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HOUSE BILL No. 1623

Proposed Changes to introduced printing by AM162303

DIGEST OF PROPOSED AMENDMENT

Rulemaking. Indicates that the changes to the rulemaking process are prospective. Indicates that data, studies, and analyses supporting a regulatory analysis are required to be submitted to the legislative services agency only if requested in the manner specified by the legislative council or personnel subcommittee. Requires an agency to submit its summary of comments on a rule and its response to the comments to the attorney general, the governor, and the publisher for publication in the Indiana Register. Requires the attorney general to specify the basis for disapproving an emergency, interim, or expedited rule. Requires an agency to conduct one comment period before adopting a rule using the interim rulemaking procedures. Specifies when expedited rules expire and limits the number of times expedited rules may be extended. Indicates how to calculate the one year period in which an environmental agency must complete a rulemaking process. Provides a date by which an agency must submit to the publisher a notice to readopt an expiring rule. Makes cross reference, name, and other conforming changes in the text of the bill.

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

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

1 SECTION 1. IC 4-3-22-13, AS AMENDED BY P.L.5-2015,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 13. (a) Except as provided in subsection (e), 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.



1 (b) After June 30, 2005, the cost benefit analysis performed by the
 2 OMB under this section with respect to any proposed rule that has an
 3 impact of at least five hundred thousand dollars (\$500,000) shall
 4 replace and be used for all purposes under IC 4-22-2 in lieu of the
 5 fiscal analysis previously performed by the legislative services agency
 6 under IC 4-22-2.

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

16 (1) This subsection does not empower the OMB or an agency to
 17 require an interested party or a regulated person to provide any
 18 materials, documents, or other information. ~~in connection with~~
 19 ~~a cost benefit analysis under this section.~~ If an interested party or
 20 a regulated person voluntarily provides materials, documents, or
 21 other information to the OMB or an agency, ~~in connection with~~
 22 ~~a cost benefit analysis under this section,~~ the OMB or the
 23 agency, as applicable, shall ensure the adequate protection of
 24 any:

- 25 (A) information that is confidential under IC 5-14-3-4; or
 26 (B) confidential and proprietary business plans and other
 27 confidential information.

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

37 (2) ~~The OMB shall make the cost benefit analysis and other~~
 38 ~~related public documents available to interested parties,~~
 39 ~~regulated persons, and nonprofit corporations whose members~~
 40 ~~may be affected by the proposed rule at least thirty (30) days~~
 41 ~~before presenting the cost benefit analysis to the governor and~~
 42 ~~the legislative council under subsection (a):~~



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1 (d) If the OMB or an agency is unable to obtain verified data for
 2 the cost benefit analysis described in subsection (c), the OMB shall
 3 state in the cost benefit analysis which data were unavailable for
 4 purposes of the cost benefit analysis.

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

6 (1) an adoption or incorporation by reference of a federal law;
 7 regulation; or rule that has no substantive effect on the scope or
 8 intended application of the federal law or rule; or

9 (2) a technical amendment with no substantive effect on an
 10 existing Indiana rule;

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

23 SECTION 2. IC 4-21.5-2-8 IS ADDED TO THE INDIANA CODE
 24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 25 1, 2023]: **Sec. 8. The amendments made to IC 4-21.5-3-27.5 in the**
 26 **2023 session of the general assembly only apply to agency actions**
 27 **commenced under IC 4-21.5-3 after June 30, 2023.**

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

36 (1) the agency's action was frivolous or groundless; or

37 (2) the agency pursued the action in bad faith;

38 (3) **the agency has failed to demonstrate that the agency**
 39 **action is based on a standard or an interpretation of a**
 40 **standard that has the force of law; or**

41 (4) **the agency has failed to demonstrate that the agency**
 42 **acted within its legal authority.**



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

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

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

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

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

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

- 21 (1) Any military officer or board.
 22 (2) Any state educational institution.

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

25 (1) A resolution or directive of any agency that relates solely to
 26 internal policy, internal agency organization, or internal
 27 procedure and does not have the effect of law.

28 (2) A restriction or traffic control determination of a purely local
 29 nature that:

30 (A) is ordered by the commissioner of the Indiana
 31 department of transportation;

32 (B) is adopted under IC 9-20-1-3(d), IC 9-21-4-7, or
 33 IC 9-20-7; and

34 (C) applies only to one (1) or more particularly described
 35 intersections, highway portions, bridge causeways, or
 36 viaduct areas.

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

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

40 **(5) A rule adopted by the board of trustees of the Indiana**
 41 **public retirement system, as provided in IC 5-10.5-4-2.**
 42 **However, the board shall submit rules adopted by the board**



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1 to the publisher for publication in the Indiana Register.

2 (d) Except as specifically set forth in IC 13-14-9, ~~IC 13-14-9~~
 3 **provides alternative procedures for notice and public comment**
 4 **concerning proposed rules for the environmental rules board and**
 5 **the underground storage tank financial assurance board. The**
 6 **department of environmental management, the environmental**
 7 **rules board, and the underground storage tank financial assurance**
 8 **board shall comply with the procedures in IC 13-14-9 in lieu of**
 9 **complying with** sections 23, 24, 26, 27, and 29 of this chapter. ~~do not~~
 10 ~~apply to rulemaking actions under IC 13-14-9.~~ **In adopting rules, all**
 11 **other provisions of IC 4-22-2 apply to these agencies, including**
 12 **sections 22.7 and 22.8 of this chapter.**

13 SECTION ~~6.~~ IC 4-22-2-15 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 15. Any rulemaking
 15 action that this chapter allows or requires an agency to perform, other
 16 than final adoption of a rule under section 29, ~~or 37.1,~~ ~~IC 13-14-9,~~
 17 ~~or 37.~~ ~~IC 13-14-9,~~ ~~or 37.~~ ~~IC 13-14-9,~~ may be performed by the
 18 individual or group of individuals with the statutory authority to adopt
 19 rules for the agency, a member of the agency's staff, or another agent
 20 of the agency. Final adoption of a rule under section 29, ~~or 37.1,~~
 21 ~~IC 13-14-9,~~ ~~or 37.~~ ~~IC 13-14-9,~~ including re-adoption
 22 of a rule that is subject to sections 24 through 36 or to section 37.1 of
 23 this chapter and recalled for further consideration under section 40 of
 24 this chapter, may be performed only by the individual or group of
 25 individuals with the statutory authority to adopt rules for the agency.

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

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

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

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

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

- (1) Minimize the expenses to:
 - (A) regulated entities that are required to comply with the rule;
 - (B) persons who pay taxes or pay fees for government services affected by the rule; and
 - (C) consumers of products and services of regulated entities affected by the rule.
- (2) Achieve the regulatory goal in the least restrictive manner.
- (3) Avoid duplicating standards found in state or federal laws.
- (4) Be written for ease of comprehension.
- (5) Have practicable enforcement.

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

SECTION ~~9~~[10]. IC 4-22-2-21, AS AMENDED BY P.L.204-2016, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 21. (a) If incorporation of the text in full would be cumbersome, expensive, or otherwise inexpedient, an agency may incorporate by reference into a rule part or all of any of the following matters:

- (1) A federal or state statute, rule, or regulation.
- (2) A code, manual, or other standard adopted by an agent of the United States, a state, or a nationally recognized organization or association.
- (3) A manual of the department of local government finance adopted in a rule described in IC 6-1.1-31-9.
- (4) The following requirements:
 - (A) The schedule, electronic formatting, and standard data, field, and record coding requirements for:
 - (i) the electronic data file under IC 6-1.1-4-25



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



- 1 (1) either:
- 2 (A) a notice of intent ~~the first~~ **[a] public comment**
- 3 **period** has been published under section 23 **[, 37.2,] or 37.3**
- 4 of this chapter; ~~or~~
- 5 (B) a rulemaking action has been commenced under
- 6 IC 13-14-9; ~~and or~~
- 7 **(C) a rulemaking action has been commenced under**
- 8 **IC 4-22-2.6; and**
- 9 (2) the rule has not become effective under section 36 of this
- 10 chapter.
- 11 (c) Each agency shall maintain a current rulemaking docket that
- 12 is indexed.
- 13 (d) A current rulemaking docket must list each pending
- 14 rulemaking action. The docket must state or contain:
- 15 (1) the subject matter of the proposed rule;
- 16 (2) notices related to the proposed rule, or links to the Indiana
- 17 Register where these notices may be viewed;
- 18 (3) how comments may be made;
- 19 (4) the time within which comments may be made;
- 20 (5) where comments and the agency's written response to those
- 21 comments may be inspected;
- 22 (6) the date, time, and place where a public hearing required
- 23 under:
- 24 (A) section 26 of this chapter; ~~or~~
- 25 (B) IC 13-14-9; ~~or~~
- 26 ~~(C) IC 4-22-2.6;~~
- 27 will be held;
- 28 (7) a description of relevant scientific and technical findings
- 29 related to the proposed rule, if applicable; and
- 30 (8) a reasonable estimate of the timetable for action, updated
- 31 periodically as circumstances change, if necessary.
- 32 (e) The agency shall maintain the rulemaking docket on the
- 33 agency's ~~Internet web site.~~ **website.** The information must be in an
- 34 open format that can be easily searched and downloaded. Access to the
- 35 docket shall, to the extent feasible and permitted by law, provide an
- 36 opportunity for public comment on the pertinent parts of the
- 37 rulemaking docket, including relevant scientific and technical findings.
- 38 Upon request, the agency shall provide a written rulemaking docket.
- 39 SECTION 1 ~~+~~ **[2].** IC 4-22-2-22.7 IS ADDED TO THE
- 40 INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 41 **[EFFECTIVE JULY 1, 2023]: Sec. 22.7. (a) Before complying with**
- 42 **section 22.8 of this chapter, an agency shall conduct a regulatory**

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1 analysis for the proposed rule. The regulatory analysis must
 2 evaluate whether the proposed rule does the following:

3 (1) Minimizes expenses to:

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

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

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

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

12 (3) Has benefits that exceed the fiscal and economic costs of
 13 the proposed rule.

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

16 (5) Is written for ease of comprehension.

17 (6) Has practicable enforcement.

18 (b) The office of management and budget shall set standards
 19 for the criteria, analytical method, treatment technology,
 20 economic, fiscal, and other background data to be used by an
 21 agency in the regulatory analysis. The regulatory analysis ~~and~~
 22 **including supporting data** must be submitted in a form that can
 23 be easily loaded into commonly used business analysis software and
 24 published in the Indiana Register using the format jointly
 25 developed by the publisher, the office of management and budget,
 26 and the budget agency. The office of management and budget may
 27 provide more stringent requirements for rules with fiscal impacts
 28 and costs above a threshold amount determined by the office of
 29 management and budget. At a minimum, the regulatory analysis
 30 must include findings and any supporting data, studies, or analyses
 31 prepared for a rule that demonstrate compliance with the
 32 following:

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

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

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

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

41 (B) not expressly required by:

42 (i) the statute authorizing the agency to adopt the



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rule; or

(ii) any other state or federal law.

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

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

(5) A requirement in IC 4-22-2.6 to conduct a review to consider whether there are any alternative methods of achieving the purpose of the rule that are less costly or less intrusive, or that would otherwise minimize the economic impact of the proposed rule on small businesses.

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

(7) A requirement in IC 13-14-9-3 or IC 13-14-9-4 to publish information concerning differences between the rule and federal law or the annual fiscal and economic impact of any element of the proposed rule that imposes a restriction or requirement that is more stringent than a restriction or requirement imposed under federal law or that applies in a subject area in which federal law does not impose restrictions or requirements.

