopted every five years rather than every seven years. Eliminates provisions that exempt certain rules from expiring. Provides for additional information concerning a readoption action to be published with a notice of readoption. Requires an agency to conduct a hearing on a proposed readoption. Eliminates differences between readoption procedures applicable to environmental rules and other rules. Validates readoption actions that become effective before July 1, 2023. Establishes criteria for use of emergency rulemaking procedures. Provides that rules formally adopted as emergency rules to implement a change in law or certain other circumstances may be adopted through emergency rule, interim rule, or expedited rule procedures. Requires preapproval by the governor to adopt rules through these procedures in the case of emergency rules and interim rules. Requires preapproval by the office of management and budget to adopt rules through expedited rule procedures. Authorizes the attorney general or the governor to suspend the operation of these rules. Requires the attorney general to specify the basis for disapproving an emergency, interim, or expedited rule. Requires an agency to conduct  
(Continued next page)

**Effective:** Upon passage; July 1, 2023.

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**Bartels, Miller D, Jordan**

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January 19, 2023, read first time and referred to Committee on Government and Regulatory Reform.  
February 14, 2023, amended, reported — Do Pass.

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HB 1623—LS 7025/DI 125



## Digest Continued

one comment period before adopting a rule using the interim rulemaking procedures. Eliminates indefinite expiration dates for emergency rules and reorganizes provisions related to expiration dates and extension periods. Specifies when expedited rules expire and limits the number of times expedited rules may be extended. Indicates how to calculate the one year period in which an environmental agency must complete a rulemaking process. Provides transitional provisions. Requires the code revision commission to prepare conforming legislation for introduction in the 2024 legislative session. Provides that a party prevailing against the agency is entitled to attorney's fees if the agency has acted without legal authority having the force of or enforceable as law. Amends the law requiring the department of environmental management (department) to establish a state permit program for the implementation in Indiana of the federal standards for the disposal of coal combustion residuals (CCR) in landfills and surface impoundments (the federal CCR rule). Provides that the rules adopted by the environmental rules board concerning the disposal of CCR in landfills and surface impoundments: (1) shall be consistent with the federal CCR rule; (2) shall not impose a restriction or requirement that is more stringent than the corresponding restriction or requirement imposed under the federal CCR rule; and (3) shall not impose a restriction or requirement that is not imposed by the federal CCR rule. Defines "legacy generation resource" as an electric generating facility that is directly or indirectly owned by a corporation that was originally formed for the purpose of providing power to the federal government for use in the nation's defense or in furtherance of national interests. Provides that the authority of the department to establish requirements under the state permit program is the only authority the department has to establish requirements for a surface impoundment of CCR located on the grounds of a legacy generation resource. Provides that if an agency fails to promulgate a required rule relating to licensure, a licensee is not required to pay license fees relating to the rule and is entitled to the refund of any already paid licensure fees. Establishes a procedure to determine whether a required rule has been promulgated. Repeals superseded statutes and makes cross reference, name, and other conforming changes.

**HB 1623—LS 7025/DI 125**



February 14, 2023

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

## HOUSE BILL No. 1623

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A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-3-22-13, AS AMENDED BY P.L.5-2015,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2023]: Sec. 13. (a) ~~Except as provided in subsection (c)~~; the  
4 OMB shall perform a cost benefit analysis upon each proposed rule and  
5 provide to:  
6 (1) the governor; and  
7 (2) the legislative council;  
8 an assessment of the rule's effect on Indiana business. The OMB shall  
9 submit the cost benefit analysis to the legislative council in an  
10 electronic format under IC 5-14-6.  
11 (b) After June 30, 2005, the cost benefit analysis performed by the  
12 OMB under this section with respect to any proposed rule that has an  
13 impact of at least five hundred thousand dollars (\$500,000) shall  
14 replace and be used for all purposes under IC 4-22-2 in lieu of the  
15 fiscal analysis previously performed by the legislative services agency

HB 1623—LS 7025/DI 125



1 under IC 4-22-2.

2 ~~(c) The OMB and the budget agency shall review a regulatory~~  
 3 ~~analysis and proposed rule submitted by an agency under~~  
 4 ~~IC 4-22-2-22.8. In preparing a cost benefit reviewing a regulatory~~  
 5 ~~analysis and proposed rule under this section, the OMB shall consider~~  
 6 ~~in its analysis any verified data provided voluntarily by interested~~  
 7 ~~parties, regulated persons, and nonprofit corporations whose members~~  
 8 ~~may be affected by the proposed rule. A cost benefit analysis prepared~~  
 9 ~~under this section is a public document, subject to the following:~~

10 (1) This subsection does not empower the OMB or an agency to  
 11 require an interested party or a regulated person to provide any  
 12 materials, documents, or other information. ~~in connection with a~~  
 13 ~~cost benefit analysis under this section.~~ If an interested party or a  
 14 regulated person voluntarily provides materials, documents, or  
 15 other information to the OMB or an agency, ~~in connection with a~~  
 16 ~~cost benefit analysis under this section,~~ the OMB or the agency,  
 17 as applicable, shall ensure the adequate protection of any:

18 (A) information that is confidential under IC 5-14-3-4; or

19 (B) confidential and proprietary business plans and other  
 20 confidential information.

21 If an agency has adopted rules to implement IC 5-14-3-4,  
 22 interested parties and regulated persons must submit the  
 23 information in accordance with the confidentiality rules adopted  
 24 by the agency to ensure proper processing of confidentiality  
 25 claims. The OMB and any agency involved in proposing the rule,  
 26 or in administering the rule upon the rule's adoption, shall  
 27 exercise all necessary caution to avoid disclosure of any  
 28 confidential information supplied to the OMB or the agency by an  
 29 interested party or a regulated person.

30 ~~(2) The OMB shall make the cost benefit analysis and other~~  
 31 ~~related public documents available to interested parties, regulated~~  
 32 ~~persons, and nonprofit corporations whose members may be~~  
 33 ~~affected by the proposed rule at least thirty (30) days before~~  
 34 ~~presenting the cost benefit analysis to the governor and the~~  
 35 ~~legislative council under subsection (a).~~

36 ~~(d) If the OMB or an agency is unable to obtain verified data for the~~  
 37 ~~cost benefit analysis described in subsection (c); the OMB shall state~~  
 38 ~~in the cost benefit analysis which data were unavailable for purposes~~  
 39 ~~of the cost benefit analysis:~~

40 ~~(e) If the OMB finds that a proposed rule is:~~

41 ~~(1) an adoption or incorporation by reference of a federal law;~~  
 42 ~~regulation; or rule that has no substantive effect on the scope or~~



1 intended application of the federal law or rule; or  
 2 (2) a technical amendment with no substantive effect on an  
 3 existing Indiana rule;

4 the OMB may not prepare a cost benefit analysis of the rule under this  
 5 section. The agency shall submit the proposed rule to the OMB with a  
 6 statement explaining how the proposed rule meets the requirements of  
 7 this subsection. If the OMB finds that the rule meets the requirements  
 8 of this subsection, the OMB shall provide its findings to the governor  
 9 and to the legislative council in an electronic format under IC 5-14-6.  
 10 If the agency amends or modifies the proposed rule after the OMB  
 11 finds that a cost benefit analysis may not be prepared for the rule, the  
 12 agency shall resubmit the proposed rule to the OMB either for a new  
 13 determination that the rule meets the requirements of this subsection,  
 14 or for the OMB to prepare a cost benefit analysis of the rule under this  
 15 section.

16 SECTION 2. IC 4-21.5-2-8 IS ADDED TO THE INDIANA CODE  
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 18 1, 2023]: **Sec. 8. The amendments made to IC 4-21.5-3-27.5 in the**  
 19 **2023 session of the general assembly only apply to agency actions**  
 20 **commenced under IC 4-21.5-3 after June 30, 2023.**

21 SECTION 3. IC 4-21.5-3-27.5, AS ADDED BY P.L.199-2021,  
 22 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2023]: Sec. 27.5. In a proceeding under this chapter  
 24 concerning an agency action, the administrative law judge shall order  
 25 the agency to pay the reasonable attorney's fees incurred in the  
 26 proceeding by the party challenging the agency action if the party  
 27 challenging the agency action proves, by a preponderance of the  
 28 evidence, that:

- 29 (1) the agency's action was frivolous or groundless; or  
 30 (2) the agency pursued the action in bad faith;  
 31 **(3) the agency has failed to demonstrate that the agency action**  
 32 **is based on a standard or an interpretation of a standard that**  
 33 **has the force of law; or**  
 34 **(4) the agency has failed to demonstrate that the agency acted**  
 35 **within its legal authority.**

36 SECTION 4. IC 4-22-2-0.1, AS AMENDED BY P.L.53-2014,  
 37 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 2023]: Sec. 0.1. **(a)** The amendments made to this chapter by  
 39 P.L.44-1995 apply as follows:

- 40 (1) The amendments made to sections 13, 19, 23, 25, and 28 of  
 41 this chapter apply to a rulemaking action that commences after  
 42 June 30, 1995.



1 (2) The addition of sections 23.1 and 46 (repealed) of this chapter  
 2 applies to a rulemaking action that commences after June 30,  
 3 1995.

4 **(b) This chapter (as effective January 1, 2023) continues to**  
 5 **apply after June 30, 2023, to a rulemaking action that is**  
 6 **commenced under this chapter before July 1, 2023, and is pending**  
 7 **on July 1, 2023.**

8 SECTION 5. IC 4-22-2-13, AS AMENDED BY P.L.2-2007,  
 9 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 JULY 1, 2023]: Sec. 13. (a) Subject to subsections (b), (c), and (d), this  
 11 chapter applies to the addition, amendment, or repeal of a rule in every  
 12 rulemaking action.

13 (b) This chapter does not apply to the following agencies:

- 14 (1) Any military officer or board.
- 15 (2) Any state educational institution.

16 (c) This chapter does not apply to a rulemaking action that results  
 17 in any of the following rules:

- 18 (1) A resolution or directive of any agency that relates solely to  
 19 internal policy, internal agency organization, or internal procedure  
 20 and does not have the effect of law.
- 21 (2) A restriction or traffic control determination of a purely local  
 22 nature that:
  - 23 (A) is ordered by the commissioner of the Indiana department  
 24 of transportation;
  - 25 (B) is adopted under IC 9-20-1-3(d), IC 9-21-4-7, or  
 26 IC 9-20-7; and
  - 27 (C) applies only to one (1) or more particularly described  
 28 intersections, highway portions, bridge causeways, or viaduct  
 29 areas.

30 (3) A rule adopted by the secretary of state under IC 26-1-9.1-526.

31 (4) An executive order or proclamation issued by the governor.

32 **(5) A rule adopted by the board of trustees of the Indiana**  
 33 **public retirement system, as provided in IC 5-10.5-4-2.**  
 34 **However, the board shall submit rules adopted by the board**  
 35 **to the publisher for publication in the Indiana Register.**

36 (d) Except as specifically set forth in IC 13-14-9, **IC 13-14-9**  
 37 **provides alternative procedures for notice and public comment**  
 38 **concerning proposed rules for the environmental rules board and**  
 39 **the underground storage tank financial assurance board. The**  
 40 **department of environmental management, the environmental**  
 41 **rules board, and the underground storage tank financial assurance**  
 42 **board shall comply with the procedures in IC 13-14-9 in lieu of**



1 **complying with** sections 23, 24, 26, 27, and 29 of this chapter. ~~do not~~  
 2 ~~apply to rulemaking actions under IC 13-14-9.~~ **In adopting rules, all**  
 3 **other provisions of IC 4-22-2 apply to these agencies, including**  
 4 **sections 22.7 and 22.8 of this chapter.**

5 SECTION 6. IC 4-22-2-15 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 15. Any rulemaking  
 7 action that this chapter allows or requires an agency to perform, other  
 8 than final adoption of a rule under section 29, ~~or 37.1, 37.2, or 37.3~~ of  
 9 this chapter **or IC 13-14-9**, may be performed by the individual or  
 10 group of individuals with the statutory authority to adopt rules for the  
 11 agency, a member of the agency's staff, or another agent of the agency.  
 12 Final adoption of a rule under section 29, ~~or 37.1, 37.2, or 37.3~~ of this  
 13 chapter **or IC 13-14-9**, including readoption of a rule that is subject to  
 14 sections 24 through 36 or to section 37.1 of this chapter and recalled  
 15 for further consideration under section 40 of this chapter, may be  
 16 performed only by the individual or group of individuals with the  
 17 statutory authority to adopt rules for the agency.

18 SECTION 7. IC 4-22-2-17 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 17. (a) IC 5-14-3  
 20 applies to the text of a rule that an agency intends to adopt from the  
 21 earlier of the date that the agency takes any action under ~~section 24~~  
 22 **section 23** of this chapter, otherwise notifies the public of its intent to  
 23 adopt a rule under any statute, or adopts the rule.

24 (b) IC 5-14-3 applies both to a rule and to the full text of a matter  
 25 directly or indirectly incorporated by reference into the rule.

26 SECTION 8. IC 4-22-2-17.5 IS ADDED TO THE INDIANA CODE  
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 28 1, 2023]: **Sec. 17.5. (a) The legislative services agency shall provide**  
 29 **electronic summaries or electronic copies of documents submitted**  
 30 **to the publisher under this article or IC 13-14-9 to legislators and**  
 31 **legislative committees in the manner and on the schedule specified**  
 32 **by the legislative council or the personnel subcommittee of the**  
 33 **legislative council acting for the legislative council.**

34 (b) **If requested in the manner specified by the legislative council**  
 35 **or the personnel subcommittee of the legislative council acting for**  
 36 **the legislative council, an agency shall provide to the legislative**  
 37 **services agency any data, studies, or analyses relied on by the**  
 38 **agency to develop a regulatory analysis or a revised regulatory**  
 39 **analysis. The agency shall comply with any policies adopted by the**  
 40 **legislative council or the personnel subcommittee of the legislative**  
 41 **council governing the format, timing, and manner of delivery of**  
 42 **the data, studies, or analyses.**



1 SECTION 9. IC 4-22-2-19.5 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 19.5. (a) To the extent  
 3 possible, a rule adopted under this article ~~or under IC 43-14-9.5~~ shall  
 4 comply with the following:

5 (1) Minimize the expenses to:

6 (A) regulated entities that are required to comply with the rule;

7 (B) persons who pay taxes or pay fees for government services  
 8 affected by the rule; and

9 (C) consumers of products and services of regulated entities  
 10 affected by the rule.

11 (2) Achieve the regulatory goal in the least restrictive manner.

12 (3) Avoid duplicating standards found in state or federal laws.

13 (4) Be written for ease of comprehension.

14 (5) Have practicable enforcement.

15 (b) Subsection (a) does not apply to a rule that must be adopted in  
 16 a certain form to comply with federal law.

17 SECTION 10. IC 4-22-2-21, AS AMENDED BY P.L.204-2016,  
 18 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2023]: Sec. 21. (a) If incorporation of the text in full would be  
 20 cumbersome, expensive, or otherwise inexpedient, an agency may  
 21 incorporate by reference into a rule part or all of any of the following  
 22 matters:

23 (1) A federal or state statute, rule, or regulation.

24 (2) A code, manual, or other standard adopted by an agent of the  
 25 United States, a state, or a nationally recognized organization or  
 26 association.

27 (3) A manual of the department of local government finance  
 28 adopted in a rule described in IC 6-1.1-31-9.

29 (4) The following requirements:

30 (A) The schedule, electronic formatting, and standard data,  
 31 field, and record coding requirements for:

32 (i) the electronic data file under IC 6-1.1-4-25 concerning  
 33 the parcel characteristics and parcel assessments of all  
 34 parcels and personal property return characteristics and  
 35 assessments; and

36 (ii) the electronic data file under IC 36-2-9-20 concerning  
 37 the tax duplicate.

38 (B) The schedule, electronic formatting, and standard data,  
 39 field, and record coding requirements for data required to be  
 40 submitted under IC 6-1.1-5.5-3 or IC 6-1.1-11-8.

41 (C) Data export and transmission format requirements for  
 42 information described in clauses (A) and (B).





1 (b) Each matter incorporated by reference under subsection (a) must  
2 be fully and exactly described.

3 (c) An agency may refer to a matter that is directly or indirectly  
4 referred to in a primary matter by fully and exactly describing the  
5 primary matter.

6 (d) **Except as otherwise provided in this article**, whenever an  
7 agency submits a rule to the attorney general, the governor, or the  
8 publisher under this chapter, the agency shall also submit a copy of the  
9 full text of each matter incorporated by reference under subsection (a)  
10 into the rule, other than the following:

11 (1) An Indiana statute or rule.

12 (2) A form or instructions for a form numbered by the Indiana  
13 archives and record administration under IC 5-15-5.1-6.

14 (3) The source of a statement that is quoted or paraphrased in full  
15 in the rule.

16 (4) Any matter that has been previously filed with the:

17 (A) secretary of state before July 1, 2006; or

18 (B) publisher after June 30, 2006.

19 (5) Any matter referred to in subsection (c) as a matter that is  
20 directly or indirectly referred to in a primary matter.

21 (e) An agency may comply with subsection (d) by submitting a  
22 paper or an electronic copy of the full text of the matter incorporated  
23 by reference.

24 SECTION 11. IC 4-22-2-22.5, AS AMENDED BY P.L.72-2014,  
25 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
26 JULY 1, 2023]: Sec. 22.5. (a) This section applies to a rule that an  
27 agency intends to:

28 (1) adopt under sections 24 through 36 of this chapter **or section**  
29 **37.2 or 37.3 of this chapter; and**

30 **(2) readopt under IC 4-22-2.6.**

31 (b) As used in this section, "pending rulemaking action" means any  
32 rulemaking action in which:

33 (1) either:

34 (A) a notice of ~~intent~~ **a public comment period** has been  
35 published under section 23, **37.2, or 37.3** of this chapter; ~~or~~

36 (B) a rulemaking action has been commenced under  
37 IC 13-14-9; ~~and or~~

38 **(C) a rulemaking action has been commenced under**  
39 **IC 4-22-2.6; and**

40 (2) the rule has not become effective under section 36 of this  
41 chapter.

42 (c) Each agency shall maintain a current rulemaking docket that is



- 1 indexed.
- 2 (d) A current rulemaking docket must list each pending rulemaking  
3 action. The docket must state or contain:
- 4 (1) the subject matter of the proposed rule;
- 5 (2) notices related to the proposed rule, or links to the Indiana  
6 Register where these notices may be viewed;
- 7 (3) how comments may be made;
- 8 (4) the time within which comments may be made;
- 9 (5) where comments and the agency's written response to those  
10 comments may be inspected;
- 11 (6) the date, time, and place where a public hearing required  
12 under:
- 13 (A) section 26 of this chapter; or
- 14 (B) IC 13-14-9;
- 15 will be held;
- 16 (7) a description of relevant scientific and technical findings  
17 related to the proposed rule, if applicable; and
- 18 (8) a reasonable estimate of the timetable for action, updated  
19 periodically as circumstances change, if necessary.
- 20 (e) The agency shall maintain the rulemaking docket on the agency's  
21 ~~Internet web site: website.~~ The information must be in an open format  
22 that can be easily searched and downloaded. Access to the docket shall,  
23 to the extent feasible and permitted by law, provide an opportunity for  
24 public comment on the pertinent parts of the rulemaking docket,  
25 including relevant scientific and technical findings. Upon request, the  
26 agency shall provide a written rulemaking docket.
- 27 SECTION 12. IC 4-22-2-22.7 IS ADDED TO THE INDIANA  
28 CODE AS A NEW SECTION TO READ AS FOLLOWS  
29 [EFFECTIVE JULY 1, 2023]: **Sec. 22.7. (a) Before complying with  
30 section 22.8 of this chapter, an agency shall conduct a regulatory  
31 analysis for the proposed rule. The regulatory analysis must  
32 evaluate whether the proposed rule does the following:**
- 33 (1) **Minimizes expenses to:**
- 34 (A) **regulated entities that are required to comply with the**  
35 **rule;**
- 36 (B) **persons who pay taxes or pay fees for government**  
37 **services affected by the rule; and**
- 38 (C) **consumers of products and services of regulated**  
39 **entities affected by the rule.**
- 40 (2) **Achieves the regulatory goal in the least restrictive**  
41 **manner.**
- 42 (3) **Has benefits that exceed the fiscal and economic costs of**



1 the proposed rule.

2 (4) Avoids duplicating and conflicting standards with other  
3 federal, state, or local laws, rules, regulations, or ordinances.

4 (5) Is written for ease of comprehension.

5 (6) Has practicable enforcement.

6 (b) The office of management and budget shall set standards for  
7 the criteria, analytical method, treatment technology, economic,  
8 fiscal, and other background data to be used by an agency in the  
9 regulatory analysis. The regulatory analysis must be submitted in  
10 a form that can be easily loaded into commonly used business  
11 analysis software and published in the Indiana Register using the  
12 format jointly developed by the publisher, the office of  
13 management and budget, and the budget agency. The office of  
14 management and budget may provide more stringent requirements  
15 for rules with fiscal impacts and costs above a threshold amount  
16 determined by the office of management and budget. At a  
17 minimum, the regulatory analysis must include findings and any  
18 supporting data, studies, or analyses prepared for a rule that  
19 demonstrate compliance with the following:

20 (1) A requirement in IC 4-3-22-13 explaining how the  
21 proposed rule meets the cost benefit requirements in  
22 IC 4-3-22-13.

23 (2) A requirement in section 19.5 of this chapter to minimize  
24 the expenses to regulated entities that are required to comply  
25 with the rule.

