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# HOUSE BILL No. 1623

AM162303 has been incorporated into introduced printing.

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**Synopsis:** Administrative rulemaking.

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2023

IN 1623—LS 7025/DI 125



**DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY**

Introduced

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.

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## HOUSE BILL No. 1623

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

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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~~  
 13 ~~a cost benefit analysis under this section.~~ If an interested party or  
 14 a regulated person voluntarily provides materials, documents, or  
 15 other information to the OMB or an agency, ~~in connection with~~  
 16 ~~a cost benefit analysis under this section,~~ the OMB or the  
 17 agency, as applicable, shall ensure the adequate protection of  
 18 any:

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

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

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

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

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

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

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1 (1) an adoption or incorporation by reference of a federal law;  
 2 regulation; or rule that has no substantive effect on the scope or  
 3 intended application of the federal law or rule; or  
 4 (2) a technical amendment with no substantive effect on an  
 5 existing Indiana rule;  
 6 the OMB may not prepare a cost benefit analysis of the rule under this  
 7 section. The agency shall submit the proposed rule to the OMB with a  
 8 statement explaining how the proposed rule meets the requirements of  
 9 this subsection. If the OMB finds that the rule meets the requirements  
 10 of this subsection, the OMB shall provide its findings to the governor  
 11 and to the legislative council in an electronic format under IC 5-14-6.  
 12 If the agency amends or modifies the proposed rule after the OMB  
 13 finds that a cost benefit analysis may not be prepared for the rule, the  
 14 agency shall resubmit the proposed rule to the OMB either for a new  
 15 determination that the rule meets the requirements of this subsection;  
 16 or for the OMB to prepare a cost benefit analysis of the rule under this  
 17 section.

18 SECTION 2. IC 4-21.5-2-8 IS ADDED TO THE INDIANA CODE  
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 20 1, 2023]: **Sec. 8. The amendments made to IC 4-21.5-3-27.5 in the**  
 21 **2023 session of the general assembly only apply to agency actions**  
 22 **commenced under IC 4-21.5-3 after June 30, 2023.**

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

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

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

- 42 (1) The amendments made to sections 13, 19, 23, 25, and 28 of

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1 this chapter apply to a rulemaking action that commences after  
 2 June 30, 1995.  
 3 (2) The addition of sections 23.1 and 46 (repealed) of this  
 4 chapter applies to a rulemaking action that commences after  
 5 June 30, 1995.  
 6 **(b) This chapter (as effective January 1, 2023) continues to**  
 7 **apply after June 30, 2023, to a rulemaking action that is**  
 8 **commenced under this chapter before July 1, 2023, and is pending**  
 9 **on July 1, 2023.**  
 10 SECTION 5. IC 4-22-2-13, AS AMENDED BY P.L.2-2007,  
 11 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2023]: Sec. 13. (a) Subject to subsections (b), (c), and (d), this  
 13 chapter applies to the addition, amendment, or repeal of a rule in every  
 14 rulemaking action.  
 15 (b) This chapter does not apply to the following agencies:  
 16 (1) Any military officer or board.  
 17 (2) Any state educational institution.  
 18 (c) This chapter does not apply to a rulemaking action that results  
 19 in any of the following rules:  
 20 (1) A resolution or directive of any agency that relates solely to  
 21 internal policy, internal agency organization, or internal  
 22 procedure and does not have the effect of law.  
 23 (2) A restriction or traffic control determination of a purely local  
 24 nature that:  
 25 (A) is ordered by the commissioner of the Indiana  
 26 department of transportation;  
 27 (B) is adopted under IC 9-20-1-3(d), IC 9-21-4-7, or  
 28 IC 9-20-7; and  
 29 (C) applies only to one (1) or more particularly described  
 30 intersections, highway portions, bridge causeways, or  
 31 viaduct areas.  
 32 (3) A rule adopted by the secretary of state under  
 33 IC 26-1-9.1-526.  
 34 (4) An executive order or proclamation issued by the governor.  
 35 **(5) A rule adopted by the board of trustees of the Indiana**  
 36 **public retirement system, as provided in IC 5-10.5-4-2.**  
 37 **However, the board shall submit rules adopted by the board**  
 38 **to the publisher for publication in the Indiana Register.**  
 39 (d) Except as specifically set forth in IC 13-14-9, **IC 13-14-9**  
 40 **provides alternative procedures for notice and public comment**  
 41 **concerning proposed rules for the environmental rules board and**  
 42 **the underground storage tank financial assurance board. The**

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1 department of environmental management, the environmental  
 2 rules board, and the underground storage tank financial assurance  
 3 board shall comply with the procedures in IC 13-14-9 in lieu of  
 4 complying with sections 23, 24, 26, 27, and 29 of this chapter. ~~do not~~  
 5 apply to rulemaking actions under IC 13-14-9. In adopting rules, all  
 6 other provisions of IC 4-22-2 apply to these agencies, including  
 7 sections 22.7 and 22.8 of this chapter.

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

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

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

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

38 (b) If requested in the manner specified by the legislative  
 39 council or the personnel subcommittee of the legislative council  
 40 acting for the legislative council, an agency shall provide to the  
 41 legislative services agency any data, studies, or analyses relied on  
 42 by the agency to develop a regulatory analysis or a revised

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1 **regulatory analysis. The agency shall comply with any policies**  
 2 **adopted by the legislative council or the personnel subcommittee**  
 3 **of the legislative council governing the format, timing, and manner**  
 4 **of delivery of the data, studies, or analyses.**

5 SECTION 9. IC 4-22-2-19.5 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 19.5. (a) To the extent  
 7 possible, a rule adopted under this article ~~or under IC 13-14-9.5~~ shall  
 8 comply with the following:

9 (1) Minimize the expenses to:

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

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

14 (C) consumers of products and services of regulated entities  
 15 affected by the rule.

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

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

18 (4) Be written for ease of comprehension.

19 (5) Have practicable enforcement.

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

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

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

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

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

34 (4) The following requirements:

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

37 (i) the electronic data file under IC 6-1.1-4-25  
 38 concerning the parcel characteristics and parcel  
 39 assessments of all parcels and personal property return  
 40 characteristics and assessments; and

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

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- 1 (B) The schedule, electronic formatting, and standard data,  
 2 field, and record coding requirements for data required to  
 3 be submitted under IC 6-1.1-5.5-3 or IC 6-1.1-11-8.  
 4 (C) Data export and transmission format requirements for  
 5 information described in clauses (A) and (B).  
 6 (b) Each matter incorporated by reference under subsection (a)  
 7 must be fully and exactly described.  
 8 (c) An agency may refer to a matter that is directly or indirectly  
 9 referred to in a primary matter by fully and exactly describing the  
 10 primary matter.  
 11 (d) **Except as otherwise provided in this article**, whenever an  
 12 agency submits a rule to the attorney general, the governor, or the  
 13 publisher under this chapter, the agency shall also submit a copy of the  
 14 full text of each matter incorporated by reference under subsection (a)  
 15 into the rule, other than the following:  
 16 (1) An Indiana statute or rule.  
 17 (2) A form or instructions for a form numbered by the Indiana  
 18 archives and record administration under IC 5-15-5.1-6.  
 19 (3) The source of a statement that is quoted or paraphrased in  
 20 full in the rule.  
 21 (4) Any matter that has been previously filed with the:  
 22 (A) secretary of state before July 1, 2006; or  
 23 (B) publisher after June 30, 2006.  
 24 (5) Any matter referred to in subsection (c) as a matter that is  
 25 directly or indirectly referred to in a primary matter.  
 26 (e) An agency may comply with subsection (d) by submitting a  
 27 paper or an electronic copy of the full text of the matter incorporated  
 28 by reference.  
 29 SECTION 11. IC 4-22-2-22.5, AS AMENDED BY P.L.72-2014,  
 30 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2023]: Sec. 22.5. (a) This section applies to a rule that an  
 32 agency intends to:  
 33 (1) adopt under sections 24 through 36 of this chapter **or section**  
 34 **37.2 or 37.3 of this chapter; and**  
 35 **(2) readopt under IC 4-22-2.6.**  
 36 (b) As used in this section, "pending rulemaking action" means  
 37 any rulemaking action in which:  
 38 (1) either:  
 39 (A) a notice of ~~intent~~ **a public comment period** has been  
 40 published under section 23, **37.2, or 37.3** of this chapter; ~~or~~  
 41 (B) a rulemaking action has been commenced under

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- 1                   IC 13-14-9; ~~and or~~
- 2                   **(C) a rulemaking action has been commenced under**
- 3                   **IC 4-22-2.6; and**
- 4                   (2) the rule has not become effective under section 36 of this
- 5                   chapter.
- 6                   (c) Each agency shall maintain a current rulemaking docket that
- 7                   is indexed.
- 8                   (d) A current rulemaking docket must list each pending
- 9                   rulemaking action. The docket must state or contain:
- 10                  (1) the subject matter of the proposed rule;
- 11                  (2) notices related to the proposed rule, or links to the Indiana
- 12                  Register where these notices may be viewed;
- 13                  (3) how comments may be made;
- 14                  (4) the time within which comments may be made;
- 15                  (5) where comments and the agency's written response to those
- 16                  comments may be inspected;
- 17                  (6) the date, time, and place where a public hearing required
- 18                  under:
- 19                    (A) section 26 of this chapter; or
- 20                    (B) IC 13-14-9;
- 21                  will be held;
- 22                  (7) a description of relevant scientific and technical findings
- 23                  related to the proposed rule, if applicable; and
- 24                  (8) a reasonable estimate of the timetable for action, updated
- 25                  periodically as circumstances change, if necessary.
- 26                  (e) The agency shall maintain the rulemaking docket on the
- 27                  agency's ~~Internet web site.~~ **website.** The information must be in an
- 28                  open format that can be easily searched and downloaded. Access to the
- 29                  docket shall, to the extent feasible and permitted by law, provide an
- 30                  opportunity for public comment on the pertinent parts of the
- 31                  rulemaking docket, including relevant scientific and technical findings.
- 32                  Upon request, the agency shall provide a written rulemaking docket.
- 33                  SECTION 12. IC 4-22-2-22.7 IS ADDED TO THE INDIANA
- 34                  CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 35                  [EFFECTIVE JULY 1, 2023]: **Sec. 22.7. (a) Before complying with**
- 36                  **section 22.8 of this chapter, an agency shall conduct a regulatory**
- 37                  **analysis for the proposed rule. The regulatory analysis must**
- 38                  **evaluate whether the proposed rule does the following:**
- 39                    **(1) Minimizes expenses to:**
- 40                      **(A) regulated entities that are required to comply with**
- 41                      **the rule;**
- 42                      **(B) persons who pay taxes or pay fees for government**

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- 1 services affected by the rule; and
- 2 (C) consumers of products and services of regulated
- 3 entities affected by the rule.
- 4 (2) Achieves the regulatory goal in the least restrictive
- 5 manner.
- 6 (3) Has benefits that exceed the fiscal and economic costs of
- 7 the proposed rule.
- 8 (4) Avoids duplicating and conflicting standards with other
- 9 federal, state, or local laws, rules, regulations, or ordinances.
- 10 (5) Is written for ease of comprehension.
- 11 (6) Has practicable enforcement.
- 12 (b) The office of management and budget shall set standards
- 13 for the criteria, analytical method, treatment technology,
- 14 economic, fiscal, and other background data to be used by an
- 15 agency in the regulatory analysis. The regulatory analysis must be
- 16 submitted in a form that can be easily loaded into commonly used
- 17 business analysis software and published in the Indiana Register
- 18 using the format jointly developed by the publisher, the office of
- 19 management and budget, and the budget agency. The office of
- 20 management and budget may provide more stringent requirements
- 21 for rules with fiscal impacts and costs above a threshold amount
- 22 determined by the office of management and budget. At a
- 23 minimum, the regulatory analysis must include findings and any
- 24 supporting data, studies, or analyses prepared for a rule that
- 25 demonstrate compliance with the following:
- 26 (1) A requirement in IC 4-3-22-13 explaining how the
- 27 proposed rule meets the cost benefit requirements in
- 28 IC 4-3-22-13.
- 29 (2) A requirement in section 19.5 of this chapter to minimize
- 30 the expenses to regulated entities that are required to comply
- 31 with the rule.
- 32 (3) A statement justifying any requirement or cost that is:
- 33 (A) imposed on a regulated entity under the rule; and
- 34 (B) not expressly required by:
- 35 (i) the statute authorizing the agency to adopt the
- 36 rule; or
- 37 (ii) any other state or federal law.
- 38 The statement required under this subdivision must include
- 39 a reference to any data, studies, or analyses relied upon by
- 40 the agency in determining that the imposition of the
- 41 requirement or cost is necessary.
- 42 (4) A requirement in IC 4-22-2.1-5 to prepare a statement

