**MATERIALS INCORPORATED BY REFERENCE**

INDIANA UTILITY REGULATORY COMMISSION

LSA # 19-378

The following materials are incorporated by reference and the text is provided in this document:

Material Incorporated Rule(s)

170 IAC 16-1 170 IAC 1-1.1-2, 170 IAC 1-1.1-3, 170 IAC 1-1.1-5,

170 IAC 4-7 170 IAC 1-1.5-1

170 IAC 5-5-3 170 IAC 1-1.1-5.5

IC 35-44.1-2-1 170 IAC 1-1.1-8

IC 4-22 170 IAC 1-1.1-1

IC 8-1-22.5-7 170 IAC 1-1.1-3.5

IC 8-1-2-34.5 170 IAC 1-1.5-1

IC 8-1-2-52 170 IAC 1-1.5-1

IC 8-1-2-53 170 IAC 1-1.5-1

IC 8-1-2-54 170 IAC 1-1.1-10, 170 IAC 1-1.5-1

IC 8-1-2-58 170 IAC 1-1.5-1

IC 8-1-2-61 170 IAC 1-1.1-2

IC 8-1-2-61.5 170 IAC 1-1.1-2, 170 IAC 1-1.5-1, 170 IAC 14-1-1, 170 IAC 14-1-6

IC 8-1-26-10 170 IAC 1-1.1-5.5

IC 8-1-26-11 170 IAC 1-1.1-5.5

IC 8-1-26-23 170 IAC 1-1.1-3.5, 170 IAC 1-1.1-5.5

IC 8-1-2-70 170 IAC 1-1.1-3.5

IC 8-1-2-85 170 IAC 1-1.1-3.5

IC 8-1-3-8 170 IAC 1-1.1-18

Indiana Trial Rule 86(I) 170 IAC 1-1.1-2

# 170 IAC 16-1

170 IAC 16-1-1 Scope and applicability

(a) This article implements the authority of the commission under [IC 8-1-2-34.5](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000009&cite=INS8-1-2-34.5&originatingDoc=N0342E5208FC111DF84789000D94D114C&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.DocLink)).

(b) This article applies to any utility subject to the commission’s jurisdiction that offers:

(1) gas;

(2) electric;

(3) water; or

(4) sewage disposal;

 services.

(c) The procedures for the resolution of customer complaints involving telephone utilities can be found in 170 IAC 7.

170 IAC 16-1-2 Definitions

Where applicable, terms used in this rule shall have the meaning assigned to them in [IC 8-1-2-1](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000009&cite=INS8-1-2-1&originatingDoc=N1662D4808FC111DF84789000D94D114C&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.DocLink)). The following definitions apply throughout this rule:

(1) “Commission” means the Indiana utility regulatory commission.

(2) “Consumer affairs” means the consumer affairs division of the commission.

(3) “Customer” means any:

(A) person;

(B) firm;

(C) corporation;

(D) municipality; or

(E) government agency;

who has agreed to pay for service from a utility, or a person authorized under a valid power of attorney to act on another person’s or the entity’s behalf.

(4) “Utility” means the following:

(A) Electric utilities.

(B) Gas utilities.

(C) Water utilities.

(D) Sewage disposal services.

170 IAC 16-1-3 Customer dispute process; time periods

(a) Disputes regarding any utility service or billing matter that have not been resolved at the utility level may constitute a complaint and may be resolved through the following process:

(1) A customer may appeal a utility’s proposed resolution of a dispute by filing an informal complaint with consumer affairs in accordance with section 5 of this rule.

(2) A customer or utility may request commission review of a consumer affairs decision in accordance with section 6 of this rule.

(b) In computing any period of time prescribed or allowed by this article, the day of the act from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included unless it is a:

(1) Saturday;

(2) Sunday;

(3) legal holiday as defined by state statute; or

(4) day that the utility or commission office in which the act is to occur is closed during regular business hours.

(c) The period of time runs until the end of the next day that is not a:

(1) Saturday;

(2) Sunday;

(3) legal holiday; or

(4) day on which the office is closed.

170 IAC 16-1-4 Disputes; utility responsibilities

(a) A utility shall provide the following means for customers to bring disputes to its attention:

(1) By telephone.

(2) In writing.

(3) Through the utility’s website.

(4) At the utility’s business office.

(5) By any other method made available by the utility.

(b) The utility shall retain records of disputes received under this rule and the resolutions thereof for a period of six (6) months from the date of final resolution of the dispute under this rule and the records shall include, at a minimum, the following information:

(1) The customer’s name.

(2) The customer’s service address.

(3) The telephone number at which the customer may be contacted, if such number is available.

(4) The customer’s account number.

(5) The general nature of the dispute.

(c) A utility shall take the following actions with regard to each dispute:

(1) Inform the customer that any portion of a bill that is undisputed must be paid by the date due stated on the bill in order to avoid disconnection of service in accordance with section 7 of this rule.

(2) Investigate the matter promptly and thoroughly.

(3) Make a good faith effort to resolve the matter.

(4) Advise the customer of the utility’s proposed resolution by:

(A) telephone;

(B) written notice mailed to the customer’s billing address;

(C) e-mail; or

(D) another means reasonably calculated to reach the customer.

(5) Advise the customer that if he or she is not satisfied with the utility’s proposed resolution, the customer may submit an informal complaint to consumer affairs within seven (7) days of the date the proposed resolution is received.

(6) Offer to provide the customer with the following consumer affairs contact information:

(A) Mailing address.

(B) Toll free complaint number.

(C) Local telephone number.

A utility shall make records available upon request by the commission once an informal complaint has been submitted.

(d) Each utility shall annually submit a report to the commission that shall state and classify the number of complaints made to the utility under section 3 of this rule, the general nature of the subject matter thereof, how the complaint was received, and whether a commission review was conducted thereon.

170 IAC 16-1-5 Consumer affairs review of utility’s proposed resolution; consumer affairs’ responsibilities

(a) If a customer is dissatisfied with a utility’s proposed resolution of a dispute, the customer may appeal the proposed resolution to consumer affairs by submitting an informal complaint. A complaint must be submitted under this section within seven (7) days of the date the customer receives the utility’s proposed resolution. At its discretion, consumer affairs may waive the time limitation for good cause, including failure to receive timely notice of proposed resolution. A complaint shall be considered submitted upon receipt by consumer affairs.

(b) A customer may file a complaint with consumer affairs in the following ways:

(1) By telephone.

(2) In writing.

(3) By completing a form available at the commission’s office and on the commission’s website.

(c) Upon receipt of a complaint, consumer affairs shall take the following actions:

(1) Provide the utility:

(A) a copy of the complaint if in writing, or a summary of the complaint if not in writing; and

(B) an opportunity to respond.

(2) Conduct an informal review consisting of not less than a prompt and thorough investigation of the disputed facts of the complaint.

(3) To the extent that consumer affairs may deem necessary to ensure the accuracy and completeness of the consumer affairs record, meet with the parties or require additional information or documentation from the parties, to which parties must respond within fourteen (14) days unless otherwise directed by consumer affairs.

(4) Preserve in a systematic order all information and documentation received and generated during the review, and the consumer affairs decision, which shall comprise the consumer affairs record and be made readily available to the parties for inspection and copying upon request.

(5) Provide a decision to the customer and the utility within thirty (30) days of the complaint submission date, except that if the complexity of issues or circumstances involved in a complaint require additional time, consumer affairs shall notify parties within thirty (30) days of the complaint submission date that additional time is required.

(d) If a customer or utility is dissatisfied with the consumer affairs resolution of the informal complaint, either party may request a review by the director of consumer affairs or director’s designee within seven (7) days of the date of receipt of the proposed resolution of the informal complaint.

(e) Notwithstanding any other provision in this section, consumer affairs may refer a complaint to the commission for review at any time during the review process based on the complexity of issues or circumstances involved in a complaint as determined by the director of consumer affairs or director’s designee.

170 IAC 16-1-6 Request for commission review of consumer affairs decision

(a) Either party may request commission review of the consumer affairs’ decision under [IC 8-1-2-34.5](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000009&cite=INS8-1-2-34.5&originatingDoc=N582230A08FC111DF9273B44CA479346B&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.DocLink)) within twenty (20) days of the date of receipt of the decision of the director of consumer affairs’ or director’s designee. A request under this section must be in writing and shall be considered filed upon receipt by the commission.

(b) Upon receiving a request for commission review, the commission shall provide a copy of the request to the opposing party and the office of the utility consumer counselor (OUCC) within seven (7) days from the date the review is requested. The nonrequesting party and the OUCC shall be permitted to file an answer within the time frames provided in [170 IAC 1-1.1-10(c)](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1003877&cite=170INADC1-1.1-10&originatingDoc=N582230A08FC111DF9273B44CA479346B&refType=VP&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.DocLink)).

(c) Commission review of a consumer affairs decision shall be reasonably limited to the matters raised in the request for review and the answer, and to a review of the consumer affairs record as compiled during the review conducted under section 5 of this rule, or as otherwise determined by the presiding officer.

170 IAC 16-1-7 Continuation of service during complaint process; payment of undisputed charges; disconnection for nonpayment; determining payment amount

(a) If a customer receiving service has paid and continues to pay all undisputed charges, the utility shall not disconnect any service related to the disputed charges:

(1) while the utility’s proposed resolution is under review by consumer affairs or the commission; or

(2) sooner than ten (10) days after a decision by consumer affairs or the commission.

(b) If a customer and utility cannot agree what portion of the charges in a bill is undisputed, to avoid disconnection, the customer should pay on the disputed bill an amount equal to one-twelfth ( 1/12 ) of the estimated annual billing for service to be rendered to the customer. For a customer who has been a customer for at least twelve (12) months, the estimate will be based on the customer’s average bill for the twelve (12) months immediately preceding the disputed bill.

# 170 IAC 4-7

## 170 IAC 4-7-0.5 Purpose and applicability

(a) The purpose of this rule is to provide the specific requirements for submission of utilities’ integrated resource plans required by [IC 8-1-8.5-3(e)](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000009&cite=INS8-1-8.5-3&originatingDoc=NCC473190101B11E9B509EC247D6B7117&refType=SP&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)#co_pp_7fdd00001ca15).

(b) This rule applies to a utility, as defined in this rule, unless otherwise noted.

## 170 IAC 4-7-1 Definitions

(a) The definitions in this section apply throughout this rule.

(b) “Avoided cost” means the incremental or marginal cost to a utility of energy or capacity, or both, not incurred by a utility if an alternative supply-side resource or demand-side resource is included in the utility’s IRP.

(c) “Candidate resource portfolio” means one (1) of multiple long term resource portfolios selected for further evaluation through the utility’s portfolio screening process to determine the preferred resource portfolio.

(d) “Cogeneration facility” means the following:

(1) A facility that:

 A) simultaneously generates electricity and useful thermal energy; and

(B) meets the energy efficiency standards established for a cogeneration facility by the Federal Energy Regulatory Commission (FERC) under [16 U.S.C. 824a-3](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=16USCAS824A-3&originatingDoc=N6AC2D5416CD811E9A9B08E2FC34AD275&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)), in effect on January 1, 2017. This document is incorporated by reference. Copies may be obtained at https://www.govinfo.gov/app/collection/uscode/2017/ and are available for review at the Indiana Utility Regulatory Commission, 101 W. Washington St., Ste. 1500 East, Indianapolis, Indiana 46204.

(2) The land, system, building, or improvement if:

(A) located at the facility site; and

(B) necessary or convenient to the:

(i) construction;

(ii) completion; or

(iii) operation;

of the facility.

(3) The transmission or distribution facilities necessary to conduct the energy produced by the facility to a user located at or near the project site.

(e) “Commission” means the Indiana utility regulatory commission.

(f) “Commission analysis” means the required state energy analysis developed by the commission under [IC 8-1-8.5-3](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000009&cite=INS8-1-8.5-3&originatingDoc=N6AC2D5416CD811E9A9B08E2FC34AD275&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)).

(g) “Contemporary issue” means a topic that may affect an IRP’s inputs, methods, or judgment factors, and is common to the utilities. Topics may include, but are not limited to, those relevant to the following considerations:

(1) Economic.

(2) Financial.

(3) Environmental.

(4) Energy.

(5) Demographic.

(6) Customer.

(7) Methodological.

(8) Regulatory.

(9) Technological.

(h) “Demand-side management program” or “DSM program” means a utility program designed to implement:

(1) demand response; or

(2) energy efficiency.

(i) “Demand response” means a reduction in electricity usage for limited intervals of time, such as during peak electricity usage or emergency conditions.

(j) “Demand-side resource” means one (1) or more demand-side management programs.

(k) “Director” means an employee of the commission designated as the IRP director by the commission’s agency head appointed under [IC 8-1-1-2(d)](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000009&cite=INS8-1-1-2&originatingDoc=N6AC2D5416CD811E9A9B08E2FC34AD275&refType=SP&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)#co_pp_5ba1000067d06).

(l) “Distributed generation” means an electrical generating facility located at or near a customer’s point of use, which may be connected in parallel operation to the utility system.

(m) “DSM costs” refers to the expenses incurred by a utility in a given year for operation of a DSM program, whether the cost is capitalized or expensed. Expenses include, but are not limited to, the following:

(1) Administration.

(2) Equipment.

(3) Incentives paid to program participants.

(4) Marketing and advertising.

(5) Evaluation, measurement, and verification.

(n) “Emission allowance” means the authority to emit one (1) unit of an air pollutant as specified by a federal or state regulatory system.

(o) “End-use” means the:

(1) light;

(2) heat;

(3) cooling;

(4) refrigeration;

(5) motor drive;

(6) microwave energy;

(7) video or audio signal;

(8) computer processing;

(9) electrolytic process; or

(10) useful work;

produced by equipment using electricity.

(p) “Energy efficiency” means reduced energy use for a comparable or improved level of energy service.

(q) “Energy service” means the:

(1) light;

(2) heat;

(3) motor drive; and

(4) other service;

for which a customer purchases electricity from the utility.

(r) “Energy storage” means a:

(1) technology; or

(2) set of technologies;

capable of storing generated energy and discharging that energy as electricity at a later time.

(s) “Engineering estimate” means a calculated estimate of the change in energy (kWh) and demand (kW) resulting from a DSM program, accounting for dynamic interactions between or among the DSM programs.

(t) “FERC Form 715” means the annual transmission planning and evaluation report required by the [FERC, as adopted in 58 FR 52436](http://www.westlaw.com/Link/Document/FullText?findType=l&pubNum=0001037&cite=UUID(I80221DE03CCE11DAAECA8D28B8108CB8)&originatingDoc=N6AC2D5416CD811E9A9B08E2FC34AD275&refType=CP&fi=co_pp_sp_1037_52436&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)#co_pp_sp_1037_52436), Oct. 8, 1993, and as amended by [Order 643, 68 FR 52095](http://www.westlaw.com/Link/Document/FullText?findType=l&pubNum=0001037&cite=UUID(I8D7FF910346011DA8794AB47DD0CABB0)&originatingDoc=N6AC2D5416CD811E9A9B08E2FC34AD275&refType=CP&fi=co_pp_sp_1037_52095&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)#co_pp_sp_1037_52095), Sep. 2, 2003.

(u) “Firm wholesale power sale” means a power sale intended to be available to the purchaser at all times, including under adverse conditions, during the period covered by the commitment.