26 (3) A statement justifying any requirement or cost that is:

27 (A) imposed on a regulated entity under the rule; and

28 (B) not expressly required by:

29 (i) the statute authorizing the agency to adopt the rule;

30 or

31 (ii) any other state or federal law.

32 The statement required under this subdivision must include  
33 a reference to any data, studies, or analyses relied upon by the  
34 agency in determining that the imposition of the requirement  
35 or cost is necessary.

36 (4) A requirement in IC 4-22-2.1-5 to prepare a statement that  
37 describes the annual economic impact of a rule on all small  
38 businesses after the rule is fully implemented.

39 (5) A requirement in IC 4-22-2.6 to conduct a review to  
40 consider whether there are any alternative methods of  
41 achieving the purpose of the rule that are less costly or less  
42 intrusive, or that would otherwise minimize the economic



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**impact of the proposed rule on small businesses.**  
**(6) A requirement in IC 13-14-9-3 or IC 13-14-9-4 to publish information concerning the fiscal or economic impact of a rule or alternatives to a rule subject to these provisions.**  
**(7) A requirement in IC 13-14-9-3 or IC 13-14-9-4 to publish information concerning differences between the rule and federal law or the annual fiscal and economic impact of any element of the proposed rule that imposes a restriction or requirement that is more stringent than a restriction or requirement imposed under federal law or that applies in a subject area in which federal law does not impose restrictions or requirements.**  
**(8) A requirement under any other law to conduct an analysis of the cost, benefits, economic impact, or fiscal impact of a rule.**

**(c) If an agency has made a good faith effort to comply with this section, a rule is not invalid solely because the regulatory analysis for the proposed rule is insufficient or inaccurate.**

**SECTION 13. IC 4-22-2-22.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 22.8. (a) After conducting a regulatory analysis under section 22.7 of this chapter, if an agency elects to adopt a rule subject to section 23 of this chapter or IC 13-14-9, the agency shall submit a request to the budget agency and the office of management and budget to authorize commencement of the first and second public comment periods under this chapter or IC 13-14-9 (as applicable). The request must include the following:**

- (1) A general description of the subject matter of the proposed rule.**
- (2) The full text of the proposed rule (including a copy of any matter incorporated by reference under section 21 of this chapter) in the form required by the publisher, including citations to any related authorizing and affected Indiana statutes.**
- (3) The analysis, including supporting data, prepared under section 22.7 of this chapter.**
- (4) Any other information required by the office of management and budget.**

**(b) The budget agency and the office of management and budget shall expedite the review of the request to adopt a rule. The budget agency and the office of management and budget may do the**



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following:

(1) Return the request to the agency with a statement describing any additional information needed to authorize or disapprove further rulemaking actions on one (1) or more of the rules in the request.

(2) Authorize the commencement of the first and second public comment periods on one (1) or more of the rules in the request with or without changes.

(3) Disapprove commencement of the first and second public comment periods on one (1) or more of the rules with a statement of reasons for the disapproval.

(c) If an agency has requested authorization for more than one (1) rule in the same request, the budget agency and the office of management and budget may make separate determinations with respect to some or all of the rules in the request. Approval of a request shall be treated as a determination that the review conducted and findings made by the agency comply with the requirements of section 22.7 of this chapter and this section.

(d) Notice of the determination shall be provided to the agency in an electronic format required by the publisher. The budget agency and the office of management and budget may return to the agency any copy of a matter incorporated by reference under section 21 of this chapter that was submitted with the request.

(e) If an agency revises a proposed rule after the budget agency and the office of management and budget authorize commencement of the first and second public comment periods, the agency shall resubmit to the publisher, the budget agency, and the office of management and budget a revised regulatory analysis with sufficient information for the budget agency and the office of management and budget to determine the impact the revisions have on the regulatory analysis previously reviewed by the budget agency and the office of management and budget.

SECTION 14. IC 4-22-2-23, AS AMENDED BY P.L.152-2012, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 23. (a) This section does not apply to rules adopted under ~~IC 4-22-2-37.1~~. An agency may not adopt a proposed rule until the agency has conducted at least two (2) public comment periods, each of which must be at least thirty (30) days in length.

(b) At least twenty-eight (28) days before an agency notifies the public of the agency's intention to adopt a rule under section 24 of this chapter, the agency shall notify the public of its intention to adopt a rule by publishing a notice of intent to adopt a rule in the Indiana



1 ~~Register.~~ An agency shall provide notice in the Indiana Register of  
 2 the first public comment period required by subsection (a). To  
 3 publish notice of the first comment period in the Indiana Register,  
 4 the agency must submit the following to the publisher:

5 (1) The full text of the agency's proposed rule (excluding the  
 6 full text of a matter incorporated by reference under section  
 7 21 of this chapter). The agency shall submit the rule in the  
 8 form required by section 20 of this chapter and with the  
 9 documents required by section 21 of this chapter.

10 (2) The latest version of the regulatory analysis submitted to  
 11 the budget agency and the office of management and budget  
 12 under section 22.8 of this chapter.

13 (3) The determination of the budget agency and the office of  
 14 management and budget authorizing commencement of the  
 15 first and second public comment periods on the proposed rule.

16 (4) The notice required under subsection (c).

17 (c) The ~~publication~~ notice of the first comment period must  
 18 include the following:

19 (1) A general description of the subject matter of the proposed  
 20 rule.

21 (2) An overview of the intent and scope of the proposed rule and  
 22 the statutory authority for the rule.

23 (3) The latest version of the regulatory analysis submitted to  
 24 the budget agency and the office of management and budget  
 25 under section 22.8 of this chapter, excluding any appendices  
 26 containing any data, studies, or analysis referenced in the  
 27 regulatory analysis.

28 (4) Information concerning where, when, and how a person  
 29 may submit written comments on the proposed rule, including  
 30 contact information concerning the small business regulatory  
 31 coordinator required by section 28.1 of this chapter.

32 (5) Information concerning where, when, and how a person  
 33 may inspect and copy the regulatory analysis, and any data,  
 34 studies, or analyses referenced under subdivision (3).

35 (6) Information concerning where, when, and how a person  
 36 may inspect any documents incorporated by reference into  
 37 the proposed rule under section 21 of this chapter.

38 (7) An indication that the notice is for the first of two (2)  
 39 thirty (30) day periods in which the public may comment on  
 40 the proposed rule.

41 Inadequacy or insufficiency of the published description or  
 42 regulatory analysis published under this section does not invalidate



1 **a rulemaking action.**

2 (c) The requirement to publish a notice of intent to adopt a rule  
3 under subsection (b) does not apply to rulemaking under IC 13-14-9.

4 (d) In addition to the procedures required by this article, an agency  
5 may solicit comments from the public on the need for a rule, the  
6 drafting of a rule, or any other subject related to a rulemaking action;  
7 including members of the public who are likely to be affected because  
8 they are the subject of the potential rulemaking or are likely to benefit  
9 from the potential rulemaking. The procedures that the agency may use  
10 include the holding of conferences and the inviting of written  
11 suggestions, facts, arguments, or views.

12 (e) The agency shall prepare a written response that contains a  
13 summary of the comments received during any part of the rulemaking  
14 process. The written response is a public document. The agency shall  
15 make the written response available to interested parties upon request.

16 (d) **The publisher shall review materials submitted under this**  
17 **section and determine the date that the publisher intends to publish**  
18 **the text of the proposed rule and the notice in the Indiana Register.**  
19 **If the submitted material complies with this section, the publisher**  
20 **shall establish the intended publication date, assign a document**  
21 **control number to the proposed rule, and provide a written or an**  
22 **electronic mail authorization to proceed to the agency. The**  
23 **publisher shall publish the following in the Indiana Register on the**  
24 **intended publication date:**

25 (1) **The notice of the first comment period.**

26 (2) **The full text of the agency's proposed rule (excluding the**  
27 **full text of a matter incorporated by reference under section**  
28 **21 of this chapter).**

29 SECTION 15. IC 4-22-2-23.1, AS AMENDED BY P.L.123-2006,  
30 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2023]: Sec. 23.1. (a) This section and section 19(b) of this  
32 chapter do not apply to rules adopted under IC 4-22-2-37.1.

33 (b) Before or after an agency ~~notifies the public of its intention to~~  
34 ~~adopt a rule under section 24 of this chapter, submits a request to the~~  
35 **budget agency and the office of management and budget under**  
36 **section 22.8 of this chapter,** the agency may solicit comments from all  
37 or any segment of the public on the need for a rule, the drafting of a  
38 rule, or any other subject related to a rulemaking action. The  
39 procedures that the agency may use include the holding of conferences  
40 and the inviting of written suggestions, facts, arguments, or views. An  
41 agency's failure to consider comments received under this section does  
42 not invalidate a rule subsequently adopted.



1 SECTION 16. IC 4-22-2-24, AS AMENDED BY P.L.1-2006,  
 2 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2023]: Sec. 24. (a) An agency shall ~~notify the public of its~~  
 4 ~~intention to adopt a rule by complying with the publication~~  
 5 ~~requirements in subsections (b) and (c):~~ **provide notice in:**

6 **(1) one (1) newspaper of general circulation in Marion**  
 7 **County; and**

8 **(2) the Indiana Register;**

9 **of the second public comment period required by section 23 of this**  
 10 **chapter.**

11 (b) The agency shall cause a notice of a public hearing to be  
 12 published once in one ~~(1)~~ newspaper of general circulation in Marion  
 13 County, Indiana. To publish the newspaper notice, the agency shall  
 14 directly contract with the newspaper. **The newspaper notice must**  
 15 **contain the following information:**

16 **(1) A general description of the subject matter of the proposed**  
 17 **rule.**

18 **(2) Information indicating that the text of the proposed rule**  
 19 **has been published in the Indiana Register and where on the**  
 20 **Internet and by what document control number the proposed**  
 21 **rule can be found.**

22 **(3) A statement of the date, time, and place at which the**  
 23 **public hearing required by section 26 of this chapter will be**  
 24 **convened.**

25 **(4) Information concerning where, when, and how a person**  
 26 **may provide written comments on the proposed rule,**  
 27 **including contact information concerning the small business**  
 28 **regulatory coordinator required by section 28.1 of this**  
 29 **chapter.**

30 **(5) Information concerning where, when, and how a person**  
 31 **may inspect and copy the agency's regulatory analysis, and**  
 32 **any supporting data, studies, or analyses for the proposed**  
 33 **rule.**

34 **(6) Information concerning where, when, and how a person**  
 35 **may inspect any documents incorporated by reference into**  
 36 **the proposed rule under section 21 of this chapter.**

37 An agency may not contract for the publication of a notice under this  
 38 chapter until the agency has received a written or an electronic  
 39 authorization to proceed from the publisher under subsection ~~(g):~~ **(f).**

40 **(c) To publish a notice of the second comment period in the**  
 41 **Indiana Register, the agency must submit the following to the**  
 42 **publisher:**





1 (1) The agency shall cause a notice of public hearing and The full  
 2 text of the agency's proposed rule (excluding the full text of a  
 3 matter incorporated by reference under section 21 of this chapter).  
 4 ~~to be published once in the Indiana Register. To publish the notice~~  
 5 ~~and proposed rule in the Indiana Register; the agency shall submit~~  
 6 ~~the text to the publisher in accordance with subsection (g).~~ The  
 7 agency shall submit the rule in the form required by section 20 of  
 8 this chapter and with the documents required by section 21 of this  
 9 chapter **(if the agency has not previously provided the**  
 10 **publisher with the documents)**. The publisher shall determine  
 11 the number of copies of the rule and other documents to be  
 12 submitted under this ~~subsection:~~ **subdivision.**

13 **(2) Either a statement indicating that no changes in the**  
 14 **regulatory analysis have been made from the version of the**  
 15 **regulatory analysis published under section 23 of this chapter**  
 16 **or the latest version of the regulatory analysis submitted to**  
 17 **the budget agency and the office of management and budget**  
 18 **under section 22.8 of this chapter, if any changes have been**  
 19 **made in the regulatory analysis after submitting the material**  
 20 **under section 23 of this chapter.**

21 **(3) The notice required under subsection (d).**

22 (d) The agency shall include the following in the **second comment**  
 23 **period notice required by subsections (b) and (c): published in the**  
 24 **Indiana Register:**

25 (1) A statement of the date, time, and place at which the public  
 26 hearing required by section 26 of this chapter will be convened.

27 (2) A general description of the subject matter of the proposed  
 28 rule.

29 (3) ~~In a notice published after June 30, 2005, a statement~~  
 30 ~~justifying any requirement or cost that is:~~

31 ~~(A) imposed on a regulated entity under the rule; and~~

32 ~~(B) not expressly required by:~~

33 ~~(i) the statute authorizing the agency to adopt the rule; or~~

34 ~~(ii) any other state or federal law.~~

35 The statement required under this subdivision must include a  
 36 reference to any data, studies, or analyses relied upon by the  
 37 agency in determining that the imposition of the requirement or  
 38 cost is necessary.

39 (4) ~~an explanation that:~~

40 ~~(A) the proposed rule; and~~

41 ~~(B) any data, studies, or analysis referenced in a statement~~  
 42 ~~under subdivision (3);~~



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- may be inspected and copied at the office of the agency.
  - (3) A summary of the written comments received by the agency during the first comment period and a summary of the response of the agency to written comments submitted under section 23 of this chapter during the first public comment period.**
  - (4) Either a statement indicating that no changes in the regulatory analysis have been made from the version of the regulatory analysis published under section 23 of this chapter or the latest version of the regulatory analysis (excluding any appendices containing any data, studies, or analysis referenced in the regulatory analysis) submitted to the budget agency and the office of management and budget under section 22.8 of this chapter, if any changes have been made in the regulatory analysis after submitting the material to the publisher under section 23 of this chapter.**
  - (5) An explanation of any differences between the text of the proposed rule published for the first comment period under section 23 of this chapter and the text of the proposed rule published for the second comment period under this section.**
  - (6) Information concerning where, when, and how a person may submit written comments on the proposed rule, including contact information concerning the small business regulatory coordinator required by section 28.1 of this chapter.**
  - (7) Information concerning where, when, and how a person may inspect and copy the regulatory analysis and any data, studies, or analyses referenced in a regulatory analysis referenced in subdivision (4).**
  - (8) Information concerning where, when, and how a person may inspect any documents incorporated by reference into the proposed rule under section 21 of this chapter.**
  - (9) An indication that the notice is for the second of two (2) thirty (30) day periods in which the public may comment on the proposed rule and that following the second comment period the agency may adopt a version of the proposed rule that is the same as or does not substantially differ from the text of the proposed rule published under this section.**
- However, inadequacy or insufficiency of the ~~subject matter~~ description under subdivision (2) or a statement of justification under subdivision (3) or regulatory analysis in a notice published under this section does not invalidate a rulemaking action.
- (e) Although the agency may comply with the publication



1 requirements in this section on different days, the agency must comply  
 2 with all of the publication requirements in this section at least  
 3 ~~twenty-one (21)~~ **thirty (30)** days before the public hearing required by  
 4 section 26 of this chapter is convened.

5 ~~(f)~~ This section does not apply to the solicitation of comments under  
 6 section 23 of this chapter.

7 ~~(g)~~ **(f)** The publisher shall review materials submitted under this  
 8 section and determine the date that the publisher intends to include the  
 9 material in the Indiana Register. ~~After:~~

10 ~~(1) establishing the intended publication date; and~~

11 ~~(2) receiving the public hearing information specified in~~  
 12 ~~subsection (d) from the agency;~~

13 ~~the publisher shall~~ **If the submitted material complies with this**  
 14 **section, the publisher shall establish the intended publication date,**  
 15 **assign a document control number to the proposed rule, and**  
 16 **provide a written or an electronic mail authorization to proceed to the**  
 17 **agency. The publisher shall publish the following in the Indiana**  
 18 **Register on the intended publication date:**

19 **(1) The notice of the second comment period.**

20 **(2) The full text of the agency's proposed rule (excluding the**  
 21 **full text of a matter incorporated by reference under section**  
 22 **21 of this chapter).**

23 SECTION 17. IC 4-22-2-25, AS AMENDED BY P.L.5-2015,  
 24 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2023]: Sec. 25. (a) An agency has one (1) year from the date  
 26 that it publishes a notice of ~~intent to adopt a rule~~ in the Indiana Register  
 27 ~~under section 23 of this chapter to comply with sections 26 through 33~~  
 28 ~~of this chapter of the first public comment period under section 23~~  
 29 ~~of this chapter to comply with sections 23 through 33 of this~~  
 30 ~~chapter and obtain the approval or deemed approval of the governor.~~  
 31 **If an agency determines that a rule cannot be adopted within one (1)**  
 32 **year after the publication of the notice of ~~intent to adopt a rule~~ the first**  
 33 **public comment period under section 23 of this chapter, the agency**  
 34 **shall, before the two hundred fiftieth day following the publication of**  
 35 **the notice of ~~intent to adopt a rule~~ the first public comment period**  
 36 **under section 23 of this chapter, notify the publisher by electronic**  
 37 **means:**

38 **(1) the reasons why the rule was not adopted and the expected**  
 39 **date the rule will be completed; and**

40 **(2) the expected date the rule will be approved or deemed**  
 41 **approved by the governor or withdrawn under section 41 of this**  
 42 **chapter.**



1 (b) If a rule is not approved before the later of:

2 (1) one (1) year after the agency publishes notice of ~~intent to~~  
3 ~~adopt the rule~~ **the first public comment period** under section 23  
4 of this chapter; or

5 (2) the expected date contained in a notice concerning the rule  
6 that is provided to the publisher under subsection (a);

7 a later approval or deemed approval is ineffective, and the rule may  
8 become effective only through another rulemaking action initiated  
9 under this chapter.

10 SECTION 18. IC 4-22-2-27 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 27. The individual or  
12 group of individuals who will finally adopt the rule under section 29 of  
13 this chapter shall fully consider **written** comments received **by the**  
14 **agency during each comment period and comments received** at the  
15 public hearing required by section 26 of this chapter and may consider  
16 any other information before adopting the rule. Attendance at the  
17 public hearing or review of a written record or summary of the public  
18 hearing is sufficient to constitute full consideration.

19 SECTION 19. IC 4-22-2-27.5 IS ADDED TO THE INDIANA  
20 CODE AS A NEW SECTION TO READ AS FOLLOWS  
21 [EFFECTIVE JULY 1, 2023]: **Sec. 27.5. In addition to the**  
22 **information submitted to the attorney general under section 31 of**  
23 **this chapter, to the governor under section 33 of this chapter, and**  
24 **to the publisher under section 35 of this chapter, an agency shall**  
25 **submit to the attorney general, the governor, and the publisher a**  
26 **summary of the comments received by the agency during each**  
27 **comment period and public hearing under sections 23, 24, and 26**  
28 **of this chapter or IC 13-14-9 and a summary of the response of the**  
29 **agency to the comments. The publisher shall publish the**  
30 **summaries with the final adopted and approved rule.**

31 SECTION 20. IC 4-22-2-28, AS AMENDED BY P.L.237-2017,  
32 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33 JULY 1, 2023]: Sec. 28. (a) The following definitions apply throughout  
34 this section:

35 (1) "Ombudsman" refers to the small business ombudsman  
36 designated under IC 5-28-17-6.

37 (2) "Total estimated economic impact" means the direct annual  
38 economic impact of a rule on all regulated persons after the rule  
39 is fully implemented under subsection (g).

40 (b) The ombudsman:

41 (1) shall review a proposed rule that

42 (~~A~~) imposes requirements or costs on small businesses (as



1 defined in IC 4-22-2.1-4); and  
 2 (B) is referred to the ombudsman by an agency under  
 3 IC 4-22-2.1-5(e); and  
 4 (2) may review a proposed rule that imposes requirements or  
 5 costs on businesses other than small businesses (as defined in  
 6 IC 4-22-2.1-4).

7 After conducting a review under subdivision (1) or (2), the ombudsman  
 8 may suggest alternatives to reduce any regulatory burden that the  
 9 proposed rule imposes on small businesses or other businesses. The  
 10 agency that intends to adopt the proposed rule shall respond in writing  
 11 to the ombudsman concerning the ombudsman's comments or  
 12 suggested alternatives before adopting the proposed rule under section  
 13 29 of this chapter.

14 (c) Subject to subsection (e) and not later than fifty (50) days before  
 15 the public hearing for a proposed rule required by section 26 of this  
 16 chapter, an agency shall submit the proposed rule to the office of  
 17 management and budget for a review under subsection (d); if the  
 18 agency proposing the rule determines that the rule will have a total  
 19 estimated economic impact greater than five hundred thousand dollars  
 20 (\$500,000) on all regulated persons. In determining the total estimated  
 21 economic impact under this subsection, the agency shall consider any  
 22 applicable information submitted by the regulated persons affected by  
 23 the rule. To assist the office of management and budget in preparing  
 24 the fiscal impact statement required by subsection (d), the agency shall  
 25 submit, along with the proposed rule, the data used and assumptions  
 26 made by the agency in determining the total estimated economic  
 27 impact of the rule.

28 (d) Except as provided in subsection (e), before the adoption of the  
 29 rule, and not more than forty-five (45) days after receiving a proposed  
 30 rule under subsection (c), the office of management and budget shall  
 31 prepare, using the data and assumptions provided by the agency  
 32 proposing the rule, along with any other data or information available  
 33 to the office of management and budget, a fiscal impact statement  
 34 concerning the effect that compliance with the proposed rule will have  
 35 on:

- 36 (1) the state; and  
 37 (2) all persons regulated by the proposed rule.

