

HOUSE BILL No. 1623

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-3-22-13; IC 4-21.5; IC 4-22; IC 12-10.5; IC 13-14-9; IC 13-14-9.5.

Synopsis: Administrative rulemaking. Requires: (1) authorization from the budget agency and the office of management and budget; and (2) two public comment periods of 30 days for all proposed rules (except emergency rules and agency corrections); before the rules may be adopted. Standardizes the economic and fiscal impact information that must be prepared by an agency in order to adopt a rule. Requires rules to either expire or be readopted every five years rather than every seven years. Eliminates provisions that exempt certain rules from expiring. Provides for additional information concerning a readoption action to be published with a notice of readoption. Requires an agency to conduct a hearing on a proposed readoption. Adds definitions and publication standards. Eliminates differences between readoption procedures applicable to environmental rules and other rules. Validates readoption actions that become effective before July 1, 2023. Relocates readoption requirements to a new chapter. Repeals IC 4-22-2.5 and IC 13-14-9.5. Establishes criteria for use of emergency rulemaking procedures. Provides that rules formally adopted as emergency rules to implement a change in law or certain other circumstances may be adopted through emergency rule, interim rule, or expedited rule procedures. Requires preapproval by the governor to adopt rules through these procedures in the case of emergency rules and interim rules. Requires preapproval by the office of management and budget to adopt rules through expedited rule procedures. Authorizes the attorney general or the governor to suspend the operation of these rules. Eliminates indefinite expiration dates for emergency rules and reorganizes provisions related to expiration dates and extension periods
(Continued next page)

Effective: Upon passage; July 1, 2023.

Bartels

January 19, 2023, read first time and referred to Committee on Government and Regulatory Reform.



Digest Continued

in a new chapter. Provides transitional provisions. Requires the code revision commission to prepare conforming legislation for introduction in the 2024 legislative session. Provides that a party prevailing against the agency is entitled to attorney's fees if the agency has acted without legal authority having the force of or enforceable as law. Makes conforming changes.



Introduced

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

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

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

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

HOUSE BILL No. 1623

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

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

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

2023

IN 1623—LS 7025/DI 125



1 under IC 4-22-2.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

- 42 (1) Any military officer or board.



- 1 (2) Any state educational institution.
- 2 (c) This chapter does not apply to a rulemaking action that results
- 3 in any of the following rules:
- 4 (1) A resolution or directive of any agency that relates solely to
- 5 internal policy, internal agency organization, or internal procedure
- 6 and does not have the effect of law.
- 7 (2) A restriction or traffic control determination of a purely local
- 8 nature that:
- 9 (A) is ordered by the commissioner of the Indiana department
- 10 of transportation;
- 11 (B) is adopted under IC 9-20-1-3(d), IC 9-21-4-7, or
- 12 IC 9-20-7; and
- 13 (C) applies only to one (1) or more particularly described
- 14 intersections, highway portions, bridge causeways, or viaduct
- 15 areas.
- 16 (3) A rule adopted by the secretary of state under IC 26-1-9.1-526.
- 17 (4) An executive order or proclamation issued by the governor.
- 18 **(5) A rule adopted by the board of trustees of the Indiana**
- 19 **public retirement system, as provided in IC 5-10.5-4-2.**
- 20 **However, the board shall submit rules adopted by the board**
- 21 **to the publisher for publication in the Indiana Register.**
- 22 (d) Except as specifically set forth in IC 13-14-9, **IC 13-14-9**
- 23 **provides alternative procedures for notice and public comment**
- 24 **concerning proposed rules for the environmental rules board and**
- 25 **the underground storage tank financial assurance board. The**
- 26 **department of environmental management, the environmental**
- 27 **rules board, and the underground storage tank financial assurance**
- 28 **board shall comply with the procedures in IC 13-14-9 in lieu of**
- 29 **complying with sections 23, 24, 26, 27, and 29 of this chapter. ~~do not~~**
- 30 **apply to rulemaking actions under ~~IC 13-14-9~~. In adopting rules, all**
- 31 **other provisions of IC 4-22-2 apply to these agencies, including**
- 32 **sections 22.7 and 22.8 of this chapter.**
- 33 SECTION 5. IC 4-22-2-15 IS AMENDED TO READ AS
- 34 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 15. Any rulemaking
- 35 action that this chapter allows or requires an agency to perform, other
- 36 than final adoption of a rule under section 29, ~~or~~ 37.1, ~~or~~ **37.2** of this
- 37 chapter ~~or IC 13-14-9~~, may be performed by the individual or group of
- 38 individuals with the statutory authority to adopt rules for the agency, a
- 39 member of the agency's staff, or another agent of the agency. Final
- 40 adoption of a rule under section 29, ~~or~~ 37.1, ~~or~~ **37.2** of this chapter ~~or~~
- 41 **IC 13-14-9**, including readoption of a rule that is subject to sections 24
- 42 through 36 or to section 37.1 of this chapter and recalled for further



1 consideration under section 40 of this chapter, may be performed only
 2 by the individual or group of individuals with the statutory authority to
 3 adopt rules for the agency.

4 SECTION 6. IC 4-22-2-17 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 17. (a) IC 5-14-3
 6 applies to the text of a rule that an agency intends to adopt from the
 7 earlier of the date that the agency takes any action under ~~section 24~~
 8 **section 23** of this chapter, otherwise notifies the public of its intent to
 9 adopt a rule under any statute, or adopts the rule.

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

12 SECTION 7. IC 4-22-2-17.5 IS ADDED TO THE INDIANA CODE
 13 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 2023]: **Sec. 17.5. The legislative services agency shall provide**
 15 **electronic summaries or electronic copies of documents submitted**
 16 **to the publisher under this article or IC 13-14-9 to legislators and**
 17 **legislative committees in the manner and on the schedule specified**
 18 **by the legislative council or the personnel subcommittee of the**
 19 **legislative council acting for the legislative council.**