(v) “Integrated resource plan” or “IRP” means a utility’s document or documents submitted to the commission to meet the requirements of this rule.

(w) “Load research” means the collection of electricity usage data through a metering device associated with an end-use, a circuit, or a building. The metered data is used to better understand the characteristics of electric loads, the timing of their use, and the amount of electricity consumed by users. The data may be collected over a variety of time intervals, usually sixty (60) minutes or less.

(x) “Load shape” means the time pattern of customer electricity use and the relationship of the level of energy use to a specific time during the day, month, and year.

(y) “North American Industrial Classification System” or “NAICS” refers to the system developed by the United States Department of Commerce for use in the classification of establishments by type of activity in which a business is engaged.

(z) “OUCC” means the Indiana office of utility consumer counselor.

(aa) “Penetration” means the ratio of the number of a specific type of new appliances or end-use equipment installed to the total number installed during a given time.

(bb) “Power transfer capability” means the amount of power that can be transferred from one (1) point or part of the bulk electric system to another without exceeding a reliability criteria pertinent to the utility.

(cc) “Preferred resource portfolio” means the utility’s selected long term supply-side and demand-side resource mix that safely, reliably, efficiently, and cost-effectively meets the electric system demand, taking cost, risk, and uncertainty into consideration.

(dd) “Present value” means the current value of a future sum or stream of money, calculated by discounting the sum or stream of money by an interest rate.

(ee) “Program participant” means a utility customer participating in a DSM program.

(ff) “Public advisory process” refers to the procedures in sections 2.1 and 2.6 of this rule in which customers and interested parties have the opportunity to:

(1) receive information from the utilities;

(2) provide input for the utility to consider in the development of the IRP; and

(3) comment on a utility’s IRP.

(gg) “Regional transmission organization” or “RTO” means the regional transmission organization approved by the Federal Energy Regulatory Commission for the control area that includes the utility’s assigned service area as defined under [IC 8-1-2.3-2](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000009&cite=INS8-1-2.3-2&originatingDoc=N6AC2D5416CD811E9A9B08E2FC34AD275&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)).

(hh) “Renewable resource” means a renewable energy resource as defined in [IC 8-1-8.8-10](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000009&cite=INS8-1-8.8-10&originatingDoc=N6AC2D5416CD811E9A9B08E2FC34AD275&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)).

(ii) “Resource” means a:

(1) facility;

(2) project;

(3) contract; or

(4) mechanism;

used by a utility to assist in providing electric energy service to the customer.

(jj) “Resource action” means a resource change or addition proposed by a utility in a formally docketed commission proceeding.

(kk) “Risk metric” means a measure used to gauge the risk associated with a resource portfolio. As applied to the cost of a resource portfolio, risk metric includes measures of the variability of costs and the magnitude of outcomes.

(ll) “Saturation” means the ratio of the number of a specific type of similar appliances or end-use equipment to the total number of customers in that class or the total number of similar appliances or end-use equipment in use.

(mm) “Screening” means an evaluation performed by a utility to determine whether a demand-side or supply-side resource option is eligible for potential inclusion in the utility’s preferred resource portfolio.

(nn) “Short term action plan” means a schedule of activities and goals developed by a utility to begin efficient implementation of its preferred resource portfolio as required by section 4(10) of this rule.

(oo) “Smart grid” means use of:

(1) digital electronics;

(2) equipment; or

(3) data;

and the associated communications networks, to monitor and control aspects of the electrical transmission and distribution system from generation to consumption.

(pp) “Supply-side resource” means a resource that provides a supply of electrical energy or capacity, or both, to a utility. A supply-side resource includes the following:

(1) A utility-owned generation capacity addition.

(2) A wholesale power purchase.

(3) A refurbishment or upgrade of an existing utility-owned generation facility.

(4) A cogeneration facility.

(5) A renewable resource.

(6) Distributed generation.

(qq) “Utility” means:

(1) a public, municipally owned, or cooperatively owned electric utility; or

(2) a joint agency created under IC 8-1-2.2;

unless the utility is exempt under [IC 8-1-8.5-7](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000009&cite=INS8-1-8.5-7&originatingDoc=N6AC2D5416CD811E9A9B08E2FC34AD275&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)).

## 170 IAC 4-7-2 Integrated resource plan submission

(a) The following utilities, or their successors in interest, shall submit to the commission an IRP consistent with this rule according to the following schedule:

(1) By November 1, 2017, and every three (3) years thereafter:

(A) Indiana Municipal Power Agency;

(B) Hoosier Energy Rural Electric Cooperative; and

(C) Wabash Valley Power Association.

(2) By November 1, 2018, and every three (3) years thereafter:

(A) Duke Energy Indiana; and

(B) Indiana Michigan Power Company.

(3) By November 1, 2019, and every three (3) years thereafter:

(A) Indianapolis Power & Light Company;

(B) Northern Indiana Public Service Company; and

(C) Southern Indiana Gas and Electric Company.

(b) Upon request of a utility, the director may grant an extension of a submission deadline, for good cause shown.

(c) On or before the applicable date, a utility subject to subsection (a) or (b) must submit electronically to the director or through an electronic filing system if requested by the director, the following documents:

(1) The IRP.

(2) A technical appendix containing supporting documentation sufficient to allow an interested party to evaluate the data and assumptions in the IRP. The technical appendix shall include at least the following:

(A) The utility’s energy and demand forecasts and input data used to develop the forecasts.

(B) The characteristics and costs per unit of resources examined in the IRP.

(C) Input and output files from capacity planning models, in electronic format.

(D) For each portfolio, the electronic files for the calculation of the revenue requirement if not provided as an output file.

If a utility does not provide the above information, it shall include a statement in the technical appendix specifying the nature of the information it is omitting and the reason necessitating its omission. The utility may request confidential treatment of the technical appendix under section 2.1 of this rule.

(3) An IRP summary that communicates core IRP concepts and results to nontechnical audiences in a simplified format using visual elements where appropriate. The IRP summary shall include, but is not limited to, the following:

(A) A brief description of the utility’s:

(i) existing resources;

(ii) preferred resource portfolio;

(iii) key factors influencing the preferred resource portfolio;

(iv) short term action plan;

(v) public advisory process; and

(vi) additional details requested by the director.

(B) A simplified discussion of the utility’s resource types and load characteristics.

The utility shall make the IRP summary readily accessible on its website.

(d) Contemporaneously with the submission of an IRP under this section, a utility shall provide to the director the following information:

(1) The name and address of known individuals or entities considered by the utility to be interested parties.

(2) A statement that the utility has sent known interested parties, electronically or by deposit in the United States mail, first class postage prepaid, a notice of the utility’s submission of the IRP to the commission. The notice must include the following information:

(A) A general description of the subject matter of the submitted IRP.

(B) A statement that the commission invites interested parties to submit written comments on the utility’s IRP within ninety (90) days of the IRP submittal. An interested party includes a business, organization, or particular customer that participated in the utility’s previous public advisory process or submitted comments on the utility’s previous IRP.

A utility is not required to separately notify other customers.

(3) A statement that the utility served a copy of the documents submitted under subsection (c) on the OUCC.

## 170 IAC 4-7-2.1 Confidentiality

(a) In an instance where a utility or interested party is required to or wishes to submit to the director information or documents a utility or interested party reasonably believes should be exempt from public access under IC 5-14-3, the utility or interested party may instead, on the applicable date, do the following:

(1) Submit a public version of the IRP, comment, or other submission with information the submitting party believes is exempt from public disclosure under IC 5-14-3 omitted or redacted.

(2) Concurrently with the submission of the public version under subdivision (1), file a petition for confidential treatment with the commission in accordance with the procedural rules in 170 IAC 1-1.1.

(b) Information the commission determines shall be exempt from public disclosure shall be provided to the commission under the commission’s procedural rules or based on a commission order.

(c) Nothing in this section prohibits a utility or interested party from sharing information with each other subject to a mutual agreement concerning confidentiality.

## 170 IAC 4-7-2.2 Public comments and director’s reports

(a) A customer or interested party may comment on an IRP submitted to the commission. A comment must:

(1) be in writing;

(2) be received by the commission within ninety (90) days from the date a utility submits its IRP to the commission;

(3) be electronically submitted to the director unless otherwise agreed by the director;

(4) clearly identify the utility upon which written comments are submitted; and

(5) be provided to the utility using the utility contact information provided in the IRP.

(b) The director shall issue a draft report on the IRP no later than one hundred fifty (150) days from the date a utility submits its IRP to the commission.

(c) Supplemental or response comments may be submitted by:

(1) the utility;

(2) a customer; or

(3) an interested party.

(d) Supplemental or response comments must be:

(1) in writing;

(2) received by the commission within thirty (30) days from the date the director issues the draft report;

(3) electronically submitted to the director or submitted through an electronic filing system if requested by the director; and

(4) provided to:

(A) the utility;

(B) each customer or interested party that submitted written comments; and

(C) the OUCC.

 (e) The director may allow additional written comment periods or extend the submission deadline for written comments or supplemental or response comments by notifying the utility and posting notice on the commission’s website.

(f) The director shall issue a final report on the IRP within thirty (30) days following the deadline for supplemental or response comments.

(g) The draft report and the final report shall:

(1) be limited to commenting on the IRP’s compliance with the requirements of this rule;

(2) list the areas where the director believes the IRP fails to comply with the requirements of this rule; and

(3) not comment on:

(A) the desirability of the utility’s preferred resource portfolio; or

(B) a proposed resource action in the IRP.

(h) The director may extend the deadlines for issuance of the draft report and the final report by notifying the utility and posting notice on the commission’s website.

(i) Failure by the director to issue a draft or final report by the applicable deadline shall result in a presumption that the IRP complies with this rule.

(j) Subject to a determination by the commission under section 2.1 of this rule, the commission shall make publicly available on the commission’s website or other electronic document system the following:

(1) The utilities’ IRPs.

(2) Updates to the utilities’ IRPs under section 10 of this rule.

(3) Written comments.

(4) Supplementary and responsive comments.

(5) The director’s draft report.

(6) The director’s final report.

## 170 IAC 4-7-2.3 Resource adequacy assessment report

 (a) A utility listed in section 2(a) of this rule shall provide to the director and the OUCC the annual resource adequacy assessment reported to an RTO within twenty-five (25) days of the date reported or as otherwise agreed by the director.

 (b) A utility providing the information required in subsection (a) shall explain major differences between the information provided under subsection (a) and the utility’s most recent IRP, such as significant changes in the timing of capacity additions or retirements.

## 170 IAC 4-7-2.5 Effects of integrated resource plans in docketed proceedings

(a) An interested party that does not file comments under this rule may still participate as a party or advance an argument or position in a formally docketed proceeding before the commission. Similarly, the content of comments filed by an interested party under this rule shall not preclude an interested party from advancing an argument or position in a formally docketed proceeding before the commission, whether or not that argument or position was raised in comments submitted under this rule.

(b) When a utility takes a resource action, it shall be consistent with the most recent IRP submitted under this rule, including its:

(1) inputs;

(2) data and assumptions;

(3) methods;

(4) models;

(5) judgment factors; and

(6) rationales used to determine inputs, methods, and risk metrics;

unless differences between the most recent IRP and the resource action are fully explained and justified with supporting evidence, including an updated IRP analysis.

(c) Documents submitted to the commission or created pursuant to this rule may be used as follows:

(1) To assist the commission in the preparation of the commission analysis.

(2) In the preparation of a commission staff report in formally docketed proceedings before the commission.

(3) In a formally docketed proceeding before the commission if admitted into evidence.

## 170 IAC 4-7-2.6 Public advisory process

(a) The following utilities are exempt from this section:

(1) Indiana Municipal Power Agency.

(2) Hoosier Energy Rural Electric Cooperative.

(3) Wabash Valley Power Association.

(b) The utility shall provide information requested by an interested party relating to the development of the utility’s IRP within fifteen (15) business days of a written request or as otherwise agreed to by the utility and the interested party. If a utility is unable to provide the requested information within fifteen (15) business days or the agreed time frame, it shall provide a statement to the director and the requestor as to the reason it is unable to provide the requested information.

(c) The utility shall solicit, consider, and timely respond to relevant input relating to the development of the utility’s IRP provided by:

(1) interested parties;

(2) the OUCC; and

(3) commission staff.

(d) The utility retains full responsibility for the content of its IRP.

(e) The utility shall conduct a public advisory process as follows:

(1) Prior to submitting its IRP to the commission, the utility shall hold at least three (3) meetings, a majority of which shall be held in the utility’s service territory. The topics discussed in the meetings shall include, but not be limited to, the following:

(A) An introduction to the IRP and public advisory process.

(B) The utility’s load forecast.

(C) Evaluation of existing resources.

(D) Evaluation of supply-side and demand-side resource alternatives, including:

(i) associated costs;

(ii) quantifiable benefits; and

(iii) performance attributes.

(E) Modeling methods.

(F) Modeling inputs.

(G) Treatment of risk and uncertainty.

(H) Discussion seeking input on its candidate resource portfolios.

(I) The utility’s scenarios and sensitivities.

(J) Discussion of the utility’s preferred resource portfolio and the utility’s rationale for its selection.

(2) The utility may hold additional meetings.

(3) The schedule for meetings shall:

(A) be determined by the utility;

(B) be consistent with its internal IRP development schedule; and

(C) provide an opportunity for public participation in a timely manner so that it may affect the outcome of the IRP.

(4) The utility or its designee shall:

(A) chair the participation process;

(B) schedule meetings;

(C) develop and publish to its website agendas and relevant material for those meetings at least seven (7) calendar days prior to the meeting; and

(D) develop and publish to its website meeting minutes within fifteen (15) calendar days following the meeting.

(5) Interested parties may request that relevant items be placed on the agenda of the meetings if they provide adequate notice to the utility.

(6) The utility shall take reasonable steps to notify:

(A) its customers;

(B) the commission;

(C) interested parties; and

(D) the OUCC;

of its public advisory process.

## 170 IAC 4-7-2.7 Contemporary issues technical conference

(a) The commission or its staff may host an annual technical conference to facilitate:

(1) identifying contemporary issues;

(2) identifying best practices to manage contemporary issues; and

(3) instituting a standardized IRP format.

(b) The agenda of the technical conference shall be set by the commission staff.

(c) Utilities, the OUCC, and interested parties may request commission staff include specific contemporary issues and presenters.

(d) The director may designate specific contemporary issues for utilities to address in the next IRPs by providing the utilities and interested parties with a list of the contemporary issues to be addressed.

(e) Utilities shall discuss the designated contemporary issues in the next IRP if the contemporary issues were designated by the director at least one (1) year prior to the submittal date of the utility’s IRP.

## 170 IAC 4-7-3 Waiver or variance requests

(a) This section does not apply to a request for extension of time under sections 2(b), 2.2(e), and 2.2(h) of this rule.

(b) A utility may request a variance from a provision of this rule for good cause.

(c) As follows, a request under this section shall:

(1) Describe the situation that necessitates the variance.

(2) Identify the provision of this rule for which the variance is requested.

(3) Explain the difference between a denial and an acceptance of the requested variance on the utility, its customers, and interested parties in the public advisory.

(4) Explain how the variance is expected to aid the implementation of this rule.

(5) Be submitted in sufficient time so that the IRP submittal schedule shall not be adversely affected.

(d) The director shall respond in writing regarding acceptance or denial of a request under this section within fifteen (15) calendar days. The request shall not be unreasonably denied, and denials shall include the reason for the denial. If the director fails to respond within fifteen (15) calendar days, the request shall be deemed accepted.