(8) A requirement under any other law to conduct an analysis of the cost, benefits, economic impact, or fiscal impact of a rule.

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

SECTION 1 ~~↔~~ [3]. IC 4-22-2-22.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 22.8. (a) After conducting a regulatory analysis under section 22.7 of this chapter, ~~<an agency may>~~ if an agency elects to adopt a rule subject to section 23 of this chapter or IC 13-14-9, the agency shall submit a request to the budget agency and the office of management and budget to authorize commencement of the first and second public comment periods under this chapter or IC 13-14-9 (as applicable). The request must include the following:

(1) A general description of the subject matter of the

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- 1 proposed rule.
- 2 (2) The full text of the proposed rule (including a copy of any
- 3 matter incorporated by reference under section 21 of this
- 4 chapter) in the form required by the publisher, including
- 5 citations to any related authorizing and affected Indiana
- 6 statutes.
- 7 (3) The analysis, including supporting data, prepared under
- 8 section 22.7 of this chapter.
- 9 (4) Any other information required by the office of
- 10 management and budget.
- 11 (b) The budget agency and the office of management and
- 12 budget shall expedite the review of the request to adopt a rule. The
- 13 budget agency and the office of management and budget may do
- 14 the following:
- 15 (1) Return the request to the agency with a statement
- 16 describing any additional information needed to authorize or
- 17 disapprove further rulemaking actions on one (1) or more of
- 18 the rules in the request.
- 19 (2) Authorize the commencement of the first and second
- 20 public comment periods on one (1) or more of the rules in the
- 21 request with or without changes.
- 22 (3) Disapprove commencement of the first and second public
- 23 comment periods on one (1) or more of the rules with a
- 24 statement of reasons for the disapproval.
- 25 (c) If an agency has requested authorization for more than one
- 26 (1) rule in the same request, the budget agency and the office of
- 27 management and budget may make separate determinations with
- 28 respect to some or all of the rules in the request. Approval of a
- 29 request shall be treated as a determination that the review
- 30 conducted and findings made by the agency comply with the
- 31 requirements of section 22.7 of this chapter and this section.
- 32 (d) Notice of the determination shall be provided to the agency
- 33 in an electronic format required by the publisher. The budget
- 34 agency and the office of management and budget may return to the
- 35 agency any copy of a matter incorporated by reference under
- 36 section 21 of this chapter that was submitted with the request.
- 37 (e) If an agency revises a proposed rule after the budget
- 38 agency and the office of management and budget authorize
- 39 commencement of the first and second public comment periods, the
- 40 agency shall resubmit to the publisher, the budget agency, and the
- 41 office of management and budget [\[a revised regulatory analysis](#)
- 42 [with\]](#) sufficient information for the budget agency and the office of

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1 management and budget to determine the impact the revisions
 2 have on the regulatory analysis previously reviewed by the budget
 3 agency and the office of management and budget.

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

11 (b) At least twenty-eight (28) days before an agency notifies the
 12 public of the agency's intention to adopt ~~↔~~ a rule under section 24 of
 13 this chapter, the agency shall notify ~~↔~~ the public of its intention to
 14 adopt a rule by publishing a notice of intent to adopt a rule in the
 15 Indiana Register. An agency shall provide notice in the Indiana
 16 Register of the first public comment period required by subsection
 17 (a). To publish notice of the first comment period in the Indiana
 18 Register, the agency must submit the following to the publisher:

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

24 (2) The latest version of the regulatory analysis ~~↔~~ **including**
 25 **supporting data and studies,** ~~↔~~ submitted to the budget
 26 agency and the office of management and budget under
 27 section 22.8 of this chapter.

28 (3) The determination of the budget agency and the office of
 29 management and budget authorizing commencement of the
 30 first and second public comment periods on the proposed
 31 rule.

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

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

35 (1) A general description of the subject matter of the
 36 proposed rule.

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

39 (3) The latest version of the regulatory analysis submitted to
 40 the budget agency and the office of management and budget
 41 under section 22.8 of this chapter, excluding any appendices
 42 containing any data, studies, or analysis referenced in the



- 1 regulatory analysis.
- 2 **(4) Information concerning where, when, and how a person**
- 3 **may submit written comments on the proposed rule,**
- 4 **including contact information concerning the small business**
- 5 **regulatory coordinator required by section 28.1 of this**
- 6 **chapter.**
- 7 **(5) Information concerning where, when, and how a person**
- 8 **may inspect and copy the regulatory analysis, and any data,**
- 9 **studies, or analyses referenced under subdivision (3).**
- 10 **(6) Information concerning where, when, and how a person**
- 11 **may inspect any documents incorporated by reference into**
- 12 **the proposed rule under section 21 of this chapter.**
- 13 **(7) An indication that the notice is for the first of two (2)**
- 14 **thirty (30) day periods in which the public may comment on**
- 15 **the proposed rule.**

16 **Inadequacy or insufficiency of the published description or**

17 **regulatory analysis published under this section does not invalidate**

18 **a rulemaking action.**

19 (c) The requirement to publish a notice of intent to adopt a rule

20 under subsection (b) does not apply to rulemaking under IC 13-14-9.

21 (d) In addition to the procedures required by this article, an agency

22 may solicit comments from the public on the need for a rule, the

23 drafting of a rule, or any other subject related to a rulemaking action,

24 including members of the public who are likely to be affected because

25 they are the subject of the potential rulemaking or are likely to benefit

26 from the potential rulemaking. The procedures that the agency may use

27 include the holding of conferences and the inviting of written

28 suggestions, facts, arguments, or views.

29 (e) The agency shall prepare a written response that contains a

30 summary of the comments received during any part of the rulemaking

31 process. The written response is a public document. The agency shall

32 make the written response available to interested parties upon request.

33 **(d) The publisher shall review materials submitted under this**

34 **section and determine the date that the publisher intends to publish**

35 **the text of the proposed rule and the notice in the Indiana Register.**

36 **If the submitted material complies with this section, the publisher**

37 **shall establish the intended publication date, assign a document**

38 **control number to the proposed rule, and provide a written or an**

39 **electronic mail authorization to proceed to the agency. The**

40 **publisher shall publish the following in the Indiana Register on the**

41 **intended publication date:**

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

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1 **(2) The full text of the agency's proposed rule (excluding the**
2 **full text of a matter incorporated by reference under section**
3 **21 of this chapter).**

4 SECTION 1 ~~4~~ **[5]**. IC 4-22-2-23.1, AS AMENDED BY
5 P.L.123-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2023]: Sec. 23.1. (a) This section and section
7 19(b) of this chapter do not apply to rules adopted under
8 IC 4-22-2-37.1.

9 (b) Before or after an agency ~~notifies the public of its intention to~~
10 ~~adopt a rule under section 24 of this chapter; submits a request to the~~
11 ~~budget agency and the office of management and budget under~~
12 ~~section 22.8 of this chapter,~~ the agency may solicit comments from all
13 or any segment of the public on the need for a rule, the drafting of a
14 rule, or any other subject related to a rulemaking action. The
15 procedures that the agency may use include the holding of conferences
16 and the inviting of written suggestions, facts, arguments, or views. An
17 agency's failure to consider comments received under this section does
18 not invalidate a rule subsequently adopted.

19 SECTION 1 ~~5~~ **[6]**. IC 4-22-2-24, AS AMENDED BY
20 P.L.1-2006, SECTION 71, IS AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2023]: Sec. 24. (a) An agency shall ~~notify the~~
22 ~~public of its intention to adopt a rule by complying with the publication~~
23 ~~requirements in subsections (b) and (c):~~ **provide notice in:**

- 24 **(1) one (1) newspaper of general circulation in Marion**
- 25 **County; and**
- 26 **(2) the Indiana Register;**
- 27 **of the second public comment period required by section 23 of this**
- 28 **chapter.**

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

- 34 **(1) A general description of the subject matter of the**
- 35 **proposed rule.**
- 36 **(2) Information indicating that the text of the proposed rule**
- 37 **has been published in the Indiana Register and where on the**
- 38 **Internet and by what document control number the**
- 39 **proposed rule can be found.**
- 40 **(3) A statement of the date, time, and place at which the**
- 41 **public hearing required by section 26 of this chapter will be**
- 42 **convened.**

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- 1 **(4) Information concerning where, when, and how a person**
- 2 **may provide written comments on the proposed rule,**
- 3 **including contact information concerning the small business**
- 4 **regulatory coordinator required by section 28.1 of this**
- 5 **chapter.**
- 6 **(5) Information concerning where, when, and how a person**
- 7 **may inspect and copy the agency's regulatory analysis, and**
- 8 **any supporting data, studies, or analyses for the proposed**
- 9 **rule.**
- 10 **(6) Information concerning where, when, and how a person**
- 11 **may inspect any documents incorporated by reference into**
- 12 **the proposed rule under section 21 of this chapter.**

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

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

19 **(1) The agency shall cause a notice of public hearing and The**
 20 **full text of the agency's proposed rule (excluding the full text of**
 21 **a matter incorporated by reference under section 21 of this**
 22 **chapter). <=> [] to be published once in the Indiana Register. To**
 23 **publish the notice and proposed rule in the Indiana Register, the**
 24 **agency shall submit the text to the publisher in accordance with**
 25 **subsection ~~(g)~~. The agency shall submit the rule in the form**
 26 **required by section 20 of this chapter and with the documents**
 27 **required by section 21 of this chapter (if the agency has not**
 28 **previously provided the publisher with the documents). The**
 29 **publisher shall determine the number of copies of the rule and**
 30 **other documents to be submitted under this subsection:**
 31 **subdivision.**

32 **(2) Either a statement indicating that no changes in the**
 33 **regulatory analysis have been made from the version of the**
 34 **regulatory analysis published under section 23 of this**
 35 **chapter or the latest version of the regulatory analysis**
 36 **<(including any appendices containing any data, studies, or**
 37 **analysis referenced in the regulatory analysis)> submitted to**
 38 **the budget agency and the office of management and budget**
 39 **under section 22.8 of this chapter, if any changes have been**
 40 **made in the regulatory analysis after submitting the material**
 41 **under section 23 of this chapter.**

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

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

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

6 (2) A general description of the subject matter of the proposed
7 rule.

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

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

11 (B) not expressly required by:

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

13 or

14 (ii) any other state or federal law.

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

19 (4) an explanation that:

20 (A) the proposed rule; and

21 (B) any data, studies, or analysis referenced in a statement
22 under subdivision (3);

23 may be inspected and copied at the office of the agency.

24 (3) A summary of the written comments received by the
25 agency during the first comment period and a summary of
26 the response of the agency to written comments submitted
27 under section 23 of this chapter during the first public
28 comment period.

29 (4) Either a statement indicating that no changes in the
30 regulatory analysis have been made from the version of the
31 regulatory analysis published under section 23 of this
32 chapter or the latest version of the regulatory analysis
33 (excluding any appendices containing any data, studies, or
34 analysis referenced in the regulatory analysis) submitted to
35 the budget agency and the office of management and budget
36 under section 22.8 of this chapter, if any changes have been
37 made in the regulatory analysis after submitting the material
38 to the publisher under section 23 of this chapter.

39 (5) An explanation of any differences between the text of the
40 proposed rule published for the first comment period under
41 section 23 of this chapter and the text of the proposed rule
42 published for the second comment period under this section.