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

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

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

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

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



- 1 (2) A code, manual, or other standard adopted by an agent of the
 2 United States, a state, or a nationally recognized organization or
 3 association.
- 4 (3) A manual of the department of local government finance
 5 adopted in a rule described in IC 6-1.1-31-9.
- 6 (4) The following requirements:
- 7 (A) The schedule, electronic formatting, and standard data,
 8 field, and record coding requirements for:
- 9 (i) the electronic data file under IC 6-1.1-4-25 concerning
 10 the parcel characteristics and parcel assessments of all
 11 parcels and personal property return characteristics and
 12 assessments; and
- 13 (ii) the electronic data file under IC 36-2-9-20 concerning
 14 the tax duplicate.
- 15 (B) The schedule, electronic formatting, and standard data,
 16 field, and record coding requirements for data required to be
 17 submitted under IC 6-1.1-5.5-3 or IC 6-1.1-11-8.
- 18 (C) Data export and transmission format requirements for
 19 information described in clauses (A) and (B).
- 20 (b) Each matter incorporated by reference under subsection (a) must
 21 be fully and exactly described.
- 22 (c) An agency may refer to a matter that is directly or indirectly
 23 referred to in a primary matter by fully and exactly describing the
 24 primary matter.
- 25 (d) **Except as otherwise provided in this article**, whenever an
 26 agency submits a rule to the attorney general, the governor, or the
 27 publisher under this chapter, the agency shall also submit a copy of the
 28 full text of each matter incorporated by reference under subsection (a)
 29 into the rule, other than the following:
- 30 (1) An Indiana statute or rule.
- 31 (2) A form or instructions for a form numbered by the Indiana
 32 archives and record administration under IC 5-15-5.1-6.
- 33 (3) The source of a statement that is quoted or paraphrased in full
 34 in the rule.
- 35 (4) Any matter that has been previously filed with the:
- 36 (A) secretary of state before July 1, 2006; or
 37 (B) publisher after June 30, 2006.
- 38 (5) Any matter referred to in subsection (c) as a matter that is
 39 directly or indirectly referred to in a primary matter.
- 40 (e) An agency may comply with subsection (d) by submitting a
 41 paper or an electronic copy of the full text of the matter incorporated
 42 by reference.



1 SECTION 10. IC 4-22-2-22.5, AS AMENDED BY P.L.72-2014,
 2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2023]: Sec. 22.5. (a) This section applies to a rule that an
 4 agency intends to:

- 5 (1) adopt under sections 24 through 36 of this chapter **or section**
 6 **37.3 of this chapter; and**
 7 **(2) readopt under IC 4-22-2.6.**

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

10 (1) either:

11 (A) a notice of ~~intent~~ **the first public comment period** has
 12 been published under section 23 **or 37.3** of this chapter; ~~or~~

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

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

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

19 (c) Each agency shall maintain a current rulemaking docket that is
 20 indexed.

21 (d) A current rulemaking docket must list each pending rulemaking
 22 action. The docket must state or contain:

23 (1) the subject matter of the proposed rule;

24 (2) notices related to the proposed rule, or links to the Indiana
 25 Register where these notices may be viewed;

26 (3) how comments may be made;

27 (4) the time within which comments may be made;

28 (5) where comments and the agency's written response to those
 29 comments may be inspected;

30 (6) the date, time, and place where a public hearing required
 31 under:

32 (A) section 26 of this chapter; ~~or~~

33 (B) IC 13-14-9; **or**

34 **(C) IC 4-22-2.6;**

35 will be held;

36 (7) a description of relevant scientific and technical findings
 37 related to the proposed rule, if applicable; and

38 (8) a reasonable estimate of the timetable for action, updated
 39 periodically as circumstances change, if necessary.

40 (e) The agency shall maintain the rulemaking docket on the agency's
 41 ~~Internet web site.~~ **website.** The information must be in an open format
 42 that can be easily searched and downloaded. Access to the docket shall,



1 to the extent feasible and permitted by law, provide an opportunity for
 2 public comment on the pertinent parts of the rulemaking docket,
 3 including relevant scientific and technical findings. Upon request, the
 4 agency shall provide a written rulemaking docket.

5 SECTION 11. IC 4-22-2-22.7 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2023]: **Sec. 22.7. (a) Before complying with**
 8 **section 22.8 of this chapter, an agency shall conduct a regulatory**
 9 **analysis for the proposed rule. The regulatory analysis must**
 10 **evaluate whether the proposed rule does the following:**

11 (1) **Minimizes expenses to:**

12 (A) **regulated entities that are required to comply with the**
 13 **rule;**

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

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

18 (2) **Achieves the regulatory goal in the least restrictive**
 19 **manner.**

20 (3) **Has benefits that exceed the fiscal and economic costs of**
 21 **the proposed rule.**

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

24 (5) **Is written for ease of comprehension.**

25 (6) **Has practicable enforcement.**

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

40 (1) **A requirement in IC 4-3-22-13 explaining how the**
 41 **proposed rule meets the cost benefit requirements in**
 42 **IC 4-3-22-13.**



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

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

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

6 **(B) not expressly required by:**

7 **(i) the statute authorizing the agency to adopt the rule;**

8 **or**

9 **(ii) any other state or federal law.**

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

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

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

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

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

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

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

39 SECTION 12. IC 4-22-2-22.8 IS ADDED TO THE INDIANA
 40 CODE AS A NEW SECTION TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2023]: **Sec. 22.8. (a) After conducting a**
 42 **regulatory analysis under section 22.7 of this chapter, an agency**



1 may submit a request to the budget agency and the office of
 2 management and budget to authorize commencement of the first
 3 and second public comment periods under this chapter or
 4 IC 13-14-9 (as applicable). The request must include the following:

5 (1) A general description of the subject matter of the proposed
 6 rule.

7 (2) The full text of the proposed rule (including a copy of any
 8 matter incorporated by reference under section 21 of this
 9 chapter) in the form required by the publisher, including
 10 citations to any related authorizing and affected Indiana
 11 statutes.

12 (3) The analysis, including supporting data, prepared under
 13 section 22.7 of this chapter.

14 (4) Any other information required by the office of
 15 management and budget.

16 (b) The budget agency and the office of management and budget
 17 shall expedite the review of the request to adopt a rule. The budget
 18 agency and the office of management and budget may do the
 19 following:

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

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

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

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

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

42 (e) If an agency revises a proposed rule after the budget agency



1 and the office of management and budget authorize
 2 commencement of the first and second public comment periods, the
 3 agency shall resubmit to the publisher, the budget agency, and the
 4 office of management and budget sufficient information for the
 5 budget agency and the office of management and budget to
 6 determine the impact the revisions have on the regulatory analysis
 7 previously reviewed by the budget agency and the office of
 8 management and budget.

9 SECTION 13. IC 4-22-2-23, AS AMENDED BY P.L.152-2012,
 10 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2023]: Sec. 23. (a) This section does not apply to rules
 12 adopted under ~~IC 4-22-2-37.1~~. An agency may not adopt a proposed
 13 rule until the agency has conducted at least two (2) public comment
 14 periods, each of which must be at least thirty (30) days in length.

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

23 (1) The full text of the agency's proposed rule (excluding the
 24 full text of a matter incorporated by reference under section
 25 21 of this chapter). The agency shall submit the rule in the
 26 form required by section 20 of this chapter and with the
 27 documents required by section 21 of this chapter.