(e) The request by the utility and the director’s acceptance or denial shall be posted on the commission’s website or other publicly accessible electronic document system.

(f) An interested party may appeal to the full commission the director’s acceptance or denial under this section. An appeal to the full commission must be filed with the commission in a docketed proceeding and provided to:

(1) the utility;

(2) the OUCC; and

(3) other interested parties;

within thirty (30) days of the posting of the director’s written acceptance or denial of the request.

## 170 IAC 4-7-4 Integrated resource plan contents

An IRP must include the following:

(1) At least a twenty (20) year future period for predicted or forecasted analyses.

(2) An analysis of historical and forecasted levels of peak demand and energy usage in compliance with section 5(a) of this rule.

(3) At least three (3) alternative forecasts of peak demand and energy usage in compliance with section 5(b) of this rule.

(4) A description of the utility’s existing resources in compliance with section 6(a) of this rule.

(5) A description of the utility’s process for selecting possible alternative future resources for meeting future demand for electric service, including a cost-benefit analysis, if performed.

(6) A description of the possible alternative future resources for meeting future demand for electric service in compliance with section 6(b) of this rule.

(7) The resource screening analysis and resource summary table required by section 7 of this rule.

(8) A description of the candidate resource portfolios and the process for developing candidate resource portfolios in compliance with section 8(a) and 8(b) of this rule.

(9) A description of the utility’s preferred resource portfolio and the information required by section 8(c) of this rule.

(10) A short term action plan for the next three (3) year period to implement the utility’s preferred resource portfolio and its workable strategy, pursuant to section 9 of this rule.

(11) A discussion of the:

(A) inputs;

(B) methods; and

(C) definitions;

used by the utility in the IRP.

(12) Appendices of the data sets and data sources used to establish alternative forecasts in section 5(b) of this rule. If the IRP references a third-party data source, the IRP must include for the relevant data:

(A) source title;

(B) author;

(C) publishing address;

(D) date;

(E) page number; and

(F) an explanation of adjustments made to the data.

The data must be submitted within two (2) weeks of submitting the IRP in an editable format, such as a comma separated value or excel spreadsheet file.

(13) A description of the utility’s effort to develop and maintain a database of electricity consumption patterns, disaggregated by:

(A) customer class;

(B) rate class;

(C) NAICS code;

(D) DSM program; and

(E) end-use.

(14) The database in subdivision (13) may be developed using, but not limited to, the following methods:

(A) Load research developed by the individual utility.

(B) Load research developed in conjunction with another utility.

(C) Load research developed by another utility and modified to meet the characteristics of that utility.

(D) Engineering estimates.

(E) Load data developed by a non-utility source.

(15) A proposed schedule for industrial, commercial, and residential customer surveys to obtain data on:

(A) end-use penetration;

(B) end-use saturation rates; and

(C) end-use electricity consumption patterns.

(16) A discussion detailing how information from advanced metering infrastructure and smart grid, where available, will be used to enhance usage data and improve load forecasts, DSM programs, and other aspects of planning.

(17) A discussion of the designated contemporary issues designated, if required by section 2.7(e) of this rule.

(18) A discussion of distributed generation within the service territory and its potential effects on:

(A) generation planning;

(B) transmission planning;

(C) distribution planning; and

(D) load forecasting.

(19) For models used in the IRP, including optimization and dispatch models, a description of the model’s structure and applicability.

(20) A discussion of how the utility’s fuel inventory and procurement planning practices have been taken into account and influenced the IRP development.

(21) A discussion of how the utility’s emission allowance inventory and procurement practices for an air emission have been considered and influenced the IRP development.

(22) A description of the generation expansion planning criteria. The description must fully explain the basis for the criteria selected.

(23) A discussion of how compliance costs for existing or reasonably anticipated air, land, or water environmental regulations impacting generation assets have been taken into account and influenced the IRP development.

(24) A discussion of how the utilities’ resource planning objectives, such as:

(A) cost effectiveness;

(B) rate impacts;

(C) risks; and

(D) uncertainty;

were balanced in selecting its preferred resource portfolio.

(25) A description and analysis of the utility’s base case scenario, sometimes referred to as a business as usual case or reference case. The base case scenario is the most likely future scenario and must meet the following criteria:

(A) Be an extension of the status quo, using the best estimate of forecasted electrical requirements, fuel price projections, and an objective analysis of the resources required over the planning horizon to reliably and economically satisfy electrical needs.

(B) Include:

(i) existing federal environmental laws;

(ii) existing state laws, such as renewable energy requirements and energy efficiency laws; and

(iii) existing policies, such as tax incentives for renewable resources.

(C) Existing laws or policies continuing throughout at least some portion of the planning horizon with a high probability of expiration or repeal must be eliminated or altered when applicable.

(D) Not include future resources, laws, or policies unless:

(i) a utility subject to section 2.6 of this rule solicits stakeholder input regarding the inclusion and describes the input received;

(ii) future resources have obtained the necessary regulatory approvals; and

(iii) future laws and policies have a high probability of being enacted.

A base case scenario need not align with the utility’s preferred resource portfolio.

(26) A description and analysis of alternative scenarios to the base case scenario, including comparison of the alternative scenarios to the base case scenario.

(27) A brief description of the models, focusing on the utility’s Indiana jurisdictional facilities, of the following components of FERC Form 715:

(A) The most current power flow data models, studies, and sensitivity analysis.

(B) Dynamic simulation on its transmission system, including interconnections, focused on the determination of the performance and stability of its transmission system on various fault conditions. The description must state whether the simulation meets the standards of the North American Electric Reliability Corporation (NERC).

(C) Reliability criteria for transmission planning as well as the assessment practice used. This description must include the following:

(i) The limits of the utility’s transmission use.

(ii) The utility’s assessment practices developed through experience and study.

(iii) Operating restrictions and limitations particular to the utility.

(28) A list and description of the methods used by the utility in developing the IRP, including the following:

(A) For models used in the IRP, the model’s structure and reasoning for its use.

(B) The utility’s effort to develop and improve the methodology and inputs, including for its:

(i) load forecast;

(ii) forecasted impact from demand-side programs;

(iii) cost estimates; and

(iv) analysis of risk and uncertainty.

(29) An explanation, with supporting documentation, of the avoided cost calculation for each year in the forecast period, if the avoided cost calculation is used to screen demand-side resources. The avoided cost calculation must reflect timing factors specific to the resource under consideration such as project life and seasonal operation. The avoided cost calculation must include the following:

(A) The avoided generating capacity cost adjusted for transmission and distribution losses and the reserve margin requirement.

(B) The avoided transmission capacity cost.

(C) The avoided distribution capacity cost.

(D) The avoided operating cost, including:

 (i) fuel cost;

(ii) plant operation and maintenance costs;

(iii) spinning reserve;

(iv) emission allowances;

(v) environmental compliance costs; and

(vi) transmission and distribution operation and maintenance costs.

(30) A summary of the utility’s most recent public advisory process, including the following:

(A) Key issues discussed.

(B) How the utility responded to the issues.

(C) A description of how stakeholder input was used in developing the IRP.

(31) A detailed explanation of the assessment of demand-side and supply-side resources considered to meet future customer electricity service needs.

170 IAC 4-7-5 Energy and demand forecasts

(a) The analysis of historical and forecasted levels of peak demand and energy usage must include the following:

(1) Historical load shapes, including the following:

(A) Annual load shapes.

(B) Seasonal load shapes.

(C) Monthly load shapes.

(D) Selected weekly load shapes.

(E) Selected daily load shapes, which shall include summer and winter peak days, and a typical weekday and weekend day.

(2) Disaggregation of historical data and forecasts by:

 (A) customer class;

(B) interruptible load; and

(C) end-use;

where information permits.

(3) Actual and weather normalized energy and demand levels.

(4) A discussion of methods and processes used to weather normalize.

(5) A minimum twenty (20) year period for peak demand and energy usage forecasts.

(6) An evaluation of the performance of peak demand and energy usage for the previous ten (10) years, including the following:

(A) Total system.

(B) Customer classes or rate classes, or both.

(C) Firm wholesale power sales.

(10) For purposes of subdivisions (1) and (2), a utility may use utility specific data or data such as described in section 4(14) of this rule.

(7) A discussion of how the impact of historical DSM programs is reflected in or otherwise treated in the load forecast.

(8) Justification for the selected forecasting methodology.

(9) A discussion of the potential changes under consideration to improve the credibility of the forecasted demand by improving the data quality, tools, and analysis.

(b) To establish plausible risk boundaries, the utility shall provide at least three (3) alternative forecasts of peak demand and energy usage including:

(1) high;

(2) low; and

(3) most probable;

peak demand and energy use forecasts.

(c) In determining the peak demand and energy usage forecast that is deemed by the utility, with stakeholder input, to be most probable, the utility shall consider alternative assumptions such as:

(1) Rate of change in population.

(2) Economic activity.

(3) Fuel prices.

(4) Price elasticity.

(5) Penetration of new technology.

(6) Demographic changes in population.

(7) Customer usage.

(8) Changes in technology.

(9) Behavioral factors affecting customer consumption.

(10) State and federal energy policies.

(11) State and federal environmental policies.

170 IAC 4-7-6 Description of available resources

(a) In describing its existing electric power resources, the utility must include in its IRP the following information relevant to the twenty (20) year planning period being evaluated:

(1) The net and gross dependable generating capacity of the system and each generating unit.

(2) The expected changes to existing generating capacity, including the following:

(A) Retirements.

(B) Deratings.

(C) Plant life extensions.

(D) Repowering.

(E) Refurbishment.

(3) A fuel price forecast by generating unit.

(4) The significant environmental effects, including:

(A) air emissions;

(B) solid waste disposal;

(C) hazardous waste;

(D) subsequent disposal; and

(E) water consumption and discharge;

at existing fossil fueled generating units.

(5) An analysis of the existing utility transmission system that includes the following:

(A) An evaluation of the adequacy to support load growth and expected power transfers.

(B) An evaluation of the supply-side resource potential of actions to reduce:

(i) transmission losses;

(ii) congestion; and

(iii) energy costs.

(C) An evaluation of the potential impact of demand-side resources on the transmission network.

(6) A discussion of demand-side resources and their estimated impact on the utility’s historical and forecasted peak demand and energy.

The information listed in subdivisions (1) through (4) and in subdivision (6) shall be provided for each year of the future planning period.

(b) In describing possible alternative methods of meeting future demand for electric service, a utility must analyze the following resources as alternatives in meeting future electric service requirements:

(1) Rate design as a resource in meeting future electric service requirements.

(2) Demand-side resources. For potential demand-side resources, the utility shall include the following:

(A) A description of the potential demand-side resource, including its costs, characteristics, and parameters.

(B) The method by which the costs, characteristics, and other parameters of the demand-side resource are determined.

(C) The customer class or end-use, or both, affected by the demand-side resource.

(D) Estimated annual and lifetime energy (kWh) and demand (kW) savings.

(E) The estimated impact of a demand-side resource on the utility’s load, generating capacity, and transmission and distribution requirements.

(F) Whether the program provides an opportunity for all ratepayers to participate, including low-income residential ratepayers.

(3) Supply-side resources. For potential supply-side resources, the utility shall include the following:

(A) Identification and description of the supply-side resource considered, including the following:

(i) Size in megawatts.

(ii) Utilized technology and fuel type.

(iii) Energy profile of nondispatchable resources.

(iv) Additional transmission facilities necessitated by the resource.

(B) A discussion of the utility’s effort to coordinate planning, construction, and operation of the supply-side resource with other utilities to reduce cost.

(C) A description of significant environmental effects, including the following:

(i) Air emissions.

(ii) Solid waste disposal.

(iii) Hazardous waste and subsequent disposal.

(iv) Water consumption and discharge.

(4) Transmission facilities as resources. In analyzing transmission resources, the utility shall include the following:

(A) The type of the transmission resource, including whether the resource consists of one (1) of the following:

(i) New projects.

(ii) Upgrades to transmission facilities.

(iii) Efficiency improvements.

(iv) Smart grid technology.

(B) A description of the timing, types of expansion, and alternative options considered.

(C) The approximate cost of expected expansion and alteration of the transmission network.

(D) A description of how the IRP accounts for the value of new or upgraded transmission facilities increasing power transfer capability, thereby increasing the utilization of geographically constrained cost effective resources.

(E) A description of how:

(i) IRP data and information affect the planning and implementation processes of the RTO of which the utility is a member; and

(ii) RTO planning and implementation processes affect the IRP.

## 170 IAC 4-7-7 Selection of resources

To eliminate nonviable alternatives, a utility shall perform an initial screening of the future resource alternatives listed in section 6(b) of this rule. The utility’s screening process and the decision to reject or accept a resource alternative for further analysis must be fully explained and supported in the IRP. The screening analysis must be additionally summarized in a resource summary table.

## 170 IAC 4-7-8 Resource portfolios

(a) The utility shall develop candidate resource portfolios from existing and future resources identified in sections 6 and 7 of this rule. The utility shall provide a description of its process for developing its candidate resource portfolios, including a description of its optimization modeling, if used. In selecting the candidate resource portfolios, the utility shall at a minimum consider:

(1) risk;

(2) uncertainty;

(3) regional resources;

(4) environmental regulations;

(5) projections for fuel costs;

(6) load growth uncertainty;

(7) economic factors; and

(8) technological change.

(b) With regard to candidate resource portfolios, the IRP must include the following:

(1) An analysis of how candidate resource portfolios performed across a wide range of potential future scenarios, including the alternative scenarios required under section 4(26) of this rule.

(2) The results of testing and rank ordering of the candidate resource portfolios by key resource planning objectives, including cost effectiveness and risk metrics.

(3) The present value of revenue requirement for each candidate resource portfolio in dollars per kilowatt-hour delivered, with the interest rate specified.

(c) Considering the analyses of the candidate resource portfolios, a utility shall select a preferred resource portfolio and include in the IRP the following:

(1) A description of the utility’s preferred resource portfolio.

(2) Identification of the standards of reliability.

(3) A description of the assumptions expected to have the greatest effect on the preferred resource portfolio.

(4) An analysis showing that supply-side resources and demand-side resources have been evaluated on a consistent and comparable basis, including consideration of:

(A) safety;

(B) reliability;

(C) risk and uncertainty;

(D) cost effectiveness; and

(E) customer rate impacts.

(5) An analysis showing the preferred resource portfolio utilizes supply-side resources and demand-side resources that safely, reliably, efficiently, and cost-effectively meets the electric system demand taking cost, risk, and uncertainty into consideration.

(6) An evaluation of the utility’s DSM programs designed to defer or eliminate investment in a transmission or distribution facility, including their impacts on the utility’s transmission and distribution system.

(7) A discussion of the financial impact on the utility of acquiring future resources identified in the utility’s preferred resource portfolio including, where appropriate, the following:

(A) Operating and capital costs of the preferred resource portfolio.

(B) The average cost per kilowatt-hour of the future resources, which must be consistent with the electricity price assumption used to forecast the utility’s expected load by customer class in section 5 of this rule.

(C) An estimate of the utility’s avoided cost for each year of the preferred resource portfolio.

(D) The utility’s ability to finance the preferred resource portfolio.