38 The fiscal impact statement must contain the total estimated economic  
 39 impact of the proposed rule and a determination concerning the extent  
 40 to which the proposed rule creates an unfunded mandate on a state  
 41 agency or political subdivision. The fiscal impact statement is a public  
 42 document. The office of management and budget shall make the fiscal



1 impact statement available to interested parties upon request and to the  
 2 agency proposing the rule. The agency proposing the rule shall  
 3 consider the fiscal impact statement as part of the rulemaking process  
 4 and shall provide the office of management and budget with the  
 5 information necessary to prepare the fiscal impact statement, including  
 6 any economic impact statement prepared by the agency under  
 7 IC 4-22-2.1-5. The office of management and budget may also receive  
 8 and consider applicable information from the regulated persons  
 9 affected by the rule in preparation of the fiscal impact statement.

10 (e) With respect to a proposed rule subject to IC 13-14-9:

11 (1) the department of environmental management shall give  
 12 written notice to the office of management and budget of the  
 13 proposed date of preliminary adoption of the proposed rule not  
 14 less than sixty-six (66) days before that date; and

15 (2) the office of management and budget shall prepare the fiscal  
 16 impact statement referred to in subsection (d) not later than  
 17 twenty-one (21) days before the proposed date of preliminary  
 18 adoption of the proposed rule.

19 (f) In determining whether a proposed rule has a total estimated  
 20 economic impact greater than five hundred thousand dollars  
 21 (\$500,000), the agency proposing the rule shall consider the impact of  
 22 the rule on any regulated person that already complies with the  
 23 standards imposed by the rule on a voluntary basis.

24 (g) For purposes of this section, a rule is fully implemented after:

25 (1) the conclusion of any phase-in period during which:

26 (A) the rule is gradually made to apply to certain regulated  
 27 persons; or

28 (B) the costs of the rule are gradually implemented; and

29 (2) the rule applies to all regulated persons that will be affected  
 30 by the rule.

31 In determining the total estimated economic impact of a proposed rule  
 32 under this section, the agency proposing the rule shall consider the  
 33 annual economic impact on all regulated persons beginning with the  
 34 first twelve (12) month period after the rule is fully implemented. The  
 35 agency may use actual or forecasted data and may consider the actual  
 36 and anticipated effects of inflation and deflation. The agency shall  
 37 describe any assumptions made and any data used in determining the  
 38 total estimated economic impact of a rule under this section.

39 (h) An agency shall provide the legislative council in an electronic  
 40 format under IC 5-14-6 with any analysis, data, and description of  
 41 assumptions submitted to the office of management and budget under  
 42 this section or section 40 of this chapter at the same time the agency



1 submits the information to the office of management and budget. The  
 2 office of management and budget shall provide the legislative council  
 3 in an electronic format under IC 5-14-6 any fiscal impact statement and  
 4 related supporting documentation prepared by the office of  
 5 management and budget under this section or section 40 of this chapter  
 6 at the same time the office of management and budget provides the  
 7 fiscal impact statement to the agency proposing the rule. Information  
 8 submitted under this subsection must identify the rule to which the  
 9 information is related by document control number assigned by the  
 10 publisher.

11 (i) An agency shall provide the legislative council in an electronic  
 12 format under IC 5-14-6 with any economic impact or fiscal impact  
 13 statement, including any supporting data, studies, or analysis, prepared  
 14 for a rule proposed by the agency or subject to readoption by the  
 15 agency to comply with:

16 (1) a requirement in section 19.5 of this chapter to minimize the  
 17 expenses to regulated entities that are required to comply with the  
 18 rule;

19 (2) a requirement in section 24 of this chapter to publish a  
 20 justification of any requirement or cost that is imposed on a  
 21 regulated entity under the rule;

22 (3) a requirement in IC 4-22-2.1-5 to prepare a statement that  
 23 describes the annual economic impact of a rule on all small  
 24 businesses after the rule is fully implemented;

25 (4) a requirement in IC 4-22-2.5-3.1 to conduct a review to  
 26 consider whether there are any alternative methods of achieving  
 27 the purpose of the rule that are less costly or less intrusive, or that  
 28 would otherwise minimize the economic impact of the proposed  
 29 rule on small businesses;

30 (5) a requirement in IC 13-14-9-3 or IC 13-14-9-4 to publish  
 31 information concerning the fiscal impact of a rule or alternatives  
 32 to a rule subject to these provisions; or

33 (6) a requirement under any other law to conduct an analysis of  
 34 the cost, economic impact, or fiscal impact of a rule;

35 regardless of whether the total estimated economic impact of the  
 36 proposed rule is more than five hundred thousand dollars (\$500,000);  
 37 as soon as practicable after the information is prepared. Information  
 38 submitted under this subsection must identify the rule to which the  
 39 information is related by document control number assigned by the  
 40 publisher.

41 SECTION 21. IC 4-22-2-28.1, AS AMENDED BY P.L.237-2017,  
 42 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

HB 1623—LS 7025/DI 125



- 1 JULY 1, 2023]: Sec. 28.1. (a) This section applies to the following:
- 2 (1) A rule for which the notice required by section 23 of this
- 3 chapter or by IC 13-14-9-3 is published by an agency or the board
- 4 (as defined in IC 13-13-8-1).
- 5 (2) A rule for which:
- 6 (A) the notice required by IC 13-14-9-3; or
- 7 (B) an appropriate later notice for circumstances described in
- 8 subsection (g);
- 9 is published by the department of environmental management
- 10 after June 30, 2006.
- 11 (b) As used in this section, "coordinator" refers to the small business
- 12 regulatory coordinator assigned to a rule by an agency under subsection
- 13 (e).
- 14 (c) As used in this section, "director" refers to the director or other
- 15 administrative head of an agency.
- 16 (d) As used in this section, "small business" has the meaning set
- 17 forth in IC 5-28-2-6.
- 18 (e) For each rulemaking action and rule finally adopted as a result
- 19 of a rulemaking action by an agency under this chapter, the agency
- 20 shall assign one (1) staff person to serve as the agency's small business
- 21 regulatory coordinator with respect to the proposed or adopted rule.
- 22 The agency shall assign a staff person to a rule under this subsection
- 23 based on the person's knowledge of, or experience with, the subject
- 24 matter of the rule. A staff person may serve as the coordinator for more
- 25 than one (1) rule proposed or adopted by the agency if the person is
- 26 qualified by knowledge or experience with respect to each rule. Subject
- 27 to subsection (f):
- 28 (1) in the case of a proposed rule, the notice of ~~intent to adopt the~~
- 29 **rule the first public comment period** published under section 23
- 30 of this chapter; or
- 31 (2) in the case of a rule proposed by the department of
- 32 environmental management or the board (as defined in
- 33 IC 13-13-8-1), the notice published under IC 13-14-9-3 or the
- 34 findings published under IC 13-14-9-8(b)(1), whichever applies;
- 35 must include the name, address, telephone number, and electronic mail
- 36 address of the small business coordinator for the proposed rule, the
- 37 name, address, telephone number, and electronic mail address of the
- 38 small business ombudsman designated under IC 5-28-17-6, and a
- 39 statement of the resources available to regulated entities through the
- 40 small business ombudsman designated under IC 5-28-17-6. Subject to
- 41 subsection (f), in the case of a rule finally adopted, the final rule, as
- 42 published in the Indiana Register, must include the name, address,





1 telephone number, and electronic mail address of the coordinator.

2 (f) This subsection applies to a rule adopted by the department of  
3 environmental management or the board (as defined in IC 13-13-8-1)  
4 under IC 13-14-9. Subject to subsection (g), the department shall  
5 include in the notice provided under IC 13-14-9-3 or in the findings  
6 published under IC 13-14-9-8(b)(1), whichever applies, and in the  
7 publication of the final rule in the Indiana Register:

8 (1) a statement of the resources available to regulated entities  
9 through the technical and compliance assistance program  
10 established under IC 13-28-3;

11 (2) the name, address, telephone number, and electronic mail  
12 address of the ombudsman designated under IC 13-28-3-2;

13 (3) if applicable, a statement of:

14 (A) the resources available to small businesses through the  
15 small business stationary source technical assistance program  
16 established under IC 13-28-5; and

17 (B) the name, address, telephone number, and electronic mail  
18 address of the ombudsman for small business designated under  
19 IC 13-28-5-2(3); and

20 (4) the information required by subsection (e).

21 The coordinator assigned to the rule under subsection (e) shall work  
22 with the ombudsman described in subdivision (2) and the office of  
23 voluntary compliance established by IC 13-28-1-1 to coordinate the  
24 provision of services required under subsection (h) and IC 13-28-3. If  
25 applicable, the coordinator assigned to the rule under subsection (e)  
26 shall work with the ombudsman referred to in subdivision (3)(B) to  
27 coordinate the provision of services required under subsection (h) and  
28 IC 13-28-5.

29 (g) If the notice provided under IC 13-14-9-3 is not published as  
30 allowed by IC 13-14-9-7, the department of environmental  
31 management shall publish in the notice provided under IC 13-14-9-4  
32 the information that subsection (f) would otherwise require to be  
33 published in the notice under IC 13-14-9-3. If neither the notice under  
34 IC 13-14-9-3 nor the notice under IC 13-14-9-4 is published as allowed  
35 by IC 13-14-9-8, the department of environmental management shall  
36 publish in the commissioner's written findings under IC 13-14-9-8(b)  
37 the information that subsection (f) would otherwise require to be  
38 published in the notice under IC 13-14-9-3.

39 (h) The coordinator assigned to a rule under subsection (e) shall  
40 serve as a liaison between the agency and any small business subject  
41 to regulation under the rule. The coordinator shall provide guidance to  
42 small businesses affected by the rule on the following:



- 1 (1) Any requirements imposed by the rule, including any  
 2 reporting, record keeping, or accounting requirements.  
 3 (2) How the agency determines or measures compliance with the  
 4 rule, including any deadlines for action by regulated entities.  
 5 (3) Any penalties, sanctions, or fines imposed for noncompliance  
 6 with the rule.  
 7 (4) Any other concerns of small businesses with respect to the  
 8 rule, including the agency's application or enforcement of the rule  
 9 in particular situations. However, in the case of a rule adopted  
 10 under IC 13-14-9, the coordinator assigned to the rule may refer  
 11 a small business with concerns about the application or  
 12 enforcement of the rule in a particular situation to the ombudsman  
 13 designated under IC 13-28-3-2 or, if applicable, under  
 14 IC 13-28-5-2(3).
- 15 (i) The coordinator assigned to a rule under subsection (e) shall  
 16 provide guidance under this section in response to questions and  
 17 concerns expressed by small businesses affected by the rule. The  
 18 coordinator may also issue general guidelines or informational  
 19 pamphlets to assist small businesses in complying with the rule. Any  
 20 guidelines or informational pamphlets issued under this subsection  
 21 shall be made available:
- 22 (1) for public inspection and copying at the offices of the agency  
 23 under IC 5-14-3; and  
 24 (2) electronically through electronic gateway access.
- 25 (j) The coordinator assigned to a rule under subsection (e) shall  
 26 keep a record of all comments, questions, and complaints received  
 27 from small businesses with respect to the rule. The coordinator shall  
 28 deliver the record, along with any accompanying documents submitted  
 29 by small businesses, to the director:
- 30 (1) not later than ten (10) days after the date on which the rule is  
 31 submitted to the publisher under section 35 of this chapter; and  
 32 (2) before July 15 of each year during which the rule remains in  
 33 effect.
- 34 The coordinator and the director shall keep confidential any  
 35 information concerning a small business to the extent that the  
 36 information is exempt from public disclosure under IC 5-14-3-4.
- 37 (k) Not later than November 1 of each year, the director shall:
- 38 (1) compile the records received from all of the agency's  
 39 coordinators under subsection (j);  
 40 (2) prepare a report that sets forth:  
 41 (A) the number of comments, complaints, and questions  
 42 received by the agency from small businesses during the most



- 1 recent state fiscal year, categorized by the subject matter of the  
 2 rules involved;  
 3 (B) the number of complaints or questions reported under  
 4 clause (A) that were resolved to the satisfaction of the agency  
 5 and the small businesses involved;  
 6 (C) the total number of staff serving as coordinators under this  
 7 section during the most recent state fiscal year;  
 8 (D) the agency's costs in complying with this section during  
 9 the most recent state fiscal year; and  
 10 (E) the projected budget required by the agency to comply  
 11 with this section during the current state fiscal year; and  
 12 (3) deliver the report to the legislative council in an electronic  
 13 format under IC 5-14-6 and to the small business ombudsman  
 14 designated under IC 5-28-17-6.

15 SECTION 22. IC 4-22-2-29, AS AMENDED BY P.L.237-2017,  
 16 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2023]: Sec. 29. (a) As used in this section, "small business  
 18 ombudsman" refers to the small business ombudsman designated under  
 19 IC 5-28-17-6.

20 (b) After an agency has complied with sections ~~26, 27, and 22.8~~  
 21 **through** 28 of this chapter, the agency may:

- 22 (1) adopt a rule that is identical to a proposed rule published in  
 23 the Indiana Register under section 24 of this chapter;  
 24 (2) subject to subsection (c), adopt a rule that consolidates part or  
 25 all of two (2) or more proposed rules published in the Indiana  
 26 Register under section 24 of this chapter and considered under  
 27 section 27 of this chapter;  
 28 (3) subject to subsection (c), adopt part of one (1) or more  
 29 proposed rules described in subdivision (2) in two (2) or more  
 30 separate adoption actions; or  
 31 (4) subject to subsection (c), adopt a revised version of a proposed  
 32 rule published under section 24 of this chapter and include  
 33 provisions that did not appear in the published version, including  
 34 any provisions recommended by the small business ombudsman  
 35 under IC 4-22-2.1-6(a), if applicable.

36 (c) An agency may not adopt a rule that substantially differs from  
 37 the version or versions of the proposed rule or rules published in the  
 38 Indiana Register under section 24 of this chapter, unless it is a logical  
 39 outgrowth of any proposed rule as supported by any written comments  
 40 submitted:

- 41 (1) during the public comment ~~period;~~ **periods;** or  
 42 (2) by the small business ombudsman under IC 4-22-2.1-6(a), if



1 applicable.

2 SECTION 23. IC 4-22-2-31, AS AMENDED BY P.L.123-2006,  
3 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2023]: Sec. 31. After an agency has complied with section 29  
5 of this chapter, or with IC 13-14-9-9(1) or IC 13-14-9-9(2), as  
6 applicable, the agency shall submit its rule to the attorney general for  
7 approval. The agency shall submit the following to the attorney  
8 general:

- 9 (1) The rule in the form required by section 20 of this chapter.  
10 (2) The documents required by section 21 of this chapter.  
11 (3) Written authorization to proceed issued by the publisher under  
12 ~~section 24(g)~~ **sections 23(d) and 24(f)** of this chapter.  
13 (4) Any other documents specified by the attorney general.

14 The attorney general may require the agency to submit any supporting  
15 documentation that the attorney general considers necessary for the  
16 attorney general's review under section 32 of this chapter. The agency  
17 may submit any additional supporting documentation the agency  
18 considers necessary.

19 SECTION 24. IC 4-22-2-37.1, AS AMENDED BY P.L.140-2013,  
20 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21 JULY 1, 2023]: Sec. 37.1. (a) The following do not apply to a rule  
22 adopted under this section:

- 23 (1) Sections ~~24~~ **23** through ~~36~~ **27** of this chapter  
24 ~~(2)~~ **or IC 13-14-9 (as applicable).**  
25 **(2) Sections 28 through 36 of this chapter.**

26 **The amendments to this section made in the 2023 regular session**  
27 **of the general assembly apply to emergency rules that are accepted**  
28 **for filing by the publisher of the Indiana Register after June 30,**  
29 **2023, regardless of whether the adopting agency initiated official**  
30 **action to adopt the emergency rule before July 1, 2023. An action**  
31 **taken before July 1, 2023, in conformity with this section (as**  
32 **effective after June 30, 2023) is validated to the same extent as if**  
33 **the action was taken after June 30, 2023.**

34 (b) **An agency may adopt a rule may be adopted under on a**  
35 **subject for which the agency has rulemaking authority using the**  
36 **procedures in this section if a statute delegating authority to an agency**  
37 **to adopt rules authorizes adoption of such a rule:**

- 38 ~~(1) under this section; or~~  
39 ~~(2) in the manner provided by this section:~~

40 **the governor finds that the agency proposing to adopt the rule has**  
41 **demonstrated to the satisfaction of the governor that use of**  
42 **emergency rulemaking procedures under this section is necessary**



1 to avoid:

- 2 (1) an imminent and substantial peril to public health, safety,  
 3 or welfare;  
 4 (2) an imminent and material loss of federal funds for an  
 5 agency program;  
 6 (3) an imminent and material deficit; or  
 7 (4) an imminent and substantial violation of a state or federal  
 8 law or the terms of a federal agreement or program.

9 To obtain a determination from the governor, an agency must  
 10 submit to the governor the text of the proposed emergency rule, a  
 11 statement justifying the need for emergency rulemaking  
 12 procedures, and any additional information required by the  
 13 governor in the form and in the manner required by the governor.  
 14 A notice of determination by the governor shall include findings  
 15 that explain the basis for the determination. The notice of  
 16 determination shall be provided to the agency in an electronic  
 17 format. Approval of a request shall be treated as a determination  
 18 that the rule meets the criteria in this subsection.

19 (c) After an agency adopts a rule under this section, the governor  
 20 approves emergency rulemaking procedures for a rule, the agency  
 21 shall submit the rule to the publisher for the assignment of obtain a  
 22 document control number. The agency shall submit the rule in the form  
 23 required by section 20 of this chapter and with the documents required  
 24 by section 21 of this chapter. from the publisher. The publisher shall  
 25 determine the documents and the format of the rule and other  
 26 documents to that must be submitted under this subsection. to the  
 27 publisher to obtain a document control number.

28 (d) After the document control number has been assigned and the  
 29 agency adopts the rule, the agency shall submit the rule following to  
 30 the publisher for filing:

- 31 (1) The text of the adopted emergency rule. The agency shall  
 32 submit the emergency rule in the form required by section 20 of  
 33 this chapter. and with  
 34 (2) A signature page that indicates that the agency has  
 35 adopted the emergency rule in conformity with all procedures  
 36 required by law.  
 37 (3) The approval of the governor to use emergency  
 38 rulemaking procedures for the rule.  
 39 (4) The documents required by section 21 of this chapter.

40 The publisher shall determine the format of the emergency rule and  
 41 other documents to be submitted under this subsection. The  
 42 substantive text of the adopted emergency rule must be



1 **substantially similar to the text of the proposed emergency rule**  
 2 **submitted to the governor. An emergency rule may suspend but not**  
 3 **repeal a rule approved by the governor under section 34 of this**  
 4 **chapter.**

5 (e) Subject to **subsection (d) and** section 39 of this chapter, the  
 6 publisher shall:

7 (1) accept the rule for filing; ~~and~~

8 (2) electronically record the date and time that the rule is  
 9 accepted; **and**

10 **(3) publish the text of the adopted emergency rule and the**  
 11 **governor's approval in the Indiana Register.**

12 (f) ~~✶ An emergency rule~~ adopted by an agency under this section  
 13 takes effect on the latest of the following dates:

14 (1) The effective date of the statute delegating authority to the  
 15 agency to adopt the **emergency** rule.

16 (2) The date and time that the **emergency** rule is accepted for  
 17 filing under subsection (e).

18 (3) The effective date stated by the adopting agency in the  
 19 **emergency** rule.

20 (4) The date of compliance with every requirement established by  
 21 law as a prerequisite to the adoption or effectiveness of the  
 22 **emergency** rule.

23 (5) The statutory effective date for an emergency rule set forth in  
 24 the statute authorizing the agency to adopt emergency rules. ~~law.~~

25 (g) ~~Unless otherwise provided by the statute authorizing adoption~~  
 26 ~~of the rule:~~

27 ~~(1) a rule adopted under this section expires not later than ninety~~  
 28 ~~(90) days after the rule is accepted for filing under subsection (e);~~

29 ~~(2) a rule adopted under this section may be extended by adopting~~  
 30 ~~another rule under this section; but only for one (1) extension~~  
 31 ~~period; and~~

32 ~~(3) for a rule adopted under this section to be effective after one~~  
 33 ~~(1) extension period; the rule must be adopted under:~~

34 ~~(A) sections 24 through 36 of this chapter; or~~

35 ~~(B) IC 13-14-9;~~

36 ~~as applicable.~~

37 **(g) An agency may amend an emergency rule with another**  
 38 **emergency rule by following the procedures in this section for the**  
 39 **amending emergency rule. However, unless otherwise provided by**  
 40 **IC 4-22-2.3, an emergency rule and all amendments of an**  
 41 **emergency rule by another emergency rule expire not later than**  
 42 **one hundred eighty (180) days after the initial emergency rule is**



1 accepted for filing under subsection (e). The subject of the  
 2 emergency rule, including all amendments to the emergency rule,  
 3 may not be subsequently extended under this section or section  
 4 37.2 of this chapter. If the governor determines that the emergency  
 5 that is the basis for using the procedures under this section ceases  
 6 to exist, the governor may terminate the emergency rule before the  
 7 lapse of one hundred eighty (180) days. The termination is effective  
 8 when filed with the publisher. The publisher shall publish the  
 9 termination notice in the Indiana Register.

10 (h) This section may not be used to readopt a rule under IC 4-22-2.5.

11 (i) The publisher of the Indiana administrative code shall annually  
 12 publish a list of agencies authorized to adopt rules under this section.

13 (h) Subject to subsection (i), the attorney general or the  
 14 governor may file an objection to an emergency rule that is  
 15 adopted under this section not later than forty-five (45) days after  
 16 the date that an emergency rule or amendment to an emergency  
 17 rule is accepted for filing under subsection (e). The objection must  
 18 cite the document control number for the affected emergency rule  
 19 and state the basis for the objection. When filed with the publisher,  
 20 the objection has the effect of invalidating the emergency rule or  
 21 amendment to an emergency rule. The publisher shall publish the  
 22 objection in the Indiana Register.