28 (2) The latest version of the regulatory analysis, including
 29 supporting data and studies, submitted to the budget agency
 30 and the office of management and budget under section 22.8
 31 of this chapter.

32 (3) The determination of the budget agency and the office of
 33 management and budget authorizing commencement of the
 34 first and second public comment periods on the proposed rule.

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

36 (c) The publication notice of the first comment period must
 37 include the following:

38 (1) A general description of the subject matter of the proposed
 39 rule.

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

42 (3) The latest version of the regulatory analysis submitted to



1 the budget agency and the office of management and budget
 2 under section 22.8 of this chapter, excluding any appendices
 3 containing any data, studies, or analysis referenced in the
 4 regulatory analysis.

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

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

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

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

18 **Inadequacy or insufficiency of the published description or**
 19 **regulatory analysis published under this section does not invalidate**
 20 **a rulemaking action.**

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

23 (d) In addition to the procedures required by this article, an agency
 24 may solicit comments from the public on the need for a rule, the
 25 drafting of a rule, or any other subject related to a rulemaking action,
 26 including members of the public who are likely to be affected because
 27 they are the subject of the potential rulemaking or are likely to benefit
 28 from the potential rulemaking. The procedures that the agency may use
 29 include the holding of conferences and the inviting of written
 30 suggestions, facts, arguments, or views.

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

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



1 **intended publication date:**

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

3 **(2) The full text of the agency's proposed rule (excluding the**
 4 **full text of a matter incorporated by reference under section**
 5 **21 of this chapter).**

6 SECTION 14. IC 4-22-2-23.1, AS AMENDED BY P.L.123-2006,
 7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2023]: Sec. 23.1. (a) This section and section 19(b) of this
 9 chapter do not apply to rules adopted under IC 4-22-2-37.1.

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

20 SECTION 15. IC 4-22-2-24, AS AMENDED BY P.L.1-2006,
 21 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2023]: Sec. 24. (a) An agency shall notify the public of its
 23 intention to adopt a rule by complying with the publication
 24 requirements in subsections (b) and (c): provide notice in:

25 **(1) one (1) newspaper of general circulation in Marion**
 26 **County; and**

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

28 **of the second public comment period required by section 23 of this**
 29 **chapter.**

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

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

37 **(2) Information indicating that the text of the proposed rule**
 38 **has been published in the Indiana Register and where on the**
 39 **Internet and by what document control number the proposed**
 40 **rule can be found.**

41 **(3) A statement of the date, time, and place at which the**
 42 **public hearing required by section 26 of this chapter will be**



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

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

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

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

- (1) ~~The agency shall cause a notice of public hearing and~~ The full text of the agency's proposed rule (excluding the full text of a matter incorporated by reference under section 21 of this chapter). ~~to be published once in the Indiana Register. To publish the notice and proposed rule in the Indiana Register, the agency shall submit the text to the publisher in accordance with subsection (g).~~ The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter **(if the agency has not previously provided the publisher with the documents)**. The publisher shall determine the number of copies of the rule and other documents to be submitted under this ~~subsection~~: **subdivision**.**
- (2) Either a statement indicating that no changes in the regulatory analysis have been made from the version of the regulatory analysis published under section 23 of this chapter or the latest version of the regulatory analysis (including any appendices containing any data, studies, or analysis referenced in the regulatory analysis) submitted to the budget agency and the office of management and budget under section 22.8 of this chapter, if any changes have been made in the regulatory analysis after submitting the material under section 23 of this chapter.**
- (3) The notice required under subsection (d).**



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; or

13 (ii) any other state or federal law.

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

18 (4) an explanation that:

19 (A) the proposed rule; and

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

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

23 (3) A summary of the response of the agency to written
 24 comments submitted under section 23 of this chapter during
 25 the first public comment period.

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

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

40 (6) Information concerning where, when, and how a person
 41 may submit written comments on the proposed rule, including
 42 contact information concerning the small business regulatory



1 coordinator required by section 28.1 of this chapter.

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

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

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

15 However, Inadequacy or insufficiency of the subject matter description
16 under subdivision (2) or a statement of justification under subdivision
17 (3) or regulatory analysis in a notice published under this section
18 does not invalidate a rulemaking action.

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

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

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

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

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

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

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

39 **(2) The full text of the agency's proposed rule (excluding the**
40 **full text of a matter incorporated by reference under section**
41 **21 of this chapter).**

42 SECTION 16. IC 4-22-2-25, AS AMENDED BY P.L.5-2015,



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

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

17 (2) the expected date the rule will be approved or deemed
 18 approved by the governor or withdrawn under section 41 of this
 19 chapter.

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

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

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

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

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

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

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

38 (b) The ombudsman:

39 (1) shall review a proposed rule that

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

42 ~~(B) is referred to the ombudsman by an agency under~~



1 ~~IC 4-22-2.1-5(c);~~ and
 2 (2) may review a proposed rule that imposes requirements or
 3 costs on businesses other than small businesses (as defined in
 4 IC 4-22-2.1-4).

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

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

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

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

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



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

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

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

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

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

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

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

24 (A) the rule is gradually made to apply to certain regulated
 25 persons; or

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

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

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

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



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

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

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

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

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

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

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

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

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

39 SECTION 18. IC 4-22-2-28.1, AS AMENDED BY P.L.237-2017,
 40 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2023]: Sec. 28.1. (a) This section applies to the following:

42 (1) A rule for which the notice required by section 23 of this



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



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

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

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

11 (3) if applicable, a statement of:

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

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

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

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

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

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

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



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



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

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

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

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

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

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

42 SECTION 20. IC 4-22-2-31, AS AMENDED BY P.L.123-2006,



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

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

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

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

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

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

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

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

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

- 42 **(1) an imminent and substantial peril to public health, safety,**



1 or welfare;

2 (2) an imminent and material loss of federal funds for an
3 agency program;

4 (3) an imminent and material deficit; or

5 (4) an imminent and substantial violation of a state or federal
6 law or the terms of a federal agreement or program.

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

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

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

29 (1) The text of the adopted emergency rule. The agency shall
30 submit the emergency rule in the form required by section 20 of
31 this chapter. and with

32 (2) A signature page that indicates that the agency has
33 adopted the emergency rule in conformity with all procedures
34 required by law.

35 (3) The approval of the governor to use emergency
36 rulemaking procedures for the rule.