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- 1 that describes the annual economic impact of a rule on all
- 2 small businesses after the rule is fully implemented.
- 3 (5) A requirement in IC 4-22-2.6 to conduct a review to
- 4 consider whether there are any alternative methods of
- 5 achieving the purpose of the rule that are less costly or less
- 6 intrusive, or that would otherwise minimize the economic
- 7 impact of the proposed rule on small businesses.
- 8 (6) A requirement in IC 13-14-9-3 or IC 13-14-9-4 to publish
- 9 information concerning the fiscal or economic impact of a
- 10 rule or alternatives to a rule subject to these provisions.
- 11 (7) A requirement in IC 13-14-9-3 or IC 13-14-9-4 to publish
- 12 information concerning differences between the rule and
- 13 federal law or the annual fiscal and economic impact of any
- 14 element of the proposed rule that imposes a restriction or
- 15 requirement that is more stringent than a restriction or
- 16 requirement imposed under federal law or that applies in a
- 17 subject area in which federal law does not impose
- 18 restrictions or requirements.
- 19 (8) A requirement under any other law to conduct an
- 20 analysis of the cost, benefits, economic impact, or fiscal
- 21 impact of a rule.
- 22 (c) If an agency has made a good faith effort to comply with
- 23 this section, a rule is not invalid solely because the regulatory
- 24 analysis for the proposed rule is insufficient or inaccurate.
- 25 SECTION 13. IC 4-22-2-22.8 IS ADDED TO THE INDIANA
- 26 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 27 [EFFECTIVE JULY 1, 2023]: Sec. 22.8. (a) After conducting a
- 28 regulatory analysis under section 22.7 of this chapter, if an agency
- 29 elects to adopt a rule subject to section 23 of this chapter or
- 30 IC 13-14-9, the agency shall submit a request to the budget agency
- 31 and the office of management and budget to authorize
- 32 commencement of the first and second public comment periods
- 33 under this chapter or IC 13-14-9 (as applicable). The request must
- 34 include the following:
- 35 (1) A general description of the subject matter of the
- 36 proposed rule.
- 37 (2) The full text of the proposed rule (including a copy of any
- 38 matter incorporated by reference under section 21 of this
- 39 chapter) in the form required by the publisher, including
- 40 citations to any related authorizing and affected Indiana
- 41 statutes.
- 42 (3) The analysis, including supporting data, prepared under

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1 section 22.7 of this chapter.  
 2 (4) Any other information required by the office of  
 3 management and budget.  
 4 (b) The budget agency and the office of management and  
 5 budget shall expedite the review of the request to adopt a rule. The  
 6 budget agency and the office of management and budget may do  
 7 the following:  
 8 (1) Return the request to the agency with a statement  
 9 describing any additional information needed to authorize or  
 10 disapprove further rulemaking actions on one (1) or more of  
 11 the rules in the request.  
 12 (2) Authorize the commencement of the first and second  
 13 public comment periods on one (1) or more of the rules in the  
 14 request with or without changes.  
 15 (3) Disapprove commencement of the first and second public  
 16 comment periods on one (1) or more of the rules with a  
 17 statement of reasons for the disapproval.  
 18 (c) If an agency has requested authorization for more than one  
 19 (1) rule in the same request, the budget agency and the office of  
 20 management and budget may make separate determinations with  
 21 respect to some or all of the rules in the request. Approval of a  
 22 request shall be treated as a determination that the review  
 23 conducted and findings made by the agency comply with the  
 24 requirements of section 22.7 of this chapter and this section.  
 25 (d) Notice of the determination shall be provided to the agency  
 26 in an electronic format required by the publisher. The budget  
 27 agency and the office of management and budget may return to the  
 28 agency any copy of a matter incorporated by reference under  
 29 section 21 of this chapter that was submitted with the request.  
 30 (e) If an agency revises a proposed rule after the budget  
 31 agency and the office of management and budget authorize  
 32 commencement of the first and second public comment periods, the  
 33 agency shall resubmit to the publisher, the budget agency, and the  
 34 office of management and budget a revised regulatory analysis  
 35 with sufficient information for the budget agency and the office of  
 36 management and budget to determine the impact the revisions  
 37 have on the regulatory analysis previously reviewed by the budget  
 38 agency and the office of management and budget.  
 39 SECTION 14. IC 4-22-2-23, AS AMENDED BY P.L.152-2012,  
 40 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2023]: Sec. 23. (a) This section does not apply to rules  
 42 adopted under IC 4-22-2-37.1. An agency may not adopt a proposed

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1 **rule until the agency has conducted at least two (2) public comment**  
 2 **periods, each of which must be at least thirty (30) days in length.**

3 (b) ~~At least twenty-eight (28) days before an agency notifies the~~  
 4 ~~public of the agency's intention to adopt a rule under section 24 of this~~  
 5 ~~chapter, the agency shall notify the public of its intention to adopt a~~  
 6 ~~rule by publishing a notice of intent to adopt a rule in the Indiana~~  
 7 ~~Register. An agency shall provide notice in the Indiana Register of~~  
 8 ~~the first public comment period required by subsection (a). To~~  
 9 ~~publish notice of the first comment period in the Indiana Register,~~  
 10 ~~the agency must submit the following to the publisher:~~

11 (1) ~~The full text of the agency's proposed rule (excluding the~~  
 12 ~~full text of a matter incorporated by reference under section~~  
 13 ~~21 of this chapter). The agency shall submit the rule in the~~  
 14 ~~form required by section 20 of this chapter and with the~~  
 15 ~~documents required by section 21 of this chapter.~~

16 (2) ~~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.~~

19 (3) ~~The determination of the budget agency and the office of~~  
 20 ~~management and budget authorizing commencement of the~~  
 21 ~~first and second public comment periods on the proposed~~  
 22 ~~rule.~~

23 (4) ~~The notice required under subsection (c).~~

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

26 (1) ~~A general description of the subject matter of the~~  
 27 ~~proposed rule.~~

28 (2) ~~An overview of the intent and scope of the proposed rule and~~  
 29 ~~the statutory authority for the rule.~~

30 (3) ~~The latest version of the regulatory analysis submitted to~~  
 31 ~~the budget agency and the office of management and budget~~  
 32 ~~under section 22.8 of this chapter, excluding any appendices~~  
 33 ~~containing any data, studies, or analysis referenced in the~~  
 34 ~~regulatory analysis.~~

35 (4) ~~Information concerning where, when, and how a person~~  
 36 ~~may submit written comments on the proposed rule,~~  
 37 ~~including contact information concerning the small business~~  
 38 ~~regulatory coordinator required by section 28.1 of this~~  
 39 ~~chapter.~~

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

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

4           **(7) An indication that the notice is for the first of two (2)**  
 5           **thirty (30) day periods in which the public may comment on**  
 6           **the proposed rule.**

7           **Inadequacy or insufficiency of the published description or**  
 8           **regulatory analysis published under this section does not invalidate**  
 9           **a rulemaking action.**

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

12           (d) In addition to the procedures required by this article, an agency  
 13           may solicit comments from the public on the need for a rule, the  
 14           drafting of a rule, or any other subject related to a rulemaking action,  
 15           including members of the public who are likely to be affected because  
 16           they are the subject of the potential rulemaking or are likely to benefit  
 17           from the potential rulemaking. The procedures that the agency may use  
 18           include the holding of conferences and the inviting of written  
 19           suggestions, facts, arguments, or views.

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

24           (d) The publisher shall review materials submitted under this  
 25           section and determine the date that the publisher intends to publish  
 26           the text of the proposed rule and the notice in the Indiana Register.  
 27           If the submitted material complies with this section, the publisher  
 28           shall establish the intended publication date, assign a document  
 29           control number to the proposed rule, and provide a written or an  
 30           electronic mail authorization to proceed to the agency. The  
 31           publisher shall publish the following in the Indiana Register on the  
 32           intended publication date:

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

34           **(2) The full text of the agency's proposed rule (excluding the**  
 35           **full text of a matter incorporated by reference under section**  
 36           **21 of this chapter).**

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

41           (b) Before or after an agency notifies the public of its intention to  
 42           adopt a rule under section 24 of this chapter, submits a request to the



1 **budget agency and the office of management and budget under**  
2 **section 22.8 of this chapter**, the agency may solicit comments from all  
3 or any segment of the public on the need for a rule, the drafting of a  
4 rule, or any other subject related to a rulemaking action. The  
5 procedures that the agency may use include the holding of conferences  
6 and the inviting of written suggestions, facts, arguments, or views. An  
7 agency's failure to consider comments received under this section does  
8 not invalidate a rule subsequently adopted.

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

- 14 **(1) one (1) newspaper of general circulation in Marion**  
15 **County; and**
- 16 **(2) the Indiana Register;**

17 **of the second public comment period required by section 23 of this**  
18 **chapter.**

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

- 24 **(1) A general description of the subject matter of the**  
25 **proposed rule.**
- 26 **(2) Information indicating that the text of the proposed rule**  
27 **has been published in the Indiana Register and where on the**  
28 **Internet and by what document control number the**  
29 **proposed rule can be found.**
- 30 **(3) A statement of the date, time, and place at which the**  
31 **public hearing required by section 26 of this chapter will be**  
32 **convened.**
- 33 **(4) Information concerning where, when, and how a person**  
34 **may provide written comments on the proposed rule,**  
35 **including contact information concerning the small business**  
36 **regulatory coordinator required by section 28.1 of this**  
37 **chapter.**
- 38 **(5) Information concerning where, when, and how a person**  
39 **may inspect and copy the agency's regulatory analysis, and**  
40 **any supporting data, studies, or analyses for the proposed**  
41 **rule.**
- 42 **(6) Information concerning where, when, and how a person**

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1           **may inspect any documents incorporated by reference into**  
2           **the proposed rule under section 21 of this chapter.**

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

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

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

22           **(2) Either a statement indicating that no changes in the**  
23           **regulatory analysis have been made from the version of the**  
24           **regulatory analysis published under section 23 of this**  
25           **chapter or the latest version of the regulatory analysis**  
26           **submitted to the budget agency and the office of**  
27           **management and budget under section 22.8 of this chapter,**  
28           **if any changes have been made in the regulatory analysis**  
29           **after submitting the material under section 23 of this**  
30           **chapter.**

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

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

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

37           (2) A general description of the subject matter of the proposed  
38           rule.

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

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

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

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- 1 (i) the statute authorizing the agency to adopt the rule;
- 2 or
- 3 (ii) any other state or federal law.
- 4 The statement required under this subdivision must include a
- 5 reference to any data, studies, or analyses relied upon by the
- 6 agency in determining that the imposition of the requirement or
- 7 cost is necessary.
- 8 (4) an explanation that:
- 9 (A) the proposed rule; and
- 10 (B) any data, studies, or analysis referenced in a statement
- 11 under subdivision (3);
- 12 may be inspected and copied at the office of the agency.
- 13 (3) A summary of the written comments received by the
- 14 agency during the first comment period and a summary of
- 15 the response of the agency to written comments submitted
- 16 under section 23 of this chapter during the first public
- 17 comment period.
- 18 (4) Either a statement indicating that no changes in the
- 19 regulatory analysis have been made from the version of the
- 20 regulatory analysis published under section 23 of this
- 21 chapter or the latest version of the regulatory analysis
- 22 (excluding any appendices containing any data, studies, or
- 23 analysis referenced in the regulatory analysis) submitted to
- 24 the budget agency and the office of management and budget
- 25 under section 22.8 of this chapter, if any changes have been
- 26 made in the regulatory analysis after submitting the material
- 27 to the publisher under section 23 of this chapter.
- 28 (5) An explanation of any differences between the text of the
- 29 proposed rule published for the first comment period under
- 30 section 23 of this chapter and the text of the proposed rule
- 31 published for the second comment period under this section.
- 32 (6) Information concerning where, when, and how a person
- 33 may submit written comments on the proposed rule,
- 34 including contact information concerning the small business
- 35 regulatory coordinator required by section 28.1 of this
- 36 chapter.
- 37 (7) Information concerning where, when, and how a person
- 38 may inspect and copy the regulatory analysis and any data,
- 39 studies, or analyses referenced in a regulatory analysis
- 40 referenced in subdivision (4).
- 41 (8) Information concerning where, when, and how a person
- 42 may inspect any documents incorporated by reference into

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1           **the proposed rule under section 21 of this chapter.**

2           **(9) An indication that the notice is for the second of two (2)**  
 3           **thirty (30) day periods in which the public may comment on**  
 4           **the proposed rule and that following the second comment**  
 5           **period the agency may adopt a version of the proposed rule**  
 6           **that is the same as or does not substantially differ from the**  
 7           **text of the proposed rule published under this section.**

8           However, inadequacy or insufficiency of the ~~subject matter~~ description  
 9           under subdivision (2) or a statement of justification under subdivision  
 10          (3) or regulatory analysis in a notice **published under this section**  
 11          does not invalidate a rulemaking action.