23 (i) The attorney general may file a written objection to an  
 24 emergency rule under subsection (h) only if the attorney general  
 25 determines that the emergency rule has been adopted:

- 26 (1) without statutory authority; or  
 27 (2) without complying with this section.

28 A notice of objection to an emergency rule by the attorney general  
 29 must include findings that explain the basis for the determination.  
 30 The notice of objection shall be provided to the agency in an  
 31 electronic format.

32 SECTION 25. IC 4-22-2-37.2 IS ADDED TO THE INDIANA  
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 34 [EFFECTIVE JULY 1, 2023]: Sec. 37.2. (a) The following do not  
 35 apply to a rule adopted under this section:

- 36 (1) Sections 23 through 27 of this chapter or IC 13-14-9 (as  
 37 applicable).  
 38 (2) Sections 28 through 36 of this chapter.

39 The amendments to this section made in the 2023 regular session  
 40 of the general assembly apply to interim rules that are accepted for  
 41 filing by the publisher of the Indiana Register after June 30, 2023,  
 42 regardless of whether the adopting agency initiated official action



1 to adopt the interim rule before July 1, 2023. An action taken  
2 before July 1, 2023, in conformity with this section (as effective  
3 after June 30, 2023) is validated to the same extent as if the action  
4 was taken after June 30, 2023.

5 (b) An agency may adopt a rule on a subject for which the  
6 agency has rulemaking authority with a single comment period of  
7 at least thirty (30) days in length using the procedures in this  
8 section if the governor finds that the agency proposing to adopt the  
9 rule has demonstrated to the satisfaction of the governor that use  
10 of interim rulemaking procedures under this section is necessary  
11 to implement:

12 (1) a new state or federal law or program, rule of another  
13 state agency, federal regulation, or federal grant or loan  
14 agreement, or (if used by the agency to carry out the agency's  
15 responsibilities) a building, an equipment, a firefighting, a  
16 safety, or a professional code adopted by a nationally  
17 recognized organization; or

18 (2) a change in a new state or federal law or program, rule of  
19 another state agency, federal regulation, federal grant or loan  
20 agreement, or (if used by the agency to carry out the agency's  
21 responsibilities) a building, an equipment, a firefighting, a  
22 safety, or a professional code adopted by a nationally  
23 recognized organization;

24 before the time that a final rule approved by the governor under  
25 section 34 of this chapter could reasonably take effect. To obtain a  
26 determination from the governor, an agency must submit to the  
27 governor the text of the proposed interim rule, a statement  
28 justifying the need for interim rulemaking procedures, and any  
29 additional information required by the governor in the form and  
30 in the manner required by the governor. A notice of determination  
31 by the governor shall include findings that explain the basis for the  
32 determination. The notice of determination shall be provided to the  
33 agency in an electronic format. Approval of a request shall be  
34 treated as a determination that the rule meets the criteria in this  
35 subsection.

36 (c) An agency shall notify the public of its intention to adopt an  
37 interim rule by complying with the publication requirements in  
38 this section. The agency shall cause a notice of a public comment  
39 period and the full text of the agency's proposed interim rule  
40 (excluding the full text of a matter incorporated by reference under  
41 section 21 of this chapter) to be published once in the Indiana  
42 Register. The publisher shall review materials submitted under this





1 section and determine the date that the publisher intends to include  
 2 the material in the Indiana Register. After establishing the  
 3 intended publication date and receiving the public comment period  
 4 information from the agency, the publisher shall provide a written  
 5 or an electronic mail authorization to proceed to the agency.

6 (d) The agency shall include the following in the notice of the  
 7 public comment period:

8 (1) A general description of the subject matter of the proposed  
 9 interim rule, including the document control number.

10 (2) A statement justifying any requirement or cost that is:

11 (A) imposed on a regulated entity under the interim rule;  
 12 and

13 (B) not expressly required by the statute authorizing the  
 14 agency to adopt rules or any other state or federal law.

15 The statement required under this subdivision must include  
 16 a reference to any data, studies, or analyses relied upon by the  
 17 agency in determining that the imposition of the requirement  
 18 or cost is necessary and where and how a person may inspect  
 19 and copy or electronically download the data, studies, or  
 20 analyses.

21 (3) A date that is thirty (30) days after the notice is published  
 22 in the Indiana Register by which written comments are due  
 23 and a statement explaining that any person may submit  
 24 written comments concerning the proposed expedited rule  
 25 during the public comment period and instructions on when,  
 26 where, and how the person may submit written comments.

27 However, inadequacy or insufficiency of the subject matter  
 28 description under subdivision (1) or a statement of justification  
 29 under subdivision (2) in a notice does not invalidate a rulemaking  
 30 action. An agency may continue the comment period by publishing  
 31 a subsequent notice in the Indiana Register extending the comment  
 32 period.

33 (e) Before adopting the interim rule, the agency shall prepare a  
 34 written response to comments received by the agency, including the  
 35 reasons for rejecting any recommendations made in the comments.

36 (f) After an agency has completed the initial public comment  
 37 period of at least thirty (30) days in length and complied with  
 38 subsection (e), the agency may:

39 (1) adopt a rule that is identical to a proposed interim rule  
 40 published in the Indiana Register under this section; or

41 (2) adopt a revised version of a proposed interim rule  
 42 published under this section and include provisions that did



1           not appear in the initially published proposed version.  
 2           An agency may not adopt an interim rule that substantially differs  
 3           from the version of the proposed interim rule published in the  
 4           Indiana Register under this section, unless it is a logical outgrowth  
 5           of any proposed interim rule as supported by any written  
 6           comments submitted during the public comment period.

7           (g) After the agency adopts the interim rule, the agency shall  
 8           submit the following to the publisher for filing:

9           (1) The text of the adopted interim rule. The agency shall  
 10           submit the interim rule in the form required by section 20 of  
 11           this chapter.

12           (2) A summary of the comments received by the agency  
 13           during the comment period and the agency's response to the  
 14           comments.

15           (3) A signature page that indicates that the agency has  
 16           adopted the interim rule in conformity with all procedures  
 17           required by law.

18           (4) The approval of the governor to use interim rulemaking  
 19           procedures for the rule.

20           (5) The documents required by section 21 of this chapter.

21           The publisher shall determine the format of the interim rule and  
 22           other documents to be submitted under this subsection. An interim  
 23           rule may suspend but not repeal a rule approved by the governor  
 24           under section 34 of this chapter.

25           (h) Subject to subsection (g) and section 39 of this chapter, the  
 26           publisher shall:

27           (1) accept the rule for filing;

28           (2) electronically record the date and time that the rule is  
 29           accepted; and

30           (3) publish the text of the adopted interim rule and the  
 31           governor's approval in the Indiana Register.

32           (i) An interim rule adopted by an agency under this section  
 33           takes effect on the latest of the following dates:

34           (1) The effective date of the statute delegating authority to the  
 35           agency to adopt the interim rule.

36           (2) The date and time that the interim rule is accepted for  
 37           filing under subsection (h).

38           (3) The effective date stated by the adopting agency in the  
 39           interim rule.

40           (4) The date of compliance with every requirement  
 41           established by law as a prerequisite to the adoption or  
 42           effectiveness of the interim rule.



- 1           **(5) The statutory effective date for an interim rule set forth in**  
 2           **law.**
- 3           **(j) An agency may amend an interim rule with another interim**  
 4           **rule by following the procedures in this section for adoption of an**  
 5           **interim rule. An interim rule and all subsequent rules on the same**  
 6           **subject adopted under section 37.1 or 37.3 of this chapter or this**  
 7           **section expire not later than four hundred twenty-five (425) days**  
 8           **after the initial interim rule is accepted for filing under subsection**  
 9           **(h). The interim rule, including all subsequent interim rules**  
 10           **adopted under section 37.1 or 37.3 of this chapter or this section on**  
 11           **the same subject, may not be subsequently extended under section**  
 12           **37.1 or 37.3 of this chapter or this section after four hundred**  
 13           **twenty-five (425) days.**
- 14           **(k) Subject to subsection (l), the attorney general or the**  
 15           **governor may file an objection to an interim rule that is adopted**  
 16           **under this section not later than forty-five (45) days after the date**  
 17           **that an interim rule or amendment to an interim rule is accepted**  
 18           **for filing under subsection (h). The objection must cite the**  
 19           **document control number for the affected interim rule and state**  
 20           **the basis for the objection. When filed with the publisher, the**  
 21           **objection has the effect of invalidating the interim rule or**  
 22           **amendment to an interim rule. The publisher shall publish the**  
 23           **objection in the Indiana Register.**
- 24           **(l) The attorney general may file a written objection to an**  
 25           **interim rule under subsection (k) only if the attorney general**  
 26           **determines that the interim rule has been adopted:**
- 27               **(1) without statutory authority; or**  
 28               **(2) without complying with this section.**
- 29           **A notice of objection to an interim rule by the attorney general**  
 30           **must include findings that explain the basis for the determination.**  
 31           **The notice of objection shall be provided to the agency in an**  
 32           **electronic format.**
- 33           **SECTION 26. IC 4-22-2-37.3 IS ADDED TO THE INDIANA**  
 34           **CODE AS A NEW SECTION TO READ AS FOLLOWS**  
 35           **[EFFECTIVE JULY 1, 2023]: Sec. 37.3. (a) The following do not**  
 36           **apply to a rule adopted under this section:**
- 37               **(1) Sections 23 through 27 of this chapter or IC 13-14-9 (as**  
 38               **applicable).**
- 39               **(2) Sections 28 through 36 of this chapter.**
- 40           **(b) An agency may adopt a rule described in IC 4-22-2.3 with a**  
 41           **single comment period of at least thirty (30) days in length using**  
 42           **the procedures in this section if the governor finds that the agency**



1 proposing to adopt the rule has demonstrated to the satisfaction of  
 2 the governor that use of expedited rulemaking procedures under  
 3 this section is appropriate for a rule described in IC 4-22-2.3. To  
 4 obtain a determination from the governor, an agency must submit  
 5 to the governor the text of the proposed expedited rule, a statement  
 6 justifying the need for expedited rulemaking procedures, and any  
 7 additional information required by the governor in the form and  
 8 in the manner required by the governor. A notice of determination  
 9 by the governor shall include findings that explain the basis for the  
 10 determination. The notice of determination shall be provided to the  
 11 agency in an electronic format. Approval of a request shall be  
 12 treated as a determination that the rule meets the criteria in this  
 13 subsection.

14 (c) An agency shall notify the public of its intention to adopt a  
 15 rule by complying with the publication requirements in this  
 16 section. The agency shall cause a notice of a public comment period  
 17 and the full text of the agency's proposed expedited rule (excluding  
 18 the full text of a matter incorporated by reference under section 21  
 19 of this chapter) to be published once in the Indiana Register. The  
 20 publisher shall review materials submitted under this section and  
 21 determine the date that the publisher intends to include the  
 22 material in the Indiana Register. After establishing the intended  
 23 publication date and receiving the public comment period  
 24 information from the agency, the publisher shall provide a written  
 25 or an electronic mail authorization to proceed to the agency.

26 (d) The agency shall include the following in the notice of the  
 27 public comment period:

28 (1) A general description of the subject matter of the proposed  
 29 expedited rule, including the document control number.

30 (2) A statement justifying any requirement or cost that is:

31 (A) imposed on a regulated entity under the expedited rule;  
 32 and

33 (B) not expressly required by the statute authorizing the  
 34 agency to adopt rules or any other state or federal law.

35 The statement required under this subdivision must include  
 36 a reference to any data, studies, or analyses relied upon by the  
 37 agency in determining that the imposition of the requirement  
 38 or cost is necessary and where and how a person may inspect  
 39 and copy or electronically download the data, studies, or  
 40 analysis.

41 (3) A date that is thirty (30) days after the notice is published  
 42 in the Indiana Register by which written comments are due



1 and a statement explaining that any person may submit  
 2 written comments concerning the proposed expedited rule  
 3 during the public comment period and instructions on when,  
 4 where, and how the person may submit written comments.

5 However, inadequacy or insufficiency of the subject matter  
 6 description under subdivision (1) or a statement of justification  
 7 under subdivision (2) in a notice does not invalidate a rulemaking  
 8 action. An agency may continue the comment period by publishing  
 9 a subsequent notice in the Indiana Register extending the comment  
 10 period.

11 (e) Before adopting the expedited rule, the agency shall prepare  
 12 a written response to comments received by the agency, including  
 13 the reasons for rejecting any recommendations made in the  
 14 comments.

15 (f) After an agency has completed the comment period under  
 16 this section and complied with subsection (e), the agency may:

- 17 (1) adopt a rule that is identical to a proposed expedited rule
- 18 published in the Indiana Register under this section; or
- 19 (2) adopt a revised version of a proposed expedited rule
- 20 published under this section and include provisions that did
- 21 not appear in the published version.

22 An agency may not adopt an expedited rule that substantially  
 23 differs from the version of the proposed expedited rule published  
 24 in the Indiana Register under this section, unless it is a logical  
 25 outgrowth of any proposed expedited rule as supported by any  
 26 written comments submitted during the public comment period.

27 (g) After the agency adopts the expedited rule, the agency shall  
 28 submit the following to the publisher for filing:

- 29 (1) The text of the adopted expedited rule. The agency shall
- 30 submit the expedited rule in the form required by section 20
- 31 of this chapter.
- 32 (2) A summary of the comments received by the agency
- 33 during the comment period and the agency's response to the
- 34 comments.
- 35 (3) A signature page that indicates that the agency has
- 36 adopted the expedited rule in conformity with all procedures
- 37 required by law.
- 38 (4) The approval of the governor to use expedited rulemaking
- 39 procedures for the rule.
- 40 (5) The documents required by section 21 of this chapter.

41 The publisher shall determine the format of the expedited rule and  
 42 other documents to be submitted under this subsection. The



1 substantive text of the adopted expedited rule must be substantially  
 2 similar to the text of the proposed expedited rule submitted to the  
 3 governor. An expedited rule may suspend but not repeal a rule  
 4 approved by the governor under section 34 of this chapter.

5 (h) Subject to subsection (g) and section 39 of this chapter, the  
 6 publisher shall:

7 (1) accept the expedited rule for filing;

8 (2) electronically record the date and time that the expedited  
 9 rule is accepted; and

10 (3) publish the text of the adopted expedited rule and the  
 11 governor's approval in the Indiana Register.

12 (i) An expedited rule adopted by an agency under this section  
 13 takes effect on the latest of the following dates:

14 (1) The effective date of the statute delegating authority to the  
 15 agency to adopt the expedited rule.

16 (2) The date and time that the expedited rule is accepted for  
 17 filing under subsection (h).

18 (3) The effective date stated by the adopting agency in the  
 19 expedited rule.

20 (4) The date of compliance with every requirement  
 21 established by law as a prerequisite to the adoption or  
 22 effectiveness of the expedited rule.

23 (5) The statutory effective date for an expedited rule set forth  
 24 in law.

25 (j) An expedited rule that has been accepted for filing under  
 26 subsection (h) expires as provided in IC 4-22-2.3. An agency may  
 27 continue an expedited rule for an additional period after it would  
 28 otherwise expire only as permitted in IC 4-22-2.3.

29 (k) Subject to subsection (l), the attorney general or the  
 30 governor may file an objection to a rule that is adopted under this  
 31 section not later than forty-five (45) days after the date and time  
 32 that an expedited rule or amendment to an expedited rule is  
 33 accepted for filing under subsection (h). The objection must cite the  
 34 document control number for the affected expedited rule and state  
 35 the basis for the objection. When filed with the publisher, the  
 36 objection has the effect of invalidating the expedited rule or  
 37 amendment to an expedited rule. The publisher shall publish the  
 38 objection in the Indiana Register.

39 (l) The attorney general may file a written objection to an  
 40 expedited rule under subsection (k) only if the attorney general  
 41 determines that the expedited rule has been adopted:

42 (1) without statutory authority; or



1           **(2) without complying with this section.**

2           **A notice of objection to an expedited rule by the attorney general**  
 3           **must include findings that explain the basis for the determination.**  
 4           **The notice of objection shall be provided to the agency in an**  
 5           **electronic format.**

6           SECTION 27. IC 4-22-2-38, AS AMENDED BY P.L.123-2006,  
 7           SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8           JULY 1, 2023]: Sec. 38. (a) This section applies to a rulemaking action  
 9           resulting in any of the following rules:

10           (1) A rule that brings another rule into conformity with section 20  
 11           of this chapter.

12           (2) A rule that amends another rule to replace an inaccurate  
 13           reference to a statute, rule, regulation, other text, governmental  
 14           entity, or location with an accurate reference, when the inaccuracy  
 15           is the result of the rearrangement of a federal or state statute, rule,  
 16           or regulation under a different citation number, a federal or state  
 17           transfer of functions from one (1) governmental entity to another,  
 18           a change in the name of a federal or state governmental entity, or  
 19           a change in the address of an entity.

20           (3) A rule correcting any other typographical, clerical, or spelling  
 21           error in another rule.

22           (b) Sections 24 through ~~37.1~~ **37.3** of this chapter do not apply to  
 23           rules described in subsection (a).

24           (c) Notwithstanding any other statute, an agency may adopt a rule  
 25           described by subsection (a) without complying with any statutory  
 26           notice, hearing, adoption, or approval requirement. In addition, the  
 27           governor may adopt a rule described in subsection (a) for an agency  
 28           without the agency's consent or action.

29           (d) A rule described in subsection (a) shall be submitted to the  
 30           publisher for the assignment of a document control number. The  
 31           agency (or the governor, for the agency) shall submit the rule in the  
 32           form required by section 20 of this chapter and with the documents  
 33           required by section 21 of this chapter. The publisher shall determine  
 34           the number of copies of the rule and other documents to be submitted  
 35           under this subsection.

36           (e) After a document control number is assigned, the agency (or the  
 37           governor, for the agency) shall submit the rule to the publisher for  
 38           filing. The agency (or the governor, for the agency) shall submit the  
 39           rule in the form required by section 20 of this chapter and with the  
 40           documents required by section 21 of this chapter. The publisher shall  
 41           determine the format of the rule and other documents to be submitted  
 42           under this subsection.



- 1 (f) Subject to section 39 of this chapter, the publisher shall:  
 2 (1) accept the rule for filing; and  
 3 (2) electronically record the date and time that it is accepted.  
 4 (g) Subject to subsection (h), a rule described in subsection (a) takes  
 5 effect on the latest of the following dates:  
 6 (1) The date that the rule being corrected by a rule adopted under  
 7 this section becomes effective.  
 8 (2) The date that is forty-five (45) days from the date and time  
 9 that the rule adopted under this section is accepted for filing  
 10 under subsection (f).  
 11 (h) The governor or the attorney general may file an objection to a  
 12 rule that is adopted under this section before the date that is forty-five  
 13 (45) days from the date and time that the rule is accepted for filing  
 14 under subsection (f). When filed with the publisher, the objection has  
 15 the effect of invalidating the rule.  
 16 SECTION 28. IC 4-22-2-39, AS AMENDED BY P.L.123-2006,  
 17 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2023]: Sec. 39. (a) When an agency submits a rule for filing  
 19 under section 35, 37.1, **37.2, 37.3**, or 38 of this chapter, the publisher  
 20 may accept the rule for filing only if the following conditions are met:  
 21 (1) The following documents are submitted to allow the publisher  
 22 to comply with IC 4-22-7-5:  
 23 (A) One (1) electronic copy of the rule.  
 24 (B) One (1) copy of any matters incorporated by reference  
 25 under section 21 of this chapter in the format specified by the  
 26 publisher.  
 27 (C) One (1) copy of any supporting documentation submitted  
 28 under section 31 of this chapter in the format specified by the  
 29 publisher.  
 30 (2) Each submitted copy includes a reference to the document  
 31 control number assigned to the rule by the publisher.  
 32 (3) Each submitted copy indicates that the agency has conducted  
 33 its rulemaking action in conformity with all procedures required  
 34 by law. However, if section 31 of this chapter applies to the rule,  
 35 the publisher shall rely on the approval of the attorney general as  
 36 the basis for determining that the agency has complied with all  
 37 procedures required before the date of the approval.  
 38 (b) If a rule includes a statement that the rule is not effective until:  
 39 (1) an agency has complied with requirements established by the  
 40 federal or state government;  
 41 (2) a specific period of time has elapsed; or  
 42 (3) a date has occurred;





1 the agency has complied with subsection (a)(3) even if the described  
 2 event or time has not occurred before the publisher reviews the rule  
 3 under this section.

4 (c) The publisher shall take no more than three (3) business days to  
 5 complete the review of a rule under this section.

6 SECTION 29. IC 4-22-2-40, AS AMENDED BY P.L.53-2014,  
 7 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2023]: Sec. 40. (a) At any time before a rule is accepted for  
 9 filing by the publisher under section 35, 37.1, **37.2, 37.3**, or 38 of this  
 10 chapter, the agency that adopted the rule may recall it. A rule may be  
 11 recalled regardless of whether:

12 (1) the rule has been disapproved by the attorney general under  
 13 section 32 of this chapter; or

14 (2) the rule has been disapproved by the governor under section  
 15 34 of this chapter.

16 (b) Sections 24 through 38 of this chapter do not apply to a recall  
 17 action under this section. However, the agency shall distribute a notice  
 18 of its recall action to the publisher for publication in the Indiana  
 19 Register. Sections 24 and 26 of this chapter do not apply to a  
 20 readoption action under subsection (c).