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

38 The publisher shall determine the format of the emergency rule and
39 other documents to be submitted under this subsection. The
40 substantive text of the adopted emergency rule must be
41 substantially similar to the text of the proposed emergency rule
42 submitted to the governor. An emergency rule may suspend but not



1 **repeal a rule approved by the governor under section 34 of this**
 2 **chapter.**

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

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

6 (2) electronically record the date and time that the rule is
 7 accepted; **and**

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

10 (f) ~~▲ An emergency rule~~ adopted by an agency under this section
 11 takes effect on the latest of the following dates:

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

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

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

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

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

23 (g) ~~Unless otherwise provided by the statute authorizing adoption~~
 24 ~~of the rule:~~

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

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

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

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

33 (B) IC 13-14-9;

34 as applicable.

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



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

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

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

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

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

24 (1) without statutory authority; or

25 (2) without complying with this section.

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

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

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

33 The amendments to this section made in the 2023 regular session
 34 of the general assembly apply to interim rules that are accepted for
 35 filing by the publisher of the Indiana Register after June 30, 2023,
 36 regardless of whether the adopting agency initiated official action
 37 to adopt the interim rule before July 1, 2023. An action taken
 38 before July 1, 2023, in conformity with this section (as effective
 39 after June 30, 2023) is validated to the same extent as if the action
 40 was taken after June 30, 2023.

41 (b) An agency may adopt a rule on a subject for which the
 42 agency has rulemaking authority using the procedures in this



1 section if the governor finds that the agency proposing to adopt the
 2 rule has demonstrated to the satisfaction of the governor that use
 3 of interim rulemaking procedures under this section is necessary
 4 to implement:

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

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

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

29 (c) After the governor approves interim rulemaking procedures
 30 for a rule, the agency shall obtain a document control number from
 31 the publisher. The publisher shall determine the documents and the
 32 format of documents that must be submitted to the publisher to
 33 obtain a document control number.

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

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

40 (2) A signature page that indicates that the agency has
 41 adopted the interim rule in conformity with all procedures
 42 required by law.



- 1 **(3) The approval of the governor to use interim rulemaking**
 2 **procedures for the rule.**
- 3 **(4) The documents required by section 21 of this chapter.**
 4 **The publisher shall determine the format of the interim rule and**
 5 **other documents to be submitted under this subsection. The**
 6 **substantive text of the adopted interim rule must be substantially**
 7 **similar to the text of the proposed interim rule submitted to the**
 8 **governor. An interim rule may suspend but not repeal a rule**
 9 **approved by the governor under section 34 of this chapter.**
- 10 **(e) Subject to subsection (d) and section 39 of this chapter, the**
 11 **publisher shall:**
- 12 **(1) accept the rule for filing;**
 13 **(2) electronically record the date and time that the rule is**
 14 **accepted; and**
 15 **(3) publish the text of the adopted interim rule and the**
 16 **governor's approval in the Indiana Register.**
- 17 **(f) An interim rule adopted by an agency under this section**
 18 **takes effect on the latest of the following dates:**
- 19 **(1) The effective date of the statute delegating authority to the**
 20 **agency to adopt the interim rule.**
 21 **(2) The date and time that the interim rule is accepted for**
 22 **filing under subsection (e).**
 23 **(3) The effective date stated by the adopting agency in the**
 24 **interim rule.**
 25 **(4) The date of compliance with every requirement**
 26 **established by law as a prerequisite to the adoption or**
 27 **effectiveness of the interim rule.**
 28 **(5) The statutory effective date for an interim rule set forth in**
 29 **law.**
- 30 **(g) An agency may amend an interim rule with another interim**
 31 **rule by following the procedures in this section for the amending**
 32 **interim rule. An interim rule and all amendments of an interim**
 33 **rule by another interim rule expire not later than four hundred**
 34 **twenty-five (425) days after the initial interim rule is accepted for**
 35 **filing under subsection (e). The subject of the interim rule,**
 36 **including all amendments to the interim rule, may not be**
 37 **subsequently extended under section 37.1 of this chapter or this**
 38 **section.**
- 39 **(h) Subject to subsection (i), the attorney general or the**
 40 **governor may file an objection to an interim rule that is adopted**
 41 **under this section not later than forty-five (45) days after the date**
 42 **that an interim rule or amendment to an interim rule is accepted**



1 for filing under subsection (e). The objection must cite the
 2 document control number for the affected interim rule and state
 3 the basis for the objection. When filed with the publisher, the
 4 objection has the effect of invalidating the interim rule or
 5 amendment to an interim rule. The publisher shall publish the
 6 objection in the Indiana Register.

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

10 (1) without statutory authority; or

11 (2) without complying with this section.

12 SECTION 23. IC 4-22-2-37.3 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2023]: Sec. 37.3. (a) The following do not
 15 apply to a rule adopted under this section:

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

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

19 (b) An agency may adopt a rule on a subject for which the
 20 agency has rulemaking authority with a single comment period of
 21 at least thirty (30) days in length using the procedures in this
 22 section if the governor finds that the agency proposing to adopt the
 23 rule has demonstrated to the satisfaction of the governor that use
 24 of expedited rulemaking procedures under this section is:

25 (1) appropriate for a rule described in IC 4-22-2.3; or

26 (2) necessary to permit time for a final rule on the same
 27 subject to become effective and the circumstances in section
 28 37.1(b)(1) through 37.1(b)(4) of this chapter and section
 29 37.2(b)(1) through 37.2(b)(2) of this chapter do not apply.

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

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



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

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

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

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

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

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

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

26 (3) A statement explaining that any person may submit
 27 written comments concerning the proposed expedited rule
 28 during the public comment period and instructions on when,
 29 where, and how the person may submit written comments.

30 However, inadequacy or insufficiency of the subject matter
 31 description under subdivision (1) or a statement of justification
 32 under subdivision (2) in a notice does not invalidate a rulemaking
 33 action.

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

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

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



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

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

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

11 (1) The text of the adopted expedited rule. The agency shall
12 submit the expedited rule in the form required by section 20
13 of this chapter.

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

17 (3) A signature page that indicates that the agency has
18 adopted the expedited rule in conformity with all procedures
19 required by law.

20 (4) The approval of the governor to use expedited rulemaking
21 procedures for the rule.