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1 (6) Information concerning where, when, and how a person
2 may submit written comments on the proposed rule,
3 including contact information concerning the small business
4 regulatory coordinator required by section 28.1 of this
5 chapter.

6 (7) Information concerning where, when, and how a person
7 may inspect and copy the regulatory analysis and any data,
8 studies, or analyses referenced in a regulatory analysis
9 referenced in subdivision (4).

10 (8) Information concerning where, when, and how a person
11 may inspect any documents incorporated by reference into
12 the proposed rule under section 21 of this chapter.

13 (9) An indication that the notice is for the second of two (2)
14 thirty (30) day periods in which the public may comment on
15 the proposed rule and that following the second comment
16 period the agency may adopt a version of the proposed rule
17 that is the same as or does not substantially differ from the
18 text of the proposed rule published under this section.

19 However, Inadequacy or insufficiency of the subject matter
20 description ~~under subdivision (2) or a statement of justification~~
21 ~~under subdivision (3) or regulatory analysis~~ in a notice published
22 under this section does not invalidate a rulemaking action.

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

28 (f) This section does not apply to the solicitation of comments
29 under section 23 of this chapter.

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

- 33 (1) establishing the intended publication date; and
- 34 (2) receiving the public hearing information specified in
35 subsection (d) from the agency;

36 the publisher shall **If the submitted material complies with this**
37 **section, the publisher shall establish the intended publication date,**
38 **assign a document control number to the proposed rule, and**
39 **provide a written or an electronic mail authorization to proceed to the**
40 **agency. The publisher shall publish the following in the Indiana**
41 **Register on the intended publication date:**

- 42 (1) The notice of the second comment period.

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1 (2) **The full text of the agency's proposed rule (excluding the**
2 **full text of a matter incorporated by reference under section**
3 **21 of this chapter).**

4 SECTION 1 ~~6~~ 7. IC 4-22-2-25, AS AMENDED BY
5 P.L.5-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2023]: Sec. 25. (a) An agency has one (1) year
7 from the date that it publishes a notice ~~[of]~~ intent to adopt a rule ~~in~~
8 ~~the Indiana Register~~ under section 23 of this chapter to
9 ~~comply with sections 26 through 33 of this chapter~~ [of] the first public
10 **comment period under section 23 of this chapter to comply with**
11 **sections 23 through 33 of this chapter** and obtain the approval or
12 deemed approval of the governor. If an agency determines that a rule
13 cannot be adopted within one (1) year after the publication of the notice
14 of ~~intent to adopt a rule~~ **the first public comment period** under section
15 23 of this chapter, the agency shall, before the two hundred fiftieth day
16 following the publication of the notice of ~~intent to adopt a rule~~ **the first**
17 **public comment period** under section 23 of this chapter, notify the
18 publisher by electronic means:

- 19 (1) the reasons why the rule was not adopted and the expected
20 date the rule will be completed; and
- 21 (2) the expected date the rule will be approved or deemed
22 approved by the governor or withdrawn under section 41 of this
23 chapter.

- 24 (b) If a rule is not approved before the later of:
 - 25 (1) one (1) year after the agency publishes notice of ~~intent to~~
26 ~~adopt the rule~~ **the first public comment period** under section 23
27 of this chapter; or
 - 28 (2) the expected date contained in a notice concerning the rule
29 that is provided to the publisher under subsection (a);
- 30 a later approval or deemed approval is ineffective, and the rule may
31 become effective only through another rulemaking action initiated
32 under this chapter.

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

42 SECTION 19. IC 4-22-2-27.5 IS ADDED TO THE INDIANA

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

12] SECTION ~~17~~ [20]. IC 4-22-2-28, AS AMENDED BY
 13 P.L.237-2017, SECTION 8, IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2023]: Sec. 28. (a) The following definitions
 15 apply throughout this section:

- 16 (1) "Ombudsman" refers to the small business ombudsman
 17 designated under IC 5-28-17-6.
- 18 (2) "Total estimated economic impact" means the direct annual
 19 economic impact of a rule on all regulated persons after the rule
 20 is fully implemented under subsection (g).
- 21 (b) The ombudsman:
 22 (1) shall review a proposed rule that
 23 (A) imposes requirements or costs on small businesses (as
 24 defined in IC 4-22-2.1-4); and
 25 (B) is referred to the ombudsman by an agency under
 26 IC 4-22-2.1-5(c); and
 27 (2) may review a proposed rule that imposes requirements or
 28 costs on businesses other than small businesses (as defined in
 29 IC 4-22-2.1-4).

30 After conducting a review under subdivision (1) or (2), the ombudsman
 31 may suggest alternatives to reduce any regulatory burden that the
 32 proposed rule imposes on small businesses or other businesses. The
 33 agency that intends to adopt the proposed rule shall respond in writing
 34 to the ombudsman concerning the ombudsman's comments or
 35 suggested alternatives before adopting the proposed rule under section
 36 29 of this chapter.

37 (c) Subject to subsection (e) and not later than fifty (50) days
 38 before the public hearing for a proposed rule required by section 26 of
 39 this chapter, an agency shall submit the proposed rule to the office of
 40 management and budget for a review under subsection (d); if the
 41 agency proposing the rule determines that the rule will have a total
 42 estimated economic impact greater than five hundred thousand dollars

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1 (\$500,000) on all regulated persons. In determining the total estimated
 2 economic impact under this subsection, the agency shall consider any
 3 applicable information submitted by the regulated persons affected by
 4 the rule. To assist the office of management and budget in preparing
 5 the fiscal impact statement required by subsection (d), the agency shall
 6 submit, along with the proposed rule, the data used and assumptions
 7 made by the agency in determining the total estimated economic
 8 impact of the rule.

9 (d) Except as provided in subsection (e), before the adoption of the
 10 rule, and not more than forty-five (45) days after receiving a proposed
 11 rule under subsection (c), the office of management and budget shall
 12 prepare, using the data and assumptions provided by the agency
 13 proposing the rule, along with any other data or information available
 14 to the office of management and budget, a fiscal impact statement
 15 concerning the effect that compliance with the proposed rule will have
 16 on:

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

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

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

- 34 (1) the department of environmental management shall give
 35 written notice to the office of management and budget of the
 36 proposed date of preliminary adoption of the proposed rule not
 37 less than sixty-six (66) days before that date; and
- 38 (2) the office of management and budget shall prepare the fiscal
 39 impact statement referred to in subsection (d) not later than
 40 twenty-one (21) days before the proposed date of preliminary
 41 adoption of the proposed rule.

42 (f) In determining whether a proposed rule has a total estimated



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1 economic impact greater than five hundred thousand dollars
 2 (\$500,000); the agency proposing the rule shall consider the impact of
 3 the rule on any regulated person that already complies with the
 4 standards imposed by the rule on a voluntary basis.

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

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

7 (A) the rule is gradually made to apply to certain regulated
 8 persons; or

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

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

12 In determining the total estimated economic impact of a proposed rule
 13 under this section, the agency proposing the rule shall consider the
 14 annual economic impact on all regulated persons beginning with the
 15 first twelve (12) month period after the rule is fully implemented. The
 16 agency may use actual or forecasted data and may consider the actual
 17 and anticipated effects of inflation and deflation. The agency shall
 18 describe any assumptions made and any data used in determining the
 19 total estimated economic impact of a rule under this section.

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

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

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

42 (2) a requirement in section 24 of this chapter to publish a



1 justification of any requirement or cost that is imposed on a
2 regulated entity under the rule;

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

6 (4) a requirement in IC 4-22-2.5-3.1 to conduct a review to
7 consider whether there are any alternative methods of achieving
8 the purpose of the rule that are less costly or less intrusive; or
9 that would otherwise minimize the economic impact of the
10 proposed rule on small businesses;

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

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

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

22 SECTION ~~<18>~~[21]. IC 4-22-2-28.1, AS AMENDED BY
23 P.L.237-2017, SECTION 9, IS AMENDED TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2023]: Sec. 28.1. (a) This section applies to the
25 following:

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

29 (2) A rule for which:

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

31 (B) an appropriate later notice for circumstances described
32 in subsection (g);

33 is published by the department of environmental management
34 after June 30, 2006.

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

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

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

42 (e) For each rulemaking action and rule finally adopted as a result



1 of a rulemaking action by an agency under this chapter, the agency
 2 shall assign one (1) staff person to serve as the agency's small business
 3 regulatory coordinator with respect to the proposed or adopted rule.
 4 The agency shall assign a staff person to a rule under this subsection
 5 based on the person's knowledge of, or experience with, the subject
 6 matter of the rule. A staff person may serve as the coordinator for more
 7 than one (1) rule proposed or adopted by the agency if the person is
 8 qualified by knowledge or experience with respect to each rule. Subject
 9 to subsection (f):

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

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

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

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

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

37 (3) if applicable, a statement of:

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

41 (B) the name, address, telephone number, and electronic
 42 mail address of the ombudsman for small business



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1 designated under IC 13-28-5-2(3); and
 2 (4) the information required by subsection (e).
 3 The coordinator assigned to the rule under subsection (e) shall work
 4 with the ombudsman described in subdivision (2) and the office of
 5 voluntary compliance established by IC 13-28-1-1 to coordinate the
 6 provision of services required under subsection (h) and IC 13-28-3. If
 7 applicable, the coordinator assigned to the rule under subsection (e)
 8 shall work with the ombudsman referred to in subdivision (3)(B) to
 9 coordinate the provision of services required under subsection (h) and
 10 IC 13-28-5.
 11 (g) If the notice provided under IC 13-14-9-3 is not published as
 12 allowed by IC 13-14-9-7, the department of environmental
 13 management shall publish in the notice provided under IC 13-14-9-4
 14 the information that subsection (f) would otherwise require to be
 15 published in the notice under IC 13-14-9-3. If neither the notice under
 16 IC 13-14-9-3 nor the notice under IC 13-14-9-4 is published as allowed
 17 by IC 13-14-9-8, the department of environmental management shall
 18 publish in the commissioner's written findings under IC 13-14-9-8(b)
 19 the information that subsection (f) would otherwise require to be
 20 published in the notice under IC 13-14-9-3.
 21 (h) The coordinator assigned to a rule under subsection (e) shall
 22 serve as a liaison between the agency and any small business subject
 23 to regulation under the rule. The coordinator shall provide guidance to
 24 small businesses affected by the rule on the following:
 25 (1) Any requirements imposed by the rule, including any
 26 reporting, record keeping, or accounting requirements.
 27 (2) How the agency determines or measures compliance with the
 28 rule, including any deadlines for action by regulated entities.
 29 (3) Any penalties, sanctions, or fines imposed for noncompliance
 30 with the rule.
 31 (4) Any other concerns of small businesses with respect to the
 32 rule, including the agency's application or enforcement of the
 33 rule in particular situations. However, in the case of a rule
 34 adopted under IC 13-14-9, the coordinator assigned to the rule
 35 may refer a small business with concerns about the application
 36 or enforcement of the rule in a particular situation to the
 37 ombudsman designated under IC 13-28-3-2 or, if applicable,
 38 under IC 13-28-5-2(3).
 39 (i) The coordinator assigned to a rule under subsection (e) shall
 40 provide guidance under this section in response to questions and
 41 concerns expressed by small businesses affected by the rule. The
 42 coordinator may also issue general guidelines or informational

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1 pamphlets to assist small businesses in complying with the rule. Any
2 guidelines or informational pamphlets issued under this subsection
3 shall be made available:

- 4 (1) for public inspection and copying at the offices of the agency
- 5 under IC 5-14-3; and
- 6 (2) electronically through electronic gateway access.