21 (c) After an agency recalls a rule, the agency may reconsider its  
 22 adoption action and adopt an identical rule or a revised rule. However,  
 23 if sections 24 through 36 of this chapter apply to the recalled rule, the  
 24 readopted rule must comply with the requirements under section 29 of  
 25 this chapter.

26 (d) The recall of a rule under this section voids any approval given  
 27 after the rule was adopted and before the rule was recalled.

28 (e) If a rule is:

29 (1) subject to sections 31 and 33 of this chapter;

30 (2) recalled under subsection (a); and

31 (3) readopted under subsection (c);

32 the agency shall resubmit the readopted version of the recalled rule to  
 33 the attorney general and the governor for approval. The attorney  
 34 general and the governor have the full statutory period to approve or  
 35 disapprove the readopted rule. ~~If the recalled rule was submitted to the~~  
 36 ~~office of management and budget under section 28 of this chapter,~~ The  
 37 agency shall resubmit the readopted version of a recalled rule to the  
 38 office of management and budget with sufficient information for the  
 39 office of management and budget to evaluate whether ~~its~~ **the** initial  
 40 ~~fiscal impact statement regulatory analysis submitted to the office~~  
 41 **of management and budget** under section ~~28~~ **22.8** of this chapter  
 42 needs to be revised. ~~The office of management and budget shall revise~~



1 a fiscal impact statement under section 28 of this chapter If the fiscal  
 2 impact of the readopted rule is substantially different from the recalled  
 3 rule, **the agency shall submit the revised regulatory analysis to the**  
 4 **publisher for publication in the Indiana Register with the**  
 5 **document control number assigned by the publisher to the rule.**  
 6 The agency also shall comply with any other applicable approval  
 7 requirement provided by statute.

8 (f) The readopted version of a recalled rule is effective only after the  
 9 agency has complied with section 35, 37.1, **37.2, 37.3**, or 38 of this  
 10 chapter.

11 SECTION 30. IC 4-22-2-41, AS AMENDED BY P.L.123-2006,  
 12 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2023]: Sec. 41. (a) At any time before a rule is accepted by the  
 14 publisher for filing under section 35, 37.1, **37.2, 37.3**, or 38 of this  
 15 chapter, the agency that adopted the rule may withdraw it.

16 (b) Sections 24 through 40 of this chapter do not apply to a  
 17 withdrawal action. However, the withdrawing agency shall distribute  
 18 a notice of the withdrawal to the publisher for publication in the  
 19 Indiana Register.

20 (c) The withdrawal of a rule under this section terminates the  
 21 rulemaking action, and the withdrawn rule may become effective only  
 22 through another rulemaking action initiated under this chapter.

23 SECTION 31. IC 4-22-2.1-1, AS AMENDED BY P.L.139-2007,  
 24 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2023]: Sec. 1. Except for a rule that is the subject of a  
 26 rulemaking action under IC 13-14-9, IC 22-12, IC 22-13, IC 22-14, or  
 27 IC 22-15, this chapter applies to a rule for which the notice **of the first**  
 28 **public comment period** required by IC 4-22-2-23 is published by an  
 29 agency after June 30, 2005.

30 SECTION 32. IC 4-22-2.1-5, AS AMENDED BY P.L.109-2015,  
 31 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2023]: Sec. 5. ~~(a)~~ If an agency intends to adopt a rule under  
 33 IC 4-22-2 that will impose requirements or costs on small businesses,  
 34 the agency shall prepare a statement that describes the annual  
 35 economic impact of a rule on all small businesses after the rule is fully  
 36 implemented. ~~as described in subsection (b).~~ The statement required by  
 37 this section must include the following:

- 38 (1) An estimate of the number of small businesses, classified by  
 39 industry sector, that will be subject to the proposed rule.  
 40 (2) An estimate of the average annual reporting, record keeping,  
 41 and other administrative costs that small businesses will incur to  
 42 comply with the proposed rule.



1 (3) An estimate of the total annual economic impact that  
 2 compliance with the proposed rule will have on all small  
 3 businesses subject to the rule. ~~The agency is not required to~~  
 4 ~~submit the proposed rule to the office of management and budget~~  
 5 ~~for a fiscal analysis under IC 4-22-2-28 unless the estimated~~  
 6 ~~economic impact of the rule is greater than five hundred thousand~~  
 7 ~~dollars (\$500,000) on all regulated entities, as set forth in~~  
 8 ~~IC 4-22-2-28.~~

9 (4) A statement justifying any requirement or cost that is:

10 (A) imposed on small businesses by the rule; and

11 (B) not expressly required by:

12 (i) the statute authorizing the agency to adopt the rule; or

13 (ii) any other state or federal law.

14 The statement required by this subdivision must include a  
 15 reference to any data, studies, or analyses relied upon by the  
 16 agency in determining that the imposition of the requirement or  
 17 cost is necessary.

18 (5) A regulatory flexibility analysis that considers any less  
 19 intrusive or less costly alternative methods of achieving the  
 20 purpose of the proposed rule. The analysis under this subdivision  
 21 must consider the following methods of minimizing the economic  
 22 impact of the proposed rule on small businesses:

23 (A) The establishment of less stringent compliance or  
 24 reporting requirements for small businesses.

25 (B) The establishment of less stringent schedules or deadlines  
 26 for compliance or reporting requirements for small businesses.

27 (C) The consolidation or simplification of compliance or  
 28 reporting requirements for small businesses.

29 (D) The establishment of performance standards for small  
 30 businesses instead of design or operational standards imposed  
 31 on other regulated entities by the rule.

32 (E) The exemption of small businesses from part or all of the  
 33 requirements or costs imposed by the rule.

34 If the agency has made a preliminary determination not to  
 35 implement one (1) or more of the alternative methods considered,  
 36 the agency shall include a statement explaining the agency's  
 37 reasons for the determination, including a reference to any data,  
 38 studies, or analyses relied upon by the agency in making the  
 39 determination.

40 ~~(b) For purposes of subsection (a), a proposed rule will be fully~~  
 41 ~~implemented with respect to small businesses after:~~

42 ~~(1) the conclusion of any phase-in period during which:~~



- 1 (A) the rule is gradually made to apply to small businesses or  
 2 certain types of small businesses; or  
 3 (B) the costs of the rule are gradually implemented; and  
 4 (2) the rule applies to all small businesses that will be affected by  
 5 the rule.

6 In determining the total annual economic impact of the rule under  
 7 subsection (a)(3), the agency shall consider the annual economic  
 8 impact on all small businesses beginning with the first twelve (12)  
 9 month period after the rule is fully implemented. The agency may use  
 10 actual or forecasted data and may consider the actual and anticipated  
 11 effects of inflation and deflation. The agency shall describe any  
 12 assumptions made and any data used in determining the total annual  
 13 economic impact of a rule under subsection (a)(3):

- 14 (c) The agency shall:  
 15 (1) publish the statement required under subsection (a) in the  
 16 Indiana Register as required by IC 4-22-2-24; and  
 17 (2) deliver a copy of the statement, along with the proposed rule,  
 18 to the small business ombudsman not later than the date of  
 19 publication under subdivision (1):

20 SECTION 33. IC 4-22-2.1-7, AS ADDED BY P.L.188-2005,  
 21 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2023]: Sec. 7. Before an agency may act under ~~IC 4-22-2.5~~  
 23 **IC 4-22-2.6** to readopt a rule to which the chapter applies, the agency  
 24 must conduct the review required under ~~IC 4-22-2.5-3.1.~~  
 25 **IC 4-22-2.6-4.**

26 SECTION 34. IC 4-22-2.3 IS ADDED TO THE INDIANA CODE  
 27 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2023]:

29 **Chapter 2.3. Transitional Provisions; Exceptions to Rulemaking**  
 30 **Procedures**

31 **Sec. 1. (a) This subsection and subsection (b) set an expiration**  
 32 **date for rules adopted under IC 4-22-2-37.1 (as effective before**  
 33 **July 1, 2023) or IC 4-22-2-37 (before its repeal) that at the time of**  
 34 **adoption were permitted by law to continue in effect for an**  
 35 **indefinite period of time. The rules to which this subsection applies**  
 36 **include rules that were permitted to continue until another**  
 37 **emergency rule or a final rule was adopted to replace the**  
 38 **emergency rule or the agency repealed the emergency rule. Subject**  
 39 **to subsections (b) and (c), the rule expires not later than:**

- 40 (1) **October 1, 2023; or**  
 41 (2) **if the rule is included on a list described in subsection (d),**  
 42 **October 1, 2024;**



1 as applicable. An emergency rule that expires under this subsection  
 2 may not be renewed under IC 4-22-2-37.1 (as effective after June  
 3 30, 2023). If the rule meets the criteria in IC 4-22-2-37.2 for  
 4 adoption as an interim rule, the rule may be readopted under  
 5 IC 4-22-2-37.2.

6 (b) The text of an emergency rule adopted under IC 4-22-2-37.1  
 7 (as effective before July 1, 2023) or IC 4-22-2-37 (before its repeal)  
 8 that is:

9 (1) incorporated into a provision of the Indiana  
 10 Administrative Code that before July 1, 2023, was amended  
 11 under the procedures in IC 4-22-2-23 through IC 4-22-2-36 or  
 12 IC 13-14-9 (as applicable); or

13 (2) readopted as part of a provision of the Indiana  
 14 Administrative Code that was readopted under IC 4-22-2.5  
 15 (before its repeal) or IC 13-14-9.5 (before its repeal);

16 continues in effect to the extent that the text remains part of the  
 17 provision of the Indiana Administrative Code into which the  
 18 emergency rule text was incorporated.

19 (c) An emergency rule adopted under IC 4-22-2-37.1 (as  
 20 effective before July 1, 2023) of the type described in sections 3  
 21 through 9 of this chapter, expires as provided in the applicable  
 22 provisions of sections 3 through 9 of this chapter.

23 (d) Not later than September 1, 2023, the governor may submit  
 24 to the publisher a list of rules described in subsection (a) for which  
 25 the expiration under this section is October 1, 2024, instead of  
 26 October 1, 2023. The publisher shall publish a list submitted under  
 27 this subsection in the Indiana Register.

28 **Sec. 2.** Before an emergency rule adopted under IC 4-22-2-37.1  
 29 (as effective after June 30, 2023) expires, the governor by executive  
 30 order may authorize the extension of the emergency rule under the  
 31 expedited procedures in IC 4-22-2-37.3 if the governor determines  
 32 and finds in the executive order that the emergency circumstances  
 33 justifying the emergency rule continue to exist. A rule adopted  
 34 under the authority of an extension under this section, expires not  
 35 later than June 30 of the year following the year in which the rule  
 36 is accepted for filing by the publisher of the Indiana Register.

37 **Sec. 3.** The office of the secretary of family and social services  
 38 may adopt rules under IC 4-22-2-37.3 to implement IC 12-13-16-13  
 39 (211 dialing code services). The rule expires not later than one (1)  
 40 year after the adopted rule is accepted for filing under  
 41 IC 4-22-2-37.3. An expedited rule described in this section may not  
 42 be continued in another expedited rule after the expiration of the



- 1 initial expedited rule.
- 2       **Sec. 4.** The department of natural resources (or to the extent  
3 permitted by IC 14-10-2, the natural resources commission) may  
4 adopt rules under IC 4-22-2-37.3 to carry out the duties of the  
5 department of natural resources under a law listed in IC 14-10-2-5.  
6 The rule expires not later than one (1) year after the adopted rule  
7 is accepted for filing by the publisher of the Indiana Register. An  
8 expedited rule described in this section may be continued in  
9 another expedited rule only if the governor determines under  
10 IC 4-22-2-37.3(b) that the policy options available to the agency are  
11 so limited that use of the additional notice, comment, and review  
12 procedures in IC 4-22-2-23 through IC 4-22-2-36 would provide no  
13 benefit to persons regulated or otherwise affected by the rule. A  
14 person who violates the rule commits a Class C infraction, unless  
15 otherwise specified under state law.
- 16       **Sec. 5.** The director of the department of natural resources may  
17 temporarily modify or suspend a rule described in IC 14-22-2-6  
18 (fish and wildlife rules) under the procedures in IC 4-22-2-37.3.  
19 The adopted rule expires not later than one (1) year after the rule  
20 is accepted for filing by the publisher of the Indiana Register. An  
21 expedited rule described in this section may not be continued in  
22 another expedited rule after the expiration of the initial expedited  
23 rule.
- 24       **Sec. 6.** The Indiana education employment relations board may  
25 adopt rules under IC 4-22-2-37.3 to implement IC 20-29-6-6.1  
26 (review of collective bargaining agreement). The rule expires not  
27 later than one (1) year after the adopted rule is accepted for filing  
28 by the publisher of the Indiana Register. An expedited rule  
29 described in this section may not be continued in another expedited  
30 rule after the expiration of the initial expedited rule.
- 31       **Sec. 7.** The Indiana state board of education may adopt rules  
32 under IC 4-22-2-37.3 for the provision of special education or  
33 related services to an eligible choice scholarship student who  
34 receives an amount under IC 20-51-4-4(a)(2). The rule expires not  
35 later than one (1) year after the adopted rule is accepted for filing  
36 by the publisher of the Indiana Register.
- 37       **Sec. 8. (a)** The department of financial institutions shall adopt  
38 rules under IC 4-22-2-37.3 announcing:  
39       (1) sixty (60) days before January 1 of each odd-numbered  
40 year in which dollar amounts under IC 24-4.5 (Uniform  
41 Consumer Credit Code) are to change, the changes in dollar  
42 amounts required by IC 24-4.5-1-106(2); and



1 (2) promptly after the changes occur, changes in the Index  
 2 required by IC 24-4.5-1-106(3), including, when applicable,  
 3 the numerical equivalent of the Reference Base Index under  
 4 a revised Reference Base Index and the designation or title of  
 5 any index superseding the Index.

6 The rule expires not later than January 1 of the next  
 7 odd-numbered year after the department of financial institutions  
 8 is required to issue the rule.

9 (b) The department of financial institutions may adopt a rule  
 10 permitted under IC 24-4.4-1-101 (licensing system for creditors  
 11 and mortgage loan originators) or IC 24-4.5 (Uniform Consumer  
 12 Credit Code) under IC 4-22-2-37.3 if the department of financial  
 13 institutions declares an emergency. The rule expires not later than  
 14 two (2) years after the adopted rule is accepted for filing by the  
 15 publisher of the Indiana Register.

16 (c) The department of financial institutions shall adopt rules  
 17 under IC 4-22-2-37.3 in the same manner provided in subsection  
 18 (a) for the adjustments required under IC 24-9-2-8 concerning high  
 19 cost home loans. The rule expires not later than January 1 of the  
 20 next odd-numbered year after the department of financial  
 21 institutions is required to issue the rule.

22 (d) The department of financial institutions may adopt rules  
 23 described in 34-55-10-2 (bankruptcy exemptions; limitations) and  
 24 IC 34-55-10-2.5 in conformity with the procedures in IC 4-22-2-23  
 25 through IC 4-22-2-36 or the expedited procedures in  
 26 IC 4-22-2-37.3. A rule adopted under IC 4-22-2-37.3 expires not  
 27 later than two (2) years after the adopted rule is accepted for filing  
 28 by the publisher of the Indiana Register.

29 (e) An expedited rule described in this section may be continued  
 30 in another expedited rule only if the governor determines under  
 31 IC 4-22-2-37.3(b) that the policy options available to the agency are  
 32 so limited that use of the additional notice, comment, and review  
 33 procedures in IC 4-22-2-23 through IC 4-22-2-36 would provide no  
 34 benefit to persons regulated or otherwise affected by the rule.

35 **Sec. 9.** The Indiana board of pharmacy may adopt rules under  
 36 IC 4-22-2-37.3 to declare that a substance is a synthetic drug if the  
 37 board finds that the substance:

- 38 (1) has been scheduled or emergency scheduled by the United
- 39 States Drug Enforcement Administration;
- 40 (2) has been scheduled, emergency scheduled, or criminalized
- 41 by another state; or
- 42 (3) has:



- 1 (A) a high potential for abuse; and  
 2 (B) no accepted medical use in treatment in the United  
 3 States or lacks accepted safety for use in treatment under  
 4 medical supervision.

5 In making a determination, the Indiana board of pharmacy shall  
 6 consider the factors described in IC 25-26-13-4.1. Notwithstanding  
 7 IC 4-22-2-37.3, the rule becomes effective when the adopted rule is  
 8 published in the Indiana Register. The rule expires not later than  
 9 June 30 of the year following the year in which the rule is accepted  
 10 for filing by the publisher of the Indiana Register. An expedited  
 11 rule described in this section may not be continued in another  
 12 expedited rule after the expiration of the initial expedited rule.

13 SECTION 35. IC 4-22-2.5 IS REPEALED [EFFECTIVE JULY 1,  
 14 2023]. (Expiration and Readoption of Administrative Rules).

15 SECTION 36. IC 4-22-2.6 IS ADDED TO THE INDIANA CODE  
 16 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2023]:

18 **Chapter 2.6. Expiration and Readoption of Administrative**  
 19 **Rules**

20 **Sec. 1. (a) Except as provided in this section and section 10 of**  
 21 **this chapter, a rule expires January 1 of the fifth year after the**  
 22 **year in which the rule takes effect, unless the rule expires or is**  
 23 **repealed on an earlier date. Except for an amendment made under**  
 24 **IC 4-22-2-38, the expiration date of a rule under this section is**  
 25 **extended each time that a rule amending or readopting an**  
 26 **unexpired rule takes effect. The rule, as amended or readopted,**  
 27 **expires on January 1 of the fifth year after the year in which the**  
 28 **amendment or readoption takes effect.**

29 **(b) If the latest version of a rule became effective:**

- 30 **(1) in calendar year 2017, the rule expires not later than**  
 31 **January 1, 2024;**  
 32 **(2) in calendar year 2018, the rule expires not later than**  
 33 **January 1, 2025;**  
 34 **(3) in calendar year 2019, the rule expires not later than**  
 35 **January 1, 2026; or**  
 36 **(4) in calendar year 2020, the rule expires not later than**  
 37 **January 1, 2027.**

38 **(c) If the latest version of a rule became effective before January**  
 39 **1, 2017, and:**

- 40 **(1) the rule was adopted by an agency established under**  
 41 **IC 13, the rule expires not later than January 1, 2025;**  
 42 **(2) the rule was adopted by an agency established under**





1           **IC 16, the rule expires not later than January 1, 2026; or**  
 2           **(3) the rule was adopted by an agency not described in**  
 3           **subdivision (1) or (2), the rule expires not later than January**  
 4           **1, 2027.**

5           **(d) A readoption rulemaking action under IC 4-22-2.5 (before**  
 6           **its repeal) or IC 13-14-9.5 (before its repeal) that became effective**  
 7           **before July 1, 2023, is validated to the same extent as if the**  
 8           **rulemaking action had been conducted under the procedures in**  
 9           **this chapter.**

10           **(e) The determination of whether an administrative rule expires**  
 11           **under this chapter shall be applied at the level of an Indiana**  
 12           **Administrative Code section.**

13           **Sec. 2. An agency that has rulemaking authority may readopt a**  
 14           **rule in anticipation of a rule's expiration under section 1 of this**  
 15           **chapter. To readopt a rule, an agency may readopt the rule either:**

16           **(1) without changes in conformity with the procedures in**  
 17           **sections 3 through 9 of this chapter; or**

18           **(2) with or without changes in conformity with the procedures**  
 19           **in IC 4-22-2-23 through IC 4-22-2-36 (as modified by**  
 20           **IC 13-14-9, when applicable).**

21           **Sec. 3. (a) Except as provided in subsection (b), if an agency**  
 22           **intends to readopt a rule, the agency shall, not later than January**  
 23           **1 of the fourth year after the year in which the rule takes effect,**  
 24           **provide an initial notice of the intended readoption in an electronic**  
 25           **format designated by the publisher to legislators and legislative**  
 26           **committees in the manner and on the schedule specified by the**  
 27           **legislative council or the personnel subcommittee of the legislative**  
 28           **council acting for the legislative council.**

29           **(b) An agency is not required to provide the initial notice under**  
 30           **subsection (a) for a rule described in section 1(b)(1) of this chapter.**

31           **Sec. 4. (a) To readopt a rule, an agency must conduct a review**  
 32           **of the rule to consider the continued need for the rule and whether**  
 33           **the rule, if readopted, will do the following:**

34           **(1) Minimize expenses to:**

35           **(A) regulated entities that are required to comply with the**  
 36           **rule;**

37           **(B) persons who pay taxes or pay fees for government**  
 38           **services affected by the rule; and**

39           **(C) consumers of products and services of regulated**  
 40           **entities affected by the rule.**

41           **(2) Achieve the regulatory goal in the least restrictive manner.**

42           **(3) Have benefits that exceed the fiscal and economic costs of**



- 1 the rule.
- 2 (4) Avoid duplicating and conflicting standards with other
- 3 federal, state, or local laws, rules, regulations, or ordinances.
- 4 (5) Be written for ease of comprehension.
- 5 (6) Have practicable enforcement.
- 6 (b) In the review, the agency shall reexamine previous cost
- 7 benefit, economic impact, fiscal impact, and regulatory burden
- 8 statements prepared by the agency for the rule under IC 4-3-22-13,
- 9 IC 4-3-27-12, IC 4-22-2-28, IC 4-22-2.1-5, or an executive order
- 10 and revise the statements to reflect any change in circumstances
- 11 that affect the analysis. The agency shall identify any alternative
- 12 methods of achieving the purpose of the rule that are less costly or
- 13 less intrusive, or that would otherwise minimize the economic
- 14 impact of the proposed rule on small businesses (as defined in
- 15 IC 4-22-2.1-4) and other regulated entities. The agency also shall
- 16 consider the following:
- 17 (1) The nature of any complaints or comments received from
- 18 the public, including small businesses (as defined in
- 19 IC 4-22-2.1-4), concerning the rule or the rule's
- 20 implementation by the agency.
- 21 (2) The complexity of the rule, including any difficulties
- 22 encountered by:
- 23 (A) the agency in administering the rule; or
- 24 (B) small businesses (as defined in IC 4-22-2.1-4) or other
- 25 regulated persons in complying with the rule.
- 26 (3) The degree to which technology, economic conditions, or
- 27 other factors have changed in the area affected by the rule
- 28 since the last time the rule was reviewed.
- 29 (c) The agency shall prepare written findings concerning the
- 30 agency's determinations under this section.
- 31 Sec. 5. (a) If an agency elects to readopt a rule under this
- 32 chapter, the agency shall submit a notice of proposed readoption
- 33 to the publisher not later than the first regular business day in
- 34 September of the year preceding the year in which the rule expires
- 35 under this chapter for publication in the Indiana Register. A
- 36 separate notice must be published for each board or other person
- 37 or entity with rulemaking authority.
- 38 (b) The notice must include the following:
- 39 (1) A general description of the subject matter of all rules
- 40 proposed to be readopted.
- 41 (2) A listing of rules that are proposed to be readopted, listed
- 42 by their titles and subtitles only.