12          (e) Although the agency may comply with the publication  
 13          requirements in this section on different days, the agency must comply  
 14          with all of the publication requirements in this section at least  
 15          ~~twenty-one (21)~~ **thirty (30)** days before the public hearing required by  
 16          section 26 of this chapter is convened.

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

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

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

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

25          **the publisher shall If the submitted material complies with this**  
 26          **section, the publisher shall establish the intended publication date,**  
 27          **assign a document control number to the proposed rule, and**  
 28          provide a written or an electronic mail authorization to proceed to the  
 29          agency. **The publisher shall publish the following in the Indiana**  
 30          **Register on the intended publication date:**

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

32                 **(2) The full text of the agency's proposed rule (excluding the**  
 33                 **full text of a matter incorporated by reference under section**  
 34                 **21 of this chapter).**

35          SECTION 17. IC 4-22-2-25, AS AMENDED BY P.L.5-2015,  
 36          SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37          JULY 1, 2023]: Sec. 25. (a) An agency has one (1) year from the date  
 38          that it publishes a notice of intent to adopt a rule in the Indiana Register  
 39          ~~under section 23 of this chapter to comply with sections 26 through 33~~  
 40          ~~of this chapter of the first public comment period under section 23~~  
 41          **of this chapter to comply with sections 23 through 33 of this**  
 42          **chapter and obtain the approval or deemed approval of the governor.**

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1 If an agency determines that a rule cannot be adopted within one (1)  
 2 year after the publication of the notice of ~~intent to adopt a rule~~ **the first**  
 3 **public comment period** under section 23 of this chapter, the agency  
 4 shall, before the two hundred fiftieth day following the publication of  
 5 the notice of ~~intent to adopt a rule~~ **the first public comment period**  
 6 under section 23 of this chapter, notify the publisher by electronic  
 7 means:

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

10 (2) the expected date the rule will be approved or deemed  
 11 approved by the governor or withdrawn under section 41 of this  
 12 chapter.

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

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

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

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

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

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

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1 **summaries with the final adopted and approved rule.**

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

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

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

11 (b) The ombudsman:

12 (1) shall review a proposed rule that

13 (A) imposes requirements or costs on small businesses (as  
14 defined in IC 4-22-2.1-4); and

15 (B) is referred to the ombudsman by an agency under  
16 IC 4-22-2.1-5(c); and

17 (2) may review a proposed rule that imposes requirements or  
18 costs on businesses other than small businesses (as defined in  
19 IC 4-22-2.1-4).

20 After conducting a review under subdivision (1) or (2), the ombudsman  
21 may suggest alternatives to reduce any regulatory burden that the  
22 proposed rule imposes on small businesses or other businesses. The  
23 agency that intends to adopt the proposed rule shall respond in writing  
24 to the ombudsman concerning the ombudsman's comments or  
25 suggested alternatives before adopting the proposed rule under section  
26 29 of this chapter.

27 (c) Subject to subsection (e) and not later than fifty (50) days  
28 before the public hearing for a proposed rule required by section 26 of  
29 this chapter, an agency shall submit the proposed rule to the office of  
30 management and budget for a review under subsection (d); if the  
31 agency proposing the rule determines that the rule will have a total  
32 estimated economic impact greater than five hundred thousand dollars  
33 (\$500,000) on all regulated persons. In determining the total estimated  
34 economic impact under this subsection, the agency shall consider any  
35 applicable information submitted by the regulated persons affected by  
36 the rule. To assist the office of management and budget in preparing  
37 the fiscal impact statement required by subsection (d), the agency shall  
38 submit, along with the proposed rule, the data used and assumptions  
39 made by the agency in determining the total estimated economic  
40 impact of the rule.

41 (d) Except as provided in subsection (e), before the adoption of the

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1 rule; and not more than forty-five (45) days after receiving a proposed  
 2 rule under subsection (c); the office of management and budget shall  
 3 prepare; using the data and assumptions provided by the agency  
 4 proposing the rule; along with any other data or information available  
 5 to the office of management and budget; a fiscal impact statement  
 6 concerning the effect that compliance with the proposed rule will have  
 7 on:

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

10 The fiscal impact statement must contain the total estimated economic  
 11 impact of the proposed rule and a determination concerning the extent  
 12 to which the proposed rule creates an unfunded mandate on a state  
 13 agency or political subdivision. The fiscal impact statement is a public  
 14 document. The office of management and budget shall make the fiscal  
 15 impact statement available to interested parties upon request and to the  
 16 agency proposing the rule. The agency proposing the rule shall  
 17 consider the fiscal impact statement as part of the rulemaking process  
 18 and shall provide the office of management and budget with the  
 19 information necessary to prepare the fiscal impact statement; including  
 20 any economic impact statement prepared by the agency under  
 21 IC 4-22-2.1-5. The office of management and budget may also receive  
 22 and consider applicable information from the regulated persons  
 23 affected by the rule in preparation of the fiscal impact statement.

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

- 25 (1) the department of environmental management shall give  
 26 written notice to the office of management and budget of the  
 27 proposed date of preliminary adoption of the proposed rule not  
 28 less than sixty-six (66) days before that date; and
- 29 (2) the office of management and budget shall prepare the fiscal  
 30 impact statement referred to in subsection (d) not later than  
 31 twenty-one (21) days before the proposed date of preliminary  
 32 adoption of the proposed rule.

33 (f) In determining whether a proposed rule has a total estimated  
 34 economic impact greater than five hundred thousand dollars  
 35 (\$500,000); the agency proposing the rule shall consider the impact of  
 36 the rule on any regulated person that already complies with the  
 37 standards imposed by the rule on a voluntary basis.

38 (g) For purposes of this section; a rule is fully implemented after:

- 39 (1) the conclusion of any phase-in period during which:
  - 40 (A) the rule is gradually made to apply to certain regulated  
 41 persons; or

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1 (B) the costs of the rule are gradually implemented; and  
2 (2) the rule applies to all regulated persons that will be affected  
3 by the rule:

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

12 (h) An agency shall provide the legislative council in an electronic  
13 format under IC 5-14-6 with any analysis, data, and description of  
14 assumptions submitted to the office of management and budget under  
15 this section or section 40 of this chapter at the same time the agency  
16 submits the information to the office of management and budget. The  
17 office of management and budget shall provide the legislative council  
18 in an electronic format under IC 5-14-6 any fiscal impact statement and  
19 related supporting documentation prepared by the office of  
20 management and budget under this section or section 40 of this chapter  
21 at the same time the office of management and budget provides the  
22 fiscal impact statement to the agency proposing the rule. Information  
23 submitted under this subsection must identify the rule to which the  
24 information is related by document control number assigned by the  
25 publisher:

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

- 31 (1) a requirement in section 19.5 of this chapter to minimize the
- 32 expenses to regulated entities that are required to comply with
- 33 the rule;
- 34 (2) a requirement in section 24 of this chapter to publish a
- 35 justification of any requirement or cost that is imposed on a
- 36 regulated entity under the rule;
- 37 (3) a requirement in IC 4-22-2.1-5 to prepare a statement that
- 38 describes the annual economic impact of a rule on all small
- 39 businesses after the rule is fully implemented;
- 40 (4) a requirement in IC 4-22-2.5-3.1 to conduct a review to
- 41 consider whether there are any alternative methods of achieving

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1 the purpose of the rule that are less costly or less intrusive; or  
 2 that would otherwise minimize the economic impact of the  
 3 proposed rule on small businesses;

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

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

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

15 SECTION 21. IC 4-22-2-28.1, AS AMENDED BY P.L.237-2017,  
 16 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2023]: Sec. 28.1. (a) This section applies to the following:

18 (1) A rule for which the notice required by section 23 of this  
 19 chapter or by IC 13-14-9-3 is published by an agency or the  
 20 board (as defined in IC 13-13-8-1).

21 (2) A rule for which:

22 (A) the notice required by IC 13-14-9-3; or

23 (B) an appropriate later notice for circumstances described  
 24 in subsection (g);

25 is published by the department of environmental management  
 26 after June 30, 2006.

27 (b) As used in this section, "coordinator" refers to the small  
 28 business regulatory coordinator assigned to a rule by an agency under  
 29 subsection (e).

30 (c) As used in this section, "director" refers to the director or other  
 31 administrative head of an agency.

32 (d) As used in this section, "small business" has the meaning set  
 33 forth in IC 5-28-2-6.

34 (e) For each rulemaking action and rule finally adopted as a result  
 35 of a rulemaking action by an agency under this chapter, the agency  
 36 shall assign one (1) staff person to serve as the agency's small business  
 37 regulatory coordinator with respect to the proposed or adopted rule.  
 38 The agency shall assign a staff person to a rule under this subsection  
 39 based on the person's knowledge of, or experience with, the subject  
 40 matter of the rule. A staff person may serve as the coordinator for more  
 41 than one (1) rule proposed or adopted by the agency if the person is

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1 qualified by knowledge or experience with respect to each rule. Subject  
2 to subsection (f):

3 (1) in the case of a proposed rule, the notice of ~~intent to adopt~~  
4 **the rule the first public comment period** published under  
5 section 23 of this chapter; or

6 (2) in the case of a rule proposed by the department of  
7 environmental management or the board (as defined in  
8 IC 13-13-8-1), the notice published under IC 13-14-9-3 or the  
9 findings published under IC 13-14-9-8(b)(1), whichever applies;  
10 must include the name, address, telephone number, and electronic mail  
11 address of the small business coordinator for the proposed rule, the  
12 name, address, telephone number, and electronic mail address of the  
13 small business ombudsman designated under IC 5-28-17-6, and a  
14 statement of the resources available to regulated entities through the  
15 small business ombudsman designated under IC 5-28-17-6. Subject to  
16 subsection (f), in the case of a rule finally adopted, the final rule, as  
17 published in the Indiana Register, must include the name, address,  
18 telephone number, and electronic mail address of the coordinator.

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

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

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

30 (3) if applicable, a statement of:

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

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

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

38 The coordinator assigned to the rule under subsection (e) shall work  
39 with the ombudsman described in subdivision (2) and the office of  
40 voluntary compliance established by IC 13-28-1-1 to coordinate the  
41 provision of services required under subsection (h) and IC 13-28-3. If

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1 applicable, the coordinator assigned to the rule under subsection (e)  
2 shall work with the ombudsman referred to in subdivision (3)(B) to  
3 coordinate the provision of services required under subsection (h) and  
4 IC 13-28-5.

5 (g) If the notice provided under IC 13-14-9-3 is not published as  
6 allowed by IC 13-14-9-7, the department of environmental  
7 management shall publish in the notice provided under IC 13-14-9-4  
8 the information that subsection (f) would otherwise require to be  
9 published in the notice under IC 13-14-9-3. If neither the notice under  
10 IC 13-14-9-3 nor the notice under IC 13-14-9-4 is published as allowed  
11 by IC 13-14-9-8, the department of environmental management shall  
12 publish in the commissioner's written findings under IC 13-14-9-8(b)  
13 the information that subsection (f) would otherwise require to be  
14 published in the notice under IC 13-14-9-3.

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

19 (1) Any requirements imposed by the rule, including any  
20 reporting, record keeping, or accounting requirements.

21 (2) How the agency determines or measures compliance with the  
22 rule, including any deadlines for action by regulated entities.

23 (3) Any penalties, sanctions, or fines imposed for noncompliance  
24 with the rule.

25 (4) Any other concerns of small businesses with respect to the  
26 rule, including the agency's application or enforcement of the  
27 rule in particular situations. However, in the case of a rule  
28 adopted under IC 13-14-9, the coordinator assigned to the rule  
29 may refer a small business with concerns about the application  
30 or enforcement of the rule in a particular situation to the  
31 ombudsman designated under IC 13-28-3-2 or, if applicable,  
32 under IC 13-28-5-2(3).