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

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

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

27 (1) accept the expedited rule for filing;

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

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

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

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

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

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

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



- 1 **(5) The statutory effective date for an expedited rule set forth**
 2 **in law.**
- 3 **(j) An expedited rule that has been accepted for filing under**
 4 **subsection (h) expires:**
- 5 **(1) not later than one hundred eighty (180) days after the date**
 6 **the rule is accepted for filing under subsection (h); or**
 7 **(2) as provided in the applicable provision of IC 4-22-2.3;**
 8 **whichever is later.**
- 9 **(k) Subject to subsection (l), the attorney general or the**
 10 **governor may file an objection to a rule that is adopted under this**
 11 **section not later than forty-five (45) days after the date and time**
 12 **that an expedited rule or amendment to an expedited rule is**
 13 **accepted for filing under subsection (h). The objection must cite the**
 14 **document control number for the affected expedited rule and state**
 15 **the basis for the objection. When filed with the publisher, the**
 16 **objection has the effect of invalidating the expedited rule or**
 17 **amendment to an expedited rule. The publisher shall publish the**
 18 **objection in the Indiana Register.**
- 19 **(l) The attorney general may file a written objection to an**
 20 **emergency rule under subsection (k) only if the attorney general**
 21 **determines that the emergency rule has been adopted:**
- 22 **(1) without statutory authority; or**
 23 **(2) without complying with this section.**
- 24 SECTION 24. IC 4-22-2-38, AS AMENDED BY P.L.123-2006,
 25 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2023]: Sec. 38. (a) This section applies to a rulemaking action
 27 resulting in any of the following rules:
- 28 (1) A rule that brings another rule into conformity with section 20
 29 of this chapter.
- 30 (2) A rule that amends another rule to replace an inaccurate
 31 reference to a statute, rule, regulation, other text, governmental
 32 entity, or location with an accurate reference, when the inaccuracy
 33 is the result of the rearrangement of a federal or state statute, rule,
 34 or regulation under a different citation number, a federal or state
 35 transfer of functions from one (1) governmental entity to another,
 36 a change in the name of a federal or state governmental entity, or
 37 a change in the address of an entity.
- 38 (3) A rule correcting any other typographical, clerical, or spelling
 39 error in another rule.
- 40 (b) Sections 24 through ~~37~~ **37.3** of this chapter do not apply to
 41 rules described in subsection (a).
- 42 (c) Notwithstanding any other statute, an agency may adopt a rule



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

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

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

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

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

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

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

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

34 SECTION 25. IC 4-22-2-39, AS AMENDED BY P.L.123-2006,
 35 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2023]: Sec. 39. (a) When an agency submits a rule for filing
 37 under section 35, 37.1, **37.2, 37.3**, or 38 of this chapter, the publisher
 38 may accept the rule for filing only if the following conditions are met:

- 39 (1) The following documents are submitted to allow the publisher
 40 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



- 1 under section 21 of this chapter in the format specified by the
 2 publisher.
 3 (C) One (1) copy of any supporting documentation submitted
 4 under section 31 of this chapter in the format specified by the
 5 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 to
 23 complete the review of a rule under this section.
 24 SECTION 26. IC 4-22-2-40, AS AMENDED BY P.L.53-2014,
 25 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2023]: Sec. 40. (a) At any time before a rule is accepted for
 27 filing by the publisher under section 35, 37.1, **37.2, 37.3**, or 38 of this
 28 chapter, the agency that adopted the rule may recall it. A rule may be
 29 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



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 office~~
17 ~~of management and budget~~ under section ~~28~~ **22.8** of this chapter
18 needs to be revised. ~~The office of management and budget shall revise~~
19 ~~a fiscal impact statement under section 28 of this chapter~~ If the fiscal
20 impact of the readopted rule is substantially different from the recalled
21 rule, ~~the agency shall submit the revised regulatory analysis to the~~
22 ~~publisher for publication in the Indiana Register with the~~
23 ~~document control number assigned by the publisher to the rule.~~
24 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 the
27 agency has complied with section 35, 37.1, **37.2, 37.3**, or 38 of this
28 chapter.

29 SECTION 27. IC 4-22-2-41, AS AMENDED BY P.L.123-2006,
30 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2023]: Sec. 41. (a) At any time before a rule is accepted by the
32 publisher for filing under section 35, 37.1, **37.2, 37.3**, or 38 of this
33 chapter, the agency that adopted the rule may withdraw it.

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

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

41 SECTION 28. IC 4-22-2.1-1, AS AMENDED BY P.L.139-2007,
42 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2023]: Sec. 1. Except for a rule that is the subject of a
 2 rulemaking action under IC 13-14-9, IC 22-12, IC 22-13, IC 22-14, or
 3 IC 22-15, this chapter applies to a rule for which the notice **of the first**
 4 **public comment period** required by IC 4-22-2-23 is published by an
 5 agency after June 30, 2005.

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

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

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

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

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

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

29 (B) not expressly required by:

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

31 (ii) any other state or federal law.

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

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

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



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

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

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

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

19 (A) the rule is gradually made to apply to small businesses or
 20 certain types of small businesses; or

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

22 (2) the rule applies to all small businesses that will be affected by
 23 the rule.

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

32 (c) The agency shall:

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

35 (2) deliver a copy of the statement, along with the proposed rule,
 36 to the small business ombudsman not later than the date of
 37 publication under subdivision (1):

38 SECTION 30. IC 4-22-2.1-7, AS ADDED BY P.L.188-2005,
 39 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2023]: Sec. 7. Before an agency may act under IC 4-22-2.5
 41 IC 4-22-2.6 to readopt a rule to which the chapter applies, the agency
 42 must conduct the review required under IC 4-22-2.5-3.1:



1 **IC 4-22-2.6-4.**

2 SECTION 31. IC 4-22-2.3 IS ADDED TO THE INDIANA CODE
3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2023]:

5 **Chapter 2.3. Transitional Provisions; Exceptions to Rulemaking**
6 **Procedures**

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

16 (1) October 1, 2023; or

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

19 **as applicable. An emergency rule that expires under this subsection**
20 **may not be renewed under IC 4-22-2-37.1 (as effective after June**
21 **30, 2023). If the rule meets the criteria in IC 4-22-2-37.2 for**
22 **adoption as an interim rule, the rule may be readopted under**
23 **IC 4-22-2-37.2.**

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

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

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

34 **continues in effect to the extent that the text remains part of the**
35 **provision of the Indiana Administrative Code into which the**
36 **emergency rule text was incorporated.**

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

41 **(d) Not later than September 1, 2023, the governor may submit**
42 **to the publisher a list of rules described in subsection (a) for which**



1 the expiration under this section is October 1, 2024, instead of
2 October 1, 2023. The publisher shall publish a list submitted under
3 this subsection in the Indiana Register.

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

13 **Sec. 3.** The office of the secretary of family and social services
14 may adopt rules under IC 4-22-2-37.3 to implement IC 12-13-16-13
15 (211 dialing code services). The rule expires not later than one (1)
16 year after the adopted rule is accepted for filing under
17 IC 4-22-2-37.3.

18 **Sec. 4.** The department of natural resources (or to the extent
19 permitted by IC 14-10-2, the natural resources commission) may
20 adopt rules under IC 4-22-2-37.3 to carry out the duties of the
21 department of natural resources under a law listed in IC 14-10-2-5.
22 The rule expires not later than one (1) year after the adopted rule
23 is accepted for filing by the publisher of the Indiana Register. A
24 person who violates the rule commits a Class C infraction, unless
25 otherwise specified under state law.