(8) A description of how the preferred resource portfolio balances cost effectiveness, reliability, and portfolio risk and uncertainty, including the following:

(A) Quantification, where possible, of assumed risks and uncertainties, including, but not limited to:

(i) environmental and other regulatory compliance;

(ii) reasonably anticipated future regulations;

(iii) public policy;

(iv) fuel prices;

(v) operating costs;

(vi) construction costs;

(vii) resource performance;

(viii) load requirements;

(ix) wholesale electricity and transmission prices;

(x) RTO requirements; and

(xi) technological progress.

(B) An assessment of how robustness of risk considerations factored into the selection of the preferred resource portfolio.

(9) Utilities shall include a discussion of potential methods under consideration to improve the data quality, tools, and analysis as part of the ongoing efforts to improve the credibility and efficiencies of their resource planning process.

(10) A workable strategy to quickly and appropriately adapt its preferred resource portfolio to unexpected circumstances, including changes in the following:

(A) Demand for electric service.

(B) Cost of new supply-side resources or demand-side resources.

(C) Regulatory compliance requirements and costs.

(D) Wholesale market conditions.

(E) Fuel costs.

(F) Environmental compliance costs.

(G) Technology and associated costs and penetration.

(H) Other factors that would cause the forecasted relationship between supply and demand for electric service to be in error.

170 IAC 4-7-9 Short term action plan

(a) A utility shall prepare a short term action plan as part of its IRP and shall cover a three (3) year period beginning with the first year of the IRP submitted pursuant to this rule.

(b) The short term action plan shall summarize the utility’s preferred resource portfolio and its workable strategy, as described in section 8(c)(10) of this rule, where the utility must take action or incur expenses during the three (3) year period.

(c) The short term action plan must include, but is not limited to, the following:

(1) A description of resources in the preferred resource portfolio included in the short term action plan. The description may include references to other sections of the IRP to avoid duplicate descriptions. The description must include, but is not limited to, the following:

(A) The objective of the preferred resource portfolio.

(B) The criteria for measuring progress toward the objective.

(2) Identification of goals for implementation of DSM programs that can be developed in accordance with [IC 8-1-8.5-10](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000009&cite=INS8-1-8.5-10&originatingDoc=N10AF19716CD711E99B6FF675D7C322AF&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)) and [170 IAC 4-8-1 et seq.](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1003877&cite=170INADC4-8-1&originatingDoc=N10AF19716CD711E99B6FF675D7C322AF&refType=VP&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)) and consistent with the utility’s longer resource planning objectives.

(3) The implementation schedule for the preferred resource portfolio.

(4) A budget with an estimated range for the cost to be incurred for each resource or program and expected system impacts.

(5) A description and explanation of differences between what was stated in the utility’s last filed short term action plan and what actually occurred.

170 IAC 4-7-10 IRP updates

(a) The utility may provide the director an update regarding substantial, unexpected changes that occur between IRP submissions. Copies of an update shall be provided to the OUCC and other interested parties.

(b) Upon the request of the commission or its staff, the utility shall provide updated IRP information to the director, the OUCC, and interested parties.

(c) When submitting an update under this section, the utility shall provide the relevant IRP sections with the updated information. The utility shall also provide a separate document clearly itemizing the parts of the IRP that were updated.

# 170 IAC 5-5-3

(a) The pipeline safety division shall investigate alleged violations of IC 8-1-26 by requesting a written response from all known persons or entities reportedly involved in an incident, whose addresses are reported or available on the internet, within sixty (60) days. The pipeline safety division shall investigate all incidents pursuant to applicable federal requirements and may investigate incidents further at its discretion.

(b) The pipeline safety division shall forward its findings of violations of requirements provided in IC 8-1-26 to the advisory committee.

(c) The advisory committee will provide the person or entity accused of violating IC 8-1-26 with a copy of the pipeline safety division's summary damage report.

(d) The advisory committee will provide the person or entity accused of violating IC 8-1-26 with notice and an opportunity to appear before the advisory committee prior to the advisory committee making a recommendation on the summary damage report.

(e) A person or entity accused of violating IC 8-1-26 may send correspondence regarding the pipeline safety division's finding of a violation to the advisory committee in lieu of appearing at the public meeting in person. All correspondence must be addressed to the Underground Plant Protection Advisory Committee, Indiana Utility Regulatory Commission, 101 West Washington Street, Suite 1500 E, Indianapolis, Indiana 46204.

(f) Upon receiving a recommendation from the advisory committee, the commission shall provide the person or entity accused of violating IC 8-1-26 with notice of the advisory committee's recommendation and provide the person or entity thirty (30) days to request a public hearing on the advisory committee's recommendation.

(g) A request for a public hearing before the commission must be in writing and shall be considered filed upon receipt by the commission.

(h) If a person or entity accused of violating IC 8-1-26 does not request a public hearing, the commission will act upon the advisory committee's recommendation.

(i) All hearings before the commission regarding violations of IC 8-1-26 are subject to the commission's rules of practice and procedure.

(j) A person or entity found in violation of IC 8-1-26 may be required to pay a civil penalty. All civil penalties must be paid to the commission within ninety (90) days of being assessed.

# IC 35-44.1-2-1

(a) A person who:

(1) makes a false, material statement under oath or affirmation, knowing the statement to be false or not believing it to be true; or

(2) has knowingly made two (2) or more material statements, in a proceeding before a court or grand jury, which are inconsistent to the degree that one (1) of them is necessarily false;

commits perjury, a Level 6 felony.

(b) In a prosecution under subsection (a)(2):

(1) the indictment or information need not specify which statement is actually false; and

(2) the falsity of a statement may be established sufficiently for conviction by proof that the defendant made irreconcilably contradictory statements which are material to the point in question.

# IC 4-22

## IC 4-22-1 Chapter 1. Repealed

## IC 4-22-2 Chapter 2. Adoption of Administrative Rules

## IC 4-22-2-0.1 Application of certain amendments to chapter

The amendments made to this chapter by P.L.44-1995 apply as follows:

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

## IC 4-22-2-0.3 Legalization of certain rules adopted without approval of fire prevention and building safety commission

The adoption of any rule by a state agency without the approval of the fire prevention and building safety commission before July 1, 1987, is legalized and validated.

## IC 4-22-2-0.5 Effect to be given to provisions of P.L.229-2011; publication

Sec. 0.5. The general assembly recognizes that the general assembly has enacted more than one (1) act in the 2011 legislative session amending IC 4-22-2-37.1, including P.L.11-2011, P.L.42-2011, P.L.119-2011, and P.L.175-2011. The general assembly has incorporated the changes made in those acts into the version of IC 4-22-2-37.1 amended by P.L.229-2011. It is the intent of the general assembly that to the extent there is a conflict between the version of IC 4-22-2-37.1 enacted in P.L.229-2011 and an amendment made to IC 4-22-2-37.1 by any other act, the version of IC 4-22-2-37.1 amended by P.L.229-2011 be given effect. The publisher is directed to publish only the version of IC 4-22-2-37.1 enacted in P.L.229-2011 in the Indiana Code.

## IC 4-22-2-3 Definitions

Sec. 3. (a) "Agency" means any officer, board, commission, department, division, bureau, committee, or other governmental entity exercising any of the executive (including the administrative) powers of state government. The term does not include the judicial or legislative departments of state government or a political subdivision as defined in IC 36-1-2-13.

1. "Rule" means the whole or any part of an agency statement of general applicability that:
	1. has or is designed to have the effect of law; and
	2. implements, interprets, or prescribes:
		1. law or policy; or
		2. the organization, procedure, or practice requirements of an agency.
2. "Rulemaking action" means the process of formulating or adopting a rule. The term does not include an agency action.
3. "Agency action" has the meaning set forth in IC 4-21.5-1-4.
4. "Person" means an individual, corporation, limited liability company, partnership, unincorporated association, or governmental entity.
5. "Publisher" refers to the publisher of the Indiana Register and Indiana Administrative Code, which is the legislative council, or the legislative services agency operating under the direction of the council.
6. The definitions in this section apply throughout this article.

## IC 4-22-2-13 Application of chapter

Sec. 13. (a) Subject to subsections (b), (c), and (d), this chapter applies to the addition, amendment, or repeal of a rule in every rulemaking action.

1. This chapter does not apply to the following agencies:
	1. Any military officer or board.
	2. Any state educational institution.
2. This chapter does not apply to a rulemaking action that results in any of the following rules:
	1. A resolution or directive of any agency that relates solely to internal policy, internal agency organization, or internal procedure and does not have the effect of law.
	2. A restriction or traffic control determination of a purely local nature that:
		1. is ordered by the commissioner of the Indiana department of transportation;
		2. is adopted under IC 9-20-1-3(d), IC 9-21-4-7, or IC 9-20-7; and
		3. applies only to one (1) or more particularly described intersections, highway portions, bridge causeways, or viaduct areas.
	3. A rule adopted by the secretary of state under IC 26-1-9.1-526.
	4. An executive order or proclamation issued by the governor.
3. Except as specifically set forth in IC 13-14-9, sections 24, 26, 27, and 29 of this chapter do not apply to rulemaking actions under IC 13-14-9.

## IC 4-22-2-14 Procedural rights and duties

Sec. 14. This chapter creates only procedural rights and imposes only procedural duties. These procedural rights and duties are in addition to those created and imposed by other law.

## IC 4-22-2-15 Delegation of rulemaking actions

Sec. 15. Any rulemaking action that this chapter allows or requires an agency to perform, other than final adoption of a rule under section 29 or 37.1 of this chapter, may be performed by the individual or group of individuals with the statutory authority to adopt rules for the agency, a member of the agency's staff, or another agent of the agency. Final adoption of a rule under section 29 or 37.1 of this chapter, including readoption of a rule that is subject to sections 24 through 36 or to section 37.1 of this chapter and recalled for further consideration under section 40 of this chapter, may be performed only by the individual or group of individuals with the statutory authority to adopt rules for the agency.

## IC 4-22-2-16 "Governing body", "public agency", and "official action" defined

Sec. 16. For the purposes of this section, "governing body", "public agency", and "official action" have the meanings set forth in IC 5-14-1.5. When a governing body of a public agency performs an official action under this chapter, the agency shall comply with IC 5-14-1.5 (the Open Door Law).

## IC 4-22-2-17 Public access to rules and proposed rules

Sec. 17. (a) IC 5-14-3 applies to the text of a rule that an agency intends to adopt from the earlier of the date that the agency takes any action under section 24 of this chapter, otherwise notifies the public of its intent to adopt a rule under any statute, or adopts the rule.

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

## IC 4-22-2-18 Joint rules

Sec. 18. (a) If more than one (1) agency is required by statute to adopt the same rule, the agencies may publish a joint notice of a public hearing and conduct a joint public hearing. However, each agency shall separately draft and adopt a rule that covers the same subject matter.

1. If an agency is authorized to adopt a rule and one (1) or more agencies are required to approve the rule, only the agency that is authorized to adopt the rule is required to comply with this chapter.

## IC 4-22-2-19 Action preceding effectiveness of authorizing statute

Sec. 19. (a) Except as provided in section 23.1 of this chapter, this section does not apply to the adoption of rules:

* 1. required to receive or maintain:
		1. delegation;
		2. primacy; or
		3. approval;

for state implementation or operation of a program established under federal law;

* 1. that amend an existing rule;
	2. required or authorized by statutes enacted before June 30, 1995; or
	3. required or authorized by statutes enacted before June 30, 1995, and recodified in the same or similar form after June 29, 1995, in response to a program of statutory recodification conducted by the code revision commission.
1. If an agency will have statutory authority to adopt a rule at the time that the rule becomes effective, the agency may conduct any part of its rulemaking action before the statute authorizing the rule becomes effective.
2. However, an agency shall:
	1. begin the rulemaking process not later than sixty (60) days after the effective date of the statute that authorizes the rule; or
	2. if an agency cannot comply with subdivision (1), provide electronic notice to the publisher stating the reasons for the agency's noncompliance.

## IC 4-22-2-19.1 Retroactive changes affecting taxpayer liability

Sec. 19.1. A state agency may not retroactively apply a change in the agency's interpretation of a statute, regulation, or one of the agency's information bulletins, if that change increases a taxpayer's liability for a state tax or a property tax.

## IC 4-22-2-19.5 Standards for rules

Sec. 19.5. (a) To the extent possible, a rule adopted under this article or under IC 13-14-9.5 shall comply with the following:

1. Minimize the expenses to:
	1. regulated entities that are required to comply with the rule;
	2. persons who pay taxes or pay fees for government services affected by the rule; and
	3. consumers of products and services of regulated entities affected by the rule.
2. Achieve the regulatory goal in the least restrictive manner.
3. Avoid duplicating standards found in state or federal laws.
4. Be written for ease of comprehension.
5. Have practicable enforcement.
6. Subsection (a) does not apply to a rule that must be adopted in a certain form to comply with federal law.

## IC 4-22-2-19.7 Agency rules; public comment

Sec. 19.7. An agency, to the extent feasible and permitted by law, shall afford the public a meaningful opportunity to comment on proposed rules through the agency's Internet web site. An agency shall consider providing a comment period that exceeds the minimum required by law.

## IC 4-22-2-20 Submission of rules and other documents; form

Sec. 20. (a) Whenever an agency submits a rule to the publisher, the attorney general, or the governor under this chapter, the agency shall submit the rule in the form of a written document that:

* 1. is clear, concise, and easy to interpret and to apply; and
	2. uses the format, numbering system, standards, and techniques established under section 42 of this chapter.
1. After June 30, 2006, all documents submitted to the publisher under this chapter must be submitted electronically in the format specified by the publisher.

## IC 4-22-2-21 Incorporation by reference

Sec. 21. (a) If incorporation of the text in full would be cumbersome, expensive, or otherwise inexpedient, an agency may incorporate by reference into a rule part or all of any of the following matters:

* 1. A federal or state statute, rule, or regulation.
	2. A code, manual, or other standard adopted by an agent of the United States, a state, or a nationally recognized organization or association.
	3. A manual of the department of local government finance adopted in a rule described in IC 6-1.1-31-9.
	4. The following requirements:
		1. The schedule, electronic formatting, and standard data, field, and record coding requirements for:
			1. the electronic data file under IC 6-1.1-4-25 concerning the parcel characteristics and parcel assessments of all parcels and personal property return characteristics and assessments; and
			2. the electronic data file under IC 36-2-9-20 concerning the tax duplicate.
		2. The schedule, electronic formatting, and standard data, field, and record coding requirements for data required to be submitted under IC 6-1.1-5.5-3 or IC 6-1.1-11-8. Data export and transmission format requirements for information described in clauses (A) and (B).
1. Each matter incorporated by reference under subsection (a) must be fully and exactly described.
2. An agency may refer to a matter that is directly or indirectly referred to in a primary matter by fully and exactly describing the primary matter.
3. Whenever an agency submits a rule to the attorney general, the governor, or the publisher under this chapter, the agency shall also submit a copy of the full text of each matter incorporated by reference under subsection (a) into the rule, other than the following:
	1. An Indiana statute or rule.
	2. A form or instructions for a form numbered by the Indiana archives and record administration under IC 5-15-5.1-6.
	3. The source of a statement that is quoted or paraphrased in full in the rule.
	4. Any matter that has been previously filed with the:
		1. secretary of state before July 1, 2006; or
		2. publisher after June 30, 2006.
	5. Any matter referred to in subsection (c) as a matter that is directly or indirectly referred to in a primary matter.
4. An agency may comply with subsection (d) by submitting a paper or an electronic copy of the full text of the matter incorporated by reference.