7 (j) The coordinator assigned to a rule under subsection (e) shall
8 keep a record of all comments, questions, and complaints received
9 from small businesses with respect to the rule. The coordinator shall
10 deliver the record, along with any accompanying documents submitted
11 by small businesses, to the director:

- 12 (1) not later than ten (10) days after the date on which the rule is
- 13 submitted to the publisher under section 35 of this chapter; and
- 14 (2) before July 15 of each year during which the rule remains in
- 15 effect.

16 The coordinator and the director shall keep confidential any
17 information concerning a small business to the extent that the
18 information is exempt from public disclosure under IC 5-14-3-4.

19 (k) Not later than November 1 of each year, the director shall:

- 20 (1) compile the records received from all of the agency's
- 21 coordinators under subsection (j);
- 22 (2) prepare a report that sets forth:
 - 23 (A) the number of comments, complaints, and questions
 - 24 received by the agency from small businesses during the
 - 25 most recent state fiscal year, categorized by the subject
 - 26 matter of the rules involved;
 - 27 (B) the number of complaints or questions reported under
 - 28 clause (A) that were resolved to the satisfaction of the
 - 29 agency and the small businesses involved;
 - 30 (C) the total number of staff serving as coordinators under
 - 31 this section during the most recent state fiscal year;
 - 32 (D) the agency's costs in complying with this section during
 - 33 the most recent state fiscal year; and
 - 34 (E) the projected budget required by the agency to comply
 - 35 with this section during the current state fiscal year; and

36 (3) deliver the report to the legislative council in an electronic
37 format under IC 5-14-6 and to the small business ombudsman
38 designated under IC 5-28-17-6.

39 SECTION ~~19~~ [22](#). IC 4-22-2-29, AS AMENDED BY
40 P.L.237-2017, SECTION 10, IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 29. (a) As used in this
42 section, "small business ombudsman" refers to the small business

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1 ombudsman designated under IC 5-28-17-6.
 2 (b) After an agency has complied with sections ~~26, 27, and 22.8~~
 3 **through** 28 of this chapter, the agency may:
 4 (1) adopt a rule that is identical to a proposed rule published in
 5 the Indiana Register under section 24~~↔~~ of this chapter;
 6 (2) subject to subsection (c), adopt a rule that consolidates part
 7 or all of two (2) or more proposed rules published in the Indiana
 8 Register under section 24~~↔~~ of this chapter and considered
 9 under section 27 of this chapter;
 10 (3) subject to subsection (c), adopt part of one (1) or more
 11 proposed rules described in subdivision (2) in two (2) or more
 12 separate adoption actions; or
 13 (4) subject to subsection (c), adopt a revised version of a
 14 proposed rule published under section 24~~↔~~ of this chapter and
 15 include provisions that did not appear in the published version,
 16 including any provisions recommended by the small business
 17 ombudsman under IC 4-22-2.1-6(a), if applicable.
 18 (c) An agency may not adopt a rule that substantially differs from
 19 the version or versions of the proposed rule or rules published in the
 20 Indiana Register under section 24~~↔~~ of this chapter, unless it is a
 21 logical outgrowth of any proposed rule as supported by any written
 22 comments submitted:
 23 (1) during the public comment ~~period; periods;~~ or
 24 (2) by the small business ombudsman under IC 4-22-2.1-6(a), if
 25 applicable.
 26 SECTION 2~~↔~~[3]. IC 4-22-2-31, AS AMENDED BY
 27 P.L.123-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2023]: Sec. 31. After an agency has complied
 29 with section 29 of this chapter, or with IC 13-14-9-9(1) or
 30 IC 13-14-9-9(2), as applicable, the agency shall submit its rule to the
 31 attorney general for approval. The agency shall submit the following to
 32 the attorney general:
 33 (1) The rule in the form required by section 20 of this chapter.
 34 (2) The documents required by section 21 of this chapter.
 35 (3) Written authorization to proceed issued by the publisher
 36 under~~↔~~[]~~section 24(g)~~ **sections 23(d) and 24(f)** of this
 37 chapter.
 38 (4) Any other documents specified by the attorney general.
 39 The attorney general may require the agency to submit any supporting
 40 documentation that the attorney general considers necessary for the
 41 attorney general's review under section 32 of this chapter. The agency
 42 may submit any additional supporting documentation the agency

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1 considers necessary.

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

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

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

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

- 21 ~~(1) under this section; or~~
22 ~~(2) in the manner provided by this section.~~

23 **the governor finds that the agency proposing to adopt the rule has**
24 **demonstrated to the satisfaction of the governor that use of**
25 **emergency rulemaking procedures under this section is necessary**
26 **to avoid:**

- 27 **(1) an imminent and substantial peril to public health, safety,**
28 **or welfare;**
29 **(2) an imminent and material loss of federal funds for an**
30 **agency program;**
31 **(3) an imminent and material deficit; or**
32 **(4) an imminent and substantial violation of a state or federal**
33 **law or the terms of a federal agreement or program.**

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



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1 **that the rule meets the criteria in this subsection.**
 2 (c) After an agency adopts a rule under this section, ~~the governor~~
 3 **approves emergency rulemaking procedures for a rule**, the agency
 4 shall ~~submit the rule to the publisher for the assignment of~~ **obtain** a
 5 document control number. The agency shall submit the rule in the form
 6 required by section 20 of this chapter and with the documents required
 7 by section 21 of this chapter: **from the publisher.** The publisher shall
 8 determine the **documents and the** format of the rule and other
 9 documents ~~to that must be submitted under this subsection: to the~~
 10 **publisher to obtain a document control number.**

11 (d) After the document control number has been assigned **and the**
 12 **agency adopts the rule**, the agency shall submit the ~~rule~~ **following**
 13 to the publisher for filing:

- 14 (1) **The text of the adopted emergency rule.** The agency shall
 15 submit the **emergency rule** in the form required by section 20 of
 16 this chapter. ~~and with~~
- 17 (2) **A signature page that indicates that the agency has**
 18 **adopted the emergency rule in conformity with all**
 19 **procedures required by law.**
- 20 (3) **The approval of the governor to use emergency**
 21 **rulemaking procedures for the rule.**
- 22 (4) The documents required by section 21 of this chapter.

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

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

- 32 (1) accept the rule for filing; ~~and~~
- 33 (2) electronically record the date and time that the rule is
 34 accepted; **and**
- 35 (3) **publish the text of the adopted emergency rule and the**
 36 **governor's approval in the Indiana Register.**

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

- 39 (1) The effective date of the statute delegating authority to the
 40 agency to adopt the **emergency rule.**
- 41 (2) The date and time that the **emergency rule** is accepted for
 42 filing under subsection (e).

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- 1 (3) The effective date stated by the adopting agency in the
2 **emergency rule.**
- 3 (4) The date of compliance with every requirement established
4 by law as a prerequisite to the adoption or effectiveness of the
5 **emergency rule.**
- 6 (5) The statutory effective date for an emergency rule set forth
7 in ~~the statute authorizing the agency to adopt emergency~~
8 ~~rules: law.~~
- 9 ~~(g) Unless otherwise provided by the statute authorizing~~
10 ~~adoption of the rule:~~
- 11 (1) a rule adopted under this section expires not later than ninety
12 ~~(90) days after the rule is accepted for filing under subsection~~
13 ~~(e);~~
- 14 (2) a rule adopted under this section may ~~be extended by~~
15 ~~adopting another rule under this section; but only for one (1)~~
16 ~~extension period; and~~
- 17 (3) for a rule adopted under this section ~~to be effective after~~
18 ~~one (1) extension period; the rule must be adopted under:~~
- 19 (A) sections 24 through 36 of this chapter; or
20 (B) IC 13-14-9;
21 as applicable.
- 22 **(g) An agency may amend an emergency rule with another**
23 **emergency rule by following the procedures in this section for the**
24 **amending emergency rule. However, unless otherwise provided by**
25 **IC 4-22-2.3, an emergency rule and all amendments of an**
26 **emergency rule by another emergency rule expire not later than**
27 **one hundred eighty (180) days after the initial emergency rule is**
28 **accepted for filing under subsection (e). The subject of the**
29 **emergency rule, including all amendments to the emergency rule,**
30 **may not be subsequently extended under this section or section**
31 **37.2 of this chapter. If the governor determines that the emergency**
32 **that is the basis for using the procedures under this section ceases**
33 **to exist, the governor may terminate the emergency rule before the**
34 **lapse of one hundred eighty (180) days. The termination is effective**
35 **when filed with the publisher. The publisher shall publish the**
36 **termination notice in the Indiana Register.**
- 37 ~~(h) This section may not be used to readopt a rule under~~
38 ~~IC 4-22-2.5.~~
- 39 (i) The publisher of the Indiana administrative code shall annually
40 publish a list of agencies authorized to adopt rules under this section.
- 41 **(h) Subject to subsection (i), the attorney general or the**
42 **governor may file an objection to an emergency rule that is**

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

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

- 12 (1) without statutory authority; or
- 13 (2) without complying with this section.

14 [A notice of objection to an emergency 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 2 ~~⇒~~[5]. IC 4-22-2-37.2 IS ADDED TO THE
19 INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2023]: Sec. 37.2. (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 The amendments to this section made in the 2023 regular session
26 of the general assembly apply to interim rules that are accepted for
27 filing by the publisher of the Indiana Register after June 30, 2023,
28 regardless of whether the adopting agency initiated official action
29 to adopt the interim rule before July 1, 2023. An action taken
30 before July 1, 2023, in conformity with this section (as effective
31 after June 30, 2023) is validated to the same extent as if the action
32 was taken after June 30, 2023.

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

- 40 (1) a new state or federal law or program, rule of another
41 state agency, federal regulation, or federal grant or loan
42 agreement, or (if used by the agency to carry out the

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1 agency's responsibilities) a building, an equipment, a
 2 firefighting, a safety, or a professional code adopted by a
 3 nationally recognized organization; or

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

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

22 (c) ~~<After the governor approves interim rulemaking~~
 23 ~~procedures for a rule, the>~~ [An agency shall notify the public of its
 24 intention to adopt an interim rule by complying with the
 25 publication requirements in this section. The] agency shall ~~<obtain~~
 26 ~~a document control number from the publisher>~~ [cause a notice of
 27 a public comment period and the full text of the agency's proposed
 28 interim rule (excluding the full text of a matter incorporated by
 29 reference under section 21 of this chapter) to be published once in
 30 the Indiana Register]. The publisher shall ~~<determine the~~
 31 ~~documents and the format of documents that must be submitted to~~
 32 ~~the publisher to obtain a document control number.~~

33 ~~—(d) After>~~ [review materials submitted under this section and
 34 determine the date that the publisher intends to include the
 35 material in the Indiana Register. After establishing the intended
 36 publication date and receiving the public comment period
 37 information from the agency, the publisher shall provide a written
 38 or an electronic mail authorization to proceed to the agency.

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

41 (1) A general description of the subject matter of the
 42 proposed interim rule, including] the document control



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number~~<has been assigned and>~~].

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

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

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

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

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

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

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

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

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

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

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

(g) After] the agency adopts the [interim] rule, the agency shall



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1 submit the following to the publisher for filing:[]

2 [] (1) The text of the adopted interim rule. The agency shall
3 submit the interim rule in the form required by section 20 of
4 this chapter.

5 [(2) A summary of the comments received by the agency
6 during the comment period and the agency's response to the
7 comments.