26 **Sec. 5.** The director of the department of natural resources may
27 temporarily modify or suspend a rule described in IC 14-22-2-6
28 (fish and wildlife rules) under the procedures in IC 4-22-2-37.3.
29 The adopted rule expires not later than one (1) year after the rule
30 is accepted for filing by the publisher of the Indiana Register.

31 **Sec. 6.** The Indiana education employment relations board may
32 adopt rules under IC 4-22-2-37.3 to implement IC 20-29-6-6.1
33 (review of collective bargaining agreement). The rule expires not
34 later than one (1) year after the adopted rule is accepted for filing
35 by the publisher of the Indiana Register.

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

42 **Sec. 8. (a)** The department of financial institutions shall adopt



1 rules under IC 4-22-2-37.3 announcing:

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

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

11 The rule expires not later than January 1 of the next
12 odd-numbered year that the department of financial institutions is
13 required to issue the rule.

14 (b) The department of financial institutions may adopt a rule
15 permitted under IC 24-4.5 (Uniform Consumer Credit Code) under
16 IC 4-22-2-37.3 if the department of financial institutions declares
17 an emergency. The rule expires not later than two (2) years after
18 the adopted rule is accepted for filing by the publisher of the
19 Indiana Register.

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

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

25 (2) has been scheduled, emergency scheduled, or criminalized
26 by another state; or

27 (3) has:

28 (A) a high potential for abuse; and

29 (B) no accepted medical use in treatment in the United
30 States or lacks accepted safety for use in treatment under
31 medical supervision.

32 In making a determination, the Indiana board of pharmacy shall
33 consider the factors described in IC 25-26-13-4.1. Notwithstanding
34 IC 4-22-2-37.3, the rule becomes effective when the adopted rule is
35 published in the Indiana Register. The rule expires not later than
36 June 30 of the year following the year in which the rule is accepted
37 for filing by the publisher of the Indiana Register.

38 SECTION 32. IC 4-22-2.5 IS REPEALED [EFFECTIVE JULY 1,
39 2023]. (Expiration and Readoption of Administrative Rules).

40 SECTION 33. IC 4-22-2.6 IS ADDED TO THE INDIANA CODE
41 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2023]:



1 **Chapter 2.6. Expiration and Readoption of Administrative**
 2 **Rules**

3 **Sec. 1. (a) Except as provided in this section and section 10 of**
 4 **this chapter, a rule expires January 1 of the fifth year after the**
 5 **year in which the rule takes effect, unless the rule expires or is**
 6 **repealed on an earlier date. Except for an amendment made under**
 7 **IC 4-22-2-38, the expiration date of a rule under this section is**
 8 **extended each time that a rule amending or readopting an**
 9 **unexpired rule takes effect. The rule, as amended or readopted,**
 10 **expires on January 1 of the fifth year after the year in which the**
 11 **amendment or readoption takes effect.**

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

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

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

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

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

21 **(c) If the latest version of a rule became effective before January**
 22 **1, 2017, and:**

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

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

27 **(3) the rule was adopted by an agency not described in**
 28 **subdivision (1) or (2), the rule expires not later than January**
 29 **1, 2027.**

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

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

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

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



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

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

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

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

17 (1) Minimize expenses to:

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

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

22 (C) consumers of products and services of regulated
 23 entities affected by the rule.

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

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

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

29 (5) Be written for ease of comprehension.

30 (6) Have practicable enforcement.

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

42 (1) The nature of any complaints or comments received from



1 the public, including small businesses (as defined in
2 IC 4-22-2.1-4), concerning the rule or the rule's
3 implementation by the agency.

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

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

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

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

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

14 Sec. 5. (a) If an agency elects to readopt a rule under this
15 chapter, the agency shall submit a notice of proposed readoption
16 to the publisher for publication in the Indiana Register. A separate
17 notice must be published for each board or other person or entity
18 with rulemaking authority.

19 (b) The notice must include the following:

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

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

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

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

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

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

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

41 (1) establishing the intended publication date; and

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



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

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

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

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

19 **(2)** Readopt one (1) or more rules within the scope of the
 20 notice of proposed readoption without change.

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

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

32 **(b)** If the rulemaking document complies with this section, the
 33 publisher shall:

34 **(1)** accept the rule for filing; and

35 **(2)** electronically record the date and time the rule is
 36 accepted.

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

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



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

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

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

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

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

21 SECTION 34. IC 12-10.5-1-9, AS AMENDED BY P.L.123-2006,
22 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2023]: Sec. 9. (a) Before finally adopting a rule under
24 IC 4-22-2 to implement this chapter, the division shall consult with and
25 fully consider any comments submitted by:

26 (1) caretakers providing care for a special needs individual under
27 this chapter;

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

30 (3) area agencies on aging;

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

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

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

37 (b) Rules adopted under this chapter must:

38 (1) include protections for the rights, safety, and welfare of
39 individuals with special needs receiving care from a caretaker
40 under this chapter, including reasonable monitoring and reporting
41 requirements;

42 (2) serve distinct populations, including:



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



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

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

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

8 (B) monitoring, enforcement, reporting, or other
9 administrative requirements; and

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

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

19 SECTION 36. IC 13-14-9-1, AS AMENDED BY P.L.133-2012,
20 SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2023]: Sec. 1. (a) Except as provided in sections 8 and 14 of
22 this chapter, this chapter applies to the following:

23 (1) The board.

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

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

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

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

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

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



- 1 **IC 4-22-2-21.**
 2 **(2) The latest version of the regulatory analysis (including any**
 3 **appendices containing any data, studies, or analysis**
 4 **referenced in the regulatory analysis) submitted to the budget**
 5 **agency and the office of management and budget under**
 6 **IC 4-22-2-22.8,**
 7 **(3) The determination of the budget agency and the office of**
 8 **management and budget authorizing commencement of the**
 9 **first and second public comment periods on the proposed rule**
 10 **under IC 4-22-2-22.8.**
 11 **(4) The notice required under subsection (c).**
 12 **(c) A notice provided under this section must do the following:**
 13 (1) Identify the authority under which the proposed rule is to be
 14 adopted.
 15 (2) Describe the subject matter and the basic purpose of the
 16 proposed rule. The description required by this subdivision must:
 17 (A) list all alternatives being considered by the department at
 18 the time of the notice;
 19 (B) state whether each alternative listed under clause (A)
 20 creates:
 21 (i) a restriction or requirement more stringent than a
 22 restriction or requirement imposed under federal law; or
 23 (ii) a restriction or requirement in a subject area in which
 24 federal law does not impose restrictions or requirements;
 25 (C) state the extent to which each alternative listed under
 26 clause (A) differs from federal law;
 27 (D) include any information known to the department about
 28 the potential fiscal impact of each alternative under clause (A)
 29 that creates:
 30 (i) a restriction or requirement more stringent than a
 31 restriction or requirement imposed under federal law; or
 32 (ii) a restriction or requirement in a subject area in which
 33 federal law does not impose restrictions or requirements;
 34 and
 35 (E) set forth the basis for each alternative listed under clause
 36 (A).
 37 (3) Describe the relevant statutory or regulatory requirements or
 38 restrictions relating to the subject matter of the proposed rule that
 39 exist before the adoption of the proposed rule.
 40 (4) Request the submission of alternative ways to achieve the
 41 purpose of the proposed rule.
 42 (5) Request the submission of comments, including suggestions



1 of specific language for the proposed rule.