33 (i) The coordinator assigned to a rule under subsection (e) shall  
34 provide guidance under this section in response to questions and  
35 concerns expressed by small businesses affected by the rule. The  
36 coordinator may also issue general guidelines or informational  
37 pamphlets to assist small businesses in complying with the rule. Any  
38 guidelines or informational pamphlets issued under this subsection  
39 shall be made available:

40 (1) for public inspection and copying at the offices of the agency  
41 under IC 5-14-3; and

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- 1 (2) electronically through electronic gateway access.
- 2 (j) The coordinator assigned to a rule under subsection (e) shall
- 3 keep a record of all comments, questions, and complaints received
- 4 from small businesses with respect to the rule. The coordinator shall
- 5 deliver the record, along with any accompanying documents submitted
- 6 by small businesses, to the director:
- 7 (1) not later than ten (10) days after the date on which the rule is
- 8 submitted to the publisher under section 35 of this chapter; and
- 9 (2) before July 15 of each year during which the rule remains in
- 10 effect.
- 11 The coordinator and the director shall keep confidential any
- 12 information concerning a small business to the extent that the
- 13 information is exempt from public disclosure under IC 5-14-3-4.
- 14 (k) Not later than November 1 of each year, the director shall:
- 15 (1) compile the records received from all of the agency's
- 16 coordinators under subsection (j);
- 17 (2) prepare a report that sets forth:
- 18 (A) the number of comments, complaints, and questions
- 19 received by the agency from small businesses during the
- 20 most recent state fiscal year, categorized by the subject
- 21 matter of the rules involved;
- 22 (B) the number of complaints or questions reported under
- 23 clause (A) that were resolved to the satisfaction of the
- 24 agency and the small businesses involved;
- 25 (C) the total number of staff serving as coordinators under
- 26 this section during the most recent state fiscal year;
- 27 (D) the agency's costs in complying with this section during
- 28 the most recent state fiscal year; and
- 29 (E) the projected budget required by the agency to comply
- 30 with this section during the current state fiscal year; and
- 31 (3) deliver the report to the legislative council in an electronic
- 32 format under IC 5-14-6 and to the small business ombudsman
- 33 designated under IC 5-28-17-6.
- 34 SECTION 22. IC 4-22-2-29, AS AMENDED BY P.L.237-2017,
- 35 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 36 JULY 1, 2023]: Sec. 29. (a) As used in this section, "small business
- 37 ombudsman" refers to the small business ombudsman designated under
- 38 IC 5-28-17-6.
- 39 (b) After an agency has complied with sections ~~26, 27, and 22.8~~
- 40 **through** 28 of this chapter, the agency may:
- 41 (1) adopt a rule that is identical to a proposed rule published in

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- 1 the Indiana Register under section 24 of this chapter;
- 2 (2) subject to subsection (c), adopt a rule that consolidates part
- 3 or all of two (2) or more proposed rules published in the Indiana
- 4 Register under section 24 of this chapter and considered under
- 5 section 27 of this chapter;
- 6 (3) subject to subsection (c), adopt part of one (1) or more
- 7 proposed rules described in subdivision (2) in two (2) or more
- 8 separate adoption actions; or
- 9 (4) subject to subsection (c), adopt a revised version of a
- 10 proposed rule published under section 24 of this chapter and
- 11 include provisions that did not appear in the published version,
- 12 including any provisions recommended by the small business
- 13 ombudsman under IC 4-22-2.1-6(a), if applicable.

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

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

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

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

34 The attorney general may require the agency to submit any supporting  
 35 documentation that the attorney general considers necessary for the  
 36 attorney general's review under section 32 of this chapter. The agency  
 37 may submit any additional supporting documentation the agency  
 38 considers necessary.

39 SECTION 24. IC 4-22-2-37.1, AS AMENDED BY P.L.140-2013,  
 40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2023]: Sec. 37.1. (a) The following do not apply to a rule

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1 adopted under this section:

2 (1) Sections ~~24~~ 23 through ~~36~~ 27 of this chapter

3 ~~(2)~~ or IC 13-14-9 (as applicable).

4 (2) Sections 28 through 36 of this chapter.

5 **The amendments to this section made in the 2023 regular session**  
 6 **of the general assembly apply to emergency rules that are accepted**  
 7 **for filing by the publisher of the Indiana Register after June 30,**  
 8 **2023, regardless of whether the adopting agency initiated official**  
 9 **action to adopt the emergency rule before July 1, 2023. An action**  
 10 **taken before July 1, 2023, in conformity with this section (as**  
 11 **effective after June 30, 2023) is validated to the same extent as if**  
 12 **the action was taken after June 30, 2023.**

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

17 ~~(1) under this section; or~~

18 ~~(2) in the manner provided by this section.~~

19 **the governor finds that the agency proposing to adopt the rule has**  
 20 **demonstrated to the satisfaction of the governor that use of**  
 21 **emergency rulemaking procedures under this section is necessary**  
 22 **to avoid:**

23 (1) **an imminent and substantial peril to public health, safety,**  
 24 **or welfare;**

25 (2) **an imminent and material loss of federal funds for an**  
 26 **agency program;**

27 (3) **an imminent and material deficit; or**

28 (4) **an imminent and substantial violation of a state or federal**  
 29 **law or the terms of a federal agreement or program.**

30 **To obtain a determination from the governor, an agency must**  
 31 **submit to the governor the text of the proposed emergency rule, a**  
 32 **statement justifying the need for emergency rulemaking**  
 33 **procedures, and any additional information required by the**  
 34 **governor in the form and in the manner required by the governor.**  
 35 **A notice of determination by the governor shall include findings**  
 36 **that explain the basis for the determination. The notice of**  
 37 **determination shall be provided to the agency in an electronic**  
 38 **format. Approval of a request shall be treated as a determination**  
 39 **that the rule meets the criteria in this subsection.**

40 (c) ~~After an agency adopts a rule under this section, the governor~~  
 41 **approves emergency rulemaking procedures for a rule, the agency**  
 42 **shall submit the rule to the publisher for the assignment of obtain a**



1 document control number. The agency shall submit the rule in the form  
 2 required by section 20 of this chapter and with the documents required  
 3 by section 21 of this chapter: **from the publisher.** The publisher shall  
 4 determine the **documents and the** format of the rule and other  
 5 documents ~~to that must be submitted under this subsection: to the~~  
 6 **publisher to obtain a document control number.**

7 (d) After the document control number has been assigned **and the**  
 8 **agency adopts the rule,** the agency shall submit the rule **following** to  
 9 the publisher for filing:

10 (1) **The text of the adopted emergency rule.** The agency shall  
 11 submit the **emergency** rule in the form required by section 20 of  
 12 this chapter. ~~and with~~

13 (2) **A signature page that indicates that the agency has**  
 14 **adopted the emergency rule in conformity with all**  
 15 **procedures required by law.**

16 (3) **The approval of the governor to use emergency**  
 17 **rulemaking procedures for the rule.**

18 (4) The documents required by section 21 of this chapter.

19 The publisher shall determine the format of the **emergency** rule and  
 20 other documents to be submitted under this subsection. **The**  
 21 **substantive text of the adopted emergency rule must be**  
 22 **substantially similar to the text of the proposed emergency rule**  
 23 **submitted to the governor. An emergency rule may suspend but not**  
 24 **repeal a rule approved by the governor under section 34 of this**  
 25 **chapter.**

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

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

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

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

33 (f) ~~A~~ **An emergency** rule adopted by an agency under this section  
 34 takes effect on the latest of the following dates:

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

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

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

41 (4) The date of compliance with every requirement established

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1 by law as a prerequisite to the adoption or effectiveness of the  
2 **emergency rule.**

3 (5) The statutory effective date for an emergency rule set forth  
4 in the statute authorizing the agency to adopt emergency rules:  
5 **law.**

6 (g) Unless otherwise provided by the statute authorizing adoption  
7 of the rule:

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

11 (2) a rule adopted under this section may be extended by  
12 adopting another rule under this section, but only for one (1)  
13 extension period; and

14 (3) for a rule adopted under this section to be effective after one  
15 (1) extension period, the rule must be adopted under:

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

17 (B) IC 13-14-9;

18 as applicable.

19 (g) An agency may amend an emergency rule with another  
20 emergency rule by following the procedures in this section for the  
21 amending emergency rule. However, unless otherwise provided by  
22 IC 4-22-2.3, an emergency rule and all amendments of an  
23 emergency rule by another emergency rule expire not later than  
24 one hundred eighty (180) days after the initial emergency rule is  
25 accepted for filing under subsection (e). The subject of the  
26 emergency rule, including all amendments to the emergency rule,  
27 may not be subsequently extended under this section or section  
28 37.2 of this chapter. If the governor determines that the emergency  
29 that is the basis for using the procedures under this section ceases  
30 to exist, the governor may terminate the emergency rule before the  
31 lapse of one hundred eighty (180) days. The termination is effective  
32 when filed with the publisher. The publisher shall publish the  
33 termination notice in the Indiana Register.

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

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

38 (h) Subject to subsection (i), the attorney general or the  
39 governor may file an objection to an emergency rule that is  
40 adopted under this section not later than forty-five (45) days after  
41 the date that an emergency rule or amendment to an emergency  
42 rule is accepted for filing under subsection (e). The objection must



1 cite the document control number for the affected emergency rule  
 2 and state the basis for the objection. When filed with the publisher,  
 3 the objection has the effect of invalidating the emergency rule or  
 4 amendment to an emergency rule. The publisher shall publish the  
 5 objection in the Indiana Register.

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

- 9 (1) without statutory authority; or  
 10 (2) without complying with this section.

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

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

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

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

30 (b) An agency may adopt a rule on a subject for which the  
 31 agency has rulemaking authority with a single comment period of  
 32 at least thirty (30) days in length using the procedures in this  
 33 section if the governor finds that the agency proposing to adopt the  
 34 rule has demonstrated to the satisfaction of the governor that use  
 35 of interim rulemaking procedures under this section is necessary  
 36 to implement:

- 37 (1) a new state or federal law or program, rule of another  
 38 state agency, federal regulation, or federal grant or loan  
 39 agreement, or (if used by the agency to carry out the  
 40 agency's responsibilities) a building, an equipment, a  
 41 firefighting, a safety, or a professional code adopted by a  
 42 nationally recognized organization; or



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1           (2) a change in a new state or federal law or program, rule of  
 2           another state agency, federal regulation, federal grant or  
 3           loan agreement, or (if used by the agency to carry out the  
 4           agency's responsibilities) a building, an equipment, a  
 5           firefighting, a safety, or a professional code adopted by a  
 6           nationally recognized organization;

7           before the time that a final rule approved by the governor under  
 8           section 34 of this chapter could reasonably take effect. To obtain a  
 9           determination from the governor, an agency must submit to the  
 10          governor the text of the proposed interim rule, a statement  
 11          justifying the need for interim rulemaking procedures, and any  
 12          additional information required by the governor in the form and  
 13          in the manner required by the governor. A notice of determination  
 14          by the governor shall include findings that explain the basis for the  
 15          determination. The notice of determination shall be provided to the  
 16          agency in an electronic format. Approval of a request shall be  
 17          treated as a determination that the rule meets the criteria in this  
 18          subsection.

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

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

33               (1) A general description of the subject matter of the  
 34               proposed interim rule, including the document control  
 35               number.

36               (2) A statement justifying any requirement or cost that is:  
 37                   (A) imposed on a regulated entity under the interim  
 38                   rule; and  
 39                   (B) not expressly required by the statute authorizing the  
 40                   agency to adopt rules or any other state or federal law.

41               The statement required under this subdivision must include  
 42               a reference to any data, studies, or analyses relied upon by



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1 the agency in determining that the imposition of the  
 2 requirement or cost is necessary and where and how a  
 3 person may inspect and copy or electronically download the  
 4 data, studies, or analyses.

5 (3) A date that is thirty (30) days after the notice is published  
 6 in the Indiana Register by which written comments are due  
 7 and a statement explaining that any person may submit  
 8 written comments concerning the proposed expedited rule  
 9 during the public comment period and instructions on when,  
 10 where, and how the person may submit written comments.

11 However, inadequacy or insufficiency of the subject matter  
 12 description under subdivision (1) or a statement of justification  
 13 under subdivision (2) in a notice does not invalidate a rulemaking  
 14 action. An agency may continue the comment period by publishing  
 15 a subsequent notice in the Indiana Register extending the comment  
 16 period.

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

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

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

26 (2) adopt a revised version of a proposed interim rule  
 27 published under this section and include provisions that did  
 28 not appear in the initially published proposed version.

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

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

36 (1) The text of the adopted interim rule. The agency shall  
 37 submit the interim rule in the form required by section 20 of  
 38 this chapter.