8 [(<=>[3]) A signature page that indicates that the agency has
9 adopted the interim rule in conformity with all procedures
10 required by law.

11 (<=>[4]) The approval of the governor to use interim
12 rulemaking procedures for the rule.

13 (<=>[5]) The documents required by section 21 of this
14 chapter.

15 The publisher shall determine the format of the interim rule and
16 other documents to be submitted under this subsection. The
17 substantive text of the adopted interim rule must be substantially
18 similar to the text of the proposed interim rule submitted to the
19 governor. [] An interim rule may suspend but not repeal a rule
20 approved by the governor under section 34 of this chapter.

21 (<=>[h]) Subject to subsection (<=>[g]) and section 39 of this
22 chapter, the publisher shall:

23 (1) accept the rule for filing;

24 (2) electronically record the date and time that the rule is
25 accepted; and

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

28 (<=>[i]) An interim rule adopted by an agency under this
29 section takes effect on the latest of the following dates:

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

32 (2) The date and time that the interim rule is accepted for
33 filing under subsection (<=>[h]).

34 (3) The effective date stated by the adopting agency in the
35 interim rule.

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

39 (5) The statutory effective date for an interim rule set forth
40 in law.

41 [] (<=>[j]) An agency may amend an interim rule with
42 another interim rule by following the procedures in this section for



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1 ~~<the amending>~~ [adoption of an] interim rule. An interim rule and
 2 all ~~<amendments of an interim rule by another interim~~
 3 ~~rule>~~ [subsequent rules on the same subject adopted under section
 4 37.1 or 37.3 of this chapter or this section] expire not later than
 5 four hundred twenty-five (425) days after the initial interim rule is
 6 accepted for filing under subsection (~~<e>~~ [h]). The ~~<subject of the~~
 7 ~~>~~ interim rule, including all ~~<amendments to the interim~~
 8 ~~rule>~~ [subsequent interim rules adopted under section 37.1 or 37.3
 9 of this chapter or this section on the same subject], may not be
 10 subsequently extended under section 37.1 [or 37.3] of this chapter
 11 or this section [after four hundred twenty-five (425) days].

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

22 [(~~<e>~~ [l]) The attorney general may file a written objection to an
 23 ~~<emergency>~~ [interim] rule under subsection (~~<h>~~ [k]) only if the
 24 attorney general determines that the ~~<emergency>~~ [interim] rule
 25 has been adopted:

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

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

32] SECTION 2 ~~<e>~~ [6]. IC 4-22-2-37.3 IS ADDED TO THE
 33 INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2023]: Sec. 37.3. (a) The following do not
 35 apply to a rule adopted under this section:

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

39 (b) An agency may adopt a rule ~~<on a subject for which the~~
 40 ~~agency has rulemaking authority>~~ [described in IC 4-22-2.3] with
 41 a single comment period of at least thirty (30) days in length using
 42 the procedures in this section if the governor finds that the agency



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1 proposing to adopt the rule has demonstrated to the satisfaction of
 2 the governor that use of expedited rulemaking procedures under
 3 this section is ~~is~~:

- 4 ~~(1) appropriate for a rule described in IC 4-22-2.3, or~~
 5 ~~(2) necessary to permit time for a final rule on the same~~
 6 ~~subject to become effective and the circumstances in section~~
 7 ~~37.1(b)(1) through 37.1(b)(4) of this chapter and section~~
 8 ~~37.2(b)(1) through 37.2(b)(2) of this chapter do not apply.~~

9 ~~To obtain the approval of~~ the.

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

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

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

- 37 (1) A general description of the subject matter of the
 38 proposed expedited rule, including the document control
 39 number.
 40 (2) A statement justifying any requirement or cost that is:
 41 (A) imposed on a regulated entity under the expedited
 42 rule; and



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(B) not expressly required by the statute authorizing the agency to adopt rules or any other state or federal law. The statement required under this subdivision must include a reference to any data, studies, or analyses relied upon by the agency in determining that the imposition of the requirement or cost is necessary and where and how a person may inspect and copy or electronically download the data, studies, or analysis.

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

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

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

(f) After an agency has completed ~~<a public>~~ [the] comment period ~~<of at least thirty (30) days in length>~~ [under this section] and complied with subsection (e), the agency may:

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

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

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

- (1) The text of the adopted expedited rule. The agency shall submit the expedited rule in the form required by section 20



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- 1 of this chapter.
- 2 (2) A summary of the comments received by the agency
- 3 during the comment period and the agency's response to the
- 4 comments.
- 5 (3) A signature page that indicates that the agency has
- 6 adopted the expedited rule in conformity with all procedures
- 7 required by law.
- 8 (4) The approval of the governor to use expedited
- 9 rulemaking procedures for the rule.
- 10 (5) The documents required by section 21 of this chapter.
- 11 The publisher shall determine the format of the expedited rule and
- 12 other documents to be submitted under this subsection. The
- 13 substantive text of the adopted expedited rule must be substantially
- 14 similar to the text of the proposed expedited rule submitted to the
- 15 governor. An expedited rule may suspend but not repeal a rule
- 16 approved by the governor under section 34 of this chapter.
- 17 (h) Subject to subsection (g) and section 39 of this chapter, the
- 18 publisher shall:
- 19 (1) accept the expedited rule for filing;
- 20 (2) electronically record the date and time that the expedited
- 21 rule is accepted; and
- 22 (3) publish the text of the adopted expedited rule and the
- 23 governor's approval in the Indiana Register.
- 24 (i) An expedited rule adopted by an agency under this section
- 25 takes effect on the latest of the following dates:
- 26 (1) The effective date of the statute delegating authority to
- 27 the agency to adopt the expedited rule.
- 28 (2) The date and time that the expedited rule is accepted for
- 29 filing under subsection (h).
- 30 (3) The effective date stated by the adopting agency in the
- 31 expedited rule.
- 32 (4) The date of compliance with every requirement
- 33 established by law as a prerequisite to the adoption or
- 34 effectiveness of the expedited rule.
- 35 (5) The statutory effective date for an expedited rule set forth
- 36 in law.
- 37 (j) An expedited rule that has been accepted for filing under
- 38 subsection (h) expires ~~<~~
- 39 ~~— (1) not later than one hundred eighty (180) days after the~~
- 40 ~~date the rule is accepted for filing under subsection (h); or~~
- 41 ~~— (2) >~~ as provided in ~~<the applicable provision of IC 4-22-2.3;~~
- 42 ~~whichever is later>~~ IC 4-22-2.3. An agency may continue an

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expedited rule for an additional period after it would otherwise expire only as permitted in IC 4-22-2.3].

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

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

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

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

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

- (1) A rule that brings another rule into conformity with section 20 of this chapter.
- (2) A rule that amends another rule to replace an inaccurate reference to a statute, rule, regulation, other text, governmental entity, or location with an accurate reference, when the inaccuracy is the result of the rearrangement of a federal or state statute, rule, or regulation under a different citation number, a federal or state transfer of functions from one (1) governmental entity to another, a change in the name of a federal or state governmental entity, or a change in the address of an entity.
- (3) A rule correcting any other typographical, clerical, or spelling error in another rule.

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

(c) Notwithstanding any other statute, an agency may adopt a rule described by subsection (a) without complying with any statutory

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1 notice, hearing, adoption, or approval requirement. In addition, the
2 governor may adopt a rule described in subsection (a) for an agency
3 without the agency's consent or action.

4 (d) A rule described in subsection (a) shall be submitted to the
5 publisher for the assignment of a document control number. The
6 agency (or the governor, for the agency) shall submit the rule in the
7 form required by section 20 of this chapter and with the documents
8 required by section 21 of this chapter. The publisher shall determine
9 the number of copies of the rule and other documents to be submitted
10 under this subsection.

11 (e) After a document control number is assigned, the agency (or
12 the governor, for the agency) shall submit the rule to the publisher for
13 filing. The agency (or the governor, for the agency) shall submit the
14 rule in the form required by section 20 of this chapter and with the
15 documents required by section 21 of this chapter. The publisher shall
16 determine the format of the rule and other documents to be submitted
17 under this subsection.

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

- 19 (1) accept the rule for filing; and
- 20 (2) electronically record the date and time that it is accepted.

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

- 23 (1) The date that the rule being corrected by a rule adopted under
24 this section becomes effective.
- 25 (2) The date that is forty-five (45) days from the date and time
26 that the rule adopted under this section is accepted for filing
27 under subsection (f).

28 (h) The governor or the attorney general may file an objection to
29 a rule that is adopted under this section before the date that is forty-five
30 (45) days from the date and time that the rule is accepted for filing
31 under subsection (f). When filed with the publisher, the objection has
32 the effect of invalidating the rule.

33 SECTION 28[8]. IC 4-22-2-39, AS AMENDED BY
34 P.L.123-2006, SECTION 14, IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 39. (a) When an agency
36 submits a rule for filing under section 35, 37.1, **37.2, 37.3**, or 38 of this
37 chapter, the publisher may accept the rule for filing only if the
38 following conditions are met:

- 39 (1) The following documents are submitted to allow the
40 publisher to comply with IC 4-22-7-5:
 - 41 (A) One (1) electronic copy of the rule.
 - 42 (B) One (1) copy of any matters incorporated by reference

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1 under section 21 of this chapter in the format specified by
 2 the publisher.
 3 (C) One (1) copy of any supporting documentation
 4 submitted under section 31 of this chapter in the format
 5 specified by the publisher.
 6 (2) Each submitted copy includes a reference to the document
 7 control number assigned to the rule by the publisher.
 8 (3) Each submitted copy indicates that the agency has conducted
 9 its rulemaking action in conformity with all procedures required
 10 by law. However, if section 31 of this chapter applies to the rule,
 11 the publisher shall rely on the approval of the attorney general as
 12 the basis for determining that the agency has complied with all
 13 procedures required before the date of the approval.
 14 (b) If a rule includes a statement that the rule is not effective until:
 15 (1) an agency has complied with requirements established by the
 16 federal or state government;
 17 (2) a specific period of time has elapsed; or
 18 (3) a date has occurred;
 19 the agency has complied with subsection (a)(3) even if the described
 20 event or time has not occurred before the publisher reviews the rule
 21 under this section.
 22 (c) The publisher shall take no more than three (3) business days
 23 to complete the review of a rule under this section.
 24 SECTION 2-6-19. IC 4-22-2-40, AS AMENDED BY
 25 P.L.53-2014, SECTION 60, IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2023]: Sec. 40. (a) At any time before a rule is
 27 accepted for filing by the publisher under section 35, 37.1, 37.2, 37.3,
 28 or 38 of this chapter, the agency that adopted the rule may recall it. A
 29 rule may be recalled regardless of whether:
 30 (1) the rule has been disapproved by the attorney general under
 31 section 32 of this chapter; or
 32 (2) the rule has been disapproved by the governor under section
 33 34 of this chapter.
 34 (b) Sections 24 through 38 of this chapter do not apply to a recall
 35 action under this section. However, the agency shall distribute a notice
 36 of its recall action to the publisher for publication in the Indiana
 37 Register. Sections 24 and 26 of this chapter do not apply to a
 38 readoption action under subsection (c).
 39 (c) After an agency recalls a rule, the agency may reconsider its
 40 adoption action and adopt an identical rule or a revised rule. However,
 41 if sections 24 through 36 of this chapter apply to the recalled rule, the
 42 readopted rule must comply with the requirements under section 29 of

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1 this chapter.

2 (d) The recall of a rule under this section voids any approval given

3 after the rule was adopted and before the rule was recalled.