- 1           (3) A written comment period of thirty (30) days and  
2 instructions on how to submit written comments to the  
3 agency.
- 4           (4) A request for comments on whether specific rules should  
5 be reviewed through the regular rulemaking process under  
6 IC 4-22-2-23 through IC 4-22-2-36 (as modified by IC 13-14-9,  
7 when applicable).
- 8           (5) A summary of the agency's findings under section 4 of this  
9 chapter.
- 10          (6) Any other information required by the publisher.
- 11          (c) The agency shall submit the material in the form required by  
12 IC 4-22-2-20. The agency need not resubmit the documents  
13 required by IC 4-22-2-21 if the publisher received a copy of the  
14 documents when the rule was previously adopted or amended. The  
15 publisher shall review the material submitted under this section  
16 and determine the date that the publisher intends to include the  
17 material in the Indiana Register. After:
- 18           (1) establishing the intended publication date; and  
19           (2) receiving the material as required by this section;
- 20 the publisher shall assign a document control number, provide an  
21 electronic mail authorization to proceed to the agency, and publish  
22 the material on the intended publication date.
- 23          Sec. 6. (a) The agency shall prepare responses to all comments  
24 received during the comment period.
- 25          (b) The agency, after considering the written comments and  
26 responses, may do the following:
- 27           (1) Conduct one (1) or more additional comment periods in  
28 the manner provided in section 5 of this chapter on one (1) or  
29 more rules within the scope of the notice of proposed  
30 readoption. If a person submits to the agency during the  
31 initial comment period under section 5 of this chapter a  
32 written request stating a basis for considering a particular  
33 rule separately from other rules in the notice of proposed  
34 readoption, the agency may not readopt that rule under this  
35 chapter. The agency may readopt that rule with or without  
36 changes only through a rulemaking action initiated under  
37 IC 4-22-2-23 through IC 4-22-2-36 (as modified by IC 13-14-9,  
38 when applicable).
- 39           (2) Readopt one (1) or more rules within the scope of the  
40 notice of proposed readoption without change.
- 41           (3) Repeal one (1) or more rules within the scope of the notice  
42 of proposed readoption, if the need for the rule no longer



- 1 exists. The adopting authority may repeal a rule without  
 2 additional comment periods under section 5 of this chapter.
- 3 **Sec. 7. (a)** The agency shall immediately submit the rulemaking  
 4 document containing the readopted rules to the publisher for filing  
 5 along with documentation demonstrating that the agency has  
 6 readopted the rules. The agency shall submit material in the form  
 7 required by IC 4-22-2-20. The rulemaking document must make  
 8 reference to the document control number assigned by the  
 9 publisher.
- 10 **(b)** If the rulemaking document complies with this section, the  
 11 publisher shall:
- 12 (1) accept the rule for filing; and  
 13 (2) electronically record the date and time the rule is  
 14 accepted.
- 15 **Sec. 8.** A readopted rule that has been accepted for filing under  
 16 section 7 of this chapter takes effect on the latest of the following  
 17 dates:
- 18 (1) The date that is thirty (30) days from the date and time  
 19 that the rule was accepted for filing under section 7 of this  
 20 chapter.  
 21 (2) The effective date stated by the agency in the rule.  
 22 (3) The date of compliance with every requirement  
 23 established by law as a prerequisite to the readoption or  
 24 effectiveness of the rule.
- 25 **Sec. 9.** An agency that terminates a rulemaking action to  
 26 readopt a rule with or without amendments shall submit a notice  
 27 of withdrawal of the readoption rulemaking action in the manner  
 28 provided in IC 4-22-2-41.
- 29 **Sec. 10.** If a rule is not readopted and the governor finds that the  
 30 failure to readopt the rule causes an emergency to exist, the  
 31 governor may, by executive order issued before the rule's  
 32 expiration date, postpone the expiration date of the rule until a  
 33 date that is not later than one (1) year after the date specified in  
 34 section 1 of this chapter.
- 35 **Sec. 11.** The publisher shall remove all rules that have expired  
 36 under this chapter from the Indiana Administrative Code.  
 37 However, a rule that has expired but is readopted under this  
 38 chapter (or IC 4-22-2.5 (before its repeal) or IC 13-14-9.5 (before  
 39 its repeal)) may not be removed from the Indiana Administrative  
 40 Code.
- 41 SECTION 37. IC 12-10.5-1-9, AS AMENDED BY P.L.123-2006,  
 42 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2023]: Sec. 9. (a) Before finally adopting a rule under  
 2 IC 4-22-2 to implement this chapter, the division shall consult with and  
 3 fully consider any comments submitted by:

4 (1) caretakers providing care for a special needs individual under  
 5 this chapter;

6 (2) individuals with special needs receiving care from a caretaker  
 7 under this chapter;

8 (3) area agencies on aging;

9 (4) consumers and providers of home and community based  
 10 services under IC 12-10-10 and IC 12-10-11.5; and

11 (5) any other agency, volunteer group, faith based group, or  
 12 individual that the division considers appropriate;

13 to ensure that the rule complies with the requirements set forth in  
 14 subsection (b).

15 (b) Rules adopted under this chapter must:

16 (1) include protections for the rights, safety, and welfare of  
 17 individuals with special needs receiving care from a caretaker  
 18 under this chapter, including reasonable monitoring and reporting  
 19 requirements;

20 (2) serve distinct populations, including:

21 (A) the aged;

22 (B) persons with developmental disabilities; and

23 (C) persons with physical disabilities;

24 in a manner that recognizes, and appropriately responds to, the  
 25 particular needs of the population;

26 (3) not create barriers to the availability of home and community  
 27 based services under IC 12-10-10 and IC 12-10-11.5 by imposing  
 28 costly or unduly burdensome requirements on caretakers or other  
 29 service providers, including:

30 (A) requirements for proof of financial responsibility; and

31 (B) monitoring, enforcement, reporting, or other  
 32 administrative requirements; and

33 (4) otherwise comply with IC 12-10-10, IC 12-10-11.5, and this  
 34 chapter.

35 (c) Before submitting a rule adopted under this chapter to the  
 36 attorney general for final approval under IC 4-22-2-31, the division  
 37 shall submit to the publisher (as defined in IC 4-22-2-3(f)) for  
 38 publication in the Indiana Register the division's written response ~~under~~  
 39 ~~IC 4-22-2-23~~ to any comments received from the parties described in  
 40 subsection (a). Submissions to the publisher shall be made in the  
 41 electronic format specified by the publisher.

42 SECTION 38. IC 12-10.5-2-3, AS AMENDED BY P.L.123-2006,

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1 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2023]: Sec. 3. (a) Before finally adopting a rule under  
3 IC 4-22-2 to implement this chapter, the division shall consult with and  
4 fully consider any comments submitted by:

- 5 (1) continuum of care providers providing care under this chapter;
- 6 (2) individuals receiving care under this chapter;
- 7 (3) area agencies on aging;
- 8 (4) consumers and providers of home and community based  
9 services under IC 12-10-10 and IC 12-10-11.5; and
- 10 (5) any other agency, volunteer group, faith based group, or  
11 individual that the division considers appropriate;

12 to ensure that the rule complies with the requirements set forth in  
13 subsection (b).

14 (b) Rules adopted under this chapter must:

- 15 (1) include protections for the rights, safety, and welfare of  
16 individuals receiving care under this chapter;
- 17 (2) serve distinct populations, including:  
18 (A) the aged;
- 19 (B) persons with developmental disabilities; and
- 20 (C) persons with physical disabilities;

21 in a manner that recognizes, and appropriately responds to, the  
22 particular needs of the population;

- 23 (3) not create barriers to the availability of home and community  
24 based services under IC 12-10-10 and IC 12-10-11.5 by imposing  
25 costly or unduly burdensome requirements on continuum of care  
26 providers or other service providers, including:

- 27 (A) requirements for proof of financial responsibility; and
- 28 (B) monitoring, enforcement, reporting, or other  
29 administrative requirements; and

- 30 (4) otherwise comply with IC 12-10-10, IC 12-10-11.5, and this  
31 chapter.

32 (c) Before submitting a rule adopted under this chapter to the  
33 attorney general for final approval under IC 4-22-2-31, the division  
34 shall submit to the publisher (as defined in IC 4-22-2-3(f)) for  
35 publication in the Indiana Register the division's written response ~~under~~  
36 ~~IC 4-22-2-23~~ to any comments received from the parties described in  
37 subsection (a). Submissions to the publisher shall be made in the  
38 electronic format specified by the publisher.

39 SECTION 39. IC 13-14-9-1, AS AMENDED BY P.L.133-2012,  
40 SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
41 JULY 1, 2023]: Sec. 1. (a) Except as provided in sections 8 and 14 of  
42 this chapter, this chapter applies to the following:

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- 1 (1) The board.
- 2 (2) The underground storage tank financial assurance board  
3 established by IC 13-23-11-1.
- 4 (b) In addition to the requirements of IC 4-22-2 and IC 13-14-8, a  
5 board may not adopt a rule except in accordance with this chapter.
- 6 **(c) This chapter (as effective January 1, 2023) continues to apply**  
7 **after June 30, 2023, to a rulemaking action that is commenced**  
8 **under this chapter before July 1, 2023.**
- 9 SECTION 40. IC 13-14-9-3, AS AMENDED BY P.L.100-2006,  
10 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2023]: Sec. 3. (a) ~~Except as provided in subsection (b)~~; The  
12 department shall provide notice in the Indiana Register of the first  
13 public comment period required by section 2 of this chapter.
- 14 **(b) To publish notice of the first public comment period in the**  
15 **Indiana Register, the agency must submit the following to the**  
16 **publisher:**
- 17 **(1) The full text of the agency's proposed rule (excluding the**  
18 **full text of a matter incorporated by reference under**  
19 **IC 4-22-2-21). The agency shall submit the rule in the form**  
20 **required by IC 4-22-2-20 and with the documents required by**  
21 **IC 4-22-2-21.**
- 22 **(2) The latest version of the regulatory analysis (including any**  
23 **appendices containing any data, studies, or analysis**  
24 **referenced in the regulatory analysis) submitted to the budget**  
25 **agency and the office of management and budget under**  
26 **IC 4-22-2-22.8,**
- 27 **(3) The determination of the budget agency and the office of**  
28 **management and budget authorizing commencement of the**  
29 **first and second public comment periods on the proposed rule**  
30 **under IC 4-22-2-22.8.**
- 31 **(4) The notice required under subsection (c).**
- 32 **(c) A notice provided under this section must do the following:**
- 33 (1) Identify the authority under which the proposed rule is to be  
34 adopted.
- 35 (2) Describe the subject matter and the basic purpose of the  
36 proposed rule. The description required by this subdivision must:
- 37 (A) list all alternatives being considered by the department at  
38 the time of the notice;
- 39 (B) state whether each alternative listed under clause (A)  
40 creates:
- 41 (i) a restriction or requirement more stringent than a  
42 restriction or requirement imposed under federal law; or



- 1 (ii) a restriction or requirement in a subject area in which  
 2 federal law does not impose restrictions or requirements;  
 3 (C) state the extent to which each alternative listed under  
 4 clause (A) differs from federal law;  
 5 (D) include any information known to the department about  
 6 the potential fiscal impact of each alternative under clause (A)  
 7 that creates:  
 8 (i) a restriction or requirement more stringent than a  
 9 restriction or requirement imposed under federal law; or  
 10 (ii) a restriction or requirement in a subject area in which  
 11 federal law does not impose restrictions or requirements;  
 12 and  
 13 (E) set forth the basis for each alternative listed under clause  
 14 (A).
- 15 (3) Describe the relevant statutory or regulatory requirements or  
 16 restrictions relating to the subject matter of the proposed rule that  
 17 exist before the adoption of the proposed rule.
- 18 (4) Request the submission of alternative ways to achieve the  
 19 purpose of the proposed rule.
- 20 (5) Request the submission of comments, including suggestions  
 21 of specific language for the proposed rule.
- 22 (6) Include a detailed statement of the issue to be addressed by  
 23 adoption of the proposed rule.
- 24 **(7) Include the latest version of the regulatory analysis**  
 25 **(excluding any appendices containing any data, studies, or**  
 26 **analysis referenced in the regulatory analysis) submitted to**  
 27 **the budget agency and the office of management and budget**  
 28 **under IC 4-22-2-22.8.**
- 29 **(8) Include information concerning where, when, and how a**  
 30 **person may submit written comments on the proposed rule,**  
 31 **including contact information concerning the small business**  
 32 **regulatory coordinator required by IC 4-22-2-28.1.**
- 33 **(9) Include information concerning where, when, and how a**  
 34 **person may inspect and copy any data, studies, or analyses**  
 35 **referenced in a regulatory analysis under subdivision (7).**
- 36 **(10) Include information concerning where, when, and how a**  
 37 **person may inspect any documents incorporated by reference**  
 38 **into the proposed rule under IC 4-22-2-21.**
- 39 **(11) Include an indication that the notice is for the first of two**  
 40 **(2) thirty (30) day periods in which the public may comment**  
 41 **on the proposed rule.**
- 42 **Inadequacy or insufficiency of the published description or**





1 **regulatory analysis does not invalidate a rulemaking action.**

2 ~~(b)~~ **(d)** This section does not apply to rules adopted under  
3 IC 13-18-22-2, IC 13-18-22-3, or IC 13-18-22-4.

4 ~~(c)~~ **(e)** The notice required under subsection (a) shall be published  
5 electronically in the Indiana Register under procedures established by  
6 the publisher. **The publisher shall review materials submitted under  
7 this section and determine the date that the publisher intends to  
8 publish the text of the proposed rule and the notice in the Indiana  
9 Register. If the submitted material complies with this section, the  
10 publisher shall establish the intended publication date, assign a  
11 document control number to the proposed rule, and provide a  
12 written or an electronic mail authorization to proceed to the  
13 agency. The publisher shall publish the following in the Indiana  
14 Register on the intended publication date:**

15 **(1) The notice of the first comment period.**

16 **(2) The full text of the agency's proposed rule (excluding the  
17 full text of a matter incorporated by reference under  
18 IC 4-22-2-21).**

19 SECTION 41. IC 13-14-9-4, AS AMENDED BY P.L.218-2016,  
20 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21 JULY 1, 2023]: Sec. 4. (a) The department shall provide notice in the  
22 Indiana Register of the second public comment period required by  
23 section 2 of this chapter.

24 **(b) To publish a notice of the second public comment period in  
25 the Indiana Register, the agency must submit the following to the  
26 publisher:**

27 **(1) The full text of the agency's proposed rule (excluding the  
28 full text of a matter incorporated by reference under  
29 IC 4-22-2-21). The agency shall submit the rule in the form  
30 required by IC 4-22-2-20 and with the documents required by  
31 IC 4-22-2-21, if these documents have not already been  
32 submitted to the publisher.**

33 **(2) Either a statement indicating that no changes in the  
34 regulatory analysis have been made from the version of the  
35 regulatory analysis published under section 3 of this chapter  
36 or the latest version of the regulatory analysis (including any  
37 appendices containing any data, studies, or analysis  
38 referenced in the regulatory analysis) submitted to the budget  
39 agency and the office of management and budget under  
40 IC 4-22-2-22.8, if any changes have been made in the  
41 regulatory analysis after submitting the material under  
42 section 3 of this chapter.**



- 1           **(3) The notice required under subsection (c).**  
2           (c) A notice provided under this section must do the following:  
3           (1) ~~Contain the full text of the proposed rule; to the extent~~  
4           ~~required under IC 4-22-2-24(c).~~  
5           (2) **(1)** Contain a summary of the response of the department to  
6           written comments submitted under section 3 of this chapter  
7           during the first public comment period.  
8           (3) **(2)** Request the submission of comments, including  
9           suggestions of specific amendments to the language contained in  
10           the proposed rule **and indicate where, when, and how a person**  
11           **may submit written comments on the proposed rule, including**  
12           **contact information concerning the small business regulatory**  
13           **coordinator required by IC 4-22-2-28.1.**  
14           (4) ~~(3) Contain the full text of the commissioner's written findings~~  
15           ~~under section 7 of this chapter, if applicable. Include a statement~~  
16           ~~indicating the date, time, and place at which the public~~  
17           ~~hearing on the proposed rule will be convened.~~  
18           (5) **(4)** Identify each element of the proposed rule that imposes a  
19           restriction or requirement on persons to whom the proposed rule  
20           applies that:  
21                (A) is more stringent than a restriction or requirement imposed  
22                under federal law; or  
23                (B) applies in a subject area in which federal law does not  
24                impose a restriction or requirement.  
25           (6) **(5)** With respect to each element identified under subdivision  
26           (5), **(4)**, identify:  
27                (A) the environmental circumstance or hazard that dictates the  
28                imposition of the proposed restriction or requirement to  
29                protect human health and the environment;  
30                (B) examples in which federal law is inadequate to provide the  
31                protection referred to in clause (A); and  
32                (C) the:  
33                    (i) estimated fiscal impact; and  
34                    (ii) expected benefits;  
35                based on the extent to which the proposed rule is more  
36                stringent than the restrictions or requirements of federal law,  
37                or on the creation of restrictions or requirements in a subject  
38                area in which federal law does not impose restrictions or  
39                requirements.  
40           (7) **(6)** For any element of the proposed rule that imposes a  
41           restriction or requirement that is more stringent than a restriction  
42           or requirement imposed under federal law or that applies in a



1 subject area in which federal law does not impose restrictions or  
 2 requirements, describe the availability for public inspection of all  
 3 materials relied upon by the department in the development of the  
 4 proposed rule, including, if applicable:

5 (A) health criteria;

6 (B) analytical methods;

7 (C) treatment technology;

8 (D) economic impact data;

9 (E) environmental assessment data;

10 (F) analyses of methods to effectively implement the proposed  
 11 rule; and

12 (G) other background data.

13 **(7) Either a statement indicating that no changes in the**  
 14 **regulatory analysis have been made from the version of the**  
 15 **regulatory analysis published under section 3 of this chapter**  
 16 **or the latest version of the regulatory analysis (excluding any**  
 17 **appendices containing any data, studies, or analysis**  
 18 **referenced in the regulatory analysis) submitted to the budget**  
 19 **agency and the office of management and budget under**  
 20 **IC 4-22-2-22.8, if any changes have been made in the**  
 21 **regulatory analysis after submitting the material under**  
 22 **section 3 of this chapter.**

23 **(8) Include an explanation of any differences between the text**  
 24 **of the proposed rule published for the first comment period**  
 25 **under section 3 of this chapter and the text of the proposed**  
 26 **rule published for the second comment period under this**  
 27 **section.**

28 **(9) Include information concerning where, when, and how a**  
 29 **person may inspect and copy the regulatory analysis and any**  
 30 **data, studies, or analyses referenced in subdivision (7).**

31 **(10) Include information concerning where, when, and how a**  
 32 **person may inspect any documents incorporated by reference**  
 33 **into the proposed rule under IC 4-22-2-21.**

34 **(11) Include an indication that the notice is for the second of**  
 35 **two (2) thirty (30) day periods in which the public may**  
 36 **comment on the proposed rule and that following the second**  
 37 **comment period the agency may adopt a version of the**  
 38 **proposed rule that is the same as or does not substantially**  
 39 **differ from the text of the proposed rule published under this**  
 40 **section.**

41 **Inadequacy or insufficiency of the subject matter description or**  
 42 **summary of the regulatory analysis in the published notice does**



1 **not invalidate a rulemaking action.**

2 ~~(b) (d)~~ The notice required under subsection (a):

3 (1) shall be published electronically in the Indiana Register under  
4 procedures established by the publisher; and

5 (2) if any element of the proposed rule to which the notice relates  
6 imposes a restriction or requirement that is more stringent than a  
7 restriction or requirement imposed under federal law, shall be  
8 submitted in an electronic format under IC 5-14-6 to the executive  
9 director of the legislative services agency, who shall present the  
10 notice to the legislative council established by IC 2-5-1.1-1.