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

42 (3) A signature page that indicates that the agency has

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- 1           **adopted the interim rule in conformity with all procedures**  
 2           **required by law.**  
 3           **(4) The approval of the governor to use interim rulemaking**  
 4           **procedures for the rule.**  
 5           **(5) The documents required by section 21 of this chapter.**  
 6           **The publisher shall determine the format of the interim rule and**  
 7           **other documents to be submitted under this subsection. An interim**  
 8           **rule may suspend but not repeal a rule approved by the governor**  
 9           **under section 34 of this chapter.**  
 10           **(h) Subject to subsection (g) and section 39 of this chapter, the**  
 11           **publisher shall:**  
 12               **(1) accept the rule for filing;**  
 13               **(2) electronically record the date and time that the rule is**  
 14               **accepted; and**  
 15               **(3) publish the text of the adopted interim rule and the**  
 16               **governor's approval in the Indiana Register.**  
 17           **(i) An interim rule adopted by an agency under this section**  
 18           **takes effect on the latest of the following dates:**  
 19               **(1) The effective date of the statute delegating authority to**  
 20               **the agency to adopt the interim rule.**  
 21               **(2) The date and time that the interim rule is accepted for**  
 22               **filing under subsection (h).**  
 23               **(3) The effective date stated by the adopting agency in the**  
 24               **interim rule.**  
 25               **(4) The date of compliance with every requirement**  
 26               **established by law as a prerequisite to the adoption or**  
 27               **effectiveness of the interim rule.**  
 28               **(5) The statutory effective date for an interim rule set forth**  
 29               **in law.**  
 30           **(j) An agency may amend an interim rule with another interim**  
 31           **rule by following the procedures in this section for adoption of an**  
 32           **interim rule. An interim rule and all subsequent rules on the same**  
 33           **subject adopted under section 37.1 or 37.3 of this chapter or this**  
 34           **section expire not later than four hundred twenty-five (425) days**  
 35           **after the initial interim rule is accepted for filing under subsection**  
 36           **(h). The interim rule, including all subsequent interim rules**  
 37           **adopted under section 37.1 or 37.3 of this chapter or this section on**  
 38           **the same subject, may not be subsequently extended under section**  
 39           **37.1 or 37.3 of this chapter or this section after four hundred**  
 40           **twenty-five (425) days.**  
 41           **(k) Subject to subsection (l), the attorney general or the**  
 42           **governor may file an objection to an interim rule that is adopted**

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1 under this section not later than forty-five (45) days after the date  
 2 that an interim rule or amendment to an interim rule is accepted  
 3 for filing under subsection (h). The objection must cite the  
 4 document control number for the affected interim rule and state  
 5 the basis for the objection. When filed with the publisher, the  
 6 objection has the effect of invalidating the interim rule or  
 7 amendment to an interim rule. The publisher shall publish the  
 8 objection in the Indiana Register.

9 (l) The attorney general may file a written objection to an  
 10 interim rule under subsection (k) only if the attorney general  
 11 determines that the interim rule has been adopted:

12 (1) without statutory authority; or

13 (2) without complying with this section.

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

18 SECTION 26. IC 4-22-2-37.3 IS ADDED TO THE INDIANA  
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 20 [EFFECTIVE JULY 1, 2023]: Sec. 37.3. (a) The following do not  
 21 apply to a rule adopted under this section:

22 (1) Sections 23 through 27 of this chapter or IC 13-14-9 (as  
 23 applicable).

24 (2) Sections 28 through 36 of this chapter.

25 (b) An agency may adopt a rule described in IC 4-22-2.3 with  
 26 a single comment period of at least thirty (30) days in length using  
 27 the procedures in this section if the governor finds that the agency  
 28 proposing to adopt the rule has demonstrated to the satisfaction of  
 29 the governor that use of expedited rulemaking procedures under  
 30 this section is appropriate for a rule described in IC 4-22-2.3.

31 To obtain a determination from the governor, an agency must  
 32 submit to the governor the text of the proposed expedited rule, a  
 33 statement justifying the need for expedited rulemaking procedures,  
 34 and any additional information required by the governor in the  
 35 form and in the manner required by the governor. A notice of  
 36 determination by the governor shall include findings that explain  
 37 the basis for the determination. The notice of determination shall  
 38 be provided to the agency in an electronic format. Approval of a  
 39 request shall be treated as a determination that the rule meets the  
 40 criteria in this subsection.

41 (c) An agency shall notify the public of its intention to adopt a  
 42 rule by complying with the publication requirements in this

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1 section. The agency shall cause a notice of a public comment period  
 2 and the full text of the agency's proposed expedited rule (excluding  
 3 the full text of a matter incorporated by reference under section 21  
 4 of this chapter) to be published once in the Indiana Register. The  
 5 publisher shall review materials submitted under this section and  
 6 determine the date that the publisher intends to include the  
 7 material in the Indiana Register. After establishing the intended  
 8 publication date and receiving the public comment period  
 9 information from the agency, the publisher shall provide a written  
 10 or an electronic mail authorization to proceed to the agency.

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

13 (1) A general description of the subject matter of the  
 14 proposed expedited rule, including the document control  
 15 number.

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

17 (A) imposed on a regulated entity under the expedited  
 18 rule; and

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

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

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

33 However, inadequacy or insufficiency of the subject matter  
 34 description under subdivision (1) or a statement of justification  
 35 under subdivision (2) in a notice does not invalidate a rulemaking  
 36 action. An agency may continue the comment period by publishing  
 37 a subsequent notice in the Indiana Register extending the comment  
 38 period.

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

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

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

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

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

- 15 (1) The text of the adopted expedited rule. The agency shall
- 16 submit the expedited rule in the form required by section 20
- 17 of this chapter.
- 18 (2) A summary of the comments received by the agency
- 19 during the comment period and the agency's response to the
- 20 comments.
- 21 (3) A signature page that indicates that the agency has
- 22 adopted the expedited rule in conformity with all procedures
- 23 required by law.
- 24 (4) The approval of the governor to use expedited
- 25 rulemaking procedures for the rule.
- 26 (5) The documents required by section 21 of this chapter.

27 The publisher shall determine the format of the expedited rule and  
28 other documents to be submitted under this subsection. The  
29 substantive text of the adopted expedited rule must be substantially  
30 similar to the text of the proposed expedited rule submitted to the  
31 governor. An expedited rule may suspend but not repeal a rule  
32 approved by the governor under section 34 of this chapter.

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

- 35 (1) accept the expedited rule for filing;
- 36 (2) electronically record the date and time that the expedited
- 37 rule is accepted; and
- 38 (3) publish the text of the adopted expedited rule and the
- 39 governor's approval in the Indiana Register.

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

- 42 (1) The effective date of the statute delegating authority to

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- 1           the agency to adopt the expedited rule.
- 2           **(2) The date and time that the expedited rule is accepted for**
- 3           **filing under subsection (h).**
- 4           **(3) The effective date stated by the adopting agency in the**
- 5           **expedited rule.**
- 6           **(4) The date of compliance with every requirement**
- 7           **established by law as a prerequisite to the adoption or**
- 8           **effectiveness of the expedited rule.**
- 9           **(5) The statutory effective date for an expedited rule set forth**
- 10           **in law.**
- 11           **(j) An expedited rule that has been accepted for filing under**
- 12           **subsection (h) expires as provided in IC 4-22-2.3. An agency may**
- 13           **continue an expedited rule for an additional period after it would**
- 14           **otherwise expire only as permitted in IC 4-22-2.3.**
- 15           **(k) Subject to subsection (l), the attorney general or the**
- 16           **governor may file an objection to a rule that is adopted under this**
- 17           **section not later than forty-five (45) days after the date and time**
- 18           **that an expedited rule or amendment to an expedited rule is**
- 19           **accepted for filing under subsection (h). The objection must cite the**
- 20           **document control number for the affected expedited rule and state**
- 21           **the basis for the objection. When filed with the publisher, the**
- 22           **objection has the effect of invalidating the expedited rule or**
- 23           **amendment to an expedited rule. The publisher shall publish the**
- 24           **objection in the Indiana Register.**
- 25           **(l) The attorney general may file a written objection to an**
- 26           **expedited rule under subsection (k) only if the attorney general**
- 27           **determines that the expedited rule has been adopted:**
- 28                   **(1) without statutory authority; or**
- 29                   **(2) without complying with this section.**
- 30           **A notice of objection to an expedited rule by the attorney general**
- 31           **must include findings that explain the basis for the determination.**
- 32           **The notice of objection shall be provided to the agency in an**
- 33           **electronic format.**
- 34           SECTION 27. IC 4-22-2-38, AS AMENDED BY P.L.123-2006,
- 35           SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 36           JULY 1, 2023]: Sec. 38. (a) This section applies to a rulemaking action
- 37           resulting in any of the following rules:
- 38                   (1) A rule that brings another rule into conformity with section
- 39                   20 of this chapter.
- 40                   (2) A rule that amends another rule to replace an inaccurate
- 41                   reference to a statute, rule, regulation, other text, governmental
- 42                   entity, or location with an accurate reference, when the

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1 inaccuracy is the result of the rearrangement of a federal or state  
 2 statute, rule, or regulation under a different citation number, a  
 3 federal or state transfer of functions from one (1) governmental  
 4 entity to another, a change in the name of a federal or state  
 5 governmental entity, or a change in the address of an entity.

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

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

10 (c) Notwithstanding any other statute, an agency may adopt a rule  
 11 described by subsection (a) without complying with any statutory  
 12 notice, hearing, adoption, or approval requirement. In addition, the  
 13 governor may adopt a rule described in subsection (a) for an agency  
 14 without the agency's consent or action.

15 (d) A rule described in subsection (a) shall be submitted to the  
 16 publisher for the assignment of a document control number. The  
 17 agency (or the governor, for the agency) shall submit the rule in the  
 18 form required by section 20 of this chapter and with the documents  
 19 required by section 21 of this chapter. The publisher shall determine  
 20 the number of copies of the rule and other documents to be submitted  
 21 under this subsection.

22 (e) After a document control number is assigned, the agency (or  
 23 the governor, for the agency) shall submit the rule to the publisher for  
 24 filing. The agency (or the governor, for the agency) shall submit the  
 25 rule in the form required by section 20 of this chapter and with the  
 26 documents required by section 21 of this chapter. The publisher shall  
 27 determine the format of the rule and other documents to be submitted  
 28 under this subsection.

29 (f) Subject to section 39 of this chapter, the publisher shall:

30 (1) accept the rule for filing; and

31 (2) electronically record the date and time that it is accepted.

32 (g) Subject to subsection (h), a rule described in subsection (a)  
 33 takes effect on the latest of the following dates:

34 (1) The date that the rule being corrected by a rule adopted under  
 35 this section becomes effective.

36 (2) The date that is forty-five (45) days from the date and time  
 37 that the rule adopted under this section is accepted for filing  
 38 under subsection (f).

39 (h) The governor or the attorney general may file an objection to  
 40 a rule that is adopted under this section before the date that is forty-five  
 41 (45) days from the date and time that the rule is accepted for filing

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1 under subsection (f). When filed with the publisher, the objection has  
2 the effect of invalidating the rule.

3 SECTION 28. IC 4-22-2-39, AS AMENDED BY P.L.123-2006,  
4 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2023]: Sec. 39. (a) When an agency submits a rule for filing  
6 under section 35, 37.1, **37.2, 37.3**, or 38 of this chapter, the publisher  
7 may accept the rule for filing only if the following conditions are met:

8 (1) The following documents are submitted to allow the  
9 publisher to comply with IC 4-22-7-5:

10 (A) One (1) electronic copy of the rule.

11 (B) One (1) copy of any matters incorporated by reference  
12 under section 21 of this chapter in the format specified by  
13 the publisher.

14 (C) One (1) copy of any supporting documentation  
15 submitted under section 31 of this chapter in the format  
16 specified by the publisher.

17 (2) Each submitted copy includes a reference to the document  
18 control number assigned to the rule by the publisher.

19 (3) Each submitted copy indicates that the agency has conducted  
20 its rulemaking action in conformity with all procedures required  
21 by law. However, if section 31 of this chapter applies to the rule,  
22 the publisher shall rely on the approval of the attorney general as  
23 the basis for determining that the agency has complied with all  
24 procedures required before the date of the approval.

25 (b) If a rule includes a statement that the rule is not effective until:

26 (1) an agency has complied with requirements established by the  
27 federal or state government;

28 (2) a specific period of time has elapsed; or

29 (3) a date has occurred;

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

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

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

41 (1) the rule has been disapproved by the attorney general under

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1 section 32 of this chapter; or  
 2 (2) the rule has been disapproved by the governor under section  
 3 34 of this chapter.

4 (b) Sections 24 through 38 of this chapter do not apply to a recall  
 5 action under this section. However, the agency shall distribute a notice  
 6 of its recall action to the publisher for publication in the Indiana  
 7 Register. Sections 24 and 26 of this chapter do not apply to a  
 8 readoption action under subsection (c).

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

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

16 (e) If a rule is:

- 17 (1) subject to sections 31 and 33 of this chapter;
- 18 (2) recalled under subsection (a); and
- 19 (3) readopted under subsection (c);

20 the agency shall resubmit the readopted version of the recalled rule to  
 21 the attorney general and the governor for approval. The attorney  
 22 general and the governor have the full statutory period to approve or  
 23 disapprove the readopted rule. ~~If the recalled rule was submitted to the~~  
 24 ~~office of management and budget under section 28 of this chapter;~~ The  
 25 agency shall resubmit the readopted version of a recalled rule to the  
 26 office of management and budget with sufficient information for the  
 27 office of management and budget to evaluate whether ~~its~~ **the** initial  
 28 **fiscal impact statement regulatory analysis submitted to the office**  
 29 **of management and budget** under section ~~28~~ **22.8** of this chapter  
 30 needs to be revised. ~~The office of management and budget shall revise~~  
 31 ~~a fiscal impact statement under section 28 of this chapter~~ If the fiscal  
 32 impact of the readopted rule is substantially different from the recalled  
 33 rule, **the agency shall submit the revised regulatory analysis to the**  
 34 **publisher for publication in the Indiana Register with the**  
 35 **document control number assigned by the publisher to the rule.**  
 36 The agency also shall comply with any other applicable approval  
 37 requirement provided by statute.