4 (e) If a rule is:

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

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

7 (3) readopted under subsection (c);

8 the agency shall resubmit the readopted version of the recalled rule to

9 the attorney general and the governor for approval. The attorney

10 general and the governor have the full statutory period to approve or

11 disapprove the readopted rule. ~~If the recalled rule was submitted to the~~

12 ~~office of management and budget under section 28 of this chapter,~~ The

13 agency shall resubmit the readopted version of a recalled rule to the

14 office of management and budget with sufficient information for the

15 office of management and budget to evaluate whether ~~its the initial~~

16 ~~>~~ ~~[]~~ ~~fiscal impact statement regulatory analysis submitted to the~~

17 ~~office of management and budget~~ under section ~~28~~ **22.8** of this

18 chapter needs to be revised. ~~The office of management and budget shall~~

19 ~~revise a fiscal impact statement under section 28 of this chapter~~ If the

20 ~~fiscal~~ impact of the readopted rule is substantially different from the

21 recalled rule, **the agency shall submit the revised regulatory**

22 **analysis to the publisher for publication in the Indiana Register**

23 **with the document control number assigned by the publisher to the**

24 **rule.** The agency also shall comply with any other applicable approval

25 requirement provided by statute.

26 (f) The readopted version of a recalled rule is effective only after

27 the agency has complied with section 35, 37.1, **37.2, 37.3,** or 38 of this

28 chapter.

29 SECTION ~~<27>~~ **[30]**. IC 4-22-2-41, AS AMENDED BY

30 P.L.123-2006, SECTION 16, IS AMENDED TO READ AS

31 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 41. (a) At any time

32 before a rule is accepted by the publisher for filing under section 35,

33 37.1, **37.2, 37.3,** or 38 of this chapter, the agency that adopted the rule

34 may withdraw it.

35 (b) Sections 24 through 40 of this chapter do not apply to a

36 withdrawal action. However, the withdrawing agency shall distribute

37 a notice of the withdrawal to the publisher for publication in the

38 Indiana Register.

39 (c) The withdrawal of a rule under this section terminates the

40 rulemaking action, and the withdrawn rule may become effective only

41 through another rulemaking action initiated under this chapter.

42 SECTION ~~<28>~~ **[31]**. IC 4-22-2.1-1, AS AMENDED BY

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

7 SECTION ~~29~~ [32]. IC 4-22-2.1-5, AS AMENDED BY
 8 P.L.109-2015, SECTION 16, IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) If an agency
 10 intends to adopt a rule under IC 4-22-2 that will impose requirements
 11 or costs on small businesses, the agency shall prepare a statement that
 12 describes the annual economic impact of a rule on all small businesses
 13 after the rule is fully implemented. ~~as described in subsection (b).~~ The
 14 statement required by this section must include the following:

15 (1) An estimate of the number of small businesses, classified by
 16 industry sector, that will be subject to the proposed rule.

17 (2) An estimate of the average annual reporting, record keeping,
 18 and other administrative costs that small businesses will incur to
 19 comply with the proposed rule.

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

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

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

30 (B) not expressly required by:

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

32 or

33 (ii) any other state or federal law.

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

38 (5) A regulatory flexibility analysis that considers any less
 39 intrusive or less costly alternative methods of achieving the
 40 purpose of the proposed rule. The analysis under this subdivision
 41 must consider the following methods of minimizing the
 42 economic impact of the proposed rule on small businesses:



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- 1 (A) The establishment of less stringent compliance or
 2 reporting requirements for small businesses.
 3 (B) The establishment of less stringent schedules or
 4 deadlines for compliance or reporting requirements for
 5 small businesses.
 6 (C) The consolidation or simplification of compliance or
 7 reporting requirements for small businesses.
 8 (D) The establishment of performance standards for small
 9 businesses instead of design or operational standards
 10 imposed on other regulated entities by the rule.
 11 (E) The exemption of small businesses from part or all of
 12 the requirements or costs imposed by the rule.

13 If the agency has made a preliminary determination not to
 14 implement one (1) or more of the alternative methods
 15 considered, the agency shall include a statement explaining the
 16 agency's reasons for the determination, including a reference to
 17 any data, studies, or analyses relied upon by the agency in
 18 making the determination.

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

- 21 (1) the conclusion of any phase-in period during which:
 22 (A) the rule is gradually made to apply to small businesses
 23 or certain types of small businesses; or
 24 (B) the costs of the rule are gradually implemented; and
 25 (2) the rule applies to all small businesses that will be affected
 26 by the rule.

27 In determining the total annual economic impact of the rule under
 28 subsection (a)(3), the agency shall consider the annual economic
 29 impact on all small businesses beginning with the first twelve (12)
 30 month period after the rule is fully implemented. The agency may use
 31 actual or forecasted data and may consider the actual and anticipated
 32 effects of inflation and deflation. The agency shall describe any
 33 assumptions made and any data used in determining the total annual
 34 economic impact of a rule under subsection (a)(3).

- 35 (c) The agency shall:
 36 (1) publish the statement required under subsection (a) in the
 37 Indiana Register as required by IC 4-22-2-24; and
 38 (2) deliver a copy of the statement, along with the proposed rule,
 39 to the small business ombudsman not later than the date of
 40 publication under subdivision (1).

41 SECTION 3 ~~3~~ [3]. IC 4-22-2.1-7, AS ADDED BY P.L.188-2005,
 42 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



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1 JULY 1, 2023]: Sec. 7. Before an agency may act under ~~IC 4-22-2.5~~
 2 ~~>~~ IC 4-22-2.6 to readopt a rule to which the chapter applies, the
 3 agency must conduct the review required under ~~IC 4-22-2.5-3.1.~~
 4 **IC 4-22-2.6-4.**

5 SECTION 3 ~~<~~ [4]. IC 4-22-2.3 IS ADDED TO THE INDIANA
 6 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2023]:

8 **Chapter 2.3. Transitional Provisions; Exceptions to**
 9 **Rulemaking Procedures**

10 **Sec. 1. (a) This ~~<section>~~ [subsection and subsection (b)
 11]set ~~<~~ ~~>~~ an expiration date for rules adopted under IC 4-22-2-37.1
 12 (as effective before July 1, 2023) or IC 4-22-2-37 (before its repeal)
 13 that at the time of adoption were permitted by law to continue in
 14 effect for an indefinite period of time. The rules to which this
 15 subsection applies include rules that were permitted to continue
 16 until another emergency rule or a final rule was adopted to replace
 17 the emergency rule or the agency repealed the emergency rule.
 18 Subject to subsections (b) and (c), the rule expires not later than:**

- 19 ~~<~~ ~~>~~ (1) October 1, 2023; or
 20 (2) if the rule is included on a list described in subsection (d),
 21 October 1, 2024;

22 **as applicable. An emergency rule that expires under this subsection**
 23 **may not be renewed under IC 4-22-2-37.1 (as effective after June**
 24 **30, 2023). If the rule meets the criteria in IC 4-22-2-37.2 for**
 25 **adoption as an interim rule, the rule may be readopted under**
 26 **IC 4-22-2-37.2.**

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

- 30 (1) incorporated into a provision of the Indiana
 31 Administrative Code that before July 1, 2023, was amended
 32 under the procedures in IC 4-22-2-23 through IC 4-22-2-36
 33 or IC 13-14-9 (as applicable); or
 34 (2) readopted as part of a provision of the Indiana
 35 Administrative Code that was readopted under IC 4-22-2.5
 36 (before its repeal) or IC 13-14-9.5 (before its repeal);

37 **continues in effect to the extent that the text remains part of the**
 38 **provision of the Indiana Administrative Code into which the**
 39 **emergency rule text was incorporated.**

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



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1 provisions of sections 3 through 9 of this chapter.

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

7 **Sec. 2.** Before an emergency rule adopted under IC 4-22-2-37.1
8 (as effective after June 30, 2023) expires, the governor by executive
9 order may authorize the extension of the emergency rule under the
10 expedited procedures in IC 4-22-2-37.3 if the governor determines
11 and finds in the executive order that the emergency circumstances
12 justifying the emergency rule continue to exist. A rule adopted
13 under the authority of an extension under this section, expires not
14 later than June 30 of the year following the year in which the rule
15 is accepted for filing by the publisher of the Indiana Register.

16 **Sec. 3.** The office of the secretary of family and social services
17 may adopt rules under IC 4-22-2-37.3 to implement IC 12-13-16-13
18 (211 dialing code services). The rule expires not later than one (1)
19 year after the adopted rule is accepted for filing under
20 IC 4-22-2-37.3. [\[An expedited rule described in this section may not
21 be continued in another expedited rule after the expiration of the
22 initial expedited rule.\]](#)

23 **Sec. 4.** The department of natural resources (or to the extent
24 permitted by IC 14-10-2, the natural resources commission) may
25 adopt rules under IC 4-22-2-37.3 to carry out the duties of the
26 department of natural resources under a law listed in IC 14-10-2-5.
27 The rule expires not later than one (1) year after the adopted rule
28 is accepted for filing by the publisher of the Indiana Register. [\[An
29 expedited rule described in this section may be continued in
30 another expedited rule only if the governor determines under
31 IC 4-22-2-37.3\(b\) that the policy options available to the agency are
32 so limited that use of the additional notice, comment, and review
33 procedures in IC 4-22-2-23 through IC 4-22-2-36 would provide no
34 benefit to persons regulated or otherwise affected by the rule.\]](#) A
35 person who violates the rule commits a Class C infraction, unless
36 otherwise specified under state law.

37 **Sec. 5.** The director of the department of natural resources
38 may temporarily modify or suspend a rule described in
39 IC 14-22-2-6 (fish and wildlife rules) under the procedures in
40 IC 4-22-2-37.3. The adopted rule expires not later than one (1) year
41 after the rule is accepted for filing by the publisher of the Indiana
42 Register. [\[An expedited rule described in this section may not be](#)



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1 continued in another expedited rule after the expiration of the
 2 initial expedited rule.]

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

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

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

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

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

27 The rule expires not later than January 1 of the next
 28 odd-numbered year ~~<that>~~ [after] the department of financial
 29 institutions is required to issue the rule.

30 (b) The department of financial institutions may adopt a rule
 31 permitted under IC 24-4. [4-1-101 (licensing system for creditors
 32 and mortgage loan originators) or IC 24-4.]5 (Uniform Consumer
 33 Credit Code) under IC 4-22-2-37.3 if the department of financial
 34 institutions declares an emergency. The rule expires not later than
 35 two (2) years after the adopted rule is accepted for filing by the
 36 publisher of the Indiana Register.

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



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

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

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

18 (1) has been scheduled or emergency scheduled by the United
 19 States Drug Enforcement Administration;

20 (2) has been scheduled, emergency scheduled, or
 21 criminalized by another state; or

22 (3) has:

23 (A) a high potential for abuse; and

24 (B) no accepted medical use in treatment in the United
 25 States or lacks accepted safety for use in treatment
 26 under medical supervision.

27 In making a determination, the Indiana board of pharmacy shall
 28 consider the factors described in IC 25-26-13-4.1. Notwithstanding
 29 IC 4-22-2-37.3, the rule becomes effective when the adopted rule is
 30 published in the Indiana Register. The rule expires not later than
 31 June 30 of the year following the year in which the rule is accepted
 32 for filing by the publisher of the Indiana Register. [An expedited
 33 rule described in this section may not be continued in another
 34 expedited rule after the expiration of the initial expedited rule.]