2 (6) Include a detailed statement of the issue to be addressed by
3 adoption of the proposed rule.

4 **(7) Include the latest version of the regulatory analysis**
5 **(excluding any appendices containing any data, studies, or**
6 **analysis referenced in the regulatory analysis) submitted to**
7 **the budget agency and the office of management and budget**
8 **under IC 4-22-2-22.8.**

9 **(8) Include information concerning where, when, and how a**
10 **person may submit written comments on the proposed rule,**
11 **including contact information concerning the small business**
12 **regulatory coordinator required by IC 4-22-2-28.1.**

13 **(9) Include information concerning where, when, and how a**
14 **person may inspect and copy any data, studies, or analyses**
15 **referenced in a regulatory analysis under subdivision (7).**

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

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

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

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

26 ~~(c)~~ **(e)** The notice required under subsection (a) shall be published
27 electronically in the Indiana Register under procedures established by
28 the publisher. The publisher shall review materials submitted under
29 this section and determine the date that the publisher intends to
30 publish the text of the proposed rule and the notice in the Indiana
31 Register. If the submitted material complies with this section, the
32 publisher shall establish the intended publication date, assign a
33 document control number to the proposed rule, and provide a
34 written or an electronic mail authorization to proceed to the
35 agency. The publisher shall publish the following in the Indiana
36 Register on the intended publication date:

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

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

41 SECTION 38. IC 13-14-9-4, AS AMENDED BY P.L.218-2016,
42 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2023]: Sec. 4. (a) The department shall provide notice in the
 2 Indiana Register of the second public comment period required by
 3 section 2 of this chapter.

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

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

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

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

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

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

27 ~~(2) (1) Contain a summary of the response of the department to~~
 28 ~~written comments submitted under section 3 of this chapter~~
 29 ~~during the first public comment period.~~

30 ~~(3) (2) Request the submission of comments, including~~
 31 ~~suggestions of specific amendments to the language contained in~~
 32 ~~the proposed rule and indicate where, when, and how a person~~
 33 ~~may submit written comments on the proposed rule, including~~
 34 ~~contact information concerning the small business regulatory~~
 35 ~~coordinator required by IC 4-22-2-28.1.~~

36 ~~(4) (3) Contain the full text of the commissioner's written findings~~
 37 ~~under section 7 of this chapter, if applicable. Include a statement~~
 38 ~~indicating the date, time, and place at which the public~~
 39 ~~hearing on the proposed rule will be convened.~~

40 ~~(5) (4) Identify each element of the proposed rule that imposes a~~
 41 ~~restriction or requirement on persons to whom the proposed rule~~
 42 ~~applies that:~~



- 1 (A) is more stringent than a restriction or requirement imposed
 2 under federal law; or
 3 (B) applies in a subject area in which federal law does not
 4 impose a restriction or requirement.
- 5 ~~(6)~~ (5) With respect to each element identified under subdivision
 6 ~~(5)~~, (4), identify:
- 7 (A) the environmental circumstance or hazard that dictates the
 8 imposition of the proposed restriction or requirement to
 9 protect human health and the environment;
 10 (B) examples in which federal law is inadequate to provide the
 11 protection referred to in clause (A); and
 12 (C) the:
 13 (i) estimated fiscal impact; and
 14 (ii) expected benefits;
- 15 based on the extent to which the proposed rule is more
 16 stringent than the restrictions or requirements of federal law,
 17 or on the creation of restrictions or requirements in a subject
 18 area in which federal law does not impose restrictions or
 19 requirements.
- 20 ~~(7)~~ (6) For any element of the proposed rule that imposes a
 21 restriction or requirement that is more stringent than a restriction
 22 or requirement imposed under federal law or that applies in a
 23 subject area in which federal law does not impose restrictions or
 24 requirements, describe the availability for public inspection of all
 25 materials relied upon by the department in the development of the
 26 proposed rule, including, if applicable:
 27 (A) health criteria;
 28 (B) analytical methods;
 29 (C) treatment technology;
 30 (D) economic impact data;
 31 (E) environmental assessment data;
 32 (F) analyses of methods to effectively implement the proposed
 33 rule; and
 34 (G) other background data.
- 35 **(7) Either a statement indicating that no changes in the**
 36 **regulatory analysis have been made from the version of the**
 37 **regulatory analysis published under section 3 of this chapter**
 38 **or the latest version of the regulatory analysis (excluding any**
 39 **appendices containing any data, studies, or analysis**
 40 **referenced in the regulatory analysis) submitted to the budget**
 41 **agency and the office of management and budget under**
 42 **IC 4-22-2-22.8, if any changes have been made in the**



1 regulatory analysis after submitting the material under
2 section 3 of this chapter.

3 **(8) Include an explanation of any differences between the text**
4 **of the proposed rule published for the first comment period**
5 **under section 3 of this chapter and the text of the proposed**
6 **rule published for the second comment period under this**
7 **section.**

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

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

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

21 **Inadequacy or insufficiency of the subject matter description or**
22 **summary of the regulatory analysis in the published notice does**
23 **not invalidate a rulemaking action.**

24 (b) **(d) The notice required under subsection (a):**

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

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

33 **The publisher shall review materials submitted under this section**
34 **and determine the date that the publisher intends to publish the**
35 **text of the proposed rule and the notice in the Indiana Register. If**
36 **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 second comment period.**