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

41 SECTION 30. IC 4-22-2-41, AS AMENDED BY P.L.123-2006,



1 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2023]: Sec. 41. (a) At any time before a rule is accepted by the  
3 publisher for filing under section 35, 37.1, **37.2, 37.3**, or 38 of this  
4 chapter, the agency that adopted the rule may withdraw it.

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

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

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

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

- 27 (1) An estimate of the number of small businesses, classified by  
28 industry sector, that will be subject to the proposed rule.
- 29 (2) An estimate of the average annual reporting, record keeping,  
30 and other administrative costs that small businesses will incur to  
31 comply with the proposed rule.
- 32 (3) An estimate of the total annual economic impact that  
33 compliance with the proposed rule will have on all small  
34 businesses subject to the rule. ~~The agency is not required to~~  
35 ~~submit the proposed rule to the office of management and budget~~  
36 ~~for a fiscal analysis under IC 4-22-2-28 unless the estimated~~  
37 ~~economic impact of the rule is greater than five hundred~~  
38 ~~thousand dollars (\$500,000) on all regulated entities, as set forth~~  
39 ~~in IC 4-22-2-28:~~
- 40 (4) A statement justifying any requirement or cost that is:  
41 (A) imposed on small businesses by the rule; and

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- 1 (B) not expressly required by:
- 2 (i) the statute authorizing the agency to adopt the rule;
- 3 or
- 4 (ii) any other state or federal law.

5 The statement required by this subdivision must include a  
 6 reference to any data, studies, or analyses relied upon by the  
 7 agency in determining that the imposition of the requirement or  
 8 cost is necessary.

9 (5) A regulatory flexibility analysis that considers any less  
 10 intrusive or less costly alternative methods of achieving the  
 11 purpose of the proposed rule. The analysis under this subdivision  
 12 must consider the following methods of minimizing the  
 13 economic impact of the proposed rule on small businesses:

- 14 (A) The establishment of less stringent compliance or
- 15 reporting requirements for small businesses.
- 16 (B) The establishment of less stringent schedules or
- 17 deadlines for compliance or reporting requirements for
- 18 small businesses.
- 19 (C) The consolidation or simplification of compliance or
- 20 reporting requirements for small businesses.
- 21 (D) The establishment of performance standards for small
- 22 businesses instead of design or operational standards
- 23 imposed on other regulated entities by the rule.
- 24 (E) The exemption of small businesses from part or all of
- 25 the requirements or costs imposed by the rule.

26 If the agency has made a preliminary determination not to  
 27 implement one (1) or more of the alternative methods  
 28 considered, the agency shall include a statement explaining the  
 29 agency's reasons for the determination, including a reference to  
 30 any data, studies, or analyses relied upon by the agency in  
 31 making the determination.

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

- 34 (1) the conclusion of any phase-in period during which:
- 35 (A) the rule is gradually made to apply to small businesses
- 36 or certain types of small businesses; or
- 37 (B) the costs of the rule are gradually implemented; and
- 38 (2) the rule applies to all small businesses that will be affected
- 39 by the rule.

40 In determining the total annual economic impact of the rule under  
 41 subsection (a)(3), the agency shall consider the annual economic

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

7 (e) The agency shall:

8 (1) publish the statement required under subsection (a) in the  
 9 Indiana Register as required by IC 4-22-2-24; and

10 (2) deliver a copy of the statement, along with the proposed rule;  
 11 to the small business ombudsman not later than the date of  
 12 publication under subdivision (1):

13 SECTION 33. IC 4-22-2.1-7, AS ADDED BY P.L.188-2005,  
 14 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2023]: Sec. 7. Before an agency may act under IC 4-22-2.5  
 16 IC 4-22-2.6 to readopt a rule to which the chapter applies, the agency  
 17 must conduct the review required under IC 4-22-2.5-3.1.  
 18 IC 4-22-2.6-4.

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

22 **Chapter 2.3. Transitional Provisions; Exceptions to**  
 23 **Rulemaking Procedures**

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

33 (1) October 1, 2023; or

34 (2) if the rule is included on a list described in subsection (d),  
 35 October 1, 2024;

36 as applicable. An emergency rule that expires under this subsection  
 37 may not be renewed under IC 4-22-2-37.1 (as effective after June  
 38 30, 2023). If the rule meets the criteria in IC 4-22-2-37.2 for  
 39 adoption as an interim rule, the rule may be readopted under  
 40 IC 4-22-2-37.2.

41 (b) The text of an emergency rule adopted under  
 42 IC 4-22-2-37.1 (as effective before July 1, 2023) or IC 4-22-2-37



1 (before its repeal) that is:  
 2 (1) incorporated into a provision of the Indiana  
 3 Administrative Code that before July 1, 2023, was amended  
 4 under the procedures in IC 4-22-2-23 through IC 4-22-2-36  
 5 or IC 13-14-9 (as applicable); or  
 6 (2) readopted as part of a provision of the Indiana  
 7 Administrative Code that was readopted under IC 4-22-2.5  
 8 (before its repeal) or IC 13-14-9.5 (before its repeal);  
 9 continues in effect to the extent that the text remains part of the  
 10 provision of the Indiana Administrative Code into which the  
 11 emergency rule text was incorporated.  
 12 (c) An emergency rule adopted under IC 4-22-2-37.1 (as  
 13 effective before July 1, 2023) of the type described in sections 3  
 14 through 9 of this chapter, expires as provided in the applicable  
 15 provisions of sections 3 through 9 of this chapter.  
 16 (d) Not later than September 1, 2023, the governor may submit  
 17 to the publisher a list of rules described in subsection (a) for which  
 18 the expiration under this section is October 1, 2024, instead of  
 19 October 1, 2023. The publisher shall publish a list submitted under  
 20 this subsection in the Indiana Register.  
 21 Sec. 2. Before an emergency rule adopted under IC 4-22-2-37.1  
 22 (as effective after June 30, 2023) expires, the governor by executive  
 23 order may authorize the extension of the emergency rule under the  
 24 expedited procedures in IC 4-22-2-37.3 if the governor determines  
 25 and finds in the executive order that the emergency circumstances  
 26 justifying the emergency rule continue to exist. A rule adopted  
 27 under the authority of an extension under this section, expires not  
 28 later than June 30 of the year following the year in which the rule  
 29 is accepted for filing by the publisher of the Indiana Register.  
 30 Sec. 3. The office of the secretary of family and social services  
 31 may adopt rules under IC 4-22-2-37.3 to implement IC 12-13-16-13  
 32 (211 dialing code services). The rule expires not later than one (1)  
 33 year after the adopted rule is accepted for filing under  
 34 IC 4-22-2-37.3. An expedited rule described in this section may not  
 35 be continued in another expedited rule after the expiration of the  
 36 initial expedited rule.  
 37 Sec. 4. The department of natural resources (or to the extent  
 38 permitted by IC 14-10-2, the natural resources commission) may  
 39 adopt rules under IC 4-22-2-37.3 to carry out the duties of the  
 40 department of natural resources under a law listed in IC 14-10-2-5.  
 41 The rule expires not later than one (1) year after the adopted rule  
 42 is accepted for filing by the publisher of the Indiana Register. An

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1 expedited rule described in this section may be continued in  
 2 another expedited rule only if the governor determines under  
 3 IC 4-22-2-37.3(b) that the policy options available to the agency are  
 4 so limited that use of the additional notice, comment, and review  
 5 procedures in IC 4-22-2-23 through IC 4-22-2-36 would provide no  
 6 benefit to persons regulated or otherwise affected by the rule. A  
 7 person who violates the rule commits a Class C infraction, unless  
 8 otherwise specified under state law.

9 **Sec. 5.** The director of the department of natural resources  
 10 may temporarily modify or suspend a rule described in  
 11 IC 14-22-2-6 (fish and wildlife rules) under the procedures in  
 12 IC 4-22-2-37.3. The adopted rule expires not later than one (1) year  
 13 after the rule is accepted for filing by the publisher of the Indiana  
 14 Register. An expedited rule described in this section may not be  
 15 continued in another expedited rule after the expiration of the  
 16 initial expedited rule.

17 **Sec. 6.** The Indiana education employment relations board  
 18 may adopt rules under IC 4-22-2-37.3 to implement IC 20-29-6-6.1  
 19 (review of collective bargaining agreement). The rule expires not  
 20 later than one (1) year after the adopted rule is accepted for filing  
 21 by the publisher of the Indiana Register. An expedited rule  
 22 described in this section may not be continued in another expedited  
 23 rule after the expiration of the initial expedited rule.

24 **Sec. 7.** The Indiana state board of education may adopt rules  
 25 under IC 4-22-2-37.3 for the provision of special education or  
 26 related services to an eligible choice scholarship student who  
 27 receives an amount under IC 20-51-4-4(a)(2). The rule expires not  
 28 later than one (1) year after the adopted rule is accepted for filing  
 29 by the publisher of the Indiana Register.

30 **Sec. 8. (a)** The department of financial institutions shall adopt  
 31 rules under IC 4-22-2-37.3 announcing:

32 (1) sixty (60) days before January 1 of each odd-numbered  
 33 year in which dollar amounts under IC 24-4.5 (Uniform  
 34 Consumer Credit Code) are to change, the changes in dollar  
 35 amounts required by IC 24-4.5-1-106(2); and

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

41 The rule expires not later than January 1 of the next  
 42 odd-numbered year after the department of financial institutions



- 1 is required to issue the rule.
- 2 (b) The department of financial institutions may adopt a rule  
3 permitted under IC 24-4.4-1-101 (licensing system for creditors  
4 and mortgage loan originators) or IC 24-4.5 (Uniform Consumer  
5 Credit Code) under IC 4-22-2-37.3 if the department of financial  
6 institutions declares an emergency. The rule expires not later than  
7 two (2) years after the adopted rule is accepted for filing by the  
8 publisher of the Indiana Register.
- 9 (c) The department of financial institutions shall adopt rules  
10 under IC 4-22-2-37.3 in the same manner provided in subsection  
11 (a) for the adjustments required under IC 24-9-2-8 concerning high  
12 cost home loans. The rule expires not later than January 1 of the  
13 next odd-numbered year after the department of financial  
14 institutions is required to issue the rule.
- 15 (d) The department of financial institutions may adopt rules  
16 described in 34-55-10-2 (bankruptcy exemptions; limitations) and  
17 IC 34-55-10-2.5 in conformity with the procedures in IC 4-22-2-23  
18 through IC 4-22-2-36 or the expedited procedures in  
19 IC 4-22-2-37.3. A rule adopted under IC 4-22-2-37.3 expires not  
20 later than two (2) years after the adopted rule is accepted for filing  
21 by the publisher of the Indiana Register.
- 22 (e) An expedited rule described in this section may be  
23 continued in another expedited rule only if the governor  
24 determines under IC 4-22-2-37.3(b) that the policy options  
25 available to the agency are so limited that use of the additional  
26 notice, comment, and review procedures in IC 4-22-2-23 through  
27 IC 4-22-2-36 would provide no benefit to persons regulated or  
28 otherwise affected by the rule.
- 29 **Sec. 9. The Indiana board of pharmacy may adopt rules under**  
30 **IC 4-22-2-37.3 to declare that a substance is a synthetic drug if the**  
31 **board finds that the substance:**
- 32 (1) has been scheduled or emergency scheduled by the United  
33 States Drug Enforcement Administration;
- 34 (2) has been scheduled, emergency scheduled, or  
35 criminalized by another state; or
- 36 (3) has:
- 37 (A) a high potential for abuse; and
- 38 (B) no accepted medical use in treatment in the United  
39 States or lacks accepted safety for use in treatment  
40 under medical supervision.
- 41 In making a determination, the Indiana board of pharmacy shall  
42 consider the factors described in IC 25-26-13-4.1. Notwithstanding

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1 **IC 4-22-2-37.3, the rule becomes effective when the adopted rule is**  
 2 **published in the Indiana Register. The rule expires not later than**  
 3 **June 30 of the year following the year in which the rule is accepted**  
 4 **for filing by the publisher of the Indiana Register. An expedited**  
 5 **rule described in this section may not be continued in another**  
 6 **expedited rule after the expiration of the initial expedited rule.**

7 SECTION 35. IC 4-22-2.5 IS REPEALED [EFFECTIVE JULY 1,  
 8 2023]. (Expiration and Readoption of Administrative Rules).