35 SECTION 3 ~~↔~~ [5]. IC 4-22-2.5 IS REPEALED [EFFECTIVE
 36 JULY 1, 2023]. (Expiration and Readoption of Administrative Rules).

37 SECTION 3 ~~↔~~ [6]. IC 4-22-2.6 IS ADDED TO THE INDIANA
 38 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2023]:

40 **Chapter 2.6. Expiration and Readoption of Administrative**
 41 **Rules**

42 **Sec. 1. (a) Except as provided in this section and section 10 of**



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1 this chapter, a rule expires January 1 of the fifth year after the
 2 year in which the rule takes effect, unless the rule expires or is
 3 repealed on an earlier date. Except for an amendment made under
 4 IC 4-22-2-38, the expiration date of a rule under this section is
 5 extended each time that a rule amending or readopting an
 6 unexpired rule takes effect. The rule, as amended or readopted,
 7 expires on January 1 of the fifth year after the year in which the
 8 amendment or re Adoption takes effect.

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

10 (1) in calendar year 2017, the rule expires not later than
 11 January 1, 2024;

12 (2) in calendar year 2018, the rule expires not later than
 13 January 1, 2025;

14 (3) in calendar year 2019, the rule expires not later than
 15 January 1, 2026; or

16 (4) in calendar year 2020, the rule expires not later than
 17 January 1, 2027.

18 (c) If the latest version of a rule became effective before
 19 January 1, 2017, and:

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

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

24 (3) the rule was adopted by an agency not described in
 25 subdivision (1) or (2), the rule expires not later than January
 26 1, 2027.

27 (d) A re Adoption rulemaking action under IC 4-22-2.5 (before
 28 its repeal) or IC 13-14-9.5 (before its repeal) that became effective
 29 before July 1, 2023, is validated to the same extent as if the
 30 rulemaking action had been conducted under the procedures in
 31 this chapter.

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

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

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

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



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

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

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

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

16 **(A) regulated entities that are required to comply with**
 17 **the rule;**

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

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

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

24 **(3) Have benefits that exceed the fiscal and economic costs of**
 25 **the rule.**

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

28 **(5) Be written for ease of comprehension.**

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

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

41 **(1) The nature of any complaints or comments received from**
 42 **the public, including small businesses (as defined in**



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1 IC 4-22-2.1-4), concerning the rule or the rule's
2 implementation by the agency.

3 (2) The complexity of the rule, including any difficulties
4 encountered by:

5 (A) the agency in administering the rule; or

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

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

11 (c) The agency shall prepare written findings concerning the
12 agency's determinations under this section.

13 Sec. 5. (a) If an agency elects to readopt a rule under this
14 chapter, the agency shall submit a notice of proposed readoption
15 to the publisher [not later than the first regular business day in
16 September of the year preceding the year in which the rule expires
17 under this chapter] for publication in the Indiana Register. A
18 separate notice must be published for each board or other person
19 or entity with rulemaking authority.

20 (b) The notice must include the following:

21 (1) A general description of the subject matter of all rules
22 proposed to be readopted.

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

25 (3) A written comment period of ~~at least~~ thirty (30) days
26 and instructions on how to submit written comments to the
27 agency.

28 (4) A request for comments on whether specific rules should
29 be reviewed through the regular rulemaking process under
30 IC 4-22-2-23 through IC 4-22-2-36 (as modified by
31 IC 13-14-9, when applicable).

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

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

35 (c) The agency shall submit the material in the form required
36 by IC 4-22-2-20. The agency need not resubmit the documents
37 required by IC 4-22-2-21 if the publisher received a copy of the
38 documents when the rule was previously adopted or amended. The
39 publisher shall review the material submitted under this section
40 and determine the date that the publisher intends to include the
41 material in the Indiana Register. After:

42 (1) establishing the intended publication date; and



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1 (2) receiving the material as required by this section;
 2 the publisher shall assign a document control number, provide an
 3 electronic mail authorization to proceed to the agency, and publish
 4 the material on the intended publication date.

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

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

9 (1) Conduct one (1) or more additional comment periods in
 10 the manner provided in section 5 of this chapter on one (1) or
 11 more rules within the scope of the notice of proposed
 12 readoption. If a person submits to the agency during the
 13 initial comment period [under section 5 of this chapter](#) a
 14 written request stating a basis for considering a particular
 15 rule separately from other rules in the notice of proposed
 16 readoption, the agency may not readopt that rule under this
 17 chapter. The agency may readopt that rule with or without
 18 changes only through a rulemaking action initiated under
 19 IC 4-22-2-23 through IC 4-22-2-36 (as modified by
 20 IC 13-14-9, when applicable).

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

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

28 Sec. 7. (a) The agency shall immediately submit the
 29 rulemaking document containing the readopted rules to the
 30 publisher for filing along with documentation demonstrating that
 31 the agency has readopted the rules. The agency shall submit
 32 material in the form required by IC 4-22-2-20. The rulemaking
 33 document must make reference to the document control number
 34 assigned by the publisher.

35 (b) If the rulemaking document complies with this section, the
 36 publisher shall:

37 (1) accept the rule for filing; and

38 (2) electronically record the date and time the rule is
 39 accepted.

40 Sec. 8. A readopted rule that has been accepted for filing under
 41 section 7 of this chapter takes effect on the latest of the following
 42 dates:



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

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

5 **(3) The date of compliance with every requirement**
 6 **established by law as a prerequisite to the readoption or**
 7 **effectiveness of the rule.**

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

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

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

24 SECTION 3~~4~~⁷. IC 12-10.5-1-9, AS AMENDED BY
 25 P.L.123-2006, SECTION 26, IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 9. (a) Before finally
 27 adopting a rule under IC 4-22-2 to implement this chapter, the division
 28 shall consult with and fully consider any comments submitted by:

29 (1) caretakers providing care for a special needs individual under
 30 this chapter;

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

33 (3) area agencies on aging;

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

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

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

40 (b) Rules adopted under this chapter must:

41 (1) include protections for the rights, safety, and welfare of
 42 individuals with special needs receiving care from a caretaker



- 1 under this chapter, including reasonable monitoring and
 2 reporting requirements;
- 3 (2) serve distinct populations, including:
- 4 (A) the aged;
- 5 (B) persons with developmental disabilities; and
- 6 (C) persons with physical disabilities;
- 7 in a manner that recognizes, and appropriately responds to, the
 8 particular needs of the population;
- 9 (3) not create barriers to the availability of home and community
 10 based services under IC 12-10-10 and IC 12-10-11.5 by
 11 imposing costly or unduly burdensome requirements on
 12 caretakers or other service providers, including:
- 13 (A) requirements for proof of financial responsibility; and
- 14 (B) monitoring, enforcement, reporting, or other
 15 administrative requirements; and
- 16 (4) otherwise comply with IC 12-10-10, IC 12-10-11.5, and this
 17 chapter.
- 18 (c) Before submitting a rule adopted under this chapter to the
 19 attorney general for final approval under IC 4-22-2-31, the division
 20 shall submit to the publisher (as defined in IC 4-22-2-3(f)) for
 21 publication in the Indiana Register the division's written response ~~under~~
 22 ~~IC 4-22-2-23~~ to any comments received from the parties described in
 23 subsection (a). Submissions to the publisher shall be made in the
 24 electronic format specified by the publisher.
- 25 SECTION 3 ~~↔~~ [8]. IC 12-10.5-2-3, AS AMENDED BY
 26 P.L.123-2006, SECTION 27, IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) Before finally
 28 adopting a rule under IC 4-22-2 to implement this chapter, the division
 29 shall consult with and fully consider any comments submitted by:
- 30 (1) continuum of care providers providing care under this
 31 chapter;
- 32 (2) individuals receiving care under this chapter;
- 33 (3) area agencies on aging;
- 34 (4) consumers and providers of home and community based
 35 services under IC 12-10-10 and IC 12-10-11.5; and
- 36 (5) any other agency, volunteer group, faith based group, or
 37 individual that the division considers appropriate;
- 38 to ensure that the rule complies with the requirements set forth in
 39 subsection (b).
- 40 (b) Rules adopted under this chapter must:
- 41 (1) include protections for the rights, safety, and welfare of
 42 individuals receiving care under this chapter;

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- 1 (2) serve distinct populations, including:
 2 (A) the aged;
 3 (B) persons with developmental disabilities; and
 4 (C) persons with physical disabilities;
 5 in a manner that recognizes, and appropriately responds to, the
 6 particular needs of the population;
 7 (3) not create barriers to the availability of home and community
 8 based services under IC 12-10-10 and IC 12-10-11.5 by
 9 imposing costly or unduly burdensome requirements on
 10 continuum of care providers or other service providers,
 11 including:
 12 (A) requirements for proof of financial responsibility; and
 13 (B) monitoring, enforcement, reporting, or other
 14 administrative requirements; and
 15 (4) otherwise comply with IC 12-10-10, IC 12-10-11.5, and this
 16 chapter.

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

24 SECTION ~~3-6~~[9]. IC 13-14-9-1, AS AMENDED BY
 25 P.L.133-2012, SECTION 89, IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) Except as
 27 provided in sections 8 and 14 of this chapter, this chapter applies to the
 28 following:

- 29 (1) The board.
 30 (2) The underground storage tank financial assurance board
 31 established by IC 13-23-11-1.
 32 (b) In addition to the requirements of IC 4-22-2 and IC 13-14-8, a
 33 board may not adopt a rule except in accordance with this chapter.

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

37 SECTION ~~3-7~~[40]. IC 13-14-9-3, AS AMENDED BY
 38 P.L.100-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) ~~Except as provided in~~
 40 ~~subsection (b)~~; The department shall provide notice in the Indiana
 41 Register of the first public comment period required by section 2 of this
 42 chapter.



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

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

9 **(2) The latest version of the regulatory analysis (including**
 10 **any appendices containing any data, studies, or analysis**
 11 **referenced in the regulatory analysis) submitted to the**
 12 **budget agency and the office of management and budget**
 13 **under IC 4-22-2-22.8, <**

14 **> (3) The determination of the budget agency and the office of**
 15 **management and budget authorizing commencement of the**
 16 **first and second public comment periods on the proposed**
 17 **rule under IC 4-22-2-22.8.**

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

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

20 **(1) Identify the authority under which the proposed rule is to be**
 21 **adopted.**

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

24 **(A) list all alternatives being considered by the department**
 25 **at the time of the notice;**

26 **(B) state whether each alternative listed under clause (A)**
 27 **creates:**

28 **(i) a restriction or requirement more stringent than a**
 29 **restriction or requirement imposed under federal law;**

30 **or**

31 **(ii) a restriction or requirement in a subject area in**
 32 **which federal law does not impose restrictions or**
 33 **requirements;**

34 **(C) state the extent to which each alternative listed under**
 35 **clause (A) differs from federal law;**

36 **(D) include any information known to the department about**
 37 **the potential fiscal impact of each alternative under clause**
 38 **(A) that creates:**

39 **(i) a restriction or requirement more stringent than a**
 40 **restriction or requirement imposed under federal law;**