11 **The publisher shall review materials submitted under this section**  
12 **and determine the date that the publisher intends to publish the**  
13 **text of the proposed rule and the notice in the Indiana Register. If**  
14 **the submitted material complies with this section, the publisher**  
15 **shall establish the intended publication date, assign a document**  
16 **control number to the proposed rule, and provide a written or an**  
17 **electronic mail authorization to proceed to the agency. The**  
18 **publisher shall publish the following in the Indiana Register on the**  
19 **intended publication date:**

20 (1) **The notice of the second comment period.**

21 (2) **The full text of the agency's proposed rule (excluding the**  
22 **full text of a matter incorporated by reference under**  
23 **IC 4-22-2-21).**

24 ~~(e) (e)~~ If the notice provided by the department concerning a  
25 proposed rule identifies under subsection ~~(a)(5)~~; an element of the  
26 proposed rule that imposes a restriction or requirement more stringent  
27 than a restriction or requirement imposed under federal law, the  
28 proposed rule shall not become effective under this chapter until the  
29 adjournment sine die of the regular session of the general assembly that  
30 begins after the department provides the notice.

31 ~~(d) (f)~~ ~~Subsections (b)(2) and Subsection (e) (e) do~~ does not  
32 prohibit or restrict the commissioner, the department, or the board  
33 from:

34 (1) adopting emergency rules under IC 4-22-2-37.1;

35 (2) taking emergency action under IC 13-14-10; or

36 (3) temporarily:

37 (A) altering ordinary operating policies or procedures; or

38 (B) implementing new policies or procedures;

39 in response to an emergency situation.

40 SECTION 42. IC 13-14-9-4.2, AS AMENDED BY P.L.123-2006,  
41 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JULY 1, 2023]: Sec. 4.2. Not less than fourteen (14) days before the

**HB 1623—LS 7025/DI 125**



1 date of preliminary adoption of a proposed rule by a board, the  
 2 department shall make available to the board the ~~fiscal impact~~  
 3 **statement latest version of the regulatory analysis** prepared by the  
 4 office of management and budget with respect to ~~for~~ the proposed rule.  
 5 under IC 4-22-2-28(c).

6 SECTION 43. IC 13-14-9-4.5 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4.5. (a) Except for a  
 8 rule

9 (1) that has been preliminarily adopted by a board in a form that  
 10 is:

11 (A) identical to; or

12 (B) not substantively different from;

13 the proposed rule published in a second notice under section 4 of  
 14 this chapter; or

15 (2) for which the commissioner has made a determination and  
 16 prepared written findings under section 7 or 8 of this chapter;

17 a board may not adopt a rule under this chapter until the board has  
 18 conducted a third public comment period that is at least ~~twenty-one~~  
 19 **(21) thirty (30)** days in length.

20 (b) The department shall publish notice of a third public comment  
 21 period with the

22 ~~(1) text;~~

23 ~~(2) summary; and~~

24 ~~(3) fiscal analysis;~~

25 **information** that ~~are is~~ required to be published in the Indiana Register  
 26 under section 5(a)(2) of this chapter.

27 ~~(c) The notice of a third public comment period that must be~~  
 28 ~~published in the Indiana Register under subsection (b) must request the~~  
 29 ~~submission of comments, including suggestions of specific~~  
 30 ~~amendments, that concern only the portion of the preliminarily adopted~~  
 31 ~~rule that is substantively different from the language contained in the~~  
 32 ~~proposed rule published in a second notice under section 4 of this~~  
 33 ~~chapter.~~

34 SECTION 44. IC 13-14-9-5, AS AMENDED BY P.L.123-2006,  
 35 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2023]: Sec. 5. (a) A board may not adopt a rule until all of the  
 37 following occur:

38 (1) The board holds a board meeting on the proposed rule.

39 (2) The department, after approval of the proposed rule by the  
 40 board under subsection (c), publishes the ~~following information~~  
 41 in the Indiana Register as ~~provided in IC 4-22-2-24(c):~~

42 (A) The full text of the proposed rule, including any



1 amendments arising from the comments received before or  
2 during the meeting held under subdivision (1):

3 (B) A summary of the response of the department to all  
4 comments received at the meeting held under subdivision (1):

5 (C) For a proposed rule with an estimated economic impact on  
6 regulated entities that is greater than five hundred thousand  
7 dollars (\$500,000); a copy of the office of management and  
8 budget fiscal analysis required under IC 4-22-2-28: **required**  
9 **by section 4 of this chapter. However, a notice of a third**  
10 **public comment period under section 4.5 of this chapter**  
11 **must request the submission of comments, including**  
12 **suggestions of specific amendments, that concern only the**  
13 **portion of the preliminarily adopted rule that is**  
14 **substantively different from the language contained in the**  
15 **proposed rule published in a second notice under section 4**  
16 **of this chapter.**

17 (3) The board, after publication of the notice under subdivision  
18 (2), holds another board meeting on the proposed rule.

19 (4) If a third public comment period is required under section 4.5  
20 of this chapter, the department publishes notice of the third public  
21 comment period in the Indiana Register.

22 (b) Board meetings held under subsection (a)(1) and (a)(3) shall be  
23 conducted in accordance with IC 4-22-2-26(b) through  
24 IC 4-22-2-26(d).

25 (c) At a board meeting held under subsection (a)(1), the board shall  
26 determine whether the proposed rule will:

27 (1) proceed to publication under subsection (a)(2);

28 (2) be subject to additional comments under section 3 or 4 of this  
29 chapter, considering any written finding made by the  
30 commissioner under section 7 or 8 of this chapter; or

31 (3) be reconsidered at a subsequent board meeting in accordance  
32 with IC 4-22-2-26(d).

33 SECTION 45. IC 13-14-9-6, AS AMENDED BY P.L.123-2006,  
34 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2023]: Sec. 6. In addition to the requirements of section 8 of  
36 this chapter, the department shall include the following in the written  
37 materials to be considered at the board meetings held under section  
38 5(a)(1) and 5(a)(3) of this chapter:

39 (1) The full text of the proposed rule, as most recently prepared  
40 by the department.

41 (2) The written responses of the department to all comments  
42 received:



- 1 (A) during the immediately preceding comment period for a  
 2 board meeting held under section 5(a)(1) of this chapter;  
 3 (B) during the immediately preceding board meeting under  
 4 section 5(a)(1) of this chapter for a board meeting held under  
 5 section 5(a)(3) of this chapter if a third public comment period  
 6 is not required under section 4.5 of this chapter; or  
 7 (C) during:  
 8 (i) a third public comment period that address the portion of  
 9 the preliminarily adopted rule that is substantively different  
 10 from the language contained in the proposed rule published  
 11 in a second notice under section 4 of this chapter; and  
 12 (ii) the immediately preceding board meeting held under  
 13 section 5(a)(1) of this chapter;  
 14 for a board meeting held under section 5(a)(3) of this chapter  
 15 if a third public comment period is required under section 4.5  
 16 of this chapter.
- 17 (3) ~~The full text of the office of management and budget fiscal~~  
 18 ~~latest version of regulatory analysis if a fiscal analysis is~~  
 19 ~~required under IC 4-22-2-28; prepared under IC 4-22-2-22.7.~~
- 20 SECTION 46. IC 13-14-9-15 IS ADDED TO THE INDIANA  
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 22 [EFFECTIVE JULY 1, 2023]: **Sec. 15. Rules adopted in accordance**  
 23 **with this chapter by the department of environmental management**  
 24 **or a board that has rulemaking authority under IC 13 expire as**  
 25 **provided in IC 4-22-2.6.**
- 26 SECTION 47. IC 13-14-9-16 IS ADDED TO THE INDIANA  
 27 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 28 [EFFECTIVE JULY 1, 2023]: **For a rule document subject to this**  
 29 **chapter, the one (1) year period established under IC 4-22-2-25 in**  
 30 **which to adopt a rule and obtain the approval or deemed approval**  
 31 **of the governor commences on the date that the initial comment**  
 32 **period notice for the rule document is published in the Indiana**  
 33 **Register under section 3 of this chapter, (if the section 3 comment**  
 34 **period is waived under section 7 of this chapter) section 4 of this**  
 35 **chapter, section 8 of this chapter, or section 14 of this chapter (as**  
 36 **applicable). If an agency determines that a rule cannot be adopted**  
 37 **within one (1) year after the publication of the notice, the agency**  
 38 **shall, before two hundred fifty (250) days following the publication**  
 39 **of the notice, notify the publisher by electronic means:**  
 40 (1) **the reasons why the rule was not adopted and the expected**  
 41 **date the rule will be completed; and**  
 42 (2) **the expected date the rule will be approved or deemed**



1 approved by the governor or withdrawn under IC 4-22-2-41.  
 2 **(b) If a rule is not approved before the later of:**  
 3 **(1) one (1) year after the agency publishes the initial notice of**  
 4 **intent under this chapter; or**  
 5 **(2) the expected date contained in a notice concerning the rule**  
 6 **that is provided to the publisher under subsection (a);**  
 7 **a later approval or deemed approval is ineffective, and the rule**  
 8 **may become effective only through another rulemaking action**  
 9 **initiated under this chapter.**

10 SECTION 48. IC 13-14-9.5 IS REPEALED [EFFECTIVE JULY 1,  
 11 2023]. (Expiration and Readoption of Administrative Rules).

12 SECTION 49. IC 13-19-3-3, AS AMENDED BY P.L.120-2022,  
 13 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 UPON PASSAGE]: Sec. 3. (a) As used in this section and section 3.1  
 15 of this chapter, "coal combustion residuals" means fly ash, bottom ash,  
 16 boiler slag, and flue gas desulfurization materials generated from  
 17 burning coal for the purpose of generating electricity by electric  
 18 utilities and independent power producers.

19 **(b) As used in The following definitions apply throughout this**  
 20 **section:**

21 **(1) "Federal CCR rule" refers to 40 CFR 257, Subpart D, the**  
 22 **federal standards for the disposal of coal combustion residuals in**  
 23 **landfills and surface impoundments.**

24 **(2) "Legacy generation resource" means an electric**  
 25 **generating facility that is directly or indirectly owned by a**  
 26 **corporation that was originally formed for the purpose of**  
 27 **providing power to the federal government for use in the**  
 28 **nation's defense or in furtherance of national interests. The**  
 29 **term includes the Ohio Valley Electric Corporation.**

30 **(c) The board may shall adopt rules under section 1(a)(1) of this**  
 31 **chapter concerning coal combustion residuals. The rules adopted**  
 32 **under this subsection:**

33 **(1) that are shall be consistent with the regulations of the United**  
 34 **States Environmental Protection Agency concerning standards for**  
 35 **the disposal of coal combustion residuals in landfills and surface**  
 36 **impoundments, as set forth in the federal CCR rule;**

37 **(2) shall not impose a restriction or requirement that is more**  
 38 **stringent than the corresponding restriction or requirement**  
 39 **imposed under the federal CCR rule; and**

40 **(3) shall not impose a restriction or requirement that is not**  
 41 **imposed by the federal CCR rule.**

42 **(d) The department shall do the following:**





- 1 (1) Establish a state permit program under Section 2301 of the  
 2 federal Water Infrastructure Improvements for the Nation Act (42  
 3 U.S.C. 6945(d)) for the implementation in Indiana of the federal  
 4 CCR rule.
- 5 (2) Submit to the administrator of the United States  
 6 Environmental Protection Agency under 42 U.S.C. 6945(d)(1)(A)  
 7 evidence of the state permit program.
- 8 (3) Take other necessary or appropriate actions to obtain approval  
 9 of the state permit program.
- 10 (e) Not later than May 15, 2021, the department shall notify the  
 11 United States Environmental Protection Agency of its intention to  
 12 establish a state permit program described in subsection (d)(1) and to  
 13 seek approval of the state permit program under 42 U.S.C. 6945(d)(1).  
 14 (f) Under IC 4-22-2 and IC 13-14-9:
- 15 (1) the department shall initiate rulemaking for the establishment  
 16 of the state permit program not more than sixty (60) days after the  
 17 effective date of the SECTION of Senate Enrolled Act 271-2021  
 18 amending this section; and
- 19 (2) the board shall adopt a final rule for the establishment of the  
 20 state permit program not more than sixteen (16) months after  
 21 initiation of the rulemaking under subdivision (1).
- 22 (g) The state permit program established under this section must not  
 23 establish requirements for any surface impoundment of coal  
 24 combustion residuals unless and until the state permit program is  
 25 approved by the administrator of the United States Environmental  
 26 Protection Agency under 42 U.S.C. 6945(d)(1). **The authority of the**  
 27 **department to establish requirements under the state permit**  
 28 **program established under this section is the only authority the**  
 29 **department has to establish requirements for a surface**  
 30 **impoundment of coal combustion residuals located on the grounds**  
 31 **of a legacy generation resource.**
- 32 (h) The definitions set forth in Section 257.53 of the federal CCR  
 33 rule, as in effect January 1, 2021, apply throughout subsection (i).
- 34 (i) The department shall charge the following fees under the state  
 35 permit program established under this section:
- 36 (1) An initial one (1) time permit fee of twenty thousand five  
 37 hundred dollars (\$20,500) for each surface impoundment of coal  
 38 combustion residuals regulated under the state permit program.
- 39 (2) An annual fee of twenty thousand five hundred dollars  
 40 (\$20,500) for each surface impoundment of coal combustion  
 41 residuals regulated under the state permit program that has not  
 42 completed closure in accordance with Section 257.102 of the



1 federal CCR rule. The duty to pay the fee established by this  
 2 subdivision does not apply on an annual basis until three hundred  
 3 sixty-five (365) days after the initial one (1) time permit fee  
 4 established by subdivision (1) has been assessed.

5 (3) An annual fee of ten thousand dollars (\$10,000) for each  
 6 surface impoundment of coal combustion residuals regulated  
 7 under the state permit program that has been closed and for which  
 8 post-closure care has been initiated and is still required in  
 9 accordance with Section 257.104 of the federal CCR rule. The  
 10 duty to pay the fee established by this subdivision does not apply  
 11 on an annual basis until three hundred sixty-five (365) days after  
 12 the initial one (1) time permit fee established by subdivision (1)  
 13 has been assessed.

14 Fees collected under this subsection shall be deposited in the CCR  
 15 program fund established by section 3.2 of this chapter.

16 (j) Not later than July 1, 2027, and before the end of each  
 17 succeeding period of five (5) years, the board shall review the:

18 (1) costs to the department of operating the state permit program  
 19 established under this section; and

20 (2) revenue from the fees charged under subsection (i);

21 as provided in IC 13-16-1-4. If the board determines that the revenue  
 22 described in subdivision (2) is inadequate or excessive in relation to the  
 23 costs described in subdivision (1), the board shall, under IC 13-16-1-2,  
 24 change the amount of one (1) or more of the fees established under  
 25 subsection (i).

26 (k) Upon the effective date that the board adopts rules to implement  
 27 the federal CCR rule and subject to subsection (i), annual fees for CCR  
 28 landfills that were previously regulated as restricted waste sites shall  
 29 be deposited in the CCR program fund established by section 3.2 of  
 30 this chapter.

31 SECTION 50. IC 25-1-5.3 IS ADDED TO THE INDIANA CODE  
 32 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2023]:

34 **Chapter 5.3. Failure to Enact Licensure Rules**

35 **Sec. 1. The following definitions apply throughout this chapter:**

36 (1) "Agency" has the meaning set forth in IC 25-1-5-2.

37 (2) "Board" has the meaning set forth in IC 25-1-5-2.

38 (3) "Compliant", with respect to a licensure rule, means a  
 39 licensure rule that the agency or a board has adopted.

40 (4) "Enactment date" means the date on which a statute  
 41 requires rulemaking for a licensure rule to commence.

42 (5) "Executive director" refers to the individual described in



- 1           **IC 25-1-5-5.**  
 2           **(6) "Licensee" has the meaning set forth in IC 25-1-5-11.**  
 3           **(7) "Licensure rule" means a rule that:**  
 4               **(A) relates to the issuance of a license, certificate,**  
 5               **registration, or permit, or a requirement or prerequisite**  
 6               **for obtaining a license, or keeping a license in good**  
 7               **standing; and**  
 8               **(B) is required by statute to be adopted by the agency or a**  
 9               **board.**  
 10           **(8) "Noncompliant", with respect to a licensure rule, means**  
 11           **a licensure rule that the agency or a board has not adopted**  
 12           **within eighteen (18) months of the enactment date.**  
 13           **Sec. 2. (a) If a licensee believes that the agency or a board has**  
 14           **failed to adopt a licensure rule within eighteen (18) months of the**  
 15           **enactment date, the licensee may request in writing that the**  
 16           **executive director determine that the licensure rule is**  
 17           **noncompliant. The executive director shall issue the determination**  
 18           **of noncompliance or compliance in writing.**  
 19               **(b) If the executive director determines that the licensure rule**  
 20               **is noncompliant, the licensee is entitled to the relief described in**  
 21               **section 3 of this chapter.**  
 22               **(c) If:**  
 23                   **(1) the executive director determines that the licensure rule is**  
 24                   **compliant; or**  
 25                   **(2) at least thirty (30) days have passed since the licensee**  
 26                   **requested the executive director to confirm that the licensure**  
 27                   **rule is noncompliant and the executive director has not issued**  
 28                   **a determination;**  
 29           **the licensee may request that the governor or the attorney general**  
 30           **determine that the licensure rule is a noncompliant. A licensee may**  
 31           **not request that both the governor and the attorney general make**  
 32           **a determination under this subsection.**  
 33               **(d) If the governor or the attorney general determines that the**  
 34               **licensure rule is noncompliant, the licensee is entitled to the relief**  
 35               **described in section 3 of this chapter.**  
 36           **Sec. 3. (a) If the executive director, governor, or attorney**  
 37           **general determines that a licensure rule is noncompliant, the**  
 38           **licensee:**  
 39               **(1) is not required to pay the license fee to which the licensure**  
 40               **rule relates from the enactment date to the date the licensure**  
 41               **rule becomes compliant (if applicable); and**  
 42               **(2) is entitled to a refund of any license fee to which the**



1           licensure rule relates from the enactment date to the date the  
 2           licensure rule becomes compliant (if applicable).  
 3           (b) The failure to pay a license fee as authorized under this  
 4           section does not affect the validity of the license.  
 5           Sec. 4. (a) If the executive director has determined under section  
 6           2 of this chapter that a licensure rule is noncompliant, and the  
 7           agency later adopts a licensure rule, the executive director may,  
 8           upon the request of any person, including the executive director,  
 9           make a new determination concerning the licensure rule. The  
 10          executive director shall issue the determination in writing.  
 11          (b) If the executive director determines that the licensure rule  
 12          is compliant, a licensee who disagrees with the determination may  
 13          request, not later than thirty (30) days after issuance of the new  
 14          determination, that the governor or attorney general review the  
 15          determination. The licensee may not request that both the  
 16          governor and the attorney general review the determination. If the  
 17          governor or attorney general determines that the licensure rule is  
 18          noncompliant, the determination of the governor or attorney  
 19          general controls.  
 20          Sec. 5. If the governor or attorney general determined that a  
 21          licensure rule was noncompliant under section 2 of this chapter,  
 22          and the agency later adopts a licensure rule, upon the request of  
 23          any person, the governor or attorney general may make a new  
 24          determination concerning the licensure rule. The governor or  
 25          attorney general shall issue the determination in writing.  
 26          Sec. 6. If the executive director, under section 4 of this chapter,  
 27          or the governor or attorney general, under section 5 of this  
 28          chapter, determines that a formerly noncompliant licensure rule  
 29          is now compliant, a licensee is required to pay the license fee to  
 30          which the licensure rule relates, beginning:  
 31                  (1) from the date the new determination was issued; or  
 32                  (2) if the new determination was issued by the executive  
 33                  director under section 4(a) of this chapter and the licensee  
 34                  sought review by the governor or attorney general under  
 35                  section 4(b) of this chapter, from the date the governor  
 36                  attorney general issued a determination;  
 37          whichever is later.  
 38          SECTION 51. [EFFECTIVE UPON PASSAGE] (a) After June 30,  
 39          2023, a rule may be adopted as an emergency rule only for the  
 40          purposes and through the procedures in IC 4-22-2-37.1 (as effective  
 41          after June 30, 2023). Any additional authority in a statute outside  
 42          IC 4-22 to adopt rules through the emergency rulemaking



1        **procedures in IC 4-22-2-37.1 (as effective before July 1, 2023, or**  
2        **after June 30, 2023) is void. The code revision commission shall**  
3        **provide in calendar year 2023 for the preparation of a bill for**  
4        **introduction in the 2024 regular session of the general assembly**  
5        **that removes language outside IC 4-22 permitting the adoption of**  
6        **emergency rules.**

7        **(b) This SECTION expires January 1, 2024.**

8        **SECTION 52. An emergency is declared for this act.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1623, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 4. IC 4-22-2-0.1, AS AMENDED BY P.L.53-2014, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 0.1. **(a)** The amendments made to this chapter by P.L.44-1995 apply as follows:

- (1) The amendments made to sections 13, 19, 23, 25, and 28 of this chapter apply to a rulemaking action that commences after June 30, 1995.
- (2) The addition of sections 23.1 and 46 (repealed) of this chapter applies to a rulemaking action that commences after June 30, 1995.

**(b) This chapter (as effective January 1, 2023) continues to apply after June 30, 2023, to a rulemaking action that is commenced under this chapter before July 1, 2023, and is pending on July 1, 2023."**

Page 4, line 36, delete "or 37.2" and insert "**37.2, or 37.3**".

Page 4, line 40, delete "or 37.2" and insert "**37.2, or 37.3**".

Page 5, line 14, after "17.5." insert "**(a)**".

Page 5, between lines 19 and 20, begin a new paragraph and insert:

**"(b) If requested in the manner specified by the legislative council or the personnel subcommittee of the legislative council acting for the legislative council, an agency shall provide to the legislative services agency any data, studies, or analyses relied on by the agency to develop a regulatory analysis or a revised regulatory analysis. The agency shall comply with any policies adopted by the legislative council or the personnel subcommittee of the legislative council governing the format, timing, and manner of delivery of the data, studies, or analyses."**

Page 7, line 5, after "or section" insert "**37.2 or**".