## IC 4-22-2-22 Attorney general as legal advisor

Sec. 22. The attorney general is the legal advisor to all agencies in the drafting and preparation of rules.

## IC 4-22-2-22.5 Agency rulemaking docket

Sec. 22.5. (a) This section applies to a rule that an agency intends to adopt under sections 24 through 36 of this chapter.

1. As used in this section, "pending rulemaking action" means any rulemaking action in which:
	1. either:
		1. a notice of intent has been published under section 23 of this chapter; or
		2. a rulemaking action has been commenced under IC 13-14-9; and
	2. the rule has not become effective under section 36 of this chapter.
2. Each agency shall maintain a current rulemaking docket that is indexed.
3. A current rulemaking docket must list each pending rulemaking action. The docket must state or contain:
	1. the subject matter of the proposed rule;
	2. notices related to the proposed rule, or links to the Indiana Register where these notices may be viewed;
	3. how comments may be made;
	4. the time within which comments may be made;
	5. where comments and the agency's written response to those comments may be inspected;
	6. the date, time, and place where a public hearing required under:
		1. section 26 of this chapter; or (B) IC 13-14-9;

will be held;

* 1. a description of relevant scientific and technical findings related to the proposed rule, if applicable; and
	2. a reasonable estimate of the timetable for action, updated periodically as circumstances change, if necessary.
1. The agency shall maintain the rulemaking docket on the agency's Internet web site. The information must be in an open format that can be easily searched and downloaded. Access to the docket shall, to the extent feasible and permitted by law, provide an opportunity for public comment on the pertinent parts of the rulemaking docket, including relevant scientific and technical findings. Upon request, the agency shall provide a written rulemaking docket.

## IC 4-22-2-23 Notice of intent to adopt rule; solicitation of comments; response

Sec. 23. (a) This section does not apply to rules adopted under IC 4-22-2-37.1.

1. At least twenty-eight (28) days before an agency notifies the public of the agency's intention to adopt a rule under section 24 of this chapter, the agency shall notify the public of its intention to adopt a rule by publishing a notice of intent to adopt a rule in the Indiana Register. The publication notice must include an overview of the intent and scope of the proposed rule and the statutory authority for the rule.
2. The requirement to publish a notice of intent to adopt a rule under subsection (b) does not apply to rulemaking under IC 13-14-9.
3. In addition to the procedures required by this article, an agency may solicit comments from the public on the need for a rule, the drafting of a rule, or any other subject related to a rulemaking action, including members of the public who are likely to be affected because they are the subject of the potential rulemaking or are likely to benefit from the potential rulemaking. The procedures that the agency may use include the holding of conferences and the inviting of written suggestions, facts, arguments, or views.
4. The agency shall prepare a written response that contains a summary of the comments received during any part of the rulemaking process. The written response is a public document. The agency shall make the written response available to interested parties upon request.

## IC 4-22-2-23.1 Solicitation of comments

Sec. 23.1. (a) This section and section 19(b) of this chapter do not apply to rules adopted under IC 4-22-2-37.1.

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

## IC 4-22-2-24 Notice of public hearing; publication of rule's text; statement justifying requirements and costs

Sec. 24. (a) An agency shall notify the public of its intention to adopt a rule by complying with the publication requirements in subsections (b) and (c).

1. The agency shall cause a notice of a public hearing to be published once in one (1) newspaper of general circulation in Marion County, Indiana. To publish the newspaper notice, the agency shall directly contract with the newspaper. 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).
2. 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. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.
3. The agency shall include the following in the notice required by subsections (b) and (c):
	1. A statement of the date, time, and place at which the public hearing required by section 26 of this chapter will be convened.
	2. A general description of the subject matter of the proposed rule.
	3. In a notice published after June 30, 2005, a statement justifying any requirement or cost that is:
		1. imposed on a regulated entity under the rule; and
		2. not expressly required by:
			1. the statute authorizing the agency to adopt the rule; or
			2. any other state or federal law.

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

* 1. an explanation that:
		1. the proposed rule; and
		2. any data, studies, or analysis referenced in a statement under subdivision (3); may be inspected and copied at the office of the agency.

However, inadequacy or insufficiency of the subject matter description under subdivision (2) or a statement of justification under subdivision (3) in a notice does not invalidate a rulemaking action.

1. Although the agency may comply with the publication requirements in this section on different days, the agency must comply with all of the publication requirements in this section at least twenty-one (21) days before the public hearing required by section 26 of this chapter is convened.
2. This section does not apply to the solicitation of comments under section 23 of this chapter.
3. The publisher shall review materials submitted under this section and determine the date that the publisher intends to include the material in the Indiana Register. After:
	1. establishing the intended publication date; and
	2. receiving the public hearing information specified in subsection (d) from the agency;

the publisher shall provide a written or an electronic mail authorization to proceed to the agency.

## IC 4-22-2-25 Limitation on time in which to adopt rule

Sec. 25. (a) An agency has one (1) year from the date that it publishes a notice of intent to adopt a rule in the Indiana Register under section 23 of this chapter to comply with sections 26 through 33 of this chapter and obtain the approval or deemed approval of the governor. If an agency determines that a rule cannot be adopted within one (1) year after the publication of the notice of intent to adopt a rule under section 23 of this chapter, the agency shall, before the two hundred fiftieth day following the publication of the notice of intent to adopt a rule under section 23 of this chapter, notify the publisher by electronic means:

1. the reasons why the rule was not adopted and the expected date the rule will be completed; and
2. the expected date the rule will be approved or deemed approved by the governor or withdrawn under section 41 of this chapter.
3. If a rule is not approved before the later of:
	1. one (1) year after the agency publishes notice of intent to adopt the rule under section 23 of this chapter; or
	2. the expected date contained in a notice concerning the rule that is provided to the publisher under subsection (a);

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

## IC 4-22-2-26 Public hearings

Sec. 26. (a) After the notices and the text of an agency's proposed rule are published under section 24 of this chapter, the agency shall conduct a public hearing on the proposed rule.

1. The agency shall convene the public hearing on the date and at the time and place stated in its notices.
2. The agency may conduct the public hearing in any informal manner that allows for an orderly presentation of comments and avoids undue repetition. However, the agency shall afford any person attending the public hearing an adequate opportunity to comment on the agency's proposed rule through the presentation of oral and written facts or argument.
3. The agency may recess the public hearing and reconvene it on a different date or at a different time or place by:
	1. announcing the date, time, and place of the reconvened public hearing in the original public hearing before its recess; and
	2. recording the announcement in the agency's record of the public hearing.
4. An agency that complies with subsection (d) is not required to give any further notice of a public hearing that is to be reconvened.

## IC 4-22-2-27 Consideration of comments received at public hearings

Sec. 27. The individual or group of individuals who will finally adopt the rule under section 29 of this chapter shall fully consider comments received at the public hearing required by section 26 of this chapter and may consider any other information before adopting the rule. Attendance at the public hearing or review of a written record or summary of the public hearing is sufficient to constitute full consideration.

## IC 4-22-2-28 Fiscal impact of rules; review

Sec. 28. (a) The following definitions apply throughout this section:

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

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

1. Subject to subsection (e) and not later than fifty (50) days before the public hearing for a proposed rule required by section 26 of this chapter, an agency shall submit the proposed rule to the office of management and budget for a review under subsection (d), if the agency proposing the rule determines that the rule will have a total estimated economic impact greater than five hundred thousand dollars ($500,000) on all regulated persons. In determining the total estimated economic impact under this subsection, the agency shall consider any applicable information submitted by the regulated persons affected by the rule. To assist the office of management and budget in preparing the fiscal impact statement required by subsection (d), the agency shall submit, along with the proposed rule, the data used and assumptions made by the agency in determining the total estimated economic impact of the rule.
2. Except as provided in subsection (e), before the adoption of the rule, and not more than forty-five (45) days after receiving a proposed rule under subsection (c), the office of management and budget shall prepare, using the data and assumptions provided by the agency proposing the rule, along with any other data or information available to the office of management and budget, a fiscal impact statement concerning the effect that compliance with the proposed rule will have on:
	1. the state; and
	2. all persons regulated by the proposed rule.

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

1. With respect to a proposed rule subject to IC 13-14-9:
	1. the department of environmental management shall give written notice to the office of management and budget of the proposed date of preliminary adoption of the proposed rule not less than sixty-six (66) days before that date; and
	2. the office of management and budget shall prepare the fiscal impact statement referred to in subsection (d) not later than twenty-one (21) days before the proposed date of preliminary adoption of the proposed rule.
2. In determining whether a proposed rule has a total estimated economic impact greater than five hundred thousand dollars ($500,000), the agency proposing the rule shall consider the impact of the rule on any regulated person that already complies with the standards imposed by the rule on a voluntary basis.
3. For purposes of this section, a rule is fully implemented after:
	1. the conclusion of any phase-in period during which:
		1. the rule is gradually made to apply to certain regulated persons; or
		2. the costs of the rule are gradually implemented; and
	2. the rule applies to all regulated persons that will be affected by the rule.

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

1. An agency shall provide the legislative council in an electronic format under IC 5-14-6 with any analysis, data, and description of assumptions submitted to the office of management and budget under this section or section 40 of this chapter at the same time the agency submits the information to the office of management and budget. The office of management and budget shall provide the legislative council in an electronic format under IC 5-14-6 any fiscal impact statement and related supporting documentation prepared by the office of management and budget under this section or section 40 of this chapter at the same time the office of management and budget provides the fiscal impact statement to the agency proposing the rule. Information submitted under this subsection must identify the rule to which the information is related by document control number assigned by the publisher.
2. An agency shall provide the legislative council in an electronic format under IC 5-14-6 with any economic impact or fiscal impact statement, including any supporting data, studies, or analysis, prepared for a rule proposed by the agency or subject to readoption by the agency to comply with:
	1. a requirement in section 19.5 of this chapter to minimize the expenses to regulated entities that are required to comply with the rule;
	2. a requirement in section 24 of this chapter to publish a justification of any requirement or cost that is imposed on a regulated entity under the rule;
	3. a requirement in IC 4-22-2.1-5 to prepare a statement that describes the annual economic impact of a rule on all small businesses after the rule is fully implemented;
	4. a requirement in IC 4-22-2.5-3.1 to conduct a review to consider whether there are any alternative methods of achieving the purpose of the rule that are less costly or less intrusive, or that would otherwise minimize the economic impact of the proposed rule on small businesses;
	5. a requirement in IC 13-14-9-3 or IC 13-14-9-4 to publish information concerning the fiscal impact of a rule or alternatives to a rule subject to these provisions; or
	6. a requirement under any other law to conduct an analysis of the cost, economic impact, or fiscal impact of a rule;

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

## IC 4-22-2-28.1 Small business regulatory coordinator; contact information; guidance to small businesses; record of comments received; annual report

Sec. 28.1. (a) This section applies to the following:

1. A rule for which the notice required by section 23 of this chapter or by IC 13-14-9-3 is published by an agency or the board (as defined in IC 13-13-8-1).
2. A rule for which:
	1. the notice required by IC 13-14-9-3; or
	2. an appropriate later notice for circumstances described in subsection (g);

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

1. As used in this section, "coordinator" refers to the small business regulatory coordinator assigned to a rule by an agency under subsection (e).
2. As used in this section, "director" refers to the director or other administrative head of an agency.
3. As used in this section, "small business" has the meaning set forth in IC 5-28-2-6.
4. For each rulemaking action and rule finally adopted as a result of a rulemaking action by an agency under this chapter, the agency shall assign one (1) staff person to serve as the agency's small business regulatory coordinator with respect to the proposed or adopted rule. The agency shall assign a staff person to a rule under this subsection based on the person's knowledge of, or experience with, the subject matter of the rule. A staff person may serve as the coordinator for more than one (1) rule proposed or adopted by the agency if the person is qualified by knowledge or experience with respect to each rule. Subject to subsection (f):
	1. in the case of a proposed rule, the notice of intent to adopt the rule published under section 23 of this chapter; or
	2. in the case of a rule proposed by the department of environmental management or the board (as defined in IC 13-13-8-1), the notice published under IC 13-14-9-3 or the findings published under IC 13-14-9-8(b)(1), whichever applies;

must include the name, address, telephone number, and electronic mail address of the small business coordinator for the proposed rule, the name, address, telephone number, and electronic mail address of the small business ombudsman designated under IC 5-28-17-6, and a statement of the resources available to regulated entities through the small business ombudsman designated under IC 5-28-17-6. Subject to subsection (f), in the case of a rule finally adopted, the final rule, as published in the Indiana Register, must include the name, address, telephone number, and electronic mail address of the coordinator.

1. This subsection applies to a rule adopted by the department of environmental management or the board (as defined in IC 13-13-8-1) under IC 13-14-9. Subject to subsection (g), the department shall include in the notice provided under IC 13-14-9-3 or in the findings published under IC 13-14-9-8(b)(1), whichever applies, and in the publication of the final rule in the Indiana Register:
	1. a statement of the resources available to regulated entities through the technical and compliance assistance program established under IC 13-28-3;
	2. the name, address, telephone number, and electronic mail address of the ombudsman designated under IC 13-28-3-2;
	3. if applicable, a statement of:
		1. the resources available to small businesses through the small business stationary source technical assistance program established under IC 13-28-5; and
		2. the name, address, telephone number, and electronic mail address of the ombudsman for small business designated under IC 13-28-5-2(3); and
	4. the information required by subsection (e).

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

1. If the notice provided under IC 13-14-9-3 is not published as allowed by IC 13-14-9-7, the department of environmental management shall publish in the notice provided under IC 13-14-9-4 the information that subsection (f) would otherwise require to be published in the notice under IC 13-14-9-3. If neither the notice under IC 13-14-9-3 nor the notice under IC 13-14-9-4 is published as allowed by IC 13-14-9-8, the department of environmental management shall publish in the commissioner's written findings under IC 13-14-9-8(b) the information that subsection (f) would otherwise require to be published in the notice under IC 13-14-9-3.
2. The coordinator assigned to a rule under subsection (e) shall serve as a liaison between the agency and any small business subject to regulation under the rule. The coordinator shall provide guidance to small businesses affected by the rule on the following:
	1. Any requirements imposed by the rule, including any reporting, record keeping, or accounting requirements.
	2. How the agency determines or measures compliance with the rule, including any deadlines for action by regulated entities.
	3. Any penalties, sanctions, or fines imposed for noncompliance with the rule.
	4. Any other concerns of small businesses with respect to the rule, including the agency's application or enforcement of the rule in particular situations. However, in the case of a rule adopted under IC 13-14-9, the coordinator assigned to the rule may refer a small business with concerns about the application or enforcement of the rule in a particular situation to the ombudsman designated under IC 13-28-3-2 or, if applicable, under IC 13-28-5-2(3).
3. The coordinator assigned to a rule under subsection (e) shall provide guidance under this section in response to questions and concerns expressed by small businesses affected by the rule. The coordinator may also issue general guidelines or informational pamphlets to assist small businesses in complying with the rule. Anyguidelines or informational pamphlets issued under this subsection shall be made available:
	1. for public inspection and copying at the offices of the agency under IC 5-14-3; and
	2. electronically through electronic gateway access.
4. The coordinator assigned to a rule under subsection (e) shall keep a record of all comments, questions, and complaints received from small businesses with respect to the rule. The coordinator shall deliver the record, along with any accompanying documents submitted by small businesses, to the director:
	1. not later than ten (10) days after the date on which the rule is submitted to the publisher under section 35 of this chapter; and
	2. before July 15 of each year during which the rule remains in effect.