41 **or**

42 **(ii) a restriction or requirement in a subject area in**

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- 1 which federal law does not impose restrictions or
- 2 requirements; and
- 3 (E) set forth the basis for each alternative listed under
- 4 clause (A).
- 5 (3) Describe the relevant statutory or regulatory requirements or
- 6 restrictions relating to the subject matter of the proposed rule
- 7 that exist before the adoption of the proposed rule.
- 8 (4) Request the submission of alternative ways to achieve the
- 9 purpose of the proposed rule.
- 10 (5) Request the submission of comments, including suggestions
- 11 of specific language for the proposed rule.
- 12 (6) Include a detailed statement of the issue to be addressed by
- 13 adoption of the proposed rule.
- 14 **(7) Include the latest version of the regulatory analysis**
- 15 **(excluding any appendices containing any data, studies, or**
- 16 **analysis referenced in the regulatory analysis) submitted to**
- 17 **the budget agency and the office of management and budget**
- 18 **under IC 4-22-2-22.8.**
- 19 **(8) Include information concerning where, when, and how a**
- 20 **person may submit written comments on the proposed rule,**
- 21 **including contact information concerning the small business**
- 22 **regulatory coordinator required by IC 4-22-2-28.1.**
- 23 **(9) Include information concerning where, when, and how a**
- 24 **person may inspect and copy any data, studies, or analyses**
- 25 **referenced in a regulatory analysis under subdivision (7).**
- 26 **(10) Include information concerning where, when, and how**
- 27 **a person may inspect any documents incorporated by**
- 28 **reference into the proposed rule under IC 4-22-2-21.**
- 29 **(11) Include an indication that the notice is for the first of**
- 30 **two (2) thirty (30) day periods in which the public may**
- 31 **comment on the proposed rule.**
- 32 **Inadequacy or insufficiency of the published description or**
- 33 **regulatory analysis does not invalidate a rulemaking action.**
- 34 ~~(b)~~ (d) This section does not apply to rules adopted under
- 35 IC 13-18-22-2, IC 13-18-22-3, or IC 13-18-22-4.
- 36 ~~(c)~~ (e) The notice required under subsection (a) shall be published
- 37 electronically in the Indiana Register under procedures established by
- 38 ~~the publisher.~~ **The publisher shall review materials submitted under**
- 39 **this section and determine the date that the publisher intends to**
- 40 **publish the text of the proposed rule and the notice in the Indiana**
- 41 **Register. If the submitted material complies with this section, the**
- 42 **publisher shall establish the intended publication date, assign a**

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1 document control number to the proposed rule, and provide a
 2 written or an electronic mail authorization to proceed to the
 3 agency. The publisher shall publish the following in the Indiana
 4 Register on the intended publication date:

5 (1) The notice of the first comment period.

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

9 SECTION ~~38~~[41]. IC 13-14-9-4, AS AMENDED BY
 10 P.L.218-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) The department shall provide
 12 notice in the Indiana Register of the second public comment period
 13 required by section 2 of this chapter.

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

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

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

33 (3) The notice required under subsection (c).

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

35 (1) Contain the full text of the proposed rule; to the extent
 36 required under IC 4-22-2-24(c).

37 (2) (1) Contain a summary of the response of the department to
 38 written comments submitted under section 3 of this chapter
 39 during the first public comment period.

40 (2) (2) Request the submission of comments, including
 41 suggestions of specific amendments to the language contained
 42 in the proposed rule and indicate where, when, and how a



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person may submit written comments on the proposed rule, including contact information concerning the small business regulatory coordinator required by IC 4-22-2-28.1.

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

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

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

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

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

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

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

(C) the:

(i) estimated fiscal impact; and

(ii) expected benefits;

based on the extent to which the proposed rule is more stringent than the restrictions or requirements of federal law, or on the creation of restrictions or requirements in a subject area in which federal law does not impose restrictions or requirements.

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

(A) health criteria;

(B) analytical methods;

(C) treatment technology;

(D) economic impact data;

(E) environmental assessment data;

(F) analyses of methods to effectively implement the

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1 proposed rule; and
 2 (G) other background data.

3 **(7) Either a statement indicating that no changes in the**
 4 **regulatory analysis have been made from the version of the**
 5 **regulatory analysis published under section 3 of this chapter**
 6 **or the latest version of the regulatory analysis (excluding any**
 7 **appendices containing any data, studies, or analysis**
 8 **referenced in the regulatory analysis) submitted to the**
 9 **budget agency and the office of management and budget**
 10 **under IC 4-22-2-22.8, if any changes have been made in the**
 11 **regulatory analysis after submitting the material under**
 12 **section 3 of this chapter.**

13 **(8) Include an explanation of any differences between the**
 14 **text of the proposed rule published for the first comment**
 15 **period under section 3 of this chapter and the text of the**
 16 **proposed rule published for the second comment period**
 17 **under this section.**

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

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

24 **(11) Include an indication that the notice is for the second of**
 25 **two (2) thirty (30) day periods in which the public may**
 26 **comment on the proposed rule and that following the second**
 27 **comment period the agency may adopt a version of the**
 28 **proposed rule that is the same as or does not substantially**
 29 **differ from the text of the proposed rule published under this**
 30 **section.**

31 **Inadequacy or insufficiency of the subject matter description or**
 32 **summary of the regulatory analysis in the published notice does**
 33 **not invalidate a rulemaking action.**

34 (b) (d) The notice required under subsection (a):

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

37 (2) if any element of the proposed rule to which the notice
 38 relates imposes a restriction or requirement that is more stringent
 39 than a restriction or requirement imposed under federal law,
 40 shall be submitted in an electronic format under IC 5-14-6 to the
 41 executive director of the legislative services agency; who shall
 42 present the notice to the legislative council established by



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IC 2-5-1.1-1.

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

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

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

(f) Subsections (b)(2) and Subsection (e) do not prohibit or restrict the commissioner, the department, or the board from:

- (1) adopting emergency rules under IC 4-22-2-37.1;
- (2) taking emergency action under IC 13-14-10; or
- (3) temporarily:
 - (A) altering ordinary operating policies or procedures; or
 - (B) implementing new policies or procedures;

in response to an emergency situation.

SECTION 4-22-2-28. IC 13-14-9-4.2, AS AMENDED BY P.L.123-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4.2. Not less than fourteen (14) days before the date of preliminary adoption of a proposed rule by a board, the department shall make available to the board the fiscal impact statement latest version of the regulatory analysis prepared by the office of management and budget with respect to for the proposed rule. under IC 4-22-2-28(e).

SECTION 4-22-2-29. IC 13-14-9-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4.5. (a) Except for a rule

- (1) that has been preliminarily adopted by a board in a form

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1 that is:
 2 ~~(A)(1)~~ identical to; or
 3 ~~(B)(2)~~ not substantively different from;
 4 the proposed rule published in a second notice under section 4
 5 of this chapter ~~;~~ ; or
 6 ~~(2)~~ for which ~~the~~ commissioner ~~has~~ made
 7 ~~a~~ determination ~~and~~ prepared ~~written~~ findings
 8 ~~under~~ section ~~7~~ or ~~8~~ of ~~this~~ chapter;
 9 a board may not adopt a rule under this chapter until the board has
 10 conducted a third public comment period that is at least ~~[twenty-one]~~
 11 ~~[21]~~ [thirty (30)] days in length.

12 (b) The department shall publish notice of a third public comment
 13 period with the
 14 ~~(1)~~ text;
 15 ~~(2)~~ summary; and
 16 ~~(3)~~ fiscal ~~analysis~~;

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

19 (c) The notice of a third public comment period that must be
 20 published in the Indiana Register under subsection (b) must request the
 21 submission of comments, including suggestions of specific
 22 amendments, that concern only the portion of the preliminarily adopted
 23 rule that is substantively different from the language contained in the
 24 proposed rule published in a second notice under section 4 of this
 25 chapter.

26 SECTION 4 ~~4~~ [4]. IC 13-14-9-5, AS AMENDED BY
 27 P.L.123-2006, SECTION 29, IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) A board may not
 29 adopt a rule until all of the following occur:

- 30 (1) The board holds a board meeting on the proposed rule.
- 31 (2) The department, after approval of the proposed rule by the
- 32 board under subsection (c), publishes the following
- 33 **information** ~~;~~ ; in the Indiana Register as provided in ~~;~~
 34 ~~IC 4-22-2-24(c)~~:

35 (A) The full text of the proposed rule, including any
 36 amendments arising from the comments received before or
 37 during the meeting held under subdivision (1):

38 (B) A summary of the response of the department to all
 39 comments received at the meeting held under subdivision
 40 (1):

41 (C) For a proposed rule with an estimated economic impact
 42 on regulated entities that is greater than five hundred

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1 thousand dollars (\$500,000); a copy of the office of
 2 management and budget fiscal analysis required under
 3 ~~IC 4-22-2-28~~ required by section 4 of this chapter.
 4 However, a notice of a third public comment period
 5 under section 4.5 of this chapter must request the
 6 submission of comments, including suggestions of
 7 specific amendments, that concern only the portion of
 8 the preliminarily adopted rule that is substantively
 9 different from the language contained in the proposed
 10 rule published in a second notice under section 4 of this
 11 chapter.

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

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

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

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

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

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

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

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

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

37 (2) The written responses of the department to all comments
 38 received:

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

41 (B) during the immediately preceding board meeting under
 42 section 5(a)(1) of this chapter for a board meeting held



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- 1 under section 5(a)(3) of this chapter if a third public
- 2 comment period is not required under section 4.5 of this
- 3 chapter; or
- 4 (C) during:
 - 5 (i) a third public comment period that address the
 - 6 portion of the preliminarily adopted rule that is
 - 7 substantively different from the language contained in
 - 8 the proposed rule published in a second notice under
 - 9 section 4 of this chapter; and
 - 10 (ii) the immediately preceding board meeting held
 - 11 under section 5(a)(1) of this chapter;
 - 12 for a board meeting held under section 5(a)(3) of this
 - 13 chapter if a third public comment period is required under
 - 14 section 4.5 of this chapter.

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

18 SECTION 4 ~~↔~~ **[6]**. IC 13-14-9-15 IS ADDED TO THE
 19 INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2023]: **Sec. 15. Rules adopted in accordance**
 21 **with this chapter by the department of environmental management**
 22 **or a board that has rulemaking authority under IC 13 expire as**
 23 **provided in IC 4-22-2.6.**

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

- 38 **(1) the reasons why the rule was not adopted and the**
- 39 **expected date the rule will be completed; and**
- 40 **(2) the expected date the rule will be approved or deemed**
- 41 **approved by the governor or withdrawn under IC 4-22-2-41.**
- 42 **(b) If a rule is not approved before the later of:**

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(1) one (1) year after the agency publishes the initial notice of intent under this chapter; or
(2) the expected date contained in a notice concerning the rule that is provided to the publisher under subsection (a); a later approval or deemed approval is ineffective, and the rule may become effective only through another rulemaking action initiated under this chapter.

] SECTION ~~4-48~~[8]. IC 13-14-9.5 IS REPEALED [EFFECTIVE JULY 1, 2023]. (Expiration and Readoption of Administrative Rules).

SECTION ~~4-49~~[9]. [EFFECTIVE UPON PASSAGE] (a) After June 30, 2023, a rule may be adopted as an emergency rule only for the purposes and through the procedures in IC 4-22-2-37.1 (as effective after June 30, 2023). Any additional authority in a statute outside IC 4-22 to adopt rules through the emergency rulemaking procedures in IC 4-22-2-37.1 (as effective before July 1, 2023, or after June 30, 2023) is void. The code revision commission shall provide in calendar year 2023 for the preparation of a bill for introduction in the 2024 regular session of the general assembly that removes language outside IC 4-22 permitting the adoption of emergency rules.

(b) This SECTION expires January 1, 2024.

SECTION ~~4-6~~[50]. An emergency is declared for this act. [

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