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

12 **Chapter 2.6. Expiration and Readoption of Administrative**  
 13 **Rules**

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

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

24 **(1) in calendar year 2017, the rule expires not later than**  
 25 **January 1, 2024;**

26 **(2) in calendar year 2018, the rule expires not later than**  
 27 **January 1, 2025;**

28 **(3) in calendar year 2019, the rule expires not later than**  
 29 **January 1, 2026; or**

30 **(4) in calendar year 2020, the rule expires not later than**  
 31 **January 1, 2027.**

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

34 **(1) the rule was adopted by an agency established under**  
 35 **IC 13, the rule expires not later than January 1, 2025;**

36 **(2) the rule was adopted by an agency established under**  
 37 **IC 16, the rule expires not later than January 1, 2026; or**

38 **(3) the rule was adopted by an agency not described in**  
 39 **subdivision (1) or (2), the rule expires not later than January**  
 40 **1, 2027.**

41 **(d) A readoption rulemaking action under IC 4-22-2.5 (before**  
 42 **its repeal) or IC 13-14-9.5 (before its repeal) that became effective**



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1 before July 1, 2023, is validated to the same extent as if the  
2 rulemaking action had been conducted under the procedures in  
3 this chapter.

4 (e) The determination of whether an administrative rule  
5 expires under this chapter shall be applied at the level of an  
6 Indiana Administrative Code section.

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

10 (1) without changes in conformity with the procedures in  
11 sections 3 through 9 of this chapter; or

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

15 Sec. 3. (a) Except as provided in subsection (b), if an agency  
16 intends to readopt a rule, the agency shall, not later than January  
17 1 of the fourth year after the year in which the rule takes effect,  
18 provide an initial notice of the intended readoption in an electronic  
19 format designated by the publisher to legislators and legislative  
20 committees in the manner and on the schedule specified by the  
21 legislative council or the personnel subcommittee of the legislative  
22 council acting for the legislative council.

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

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

29 (1) Minimize expenses to:

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

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

34 (C) consumers of products and services of regulated  
35 entities affected by the rule.

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

38 (3) Have benefits that exceed the fiscal and economic costs of  
39 the rule.

40 (4) Avoid duplicating and conflicting standards with other  
41 federal, state, or local laws, rules, regulations, or ordinances.

42 (5) Be written for ease of comprehension.

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1           **(6) Have practicable enforcement.**

2           **(b) In the review, the agency shall reexamine previous cost**  
 3 **benefit, economic impact, fiscal impact, and regulatory burden**  
 4 **statements prepared by the agency for the rule under IC 4-3-22-13,**  
 5 **IC 4-3-27-12, IC 4-22-2-28, IC 4-22-2.1-5, or an executive order**  
 6 **and revise the statements to reflect any change in circumstances**  
 7 **that affect the analysis. The agency shall identify any alternative**  
 8 **methods of achieving the purpose of the rule that are less costly or**  
 9 **less intrusive, or that would otherwise minimize the economic**  
 10 **impact of the proposed rule on small businesses (as defined in**  
 11 **IC 4-22-2.1-4) and other regulated entities. The agency also shall**  
 12 **consider the following:**

13           **(1) The nature of any complaints or comments received from**  
 14 **the public, including small businesses (as defined in**  
 15 **IC 4-22-2.1-4), concerning the rule or the rule's**  
 16 **implementation by the agency.**

17           **(2) The complexity of the rule, including any difficulties**  
 18 **encountered by:**

19                   **(A) the agency in administering the rule; or**

20                   **(B) small businesses (as defined in IC 4-22-2.1-4) or**  
 21 **other regulated persons in complying with the rule.**

22           **(3) The degree to which technology, economic conditions, or**  
 23 **other factors have changed in the area affected by the rule**  
 24 **since the last time the rule was reviewed.**

25           **(c) The agency shall prepare written findings concerning the**  
 26 **agency's determinations under this section.**

27           **Sec. 5. (a) If an agency elects to readopt a rule under this**  
 28 **chapter, the agency shall submit a notice of proposed readoption**  
 29 **to the publisher not later than the first regular business day in**  
 30 **September of the year preceding the year in which the rule expires**  
 31 **under this chapter for publication in the Indiana Register. A**  
 32 **separate notice must be published for each board or other person**  
 33 **or entity with rulemaking authority.**

34           **(b) The notice must include the following:**

35           **(1) A general description of the subject matter of all rules**  
 36 **proposed to be readopted.**

37           **(2) A listing of rules that are proposed to be readopted, listed**  
 38 **by their titles and subtitles only.**

39           **(3) A written comment period of thirty (30) days and**  
 40 **instructions on how to submit written comments to the**  
 41 **agency.**

42           **(4) A request for comments on whether specific rules should**

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1 be reviewed through the regular rulemaking process under  
 2 IC 4-22-2-23 through IC 4-22-2-36 (as modified by  
 3 IC 13-14-9, when applicable).

4 (5) A summary of the agency's findings under section 4 of  
 5 this chapter.

6 (6) Any other information required by the publisher.

7 (c) The agency shall submit the material in the form required  
 8 by IC 4-22-2-20. The agency need not resubmit the documents  
 9 required by IC 4-22-2-21 if the publisher received a copy of the  
 10 documents when the rule was previously adopted or amended. The  
 11 publisher shall review the material submitted under this section  
 12 and determine the date that the publisher intends to include the  
 13 material in the Indiana Register. After:

14 (1) establishing the intended publication date; and

15 (2) receiving the material as required by this section;

16 the publisher shall assign a document control number, provide an  
 17 electronic mail authorization to proceed to the agency, and publish  
 18 the material on the intended publication date.

19 Sec. 6. (a) The agency shall prepare responses to all comments  
 20 received during the comment period.

21 (b) The agency, after considering the written comments and  
 22 responses, may do the following:

23 (1) Conduct one (1) or more additional comment periods in  
 24 the manner provided in section 5 of this chapter on one (1) or  
 25 more rules within the scope of the notice of proposed  
 26 readoption. If a person submits to the agency during the  
 27 initial comment period under section 5 of this chapter a  
 28 written request stating a basis for considering a particular  
 29 rule separately from other rules in the notice of proposed  
 30 readoption, the agency may not readopt that rule under this  
 31 chapter. The agency may readopt that rule with or without  
 32 changes only through a rulemaking action initiated under  
 33 IC 4-22-2-23 through IC 4-22-2-36 (as modified by  
 34 IC 13-14-9, when applicable).

35 (2) Readopt one (1) or more rules within the scope of the  
 36 notice of proposed readoption without change.

37 (3) Repeal one (1) or more rules within the scope of the  
 38 notice of proposed readoption, if the need for the rule no  
 39 longer exists. The adopting authority may repeal a rule  
 40 without additional comment periods under section 5 of this  
 41 chapter.

42 Sec. 7. (a) The agency shall immediately submit the

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1 rulemaking document containing the readopted rules to the  
 2 publisher for filing along with documentation demonstrating that  
 3 the agency has readopted the rules. The agency shall submit  
 4 material in the form required by IC 4-22-2-20. The rulemaking  
 5 document must make reference to the document control number  
 6 assigned by the publisher.

7 (b) If the rulemaking document complies with this section, the  
 8 publisher shall:

9 (1) accept the rule for filing; and

10 (2) electronically record the date and time the rule is  
 11 accepted.

12 **Sec. 8. A readopted rule that has been accepted for filing under**  
 13 **section 7 of this chapter takes effect on the latest of the following**  
 14 **dates:**

15 (1) The date that is thirty (30) days from the date and time  
 16 that the rule was accepted for filing under section 7 of this  
 17 chapter.

18 (2) The effective date stated by the agency in the rule.

19 (3) The date of compliance with every requirement  
 20 established by law as a prerequisite to the readoption or  
 21 effectiveness of the rule.

22 **Sec. 9. An agency that terminates a rulemaking action to**  
 23 **readopt a rule with or without amendments shall submit a notice**  
 24 **of withdrawal of the readoption rulemaking action in the manner**  
 25 **provided in IC 4-22-2-41.**

26 **Sec. 10. If a rule is not readopted and the governor finds that**  
 27 **the failure to readopt the rule causes an emergency to exist, the**  
 28 **governor may, by executive order issued before the rule's**  
 29 **expiration date, postpone the expiration date of the rule until a**  
 30 **date that is not later than one (1) year after the date specified in**  
 31 **section 1 of this chapter.**

32 **Sec. 11. The publisher shall remove all rules that have expired**  
 33 **under this chapter from the Indiana Administrative Code.**  
 34 **However, a rule that has expired but is readopted under this**  
 35 **chapter (or IC 4-22-2.5 (before its repeal) or IC 13-14-9.5 (before**  
 36 **its repeal)) may not be removed from the Indiana Administrative**  
 37 **Code.**

38 SECTION 37. IC 12-10.5-1-9, AS AMENDED BY P.L.123-2006,  
 39 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 2023]: Sec. 9. (a) Before finally adopting a rule under  
 41 IC 4-22-2 to implement this chapter, the division shall consult with and  
 42 fully consider any comments submitted by:

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- 1 (1) caretakers providing care for a special needs individual under  
 2 this chapter;  
 3 (2) individuals with special needs receiving care from a  
 4 caretaker under this chapter;  
 5 (3) area agencies on aging;  
 6 (4) consumers and providers of home and community based  
 7 services under IC 12-10-10 and IC 12-10-11.5; and  
 8 (5) any other agency, volunteer group, faith based group, or  
 9 individual that the division considers appropriate;  
 10 to ensure that the rule complies with the requirements set forth in  
 11 subsection (b).  
 12 (b) Rules adopted under this chapter must:  
 13 (1) include protections for the rights, safety, and welfare of  
 14 individuals with special needs receiving care from a caretaker  
 15 under this chapter, including reasonable monitoring and  
 16 reporting requirements;  
 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  
 25 imposing costly or unduly burdensome requirements on  
 26 caretakers 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 38. IC 12-10.5-2-3, AS AMENDED BY P.L.123-2006,  
 40 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2023]: Sec. 3. (a) Before finally adopting a rule under

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- 1 IC 4-22-2 to implement this chapter, the division shall consult with and  
 2 fully consider any comments submitted by:
- 3 (1) continuum of care providers providing care under this  
 4 chapter;
  - 5 (2) individuals receiving care under this chapter;
  - 6 (3) area agencies on aging;
  - 7 (4) consumers and providers of home and community based  
 8 services under IC 12-10-10 and IC 12-10-11.5; and
  - 9 (5) any other agency, volunteer group, faith based group, or  
 10 individual that the division considers appropriate;
- 11 to ensure that the rule complies with the requirements set forth in  
 12 subsection (b).
- 13 (b) Rules adopted under this chapter must:
- 14 (1) include protections for the rights, safety, and welfare of  
 15 individuals receiving care under this chapter;
  - 16 (2) serve distinct populations, including:  
 17 (A) the aged;  
 18 (B) persons with developmental disabilities; and  
 19 (C) persons with physical disabilities;
- 20 in a manner that recognizes, and appropriately responds to, the  
 21 particular needs of the population;
- 22 (3) not create barriers to the availability of home and community  
 23 based services under IC 12-10-10 and IC 12-10-11.5 by  
 24 imposing costly or unduly burdensome requirements on  
 25 continuum of care providers or other service providers,  
 26 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

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1 this chapter, this chapter applies to the following:

2 (1) The board.

3 (2) The underground storage tank financial assurance board  
4 established by IC 13-23-11-1.

5 (b) In addition to the requirements of IC 4-22-2 and IC 13-14-8, a  
6 board may not adopt a rule except in accordance with this chapter.

7 **(c) This chapter (as effective January 1, 2023) continues to**  
8 **apply after June 30, 2023, to a rulemaking action that is**  
9 **commenced under this chapter before July 1, 2023.**

10 SECTION 40. IC 13-14-9-3, AS AMENDED BY P.L.100-2006,  
11 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2023]: Sec. 3. (a) ~~Except as provided in subsection (b)~~; The  
13 department shall provide notice in the Indiana Register of the first  
14 public comment period required by section 2 of this chapter.

15 **(b) To publish notice of the first public comment period in the**  
16 **Indiana Register, the agency must submit the following to the**  
17 **publisher:**

18 **(1) The full text of the agency's proposed rule (excluding the**  
19 **full text of a matter incorporated by reference under**  
20 **IC 4-22-2-21). The agency shall submit the rule in the form**  
21 **required by IC 4-22-2-20 and with the documents required**  
22 **by IC 4-22-2-21.**

23 **(2) The latest version of the regulatory analysis (including**  
24 **any appendices containing any data, studies, or analysis**  
25 **referenced in the regulatory analysis) submitted to the**  
26 **budget agency and the office of management and budget**  
27 **under IC 4-22-2-22.8,**

28 **(3) The determination of the**  
29 **budget agency and the office of**  
30 **management and budget**  
31 **authorizing commencement of**  
32 **the first and second public**  
33 **comment periods on the proposed**  
34 **rule under IC 4-22-2-22.8.**

35 **(4) The notice required under subsection (c).**

36 **(c) A notice provided under this section must do the following:**

37 (1) Identify the authority under which the proposed rule is to be  
38 adopted.

39 (2) Describe the subject matter and the basic purpose of the  
40 proposed rule. The description required by this subdivision must:

41 (A) list all alternatives being considered by the department  
42 at the time of the notice;

(B) state whether each alternative listed under clause (A)



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

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1 a person may inspect any documents incorporated by  
2 reference into the proposed rule under IC 4-22-2-21.