Page 7, line 11, delete "the first" and insert "**a**".

Page 7, line 12, delete "23" and insert "**23, 37.2,**".

Page 7, line 32, reset in roman "**or**".

Page 7, line 33, delete "**or**".

Page 7, delete line 34.

Page 8, line 29, delete "analysis, including supporting" and insert "**analysis**".



Page 8, line 30, delete "data,".

Page 9, line 42, after "chapter," insert "if".

Page 10, line 1, delete "may" and insert "**elects to adopt a rule subject to section 23 of this chapter or IC 13-14-9, the agency shall**".

Page 11, line 4, after "budget" insert "**a revised regulatory analysis with**".

Page 11, line 28, delete "analysis, including" and insert "**analysis**".

Page 11, line 29, delete "supporting data and studies,".

Page 14, line 35, delete "(including any".

Page 14, delete line 36.

Page 14, line 37, delete "referenced in the regulatory analysis)".

Page 15, line 23, after "A" insert "**summary of the written comments received by the agency during the first comment period and a**".

Page 17, line 3, strike "of".

Page 17, line 3, reset in roman "in the Indiana Register".

Page 17, line 5, after "chapter" insert "**of**".

Page 17, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 18. IC 4-22-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 27. The individual or group of individuals who will finally adopt the rule under section 29 of this chapter shall fully consider **written** comments received **by the agency during each comment period and comments received** at the public hearing required by section 26 of this chapter and may consider any other information before adopting the rule. Attendance at the public hearing or review of a written record or summary of the public hearing is sufficient to constitute full consideration.

SECTION 19. IC 4-22-2-27.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 27.5. In addition to the information submitted to the attorney general under section 31 of this chapter, to the governor under section 33 of this chapter, and to the publisher under section 35 of this chapter, an agency shall submit to the attorney general, the governor, and the publisher a summary of the comments received by the agency during each comment period and public hearing under sections 23, 24, and 26 of this chapter or IC 13-14-9 and a summary of the response of the agency to the comments. The publisher shall publish the summaries with the final adopted and approved rule.**"

Page 26, line 7, delete "the approval of" and insert "**a determination from**".



Page 28, between lines 25 and 26, begin a new line blocked left and insert:

**"A notice of objection to an emergency rule by the attorney general must include findings that explain the basis for the determination. The notice of objection shall be provided to the agency in an electronic format."**

Page 28, line 42, after "authority" insert **"with a single comment period of at least thirty (30) days in length"**.

Page 29, line 19, delete "the approval of" and insert **"a determination from"**.

Page 29, delete lines 29 through 36, begin a new paragraph and insert:

**"(c) An agency shall notify the public of its intention to adopt an interim rule by complying with the publication requirements in this section. The agency shall cause a notice of a public comment period and the full text of the agency's proposed interim rule (excluding the full text of a matter incorporated by reference under section 21 of this chapter) to be published once in the Indiana Register. The publisher shall review materials submitted under this section and determine the date that the publisher intends to include the material in the Indiana Register. After establishing the intended publication date and receiving the public comment period information from the agency, the publisher shall provide a written or an electronic mail authorization to proceed to the agency.**

**(d) The agency shall include the following in the notice of the public comment period:**

- (1) A general description of the subject matter of the proposed interim rule, including the document control number.**
- (2) A statement justifying any requirement or cost that is:**
  - (A) imposed on a regulated entity under the interim rule;**
  - and**
  - (B) not expressly required by the statute authorizing the agency to adopt rules or any other state or federal law.**

**The statement required under this subdivision must include a reference to any data, studies, or analyses relied upon by the agency in determining that the imposition of the requirement or cost is necessary and where and how a person may inspect and copy or electronically download the data, studies, or analyses.**

- (3) A date that is thirty (30) days after the notice is published in the Indiana Register by which written comments are due and a statement explaining that any person may submit**





written comments concerning the proposed expedited rule during the public comment period and instructions on when, where, and how the person may submit written comments. However, inadequacy or insufficiency of the subject matter description under subdivision (1) or a statement of justification under subdivision (2) in a notice does not invalidate a rulemaking action. An agency may continue the comment period by publishing a subsequent notice in the Indiana Register extending the comment period.

(e) Before adopting the interim rule, the agency shall prepare a written response to comments received by the agency, including the reasons for rejecting any recommendations made in the comments.

(f) After an agency has completed the initial public comment period of at least thirty (30) days in length and complied with subsection (e), the agency may:

- (1) adopt a rule that is identical to a proposed interim rule published in the Indiana Register under this section; or
- (2) adopt a revised version of a proposed interim rule published under this section and include provisions that did not appear in the initially published proposed version.

An agency may not adopt an interim rule that substantially differs from the version of the proposed interim rule published in the Indiana Register under this section, unless it is a logical outgrowth of any proposed interim rule as supported by any written comments submitted during the public comment period.

(g) After the agency adopts the interim rule, the agency shall submit the following to the publisher for filing:"

Page 29, between lines 39 and 40, begin a new line block indented and insert:

**"(2) A summary of the comments received by the agency during the comment period and the agency's response to the comments."**

Page 29, line 40, delete "(2)" and insert "(3)".

Page 30, line 1, delete "(3)" and insert "(4)".

Page 30, line 3, delete "(4)" and insert "(5)".

Page 30, line 5, delete "The".

Page 30, delete lines 6 through 7.

Page 30, line 8, delete "governor."

Page 30, line 10, delete "(e)" and insert "(h)".

Page 30, line 10, delete "(d)" and insert "(g)".

Page 30, line 17, delete "(f)" and insert "(i)".

Page 30, line 22, delete "(e)." and insert "(h)."



Page 30, delete lines 30 through 38, begin a new paragraph and insert:

**"(j) An agency may amend an interim rule with another interim rule by following the procedures in this section for adoption of an interim rule. An interim rule and all subsequent rules on the same subject adopted under section 37.1 or 37.3 of this chapter or this section expire not later than four hundred twenty-five (425) days after the initial interim rule is accepted for filing under subsection (h). The interim rule, including all subsequent interim rules adopted under section 37.1 or 37.3 of this chapter or this section on the same subject, may not be subsequently extended under section 37.1 or 37.3 of this chapter or this section after four hundred twenty-five (425) days."**

Page 30, line 39, delete "(h)" and insert "**(k)**".

Page 30, line 39, delete "(i)," and insert "**(I)**".

Page 31, line 1, delete "(e)." and insert "**(h)**".

Page 31, line 7, delete "(i)" and insert "**(I)**".

Page 31, line 8, delete "emergency" and insert "**interim**".

Page 31, line 8, delete "(h)" and insert "**(k)**".

Page 31, line 9, delete "emergency" and insert "**interim**".

Page 31, between lines 11 and 12, begin a new line blocked left and insert:

**"A notice of objection to an interim rule by the attorney general must include findings that explain the basis for the determination. The notice of objection shall be provided to the agency in an electronic format."**

Page 31, line 19, delete "on a subject for which the" and insert "**described in IC 4-22-2.3**".

Page 31, line 20, delete "agency has rulemaking authority".

Page 31, line 24, delete "is:" and insert "**is appropriate for a rule described in IC 4-22-2.3**".

Page 31, delete lines 25 through 29.

Page 31, line 30, delete "the approval of" and insert "**a determination from**".

Page 31, line 31, delete "office of management and budget" and insert "**governor**".

Page 31, line 34, delete "office of management and budget" and insert "**governor**".

Page 31, line 35, delete "office of management and budget." and insert "**governor**".

Page 31, line 36, delete "office of management and budget" and insert "**governor**".



Page 32, line 26, after "A" insert **"date that is thirty (30) days after the notice is published in the Indiana Register by which written comments are due and a"**.

Page 32, line 33, after "action." insert **"An agency may continue the comment period by publishing a subsequent notice in the Indiana Register extending the comment period."**

Page 32, line 38, delete "a public comment period of" and insert **"the comment period under this section"**.

Page 32, line 39, delete "at least thirty (30) days in length".

Page 33, line 24, after "subsection." insert **"The substantive text of the adopted expedited rule must be substantially similar to the text of the proposed expedited rule submitted to the governor. An expedited rule may suspend but not repeal a rule approved by the governor under section 34 of this chapter."**

Page 34, line 4, delete "expires:" and insert **"expires as provided in IC 4-22-2.3. An agency may continue an expedited rule for an additional period after it would otherwise expire only as permitted in IC 4-22-2.3."**

Page 34, delete lines 5 through 8.

Page 34, line 20, delete "emergency" and insert **"expedited"**.

Page 34, line 21, delete "emergency" and insert **"expedited"**.

Page 34, between lines 23 and 24, begin a new line blocked left and insert:

**"A notice of objection to an expedited rule by the attorney general must include findings that explain the basis for the determination. The notice of objection shall be provided to the agency in an electronic format."**

Page 40, line 7, delete "section sets" and insert **"subsection and subsection (b) set"**.

Page 41, line 17, after "IC 4-22-2-37.3." insert **"An expedited rule described in this section may not be continued in another expedited rule after the expiration of the initial expedited rule."**

Page 41, line 23, after "Register." insert **"An expedited rule described in this section may be continued in another expedited rule only if the governor determines under IC 4-22-2-37.3(b) that the policy options available to the agency are so limited that use of the additional notice, comment, and review procedures in IC 4-22-2-23 through IC 4-22-2-36 would provide no benefit to persons regulated or otherwise affected by the rule."**

Page 41, line 30, after "Register." insert **"An expedited rule described in this section may not be continued in another expedited rule after the expiration of the initial expedited rule."**



Page 41, line 35, after "Register." insert **"An expedited rule described in this section may not be continued in another expedited rule after the expiration of the initial expedited rule."**

Page 42, line 12, delete "that" and insert **"after"**.

Page 42, line 15, after "under" insert **"IC 24-4.4-1-101 (licensing system for creditors and mortgage loan originators) or"**.

Page 42, between lines 19 and 20, begin a new paragraph and insert:

**"(c) The department of financial institutions shall adopt rules under IC 4-22-2-37.3 in the same manner provided in subsection (a) for the adjustments required under IC 24-9-2-8 concerning high cost home loans. The rule expires not later than January 1 of the next odd-numbered year after the department of financial institutions is required to issue the rule.**

**(d) The department of financial institutions may adopt rules described in 34-55-10-2 (bankruptcy exemptions; limitations) and IC 34-55-10-2.5 in conformity with the procedures in IC 4-22-2-23 through IC 4-22-2-36 or the expedited procedures in IC 4-22-2-37.3. A rule adopted under IC 4-22-2-37.3 expires not later than two (2) years after the adopted rule is accepted for filing by the publisher of the Indiana Register.**

**(e) An expedited rule described in this section may be continued in another expedited rule only if the governor determines under IC 4-22-2-37.3(b) that the policy options available to the agency are so limited that use of the additional notice, comment, and review procedures in IC 4-22-2-23 through IC 4-22-2-36 would provide no benefit to persons regulated or otherwise affected by the rule."**

Page 42, line 37, after "Register." insert **"An expedited rule described in this section may not be continued in another expedited rule after the expiration of the initial expedited rule."**

Page 45, line 16, after "publisher" insert **"not later than the first regular business day in September of the year preceding the year in which the rule expires under this chapter"**.

Page 45, line 24, delete "at least".

Page 46, line 12, after "period" insert **"under section 5 of this chapter"**.

Page 55, delete lines 31 through 41, begin a new line block indented and insert:

**"(1) that has been preliminarily adopted by a board in a form that is:**

**(A) identical to; or**

**(B) not substantively different from;**

**the proposed rule published in a second notice under section 4 of**



this chapter; or

(2) for which the commissioner has made a determination and prepared written findings under section 7 or 8 of this chapter; a board may not adopt a rule under this chapter until the board has conducted a third public comment period that is at least ~~twenty-one~~ **(21) thirty (30)** days in length."

Page 57, line 15, reset in roman "In addition to the requirements of section 8 of".

Page 57, line 16, reset in roman "this chapter,".

Page 57, line 16, delete "The" and insert "the".

Page 58, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 47. IC 13-14-9-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **For a rule document subject to this chapter, the one (1) year period established under IC 4-22-2-25 in which to adopt a rule and obtain the approval or deemed approval of the governor commences on the date that the initial comment period notice for the rule document is published in the Indiana Register under section 3 of this chapter, (if the section 3 comment period is waived under section 7 of this chapter) section 4 of this chapter, section 8 of this chapter, or section 14 of this chapter (as applicable). If an agency determines that a rule cannot be adopted within one (1) year after the publication of the notice, the agency shall, before two hundred fifty (250) days following the publication of the notice, notify the publisher by electronic means:**

**(1) the reasons why the rule was not adopted and the expected date the rule will be completed; and**

**(2) the expected date the rule will be approved or deemed approved by the governor or withdrawn under IC 4-22-2-41.**

**(b) If a rule is not approved before the later of:**

**(1) one (1) year after the agency publishes the initial notice of intent under this chapter; or**

**(2) the expected date contained in a notice concerning the rule that is provided to the publisher under subsection (a);**

**a later approval or deemed approval is ineffective, and the rule may become effective only through another rulemaking action initiated under this chapter."**

Page 58, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 49. IC 13-19-3-3, AS AMENDED BY P.L.120-2022, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) As used in this section and section 3.1 of this chapter, "coal combustion residuals" means fly ash, bottom ash,



boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers.

(b) ~~As used in~~ **The following definitions apply throughout this section:**

(1) "Federal CCR rule" refers to 40 CFR 257, Subpart D, the federal standards for the disposal of coal combustion residuals in landfills and surface impoundments.

(2) **"Legacy generation resource" means an electric generating facility that is directly or indirectly owned by a corporation that was originally formed for the purpose of providing power to the federal government for use in the nation's defense or in furtherance of national interests. The term includes the Ohio Valley Electric Corporation.**

(c) The board ~~may~~ **shall** adopt rules under section 1(a)(1) of this chapter **concerning coal combustion residuals. The rules adopted under this subsection:**

(1) ~~that are shall be~~ consistent with the regulations of the United States Environmental Protection Agency concerning standards for the disposal of coal combustion residuals in landfills and surface impoundments, as set forth in the federal CCR rule;

(2) **shall not impose a restriction or requirement that is more stringent than the corresponding restriction or requirement imposed under the federal CCR rule; and**

(3) **shall not impose a restriction or requirement that is not imposed by the federal CCR rule.**

(d) The department shall do the following:

(1) Establish a state permit program under Section 2301 of the federal Water Infrastructure Improvements for the Nation Act (42 U.S.C. 6945(d)) for the implementation in Indiana of the federal CCR rule.

(2) Submit to the administrator of the United States Environmental Protection Agency under 42 U.S.C. 6945(d)(1)(A) evidence of the state permit program.

(3) Take other necessary or appropriate actions to obtain approval of the state permit program.

(e) Not later than May 15, 2021, the department shall notify the United States Environmental Protection Agency of its intention to establish a state permit program described in subsection (d)(1) and to seek approval of the state permit program under 42 U.S.C. 6945(d)(1).

(f) Under IC 4-22-2 and IC 13-14-9:

(1) the department shall initiate rulemaking for the establishment



of the state permit program not more than sixty (60) days after the effective date of the SECTION of Senate Enrolled Act 271-2021 amending this section; and

(2) the board shall adopt a final rule for the establishment of the state permit program not more than sixteen (16) months after initiation of the rulemaking under subdivision (1).

(g) The state permit program established under this section must not establish requirements for any surface impoundment of coal combustion residuals unless and until the state permit program is approved by the administrator of the United States Environmental Protection Agency under 42 U.S.C. 6945(d)(1). **The authority of the department to establish requirements under the state permit program established under this section is the only authority the department has to establish requirements for a surface impoundment of coal combustion residuals located on the grounds of a legacy generation resource.**

(h) The definitions set forth in Section 257.53 of the federal CCR rule, as in effect January 1, 2021, apply throughout subsection (i).

(i) The department shall charge the following fees under the state permit program established under this section:

(1) An initial one (1) time permit fee of twenty thousand five hundred dollars (\$20,500) for each surface impoundment of coal combustion residuals regulated under the state permit program.

(2) An annual fee of twenty thousand five hundred dollars (\$20,500) for each surface impoundment of coal combustion residuals regulated under the state permit program that has not completed closure in accordance with Section 257.102 of the federal CCR rule. The duty to pay the fee established by this subdivision does not apply on an annual basis until three hundred sixty-five (365) days after the initial one (1) time permit fee established by subdivision (1) has been assessed.

(3) An annual fee of ten thousand dollars (\$10,000) for each surface impoundment of coal combustion residuals regulated under the state permit program that has been closed and for which post-closure care has been initiated and is still required in accordance with Section 257.104 of the federal CCR rule. The duty to pay the fee established by this subdivision does not apply on an annual basis until three hundred sixty-five (365) days after the initial one (1) time permit fee established by subdivision (1) has been assessed.

Fees collected under this subsection shall be deposited in the CCR program fund established by section 3.2 of this chapter.



(j) Not later than July 1, 2027, and before the end of each succeeding period of five (5) years, the board shall review the:

(1) costs to the department of operating the state permit program established under this section; and

(2) revenue from the fees charged under subsection (i);

as provided in IC 13-16-1-4. If the board determines that the revenue described in subdivision (2) is inadequate or excessive in relation to the costs described in subdivision (1), the board shall, under IC 13-16-1-2, change the amount of one (1) or more of the fees established under subsection (i).

(k) Upon the effective date that the board adopts rules to implement the federal CCR rule and subject to subsection (i), annual fees for CCR landfills that were previously regulated as restricted waste sites shall be deposited in the CCR program fund established by section 3.2 of this chapter.

SECTION 50. IC 25-1-5.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

**Chapter 5.3. Failure to Enact Licensure Rules**

**Sec. 1. The following definitions apply throughout this chapter:**

(1) "Agency" has the meaning set forth in IC 25-1-5-2.

(2) "Board" has the meaning set forth in IC 25-1-5-2.

(3) "Compliant", with respect to a licensure rule, means a licensure rule that the agency or a board has adopted.

(4) "Enactment date" means the date on which a statute requires rulemaking for a licensure rule to commence.

(5) "Executive director" refers to the individual described in IC 25-1-5-5.

(6) "Licensee" has the meaning set forth in IC 25-1-5-11.

(7) "Licensure rule" means a rule that:

(A) relates to the issuance of a license, certificate, registration, or permit, or a requirement or prerequisite for obtaining a license, or keeping a license in good standing; and

(B) is required by statute to be adopted by the agency or a board.

(8) "Noncompliant", with respect to a licensure rule, means a licensure rule that the agency or a board has not adopted within eighteen (18) months of the enactment date.

**Sec. 2. (a)** If a licensee believes that the agency or a board has failed to adopt a licensure rule within eighteen (18) months of the enactment date, the licensee may request in writing that the





executive director determine that the licensure rule is noncompliant. The executive director shall issue the determination of noncompliance or compliance in writing.

(b) If the executive director determines that the licensure rule is noncompliant, the licensee is entitled to the relief described in section 3 of this chapter.

(c) If:

- (1) the executive director determines that the licensure rule is compliant; or
- (2) at least thirty (30) days have passed since the licensee requested the executive director to confirm that the licensure rule is noncompliant and the executive director has not issued a determination;

the licensee may request that the governor or the attorney general determine that the licensure rule is a noncompliant. A licensee may not request that both the governor and the attorney general make a determination under this subsection.

(d) If the governor or the attorney general determines that the licensure rule is noncompliant, the licensee is entitled to the relief described in section 3 of this chapter.

Sec. 3. (a) If the executive director, governor, or attorney general determines that a licensure rule is noncompliant, the licensee:

- (1) is not required to pay the license fee to which the licensure rule relates from the enactment date to the date the licensure rule becomes compliant (if applicable); and
- (2) is entitled to a refund of any license fee to which the licensure rule relates from the enactment date to the date the licensure rule becomes compliant (if applicable).

(b) The failure to pay a license fee as authorized under this section does not affect the validity of the license.

Sec. 4. (a) If the executive director has determined under section 2 of this chapter that a licensure rule is noncompliant, and the agency later adopts a licensure rule, the executive director may, upon the request of any person, including the executive director, make a new determination concerning the licensure rule. The executive director shall issue the determination in writing.

(b) If the executive director determines that the licensure rule is compliant, a licensee who disagrees with the determination may request, not later than thirty (30) days after issuance of the new determination, that the governor or attorney general review the determination. The licensee may not request that both the



**governor and the attorney general review the determination. If the governor or attorney general determines that the licensure rule is noncompliant, the determination of the governor or attorney general controls.**

**Sec. 5. If the governor or attorney general determined that a licensure rule was noncompliant under section 2 of this chapter, and the agency later adopts a licensure rule, upon the request of any person, the governor or attorney general may make a new determination concerning the licensure rule. The governor or attorney general shall issue the determination in writing.**

**Sec. 6. If the executive director, under section 4 of this chapter, or the governor or attorney general, under section 5 of this chapter, determines that a formerly noncompliant licensure rule is now compliant, a licensee is required to pay the license fee to which the licensure rule relates, beginning:**

- (1) from the date the new determination was issued; or**
- (2) if the new determination was issued by the executive director under section 4(a) of this chapter and the licensee sought review by the governor or attorney general under section 4(b) of this chapter, from the date the governor attorney general issued a determination;**

**whichever is later."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1623 as introduced.)

MILLER D

Committee Vote: yeas 9, nays 1.