- 1 **(2) The full text of the agency's proposed rule (excluding the**
 2 **full text of a matter incorporated by reference under**
 3 **IC 4-22-2-21).**
- 4 ~~(c)~~ **(e)** If the notice provided by the department concerning a
 5 proposed rule identifies ~~under subsection (a)(5)~~; an element of the
 6 proposed rule that imposes a restriction or requirement more stringent
 7 than a restriction or requirement imposed under federal law, the
 8 proposed rule shall not become effective under this chapter until the
 9 adjournment sine die of the regular session of the general assembly that
 10 begins after the department provides the notice.
- 11 ~~(d)~~ **(f)** ~~Subsections (b)(2) and Subsection (c) (e) do~~ does not
 12 prohibit or restrict the commissioner, the department, or the board
 13 from:
- 14 (1) adopting emergency rules under IC 4-22-2-37.1;
 15 (2) taking emergency action under IC 13-14-10; or
 16 (3) temporarily:
 17 (A) altering ordinary operating policies or procedures; or
 18 (B) implementing new policies or procedures;
 19 in response to an emergency situation.
- 20 SECTION 39. IC 13-14-9-4.2, AS AMENDED BY P.L.123-2006,
 21 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2023]: Sec. 4.2. Not less than fourteen (14) days before the
 23 date of preliminary adoption of a proposed rule by a board, the
 24 department shall make available to the board the ~~fiscal impact~~
 25 ~~statement latest version of the regulatory analysis~~ prepared by the
 26 ~~office of management and budget with respect to~~ **for** the proposed rule.
 27 ~~under IC 4-22-2-28(c).~~
- 28 SECTION 40. IC 13-14-9-4.5 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4.5. (a) Except for a
 30 rule
- 31 ~~(1)~~ that has been preliminarily adopted by a board in a form that
 32 is:
- 33 ~~(A)~~ **(1)** identical to; or
 34 ~~(B)~~ **(2)** not substantively different from;
 35 the proposed rule published in a second notice under section 4 of
 36 this chapter, ~~or~~
 37 ~~(2) for which the commissioner has made a determination and~~
 38 ~~prepared written findings under section 7 or 8 of this chapter;~~
 39 a board may not adopt a rule under this chapter until the board has
 40 conducted a third public comment period that is at least twenty-one
 41 (21) days in length.
- 42 (b) The department shall publish notice of a third public comment



1 period with the

2 (1) text;

3 (2) summary; and

4 (3) fiscal analysis;

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

7 (c) The notice of a third public comment period that must be
8 published in the Indiana Register under subsection (b) must request the
9 submission of comments, including suggestions of specific
10 amendments, that concern only the portion of the preliminarily adopted
11 rule that is substantively different from the language contained in the
12 proposed rule published in a second notice under section 4 of this
13 chapter.

14 SECTION 41. IC 13-14-9-5, AS AMENDED BY P.L.123-2006,
15 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2023]: Sec. 5. (a) A board may not adopt a rule until all of the
17 following occur:

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

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

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

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

27 (C) ~~For a proposed rule with an estimated economic impact on~~
28 ~~regulated entities that is greater than five hundred thousand~~
29 ~~dollars (\$500,000), a copy of the office of management and~~
30 ~~budget fiscal analysis required under IC 4-22-2-28: required~~
31 **by section 4 of this chapter. However, a notice of a third**
32 **public comment period under section 4.5 of this chapter**
33 **must request the submission of comments, including**
34 **suggestions of specific amendments, that concern only the**
35 **portion of the preliminarily adopted rule that is**
36 **substantively different from the language contained in the**
37 **proposed rule published in a second notice under section 4**
38 **of this chapter.**

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

41 (4) If a third public comment period is required under section 4.5
42 of this chapter, the department publishes notice of the third public



- 1 comment period in the Indiana Register.
- 2 (b) Board meetings held under subsection (a)(1) and (a)(3) shall be
3 conducted in accordance with IC 4-22-2-26(b) through
4 IC 4-22-2-26(d).
- 5 (c) At a board meeting held under subsection (a)(1), the board shall
6 determine whether the proposed rule will:
- 7 (1) proceed to publication under subsection (a)(2);
8 (2) be subject to additional comments under section 3 or 4 of this
9 chapter, considering any written finding made by the
10 commissioner under section 7 or 8 of this chapter; or
11 (3) be reconsidered at a subsequent board meeting in accordance
12 with IC 4-22-2-26(d).
- 13 SECTION 42. IC 13-14-9-6, AS AMENDED BY P.L.123-2006,
14 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2023]: Sec. 6. ~~In addition to the requirements of section 8 of~~
16 ~~this chapter~~, The department shall include the following in the written
17 materials to be considered at the board meetings held under section
18 5(a)(1) and 5(a)(3) of this chapter:
- 19 (1) The full text of the proposed rule, as most recently prepared
20 by the department.
- 21 (2) The written responses of the department to all comments
22 received:
- 23 (A) during the immediately preceding comment period for a
24 board meeting held under section 5(a)(1) of this chapter;
- 25 (B) during the immediately preceding board meeting under
26 section 5(a)(1) of this chapter for a board meeting held under
27 section 5(a)(3) of this chapter if a third public comment period
28 is not required under section 4.5 of this chapter; or
29 (C) during:
- 30 (i) a third public comment period that address the portion of
31 the preliminarily adopted rule that is substantively different
32 from the language contained in the proposed rule published
33 in a second notice under section 4 of this chapter; and
34 (ii) the immediately preceding board meeting held under
35 section 5(a)(1) of this chapter;
36 for a board meeting held under section 5(a)(3) of this chapter
37 if a third public comment period is required under section 4.5
38 of this chapter.
- 39 (3) The full text of the ~~office of management and budget fiscal~~
40 **latest version of regulatory** analysis if a ~~fiscal analysis is~~
41 **required under IC 4-22-2-28. prepared under IC 4-22-2-22.7.**
- 42 SECTION 43. IC 13-14-9-15 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2023]: **Sec. 15. Rules adopted in accordance**
3 **with this chapter by the department of environmental management**
4 **or a board that has rulemaking authority under IC 13 expire as**
5 **provided in IC 4-22-2.6.**

6 SECTION 44. IC 13-14-9.5 IS REPEALED [EFFECTIVE JULY 1,
7 2023]. (Expiration and Readoption of Administrative Rules).

8 SECTION 45. [EFFECTIVE UPON PASSAGE] (a) **After June 30,**
9 **2023, a rule may be adopted as an emergency rule only for the**
10 **purposes and through the procedures in IC 4-22-2-37.1 (as effective**
11 **after June 30, 2023). Any additional authority in a statute outside**
12 **IC 4-22 to adopt rules through the emergency rulemaking**
13 **procedures in IC 4-22-2-37.1 (as effective before July 1, 2023, or**
14 **after June 30, 2023) is void. The code revision commission shall**
15 **provide in calendar year 2023 for the preparation of a bill for**
16 **introduction in the 2024 regular session of the general assembly**
17 **that removes language outside IC 4-22 permitting the adoption of**
18 **emergency rules.**

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

20 SECTION 46. **An emergency is declared for this act.**