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

1. Not later than November 1 of each year, the director shall:
	1. compile the records received from all of the agency's coordinators under subsection (j);
	2. prepare a report that sets forth:
		1. the number of comments, complaints, and questions received by the agency from small businesses during the most recent state fiscal year, categorized by the subject matter of the rules involved;
		2. the number of complaints or questions reported under clause (A) that were resolved to the satisfaction of the agency and the small businesses involved;
		3. the total number of staff serving as coordinators under this section during the most recent state fiscal year;
		4. the agency's costs in complying with this section during the most recent state fiscal year; and
		5. the projected budget required by the agency to comply with this section during the current state fiscal year; and
	3. deliver the report to the legislative council in an electronic format under IC 5-14-6 and to the small business ombudsman designated under IC 5-28-17-6.

## IC 4-22-2-28.2 Notice of rule violation by small businesses; immunity from liability in administrative action; corrective action required; confidentiality of information

Sec. 28.2. (a) This section applies to a violation described in subsection (c) that occurs after June 30, 2005. However, in the case of a violation of a rule adopted under IC 13-14-9 by the department of environmental management or the board (as defined in IC 13-13-8-1), the procedures set forth in IC 13-30-4-3 and IC 13-30-7 apply instead of this section.

1. As used in this section, "small business" has the meaning set forth in section 28.1(d) of this chapter.
2. Except as provided in subsection (d), a small business that voluntarily provides notice to an agency of the small business's actual or potential violation of a rule adopted by the agency under this chapter is immune from civil or criminal liability resulting from an agency action relating to the violation if the small business does the following:
	1. Provides written notice of the violation to the agency not later than forty-five (45) days after the small business knew or should have known that the violation occurred.
	2. Corrects the violation within a time agreed to by the agency and the small business. However, the small business shall be given at least ninety (90) days after the date of the notice described in subdivision (1) to correct the violation. The small business may correct the violation at any time before the expiration of the period agreed to under this subdivision.
	3. Cooperates with any reasonable request by the agency in any investigation initiated in response to the notice.
3. A small business is not immune from civil or criminal liability relating to a violation of which the small business provides notice under subsection (c) if any of the following apply:
	1. The violation resulted in serious harm or in imminent and substantial endangerment to the public health, safety, or welfare.
	2. The violation resulted in a substantial economic benefit that afforded the small business a clear advantage over the small business's competitors.
	3. The small business has a pattern of continuous or repeated violations of the rule at issue or any other rules of the agency.
4. Information that a small business provides under this section, including actions and documents that identify or describe the small business, to an agency in providing notice of the small business's actual or potential violation of a rule adopted by the agency is confidential, unless a clear and immediate danger to the public health, safety, or welfare or to the environment exists. Information described in this subsection may not be made available for use by the agency for purposes other than the purposes of this section without the consent of the small business.
5. Voluntary notice of an actual or a potential violation of a rule that is provided by a small business under subsection (c) is not admissible as evidence in a proceeding, other than an agency proceeding, to prove liability for the rule violation or the effects of the rule violation.

## IC 4-22-2-29 Adoption of rules; adoption of revised version of proposed rule

Sec. 29. (a) As used in this section, "small business ombudsman" refers to the small business ombudsman designated under IC 5-28-17-6.

1. After an agency has complied with sections 26, 27, and 28 of this chapter, the agency may:
	1. adopt a rule that is identical to a proposed rule published in the Indiana Register under section 24 of this chapter;
	2. subject to subsection (c), adopt a rule that consolidates part or all of two (2) or more proposed rules published in the Indiana Register under section 24 of this chapter and considered under section 27 of this chapter; subject to subsection (c), adopt part of one (1) or more proposed rules described in subdivision (2) in two (2) or more separate adoption actions; or
	3. subject to subsection (c), adopt a revised version of a proposed rule published under section 24 of this chapter and include provisions that did not appear in the published version, including any provisions recommended by the small business ombudsman under IC 4-22-2.1-6(a), if applicable.
2. An agency may not adopt a rule that substantially differs from the version or versions of the proposed rule or rules published in the Indiana Register under section 24 of this chapter, unless it is a logical outgrowth of any proposed rule as supported by any written comments submitted:
	1. during the public comment period; or
	2. by the small business ombudsman under IC 4-22-2.1-6(a), if applicable.

## IC 4-22-2-31 Submission of rules to attorney general for approval

Sec. 31. After an agency has complied with section 29 of this chapter, or with IC 13-14-9-9(1) or IC 13-14-9-9(2), as applicable, the agency shall submit its rule to the attorney general for approval. The agency shall submit the following to the attorney general:

1. The rule in the form required by section 20 of this chapter.
2. The documents required by section 21 of this chapter.
3. Written authorization to proceed issued by the publisher under section 24(g) of this chapter.
4. Any other documents specified by the attorney general.

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

## IC 4-22-2-32 Review of rule by attorney general; approval or disapproval

Sec. 32. (a) The attorney general shall review each rule submitted under section 31 of this chapter for legality.

1. In the review, the attorney general shall determine whether the rule adopted by the agency complies with the requirements under section 29 of this chapter. The attorney general shall consider the following:
	1. The extent to which all persons affected by the adopted rule should have understood from the published rule or rules that their interests would be affected.
	2. The extent to which the subject matter of the adopted rule or the issues determined in the adopted rule are different from the subject matter or issues that were involved in the published rule or rules.
	3. The extent to which the effects of the adopted rule differ from the effects that would have occurred if the published rule or rules had been adopted instead.

In the review, the attorney general shall consider whether the adopted rule may constitute the taking of property without just compensation to an owner.

1. Except as provided in subsections (d) and (h), the attorney general shall disapprove a rule under this section only if it:
	1. has been adopted without statutory authority;
	2. has been adopted without complying with this chapter;
	3. does not comply with requirements under section 29 of this chapter; or
	4. violates another law.

Otherwise, the attorney general shall approve the rule without making a specific finding of fact concerning the subjects.

1. If an agency submits a rule to the attorney general without complying with section 20(a)(2) of this chapter, the attorney general may:
	1. disapprove the rule; or
	2. return the rule to the agency without disapproving the rule.
2. If the attorney general returns a rule under subsection (d)(2), the agency may bring the rule into compliance with section 20(a)(2) of this chapter and resubmit the rule to the attorney general without readopting the rule.
3. If the attorney general determines in the course of the review conducted under subsection (b) that a rule may constitute a taking of property, the attorney general shall advise the following:
	1. The governor.
	2. The agency head.

Advice given under this subsection shall be regarded as confidential attorney-client communication.

1. The attorney general has forty-five (45) days from the date that an agency:
	1. submits a rule under section 31 of this chapter; or
	2. resubmits a rule under subsection (e);

to approve or disapprove the rule. If the attorney general neither approves nor disapproves the rule, the rule is deemed approved, and the agency may submit it to the governor for approval under section 33 of this chapter without the approval of the attorney general.

1. For rules adopted under IC 13-14-9, the attorney general:
	1. shall determine whether the rule adopted by the agency under IC 13-14-9-9(2) is a logical outgrowth of the proposed rule as published under IC 13-14-9-5(a)(2) and of testimony presented at the board meeting held under IC 13-14-9-5(a)(3); and
	2. may disapprove a rule under this section only if the rule:
		1. has been adopted without statutory authority;
		2. has been adopted without complying with this chapter or IC 13-14-9;
		3. is not a logical outgrowth of the proposed rule as published under IC 13-14-9-5(a)(2) and of the testimony presented at the board meeting held under IC 13-14-9-5(a)(3); or
		4. violates another law.

## IC 4-22-2-33 Submission of rules to governor for approval

Sec. 33. (a) After a rule has been approved or deemed approved under section 32 of this chapter, the agency shall submit the rule to the governor for approval. 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.

(b) The agency shall submit to the governor the copies of the rule and other documents specified in section 31 of this chapter.

## IC 4-22-2-34 Approval or disapproval of rule by governor

Sec. 34. (a) The governor may approve or disapprove a rule submitted under section 33 of this chapter with or without cause.

(b) The governor has fifteen (15) days from the date that an agency submits a rule under section 33 of this chapter to approve or disapprove the rule. However, the governor may take thirty (30) days to approve or disapprove the rule if the governor files a statement with the publisher within the first fifteen (15) days after an agency submits the rule that states that the governor intends to take an additional fifteen (15) days to approve or disapprove the rule. If the governor neither approves nor disapproves the rule within the allowed period, the rule is deemed approved, and the agency may submit the rule to the publisher without the approval of the governor.

## IC 4-22-2-35 Submission of rule to publisher for filing

Sec. 35. (a) When a rule has been approved or deemed approved by the governor within the period allowed by section 25 of this chapter, the agency shall immediately submit the rule to the publisher for filing. 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.

1. The agency shall submit to the publisher the copies of the rule and other documents specified in section 31 of this chapter.
2. Subject to section 39 of this chapter, the publisher shall:
	1. accept the rule for filing; and
	2. electronically record the date and time the rule is accepted.

## IC 4-22-2-36 Effective date of rules

Sec. 36. A rule that has been accepted for filing under section 35 of this chapter takes effect on the latest of the following dates:

1. The effective date of the statute delegating authority to the agency to adopt the rule.
2. The date that is thirty (30) days from the date and time that the rule was accepted for filing under section 35 of this chapter.
3. The effective date stated by the agency in the rule.
4. The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

## IC 4-22-2-37.1 Emergency rules; submission to publisher; assignment of document control number; effective date; expiration; extension

Sec. 37.1. (a) The following do not apply to a rule adopted under this section:

(1) Sections 24 through 36 of this chapter. (2) IC 13-14-9.

1. A rule may be adopted under this section if a statute delegating authority to an agency to adopt rules authorizes adoption of such a rule:
	1. under this section; or
	2. in the manner provided by this section.
2. After an agency adopts a rule under this section, the agency shall submit the rule to the publisher for the assignment of a document control number. 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. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.
3. After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. 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. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.
4. Subject to section 39 of this chapter, the publisher shall:
	1. accept the rule for filing; and
	2. electronically record the date and time that the rule is accepted.
5. A rule adopted by an agency under this section takes effect on the latest of the following dates:
	1. The effective date of the statute delegating authority to the agency to adopt the rule.
	2. The date and time that the rule is accepted for filing under subsection (e).
	3. The effective date stated by the adopting agency in the rule.
	4. The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.
	5. The statutory effective date for an emergency rule set forth in the statute authorizing the agency to adopt emergency rules.
6. Unless otherwise provided by the statute authorizing adoption of the rule:
	1. a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e);
	2. a rule adopted under this section may be extended by adopting another rule under this section, but only for one (1) extension period; and
	3. for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:
		1. sections 24 through 36 of this chapter; or (B) IC 13-14-9;

as applicable.

1. This section may not be used to readopt a rule under IC 4-22-2.5.
2. The publisher of the Indiana administrative code shall annually publish a list of agencies authorized to adopt rules under this section.

## IC 4-22-2-38 Certain nonsubstantive rules; adoption; submission to publisher; document control number; effective date; objections

Sec. 38. (a) This section applies to a rulemaking action resulting in any of the following rules:

* 1. A rule that brings another rule into conformity with section 20 of this chapter.
	2. A rule that amends another rule to replace an inaccurate reference to a statute, rule,

regulation, other text, governmental entity, or location with an accurate reference, when the inaccuracy is the result of the rearrangement of a federal or state statute, rule, or regulation under a different citation number, a federal or state transfer of functions from one (1) governmental entity to another, a change in the name of a federal or state governmental entity, or a change in the address of an entity.

* 1. A rule correcting any other typographical, clerical, or spelling error in another rule.
1. Sections 24 through 37.1 of this chapter do not apply to rules described in subsection (a).
2. Notwithstanding any other statute, an agencymay adopt a rule described by subsection
3. without complying with any statutory notice, hearing, adoption, or approval requirement. In addition, the governor may adopt a rule described in subsection (a) for an agency without the agency's consent or action.
	1. A rule described in subsection (a) shall be submitted to the publisher for the assignment of a document control number. The agency (or the governor, for 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. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.
	2. After a document control number is assigned, the agency (or the governor, for the agency) shall submit the rule to the publisher for filing. The agency (or the governor, for 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. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.
	3. Subject to section 39 of this chapter, the publisher shall:
		1. accept the rule for filing; and
		2. electronically record the date and time that it is accepted.
	4. Subject to subsection (h), a rule described in subsection (a) takes effect on the latest of the following dates:
		1. The date that the rule being corrected by a rule adopted under this section becomes effective.
		2. The date that is forty-five (45) days from the date and time that the rule adopted under this section is accepted for filing under subsection (f).
	5. The governor or the attorney general may file an objection to a rule that is adopted under this section before the date that is forty-five (45) days from the date and time that the rule is accepted for filing under subsection (f). When filed with the publisher, the objection has the effect of invalidating the rule.

## IC 4-22-2-39 Acceptance of rule for filing by publisher

Sec. 39. (a) When an agency submits a rule for filing under section 35, 37.1, or 38 of this chapter, the publisher may accept the rule for filing only if the following conditions are met:

* + 1. The following documents are submitted to allow the publisher to comply with IC 4-22-7-5:
			1. One (1) electronic copy of the rule.
			2. One (1) copy of any matters incorporated by reference under section 21 of this chapter in the format specified by the publisher.
			3. One (1) copy of any supporting documentation submitted under section 31 of this chapter in the format specified by the publisher.
		2. Each submitted copy includes a reference to the document control number assigned to the rule by the publisher.
		3. Each submitted copy indicates that the agency has conducted its rulemaking action in conformity with all procedures required by law. However, if section 31 of this chapter applies to the rule, the publisher shall rely on the approval of the attorney general as the basis for determining that the agency has complied with all procedures required before the date of the approval.
1. If a rule includes a statement that the rule is not effective until:
	1. an agency has complied with requirements established by the federal or state government;
	2. a specific period of time has elapsed; or
	3. a date has occurred;

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

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

## IC 4-22-2-40 Recall of rule; readoption

Sec. 40. (a) At any time before a rule is accepted for filing by the publisher under section 35, 37.1, or 38 of this chapter, the agency that adopted the rule may recall it. A rule may be recalled regardless of whether:

* 1. the rule has been disapproved by the attorney general under section 32 of this chapter; or
	2. the rule has been disapproved by the governor under section 34 of this chapter.
1. Sections 24 through 38 of this chapter do not apply to a recall action under this section. However, the agency shall distribute a notice of its recall action to the publisher for publication in the Indiana Register. Sections 24 and 26 of this chapter do not apply to a readoption action under subsection (c).
2. After an agency recalls a rule, the agency may reconsider its adoption action and adopt an identical rule or a revised rule. However, if sections 24 through 36 of this chapter apply to the recalled rule, the readopted rule must comply with the requirements under section 29 of this chapter.
3. The recall of a rule under this section voids any approval given after the rule was adopted and before the rule was recalled.
4. If a rule is:
	1. subject to sections 31 and 33 of this chapter;
	2. recalled under subsection (a); and
	3. readopted under subsection (c);

the agency shall resubmit the readopted version of the recalled rule to the attorney general and the governor for approval. The attorney general and the governor have the full statutory period to approve or disapprove the readopted rule. If the recalled rule was submitted to the office of management and budget under section 28 of this chapter, the agency shall resubmit the readopted version of a recalled rule to the office of management and budget with sufficient information for the office of management and budget to evaluate whether its initial fiscal impact statement under section 28 of this chapter needs to be revised. The office of management and budget shall revise a fiscal impact statement under section 28 of this chapter if the fiscal impact of the readopted rule is substantially different from the recalled rule. The agency also shall comply with anyother applicable approval requirement provided by statute.