3 **(11) Include an indication that the notice is for the first of**  
4 **two (2) thirty (30) day periods in which the public may**  
5 **comment on the proposed rule.**

6 **Inadequacy or insufficiency of the published description or**  
7 **regulatory analysis does not invalidate a rulemaking action.**

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

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

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

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

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

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

33 **(1) The full text of the agency's proposed rule (excluding the**  
34 **full text of a matter incorporated by reference under**  
35 **IC 4-22-2-21). The agency shall submit the rule in the form**  
36 **required by IC 4-22-2-20 and with the documents required**  
37 **by IC 4-22-2-21, if these documents have not already been**  
38 **submitted to the publisher.**

39 **(2) Either a statement indicating that no changes in the**  
40 **regulatory analysis have been made from the version of the**  
41 **regulatory analysis published under section 3 of this chapter**  
42 **or the latest version of the regulatory analysis (including any**

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1 **appendices containing any data, studies, or analysis**  
 2 **referenced in the regulatory analysis) submitted to the**  
 3 **budget agency and the office of management and budget**  
 4 **under IC 4-22-2-22.8, if any changes have been made in the**  
 5 **regulatory analysis after submitting the material under**  
 6 **section 3 of this chapter.**

7 **(3) The notice required under subsection (c).**

8 **(c) A notice provided under this section must do the following:**

9 **(1) Contain the full text of the proposed rule, to the extent**  
 10 **required under IC 4-22-2-24(c).**

11 **(2) (1) Contain a summary of the response of the department to**  
 12 **written comments submitted under section 3 of this chapter**  
 13 **during the first public comment period.**

14 **(3) (2) Request the submission of comments, including**  
 15 **suggestions of specific amendments to the language contained**  
 16 **in the proposed rule and indicate where, when, and how a**  
 17 **person may submit written comments on the proposed rule,**  
 18 **including contact information concerning the small business**  
 19 **regulatory coordinator required by IC 4-22-2-28.1.**

20 **(4) (3) Contain the full text of the commissioner's written**  
 21 **findings under section 7 of this chapter, if applicable. Include a**  
 22 **statement indicating the date, time, and place at which the**  
 23 **public hearing on the proposed rule will be convened.**

24 **(5) (4) Identify each element of the proposed rule that imposes**  
 25 **a restriction or requirement on persons to whom the proposed**  
 26 **rule applies that:**

27 (A) is more stringent than a restriction or requirement  
 28 imposed under federal law; or

29 (B) applies in a subject area in which federal law does not  
 30 impose a restriction or requirement.

31 **(6) (5) With respect to each element identified under subdivision**  
 32 **(5); (4), identify:**

33 (A) the environmental circumstance or hazard that dictates  
 34 the imposition of the proposed restriction or requirement to  
 35 protect human health and the environment;

36 (B) examples in which federal law is inadequate to provide  
 37 the protection referred to in clause (A); and

38 (C) the:

39 (i) estimated fiscal impact; and

40 (ii) expected benefits;

41 based on the extent to which the proposed rule is more  
 42 stringent than the restrictions or requirements of federal

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1 law, or on the creation of restrictions or requirements in a  
 2 subject area in which federal law does not impose  
 3 restrictions or requirements.

4 ~~(7)~~ (6) For any element of the proposed rule that imposes a  
 5 restriction or requirement that is more stringent than a restriction  
 6 or requirement imposed under federal law or that applies in a  
 7 subject area in which federal law does not impose restrictions or  
 8 requirements, describe the availability for public inspection of  
 9 all materials relied upon by the department in the development  
 10 of the proposed rule, including, if applicable:

11 (A) health criteria;

12 (B) analytical methods;

13 (C) treatment technology;

14 (D) economic impact data;

15 (E) environmental assessment data;

16 (F) analyses of methods to effectively implement the  
 17 proposed rule; and

18 (G) other background data.

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

29 **(8) Include an explanation of any differences between the**  
 30 **text of the proposed rule published for the first comment**  
 31 **period under section 3 of this chapter and the text of the**  
 32 **proposed rule published for the second comment period**  
 33 **under this section.**

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

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

40 **(11) Include an indication that the notice is for the second of**  
 41 **two (2) thirty (30) day periods in which the public may**  
 42 **comment on the proposed rule and that following the second**

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1           comment period the agency may adopt a version of the  
2           proposed rule that is the same as or does not substantially  
3           differ from the text of the proposed rule published under this  
4           section.

5           **Inadequacy or insufficiency of the subject matter description or**  
6           **summary of the regulatory analysis in the published notice does**  
7           **not invalidate a rulemaking action.**

8           ~~(b)~~ **(d)** The notice required under subsection ~~(a)~~:  
9            ~~(1)~~ shall be published electronically in the Indiana Register  
10           under procedures established by the publisher; and  
11           ~~(2)~~ if any element of the proposed rule to which the notice  
12           relates imposes a restriction or requirement that is more stringent  
13           than a restriction or requirement imposed under federal law,  
14           shall be submitted in an electronic format under IC 5-14-6 to the  
15           executive director of the legislative services agency; who shall  
16           present the notice to the legislative council established by  
17           ~~IC 2-5-1.1-1.~~

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

27           **(1) The notice of the second comment period.**  
28           **(2) The full text of the agency's proposed rule (excluding the**  
29           **full text of a matter incorporated by reference under**  
30           **IC 4-22-2-21).**

31           ~~(c)~~ **(e)** If the notice provided by the department concerning a  
32           proposed rule identifies ~~under subsection (a)(5)~~, an element of the  
33           proposed rule that imposes a restriction or requirement more stringent  
34           than a restriction or requirement imposed under federal law, the  
35           proposed rule shall not become effective under this chapter until the  
36           adjournment sine die of the regular session of the general assembly that  
37           begins after the department provides the notice.

38           ~~(d)~~ **(f)** Subsections ~~(b)(2)~~ and **Subsection (e) (e)** ~~do~~ **does** not  
39           prohibit or restrict the commissioner, the department, or the board  
40           from:

41           (1) adopting emergency rules under IC 4-22-2-37.1;  
42           (2) taking emergency action under IC 13-14-10; or



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1 (3) temporarily:  
 2 (A) altering ordinary operating policies or procedures; or  
 3 (B) implementing new policies or procedures;  
 4 in response to an emergency situation.  
 5 SECTION 42. IC 13-14-9-4.2, AS AMENDED BY P.L.123-2006,  
 6 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2023]: Sec. 4.2. Not less than fourteen (14) days before the  
 8 date of preliminary adoption of a proposed rule by a board, the  
 9 department shall make available to the board the ~~final impact~~  
 10 **statement latest version of the regulatory analysis** prepared by the  
 11 ~~office of management and budget with respect to~~ **for** the proposed rule.  
 12 ~~under IC 4-22-2-28(e).~~  
 13 SECTION 43. IC 13-14-9-4.5 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4.5. (a) Except for a  
 15 rule  
 16 (1) that has been preliminarily adopted by a board in a form that  
 17 is:  
 18 (A) identical to; or  
 19 (B) not substantively different from;  
 20 the proposed rule published in a second notice under section 4  
 21 of this chapter; or  
 22 (2) for which the commissioner has made a determination and  
 23 prepared written findings under section 7 or 8 of this chapter;  
 24 a board may not adopt a rule under this chapter until the board has  
 25 conducted a third public comment period that is at least ~~twenty-one~~  
 26 **(21) thirty (30)** days in length.  
 27 (b) The department shall publish notice of a third public comment  
 28 period with the  
 29 ~~(1) text;~~  
 30 ~~(2) summary; and~~  
 31 ~~(3) fiscal analysis;~~  
 32 **information that are is** required to be published in the Indiana Register  
 33 under section 5(a)(2) of this chapter.  
 34 (c) ~~The notice of a third public comment period that must be~~  
 35 ~~published in the Indiana Register under subsection (b) must request the~~  
 36 ~~submission of comments, including suggestions of specific~~  
 37 ~~amendments, that concern only the portion of the preliminarily adopted~~  
 38 ~~rule that is substantively different from the language contained in the~~  
 39 ~~proposed rule published in a second notice under section 4 of this~~  
 40 ~~chapter.~~  
 41 SECTION 44. IC 13-14-9-5, AS AMENDED BY P.L.123-2006,

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1 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2023]: Sec. 5. (a) A board may not adopt a rule until all of the  
3 following occur:

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

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

8 (A) ~~The full text of the proposed rule, including any~~  
9 ~~amendments arising from the comments received before or~~  
10 ~~during the meeting held under subdivision (1):~~

11 (B) ~~A summary of the response of the department to all~~  
12 ~~comments received at the meeting held under subdivision~~  
13 ~~(1):~~

14 (C) ~~For a proposed rule with an estimated economic impact~~  
15 ~~on regulated entities that is greater than five hundred~~  
16 ~~thousand dollars (\$500,000), a copy of the office of~~  
17 ~~management and budget fiscal analysis required under~~  
18 ~~IC 4-22-2-28. required by section 4 of this chapter.~~  
19 **However, a notice of a third public comment period**  
20 **under section 4.5 of this chapter must request the**  
21 **submission of comments, including suggestions of**  
22 **specific amendments, that concern only the portion of**  
23 **the preliminarily adopted rule that is substantively**  
24 **different from the language contained in the proposed**  
25 **rule published in a second notice under section 4 of this**  
26 **chapter.**

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

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

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

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

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

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

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

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

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

9 (2) The written responses of the department to all comments  
 10 received:

11 (A) during the immediately preceding comment period for  
 12 a board meeting held under section 5(a)(1) of this chapter;

13 (B) during the immediately preceding board meeting under  
 14 section 5(a)(1) of this chapter for a board meeting held  
 15 under section 5(a)(3) of this chapter if a third public  
 16 comment period is not required under section 4.5 of this  
 17 chapter; or

18 (C) during:

19 (i) a third public comment period that address the  
 20 portion of the preliminarily adopted rule that is  
 21 substantively different from the language contained in  
 22 the proposed rule published in a second notice under  
 23 section 4 of this chapter; and

24 (ii) the immediately preceding board meeting held  
 25 under section 5(a)(1) of this chapter;

26 for a board meeting held under section 5(a)(3) of this  
 27 chapter if a third public comment period is required under  
 28 section 4.5 of this chapter.

29 (3) The full text of the ~~office of management and budget fiscal~~  
 30 **latest version of regulatory analysis if a fiscal analysis is**  
 31 **required under IC 4-22-2-28: prepared under IC 4-22-2-22.7.**

32 SECTION 46. IC 13-14-9-15 IS ADDED TO THE INDIANA  
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 34 [EFFECTIVE JULY 1, 2023]: **Sec. 15. Rules adopted in accordance**  
 35 **with this chapter by the department of environmental management**  
 36 **or a board that has rulemaking authority under IC 13 expire as**  
 37 **provided in IC 4-22-2.6.**

38 SECTION 47. IC 13-14-9-16 IS ADDED TO THE INDIANA  
 39 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 40 [EFFECTIVE JULY 1, 2023]: **For a rule document subject to this**  
 41 **chapter, the one (1) year period established under IC 4-22-2-25 in**

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1 which to adopt a rule and obtain the approval or deemed approval  
 2 of the governor commences on the date that the initial comment  
 3 period notice for the rule document is published in the Indiana  
 4 Register under section 3 of this chapter, (if the section 3 comment  
 5 period is waived under section 7 of this chapter) section 4 of this  
 6 chapter, section 8 of this chapter, or section 14 of this chapter (as  
 7 applicable). If an agency determines that a rule cannot be adopted  
 8 within one (1) year after the publication of the notice, the agency  
 9 shall, before two hundred fifty (250) days following the publication  
 10 of the notice, notify the publisher by electronic means:

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

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

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

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

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

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

23 SECTION 48. IC 13-14-9.5 IS REPEALED [EFFECTIVE JULY  
 24 1, 2023]. (Expiration and Readoption of Administrative Rules).

25 SECTION 49. [EFFECTIVE UPON PASSAGE] (a) After June  
 26 30, 2023, a rule may be adopted as an emergency rule only for the  
 27 purposes and through the procedures in IC 4-22-2-37.1 (as effective  
 28 after June 30, 2023). Any additional authority in a statute outside  
 29 IC 4-22 to adopt rules through the emergency rulemaking  
 30 procedures in IC 4-22-2-37.1 (as effective before July 1, 2023, or  
 31 after June 30, 2023) is void. The code revision commission shall  
 32 provide in calendar year 2023 for the preparation of a bill for  
 33 introduction in the 2024 regular session of the general assembly  
 34 that removes language outside IC 4-22 permitting the adoption of  
 35 emergency rules.

36 (b) This SECTION expires January 1, 2024.

37 SECTION 50. An emergency is declared for this act.

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