1. The readopted version of a recalled rule is effective only after the agency has complied with section 35, 37.1, or 38 of this chapter.

## IC 4-22-2-41 Withdrawal of rule

Sec. 41. (a) At any time before a rule is accepted by the publisher for filing under section 35, 37.1, or 38 of this chapter, the agency that adopted the rule may withdraw it.

1. Sections 24 through 40 of this chapter do not apply to a withdrawal action. However, the withdrawing agency shall distribute a notice of the withdrawal to the publisher for publication in the Indiana Register.
2. The withdrawal of a rule under this section terminates the rulemaking action, and the withdrawn rule may become effective only through another rulemaking action initiated under this chapter.

## IC 4-22-2-42 Establishment of publishing format

Sec. 42. The publisher, with the assistance of the code revision commission, shall establish a format, a numbering system, standards, and techniques for agencies to use whenever they draft and prepare rules under this chapter.

## IC 4-22-2-43 Rules interpreting, implementing, or supplementing this chapter

Sec. 43. (a) Subject to section 42 of this chapter, the attorney general may adopt rules under this chapter to interpret or implement this chapter.

(b) An agency may adopt rules under this chapter to supplement the procedures in this chapter for its own rulemaking actions.

## IC 4-22-2-44 Failure to comply with provisions of this chapter; exception

Sec. 44. Except as provided in section 44.3 of this chapter, a rulemaking action that does not conform with this chapter is invalid, and a rule that is the subject of a noncomplying rulemaking action does not have the effect of law until it is adopted in conformity with this chapter. However, the failure of an agency to comply with section 20(a)(2) of this chapter does not invalidate the rulemaking action.

## IC 4-22-2-44.3 Exceptions to section 44 of chapter

Sec. 44.3. (a) Notwithstanding the addition of section 44 of this chapter by P.L.31-1985, a rule that is in effect on August 31, 1985, is not invalidated by the passage of P.L.31-1985.

1. Notwithstanding the addition of section 44 of this chapter by P.L.31-1985, a rule that is the subject of a rulemaking action before September 1, 1985, and:
	1. is not accepted for filing by the secretary of state before September 1, 1985; or
	2. is accepted for filing by the secretary of state before September 1, 1985, but is not effective before September 1, 1985;

is effective if it is adopted in conformity with the law in effect on August 31, 1985, or with this chapter, as in effect on the date of adoption of the rule.

1. The format, numbering system, standards, and techniques that were developed by the legislative council for the drafting and preparation of rules before September 1, 1985, continue to apply to the drafting and preparation of rules until changed under P.L.31-1985.

## IC 4-22-2-45 Invalidity of rule; assertion; limitation

Sec. 45. A:

* 1. claim; or
	2. defense;

that asserts that a rule is invalid on procedural grounds may not be asserted if the claim or defense is based on rulemaking procedures that were followed or should have been followed by a board described in IC 13-14-9-1 or the department in adopting a rule under this chapter unless the claim or defense that asserts the procedural defect is filed not more than two (2) years after the date the rule becomes effective. However, a claim may be filed or a defense raised at any time for an alleged procedural defect that is alleged to have caused substantial harm to the due process rights of an individual.

## IC 4-22-2.1 Chapter 2.1. Rules Affecting Small Businesses

## IC 4-22-2.1-1 Application of chapter; exemption for certain rules

Sec. 1. Except for a rule that is the subject of a rulemaking action under IC 13-14-9, IC 22-12, IC 22-13, IC 22-14, or IC 22-15, this chapter applies to a rule for which the notice required by IC 4-22-2-23 is published by an agency after June 30, 2005.

## IC 4-22-2.1-2 Application of definitions in rulemaking statute

Sec. 2. The definitions in IC 4-22-2-3 apply throughout this chapter.

## IC 4-22-2.1-4 "Small business"

Sec. 4. As used in this chapter, "small business" has the meaning set forth in IC 5-28-2-6.

## IC 4-22-2.1-4.5 "Small business ombudsman"

Sec. 4.5. As used in this chapter, "small business ombudsman" refers to the small business ombudsman designated under IC 5-28-17-6.

## IC 4-22-2.1-5 Rules affecting small businesses; economic impact statement required; full implementation of rules; submission of statement to small business ombudsman

Sec. 5. (a) If an agency intends to adopt a rule under IC 4-22-2 that will impose requirements or costs on small businesses, the agency shall prepare a statement that describes the annual economic impact of a rule on all small businesses after the rule is fully implemented as described in subsection (b). The statement required by this section must include the following:

1. An estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.
2. An estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.
3. An estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule. The agency is not required to submit the proposed rule to the office of management and budget for a fiscal analysis under IC 4-22-2-28 unless the estimated economic impact of the rule is greater than five hundred thousand dollars ($500,000) on all regulated entities, as set forth in IC 4-22-2-28.
4. A statement justifying any requirement or cost that is:
	1. imposed on small businesses by the rule; and
	2. not expressly required by:
		1. the statute authorizing the agency to adopt the rule; or
		2. any other state or federal law.

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

1. A regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule. The analysis under this subdivision must consider the following methods of minimizing the economic impact of the proposed rule on small businesses:
	1. The establishment of less stringent compliance or reporting requirements for small businesses.
	2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.
	3. The consolidation or simplification of compliance or reporting requirements for small businesses.
	4. The establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.
	5. The exemption of small businesses from part or all of the requirements or costs imposed by the rule.

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

1. For purposes of subsection (a), a proposed rule will be fully implemented with respect to small businesses after:
	1. the conclusion of any phase-in period during which:
		1. the rule is gradually made to apply to small businesses or certain types of small businesses; or
		2. the costs of the rule are gradually implemented; and
	2. the rule applies to all small businesses that will be affected by the rule.

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

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

## IC 4-22-2.1-6 Review by small business ombudsman; consideration of written comments by agency

Sec. 6. (a) Not later than seven (7) days before the date of the public hearing set forth in the agency's notice under IC 4-22-2-24, the small business ombudsman shall do the following:

1. Review the proposed rule and economic impact statement submitted to the small business ombudsman by the agency under section 5(c) of this chapter.
2. Submit written comments to the agency on the proposed rule and the economic impact statement prepared by the agency under section 5 of this chapter. The small business ombudsman's comments may:
	1. recommend that the agency implement one (1) or more of the regulatory alternatives considered by the agency under section 5(a)(5) of this chapter;
	2. suggest regulatory alternatives not considered by the agency under section 5(a)(5) of this chapter;
	3. recommend any other changes to the proposed rule that would minimize the economic impact of the proposed rule on small businesses; or
	4. recommend that the agency abandon or delay the rulemaking action until:
		1. more data on the impact of the proposed rule on small businesses can be gathered and evaluated; or
		2. less intrusive or less costly alternative methods of achieving the purpose of the proposed rule can be effectively implemented with respect to small businesses.
3. Upon receipt of the small business ombudsman's written comments under subsection (a), the agency shall make the comments available:
	1. for public inspection and copying at the offices of the agency under IC 5-14-3;
	2. electronically through the electronic gateway administered under IC 4-13.1-2-2(a)(5) by the office of technology; and
	3. for distribution at the public hearing required by IC 4-22-2-26.
4. Before finally adopting a rule under IC 4-22-2-29, and in the same manner that the agency considers public comments under IC 4-22-2-27, the agency must fully consider the comments submitted by the small business ombudsman under subsection (a). After considering the comments under this subsection, the agency may:
	1. adopt any version of the rule permitted under IC 4-22-2-29; or
	2. abandon or delay the rulemaking action as recommended by the small business ombudsman under subsection (a)(2)(D), if applicable.

## IC 4-22-2.1-7 Review of rule before readoption

Sec. 7. Before an agency may act under IC 4-22-2.5 to readopt a rule to which the chapter applies, the agency must conduct the review required under IC 4-22-2.5-3.1.

## IC 4-22-2.1-8 Small businesses' right of action to determine agency's compliance

Sec. 8. (a) This section applies to a small business that is adversely affected or aggrieved by a rule that:

1. is subject to this chapter;
2. is finally adopted by an agency under IC 4-22-2-29; and
3. has taken effect under IC 4-22-2-36.
4. Subject to subsection (c), a small business described in subsection (a) may file, in a court having jurisdiction, an action seeking a determination of the agency's compliance with the requirements of this chapter during the rulemaking process. Upon receipt of a complaint under this section, the court shall, at the earliest date possible, hear evidence on the matter and make a determination as to the agency's compliance with this chapter during the rulemaking process. If the court determines that the agency failed to comply with one (1) or more requirements of this chapter, the court may issue an order or injunction enjoining the agency from enforcing the rule with respect to the complaining small business and any similarly situated small businesses. A determination of the court under this section is final, subject to the right of direct appeal by either party.
5. A small business that seeks a determination by a court under subsection (b) must file the action described in subsection (b) not later than one year (1) after the date the rule described in subsection (a) takes effect under IC 4-22-2-36.

## IC 4-22-2.5 Chapter 2.5. Expiration and Readoption of Administrative Rules

## IC 4-22-2.5-1 Exceptions

Sec. 1. This chapter does not apply to the following:

* 1. Rules adopted by the department of state revenue.
	2. Rules adopted by the department of local government finance.
	3. Rules adopted by the Indiana board of tax review.
	4. Rules adopted under IC 13-14-9 by the department of environmental management or a board that has rulemaking authority under IC 13.
	5. A rule that incorporates a federal regulation by reference or adopts under a federal mandate a federal regulation in its entirety without substantive additions.

## IC 4-22-2.5-1.1 Rules that do not expire

Sec. 1.1. (a) This section applies to the following:

1. A rule that is required to receive or maintain:
	1. delegation;
	2. primacy; or
	3. approval;

for state implementation or operation of a program established under federal law.

1. A rule that is required to begin or continue receiving federal funding for the implementation or operation of a program.

(b) A rule described in subsection (a) does not expire under this chapter. However, an agency shall readopt a rule described in this section before January 1 of the seventh year after the year in which the rule takes effect as set forth in this chapter.

## IC 4-22-2.5-2 Dates for expiration

Sec. 2. (a) Except as provided in subsection (b) or section 1.1 of this chapter, an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. The expiration date of a rule under this section is extended each time that a rule amending an unexpired rule takes effect. The rule, as amended, expires on January 1 of the seventh year after the year in which the amendment takes effect.

1. An administrative rule that:
	1. was adopted under IC 4-22-2;
	2. is in force on December 31, 1995; and
	3. is not amended by a rule that takes effect after December 31, 1995, and before January 1, 2002;

expires not later than January 1, 2002.

1. The determination of whether an administrative rule expires under this chapter shall be applied at the level of an Indiana Administrative Code section.

## IC 4-22-2.5-3 Procedures for readoption

Sec. 3. (a) An agency that wishes to readopt a rule that is subject to expiration under this chapter must:

* 1. follow the procedure for adoption of administrative rules under IC 4-22-2; and
	2. for a rule that expires under this chapter after June 30, 2005, conduct any review required under section 3.1 of this chapter.
1. An agency may adopt a rule under IC 4-22-2 in anticipation of a rule's expiration under this chapter.
2. An agency may not use IC 4-22-2-37.1 to readopt a rule that is subject to expiration under this chapter.

## IC 4-22-2.5-3.1 Readoption of rule affecting small businesses; review required; consideration of regulatory alternatives; reexamination of economic impact statement

Sec. 3.1. (a) This section applies to a rule that:

* 1. expires under this chapter after June 30, 2005; and
	2. imposes requirements or costs on small businesses.
1. As used in this section, "small business" has the meaning set forth in IC 4-22-2.1-4.
2. Before an agency may act under section 3 of this chapter to readopt a rule described in subsection (a), the agency shall conduct a review to consider whether there are any alternative methods of achieving the purpose of the rule that are less costly or less intrusive, or that would otherwise minimize the economic impact of the proposed rule on small businesses. In reviewing a rule under this section, the agency shall consider the following:
	1. The continued need for the rule.
	2. The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency.
	3. The complexity of the rule, including any difficulties encountered by:
		1. the agency in administering the rule; or
		2. small businesses in complying with the rule.
	4. The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances.
	5. The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time.
3. This subsection applies to a rule that was adopted through a rulemaking action initiated by the agency under IC 4-22-2-23 after June 30, 2005. In reviewing the rule under this section, the agency shall reexamine the most recent economic impact statement prepared by the agency under IC 4-22-2.1-5. The agency shall consider:
	1. the degree to which the factors analyzed in the statement have changed since the statement was prepared; and
	2. whether:
		1. any regulatory alternatives included in the statement under IC 4-22-2.1-5(a)(5); or
		2. any regulatory alternatives not considered by the agency at the time the statement was prepared;

could be implemented to replace one (1) or more of the rule's existing requirements.

1. After conducting the review required by this section, the agency shall:
	1. readopt the rule without change, if no alternative regulatory methods exist that could minimize the economic impact of the rule on small businesses while still achieving the purpose of the rule;
	2. amend the rule to implement alternative regulatory methods that will minimize the economic impact of the rule on small businesses; or
	3. repeal the rule, if the need for the rule no longer exists.

## IC 4-22-2.5-4 Request for separate readoption of rules

Sec. 4. (a) Except as provided in subsection (b) and subject to section 3.1 of this chapter, an agency may readopt all rules subject to expiration under this chapter under one (1) rule that lists all rules that are readopted by their titles and subtitles only. A rule that has expired but is readopted under this subsection may not be removed from the Indiana Administrative Code.

1. If, not later than thirty (30) days after an agency's publication of notice of its intention to adopt a rule under IC 4-22-2-23 using the listing allowed under subsection (a), a person submits to the agency a written request and the person's basis for the request that a particular rule be readopted separately from the readoption rule described in subsection (a), the agency must:
	1. readopt that rule separately from the readoption rule described in subsection (a); and
	2. follow the procedure for adoption of administrative rules under IC 4-22-2 with respect to the rule.
2. If the agency does not receive a written request under subsection (b) regarding a rule within thirty (30) days after the agency's publication of notice, the agency may:
	1. submit the rule for filing with the publisher under IC 4-22-2-35; or
	2. elect the procedure for readoption under IC 4-22-2.

## IC 4-22-2.5-5 Power of governor to postpone expiration date

Sec. 5. If a rule is not readopted before the expiration date for the rule and the governor finds that the failure to readopt the rule causes an emergency to exist, the governor may, by executive order issued before the rule's expiration date, postpone the expiration date of the rule until a date that is one (1) year after the date specified in section 2 of this chapter.

## IC 4-22-2.5-6 Removal of expired rules

Sec. 6. The publisher shall remove all rules that have expired under this chapter from the Indiana Administrative Code.

## IC 4-22-3 Chapter 3. Open Public Hearings

## IC 4-22-3-1 Public policy

Sec. 1. It is hereby declared to be the public policy of the state of Indiana that there shall be no secrecy in the conduct of the public hearings of the administrative bodies of the state of Indiana.

## IC 4-22-3-2 Broadcasts of public hearings

Sec. 2. In order to facilitate the public policy so declared, all administrative bodies of the state of Indiana conducting public hearings shall allow the use of either recorded or live broadcasts of such hearings, subject to such reasonable rules and regulations as may be adopted by the administrative body holding and conducting such public hearings.

## IC 4-22-3-3 Limitations upon broadcasts

Sec. 3. It is hereby specifically declared that such administrative bodies may limit such broadcasts to the broadcast of recordings of such public hearings made in a manner approved by such administrative body, and it is specifically declared that such administrative body may require the use of pooled recording or broadcasting facilities for all of the news or broadcasting media requesting the use of such recordings or broadcasting rights.

## IC 4-22-4 Chapter 4. Fees for Transcripts in Industrial Accident Cases and Utility Regulatory Commission Proceedings

## IC 4-22-4-1 Fees

Sec. 1. (a) Whenever a transcript is furnished to a litigant or other party interested in any industrial accident case heard before any state department, board, or commission, or to any petitioner, remonstrator, intervener, or any other party in any proceeding before the utility regulatory commission, the fee for the transcript shall be the property of the reporter employed by the state department, board or commission who has prepared the transcript.

1. A party litigant in an industrial accident case or a party in a proceeding before the utility regulatory commission may be provided a transcript at state expense if the party litigant or party files a verified application for provision of transcript and it is established in a hearing upon the application that:
	1. the applicant will perfect an appeal for which the transcript is requested;
	2. no other person or party in the proceeding has filed a request for a transcript which transcript would be available to the applicant; and
	3. the applicant lacks sufficient resources, and cannot reasonably obtain sufficient resources, to pay for the transcript.
2. Whenever any state department, board, or commission orders that a transcript be provided to a person or party litigant under subsection (b), the reporter to whom the fee is due shall prepare a statement, under oath, of the cost of preparation of the transcript. Upon receipt of the statement, the state department, board, or commission shall certify the statement and present it to the auditor of state who shall pay the cost of the transcript out of the state general fund.
3. Whenever any state agency is required by federal law to provide a person or party litigant with a copy of a transcript at reproduction cost only, the reporter to whom the fee is due shall prepare separate statements of the cost of production of the transcript and the cost of reproduction of the transcript. The statement for production of the transcript shall be presented to the state agency which shall pay the statement out of the funds appropriated to it, and the statement for reproduction of the transcript shall be presented to the person or party litigant who has requested the reproduction of the transcript.

## IC 4-22-5 Chapter 5. Department of Local Government Finance and Indiana Board of Tax Review Hearings

## IC 4-22-5-1 Hearings of the Indiana board of tax review; hearing officers

Sec. 1. Where under the provisions of any statute, the department of local government finance or the Indiana board of tax review (referred to as "the Indiana board" in this section) is required to conduct a hearing, the commissioner of the department or a member or members of the Indiana board need not be present or preside at such hearing, but the commissioner or the Indiana board shall have the power, by an order in writing, to appoint to so preside hearing officers whose duties shall be prescribed in the order. In the discharge of their duties, the hearing officers shall have all the powers to investigate and to require evidence granted to the department or the Indiana board. The department or the Indiana board may conduct any number of hearings contemporaneously through different hearing officers.

## IC 4-22-6 Chapter 6. Fees for Publications of State Agencies

## IC 4-22-6-1 "State agency" defined

Sec. 1. As used in this chapter, "state agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, officer, service, or other similar body of state government established by law, resolution, or executive order.

## IC 4-22-6-2 Sale of publications; authorization

Sec. 2. A state agency may sell any publication that it produces in book, booklet, or pamphlet form.

## IC 4-22-6-3 Price

Sec. 3. (a) This section does not apply to a state educational institution.

(b) The price of a state agency publication may not exceed the cost of materials, reproduction, postage, and handling, and may reflect all or a part of the cost of preparation. IC 4-22-7

## Chapter 7. Codification, Distribution, and Publication of Rules and Other Agency Statements

## IC 4-22-7-1 Application of chapter

Sec. 1. This chapter applies to all rules adopted under IC 4-22-2.

## IC 4-22-7-2 Definitions

Sec. 2. The definitions in IC 4-22-2-3 apply throughout this chapter.

## IC 4-22-7-3 Updating of rules; style standards; correction of errors

Sec. 3. An agency shall add, amend, and repeal its rules, as necessary, to:

1. eliminate obsolete or unenforceable provisions;
2. eliminate deviations from the format, numbering system, standards, and techniques established under IC 4-22-2-42; and
3. eliminate other typographical, clerical, or spelling errors.

## IC 4-22-7-4 Retention of copy of rule by agency

Sec. 4. An agency shall maintain a copy of each rule that has been filed with the secretary of state (including documents filed with the secretary of state under IC 4-22-2-21) under a retention schedule established by the Indiana archives and records administration.

## IC 4-22-7-5 Retention of original copy of rule by publisher

Sec. 5. (a) The publisher shall retain the electronic copy of each rule that has been accepted for filing by the publisher (including documents filed with the publisher under IC 4-22-2-21) and one (1) copy of any supporting documentation submitted under IC 4-22-2-31. The publisher has official custody of an agency's adopted rules.

1. When the publisher distributes or electronically publishes a rule, the publisher may distribute the rule without including the full text of any matter incorporated into the rule.

## IC 4-22-7-6 Publication of rules by individual agency

Sec. 6. An agency may publish its rules under IC 4-13-4.1. A publication containing rules also may include any other matter that may assist the public in conducting its business with the agency.

## IC 4-22-7-7 Certain statements, orders, and official opinions; distribution of copies; maintenance of current list

Sec. 7. (a) This section applies to the following agency statements:

* 1. Executive orders issued by the governor.
	2. Notices that a rule has been disapproved or objected to by the attorney general under IC 4-22-2-32 or IC 4-22-2-38, or disapproved or objected to by the governor under IC 4-22-2-34 or IC 4-22-2-38.
	3. Official opinions of the attorney general (excluding advisory letters).
	4. Official explanatory opinions of the state board of accounts based on an official opinion of the attorney general.
	5. Any other statement:
		1. that:
			1. interprets, supplements, or implements a statute or rule;
			2. has not been adopted in compliance with IC 4-22-2;
			3. is not intended by its issuing agency to have the effect of law; and
			4. may be used in conducting the agency's external affairs; or
		2. that specifies a policy that an agency relies upon to:
			1. enforce a statute or rule;
			2. conduct an audit or investigation to determine compliance with a statute or rule; or
			3. impose a sanction for violation of a statute or rule.

This subdivision includes information bulletins, revenue rulings (including, subject to IC 6-8.1-3-3.5, a letter of findings), and other guidelines of an agency.

* 1. A statement of the governor concerning extension of an approval period under IC 4-22-2-34.
1. Whenever an agency adopts a statement described by subsection (a), the agency shall distribute electronic copies of the statement to the publisher for publication and indexing in the Indiana Register (in the format specified by the publisher under IC 4-22-2) and the copies required by IC 4-23-7.1-26 to the Indiana library and historical department. However, if a statement under subsection (a)(5)(B) is in the form of a manual, book, pamphlet, or reference publication, the publisher is required to publish only the title of the manual, book, or reference publication.
2. Every agency that adopts a statement described under subsection (a) also shall maintain a current list of all agency statements described in subsection (a) that it may use in its external affairs. The agency shall update the listing at least every thirty (30) days. The agency shall include on the list the name of the agency and the following information for each statement:
	1. Title.
	2. Identification number.
	3. Date originally adopted.
	4. Date of last revision.
	5. Reference to all other statements described in subsection (a) that are repealed or amended by the statement.
	6. Brief description of the subject matter of the statement.
3. At least quarterly, every agency that maintains a list under subsection (c) shall distribute two (2) copies to the Indiana library and historical department.

## IC 4-22-8 Chapter 8. Publication of Indiana Register and Indiana Administrative Code

## IC 4-22-8-1 Definitions applicable

Sec. 1. The definitions in IC 4-22-2-3 apply throughout this chapter.

## IC 4-22-8-2 Indiana Register; publication

Sec. 2. (a) The publisher shall publish a serial publication with the name Indiana Register at least six (6) times each year.

1. Notwithstanding any law, after June 30, 2006, the publisher shall publish the Indiana Register in electronic form only.
2. The publisher may meet the requirement to publish the Indiana Register electronically by permanently publishing a copy of the Indiana Register on the Internet.

## IC 4-22-8-3 Contents of Indiana Register

Sec. 3. The publisher shall include in the Indiana Register every rule or other agency statement distributed under IC 4-22-2-40, IC 4-22-2-41, IC 4-22-7-5, IC 4-22-7-7, or another statute that requires the matter to be published in the Indiana Register. However, the publisher may publish a rule without publishing the full text of a matter incorporated by reference in the rule and may publish any other statement in summary form.

## IC 4-22-8-4 Modifications and corrections by publisher

Sec. 4. (a) The publisher may:

* 1. reformat, renumber, or revise any rule or other agency statement published in the Indiana Register to conform to the typographical style and layout standards established under section 10 of this chapter; and
	2. reformat, renumber, or revise a rule adopted under IC 4-22-2 to conform to the format, numbering system, standards, and techniques established under IC 4-22-2-42, at any time before the rule is finally published in the Indiana Register.
1. When published as part of a rule, an action to bring the rule into conformity with the format, numbering system, standards, and techniques established under IC 4-22-2-42 is effective to the same extent as if the agency had adopted the action under IC 4-22-2-38. However, if the governor or the agency adopting the affected rule objects in writing to the publisher concerning a specifically described action and the action does not conform to the format, numbering system, standards, or techniques established under IC 4-22-2-42, the action is voided, and the publisher shall publish a correction under subsection (c).
2. The publisher may correct its own typographical, clerical, or spelling error in the Indiana Register by publishing an errata notice that identifies the error and its correction.

## IC 4-22-8-5 Indiana Administrative Code; publication

Sec. 5. (a) The publisher shall compile, computerize, index, and print a codification of the general and permanent rules of the agencies with the name Indiana Administrative Code. The publisher may publish, with the Indiana Administrative Code, any tables, explanatory material, or other documents that the publisher considers appropriate.

1. The publisher shall establish a system to maintain, supplement, and recompile the Indiana Administrative Code when necessary or appropriate.
2. Notwithstanding any law, after June 30, 2006, the publisher shall publish the Indiana Administrative Code in electronic form only.
3. The publisher may meet the requirement to publish the Indiana Administrative Code electronically by permanently publishing a copy of the Indiana Administrative Code on the Internet.

## IC 4-22-8-6 Modifications and corrections by publisher

Sec. 6. (a) The publisher may reformat, renumber, or revise at any time any rule codified in the Indiana Administrative Code to conform to the typographical style and layout standards established under section 10 of this chapter.

(b) The publisher may correct its own typographical, clerical, or spelling error in a rule published in the Indiana Administrative Code by publishing an errata notice in the Indiana Register that identifies the error and its correction.

## IC 4-22-8-9 Number of copies of Indiana Administrative Code and Indiana Register; price

Sec. 9. The publisher shall determine the number of copies of the Indiana Administrative Code and the Indiana Register to be published, to whom they shall be distributed, and the price of copies to be made available for sale.

## IC 4-22-8-10 Typographical style; layout standards

Sec. 10. The publisher shall establish typographical style and layout standards for the Indiana Administrative Code and the Indiana Register.

## IC 4-22-8-11 Assistance by code revision commission

Sec. 11. The code revision commission shall assist the publisher with the publication of the Indiana Register and with the compilation, computerization, indexing, and printing of the Indiana Administrative Code.

## IC 4-22-8-12 Failure to comply with chapter

Sec. 12. Failure of an agency, the publisher, or the code revision commission to comply with this chapter does not invalidate a rule or other agency statement.

## IC 4-22-9 Chapter 9. Evidence; Judicial Notice of Rules

## IC 4-22-9-1 Application of chapter

Sec. 1. This chapter applies to all rules that have been accepted for filing:

1. by the secretary of state before July 1, 2006; or
2. by the publisher after June 30, 2006; under IC 4-22-2.

## IC 4-22-9-2 Definitions applicable

Sec. 2. The definitions in IC 4-22-2-3 apply throughout this chapter.

## IC 4-22-9-3 Judicial notice of rules

Sec. 3. (a) Any rule that has been adopted in conformity with IC 4-22-2 (including a matter incorporated by reference into a rule) shall be judicially noticed by all courts and agencies of this state.

1. Subject to subsection (c), the official publication of a rule in the Indiana Register or the Indiana Administrative Code, including the official publication of rules published only in electronic format after July 1, 2006, shall be considered prima facie evidence that the rule was adopted in conformity with IC 4-22-2 and that the text published is the text adopted.
2. The 1979 edition of the Indiana Administrative Code shall be conclusively presumed to contain the accurate, correct, and complete text of all rules in effect on December 31, 1978. All rules filed with the secretary of state before December 31, 1978, and not compiled in the 1979 edition of the Indiana Administrative Code are void.

## IC 4-22-9-4 Matters not part of official text

Sec. 4. The following, as they appear in an adopted version of a rule filed with the secretary of state before July 1, 2006, or filed with the publisher after June 30, 2006, in the Indiana Register, or in the Indiana Administrative Code, are not part of the official text of any rule, are not intended to affect the meaning, application, or construction of any rule, and may be altered at any time by the publisher of the Indiana Register or Indiana Administrative Code:

* 1. Digests.
	2. Title, article, rule, and section headings.
	3. Title, article, and rule analyses (listings of article, rule, and section headings).
	4. Statutory authority citation lines.
	5. Statutes affected citation lines.
	6. Bracketed internal references.
	7. History lines or history blocks.
	8. Revisor's notes.

## IC 4-22-9-5 References to Indiana Administrative Code; incorporation by reference

Sec. 5. (a) A reference in a rule to the Indiana Administrative Code (IAC) in the form of an IAC citation, if unaccompanied by a reference to a specific edition or supplement to the Indiana Administrative Code, shall be construed to include any amendment to the cited provision occurring after the date that the reference is written.

1. If a matter that is incorporated by reference into a rule is amended after the effective date of the rule, the rule includes the amendment to the incorporated matter only if the incorporated matter is:
	1. an Indiana statute codified with an Indiana Code (IC) citation number; or
	2. an Indiana rule codified with an Indiana Administrative Code (IAC) number.

## IC 4-22-9-6 Citation of rules

Sec. 6. Any rule may be cited or pleaded by citation reference to the Indiana Administrative Code or the Indiana Register, without copying the cited provision in full. A reference to the Indiana Administrative Code (IAC) in the form of an IAC citation shall be construed to include all amendments as of the date the reference is written, unless accompanied by a reference to a specific edition or supplement of the Indiana Administrative Code.

## IC 4-22-9-7 Determination and construction of rules

Sec. 7. The determination and construction of rules in all civil actions shall be made by the court as a matter of law and not by the jury.

## IC 4-22-10 Chapter 10. Document Drafting Standards

## IC 4-22-10-1 "Agency"

Sec. 1. As used in this chapter, "agency" has the meaning set forth in IC 4-22-2-3.

## IC 4-22-10-2 "Covered document"

Sec. 2. As used in this chapter, "covered document" means any document that:

1. is necessary for obtaining any benefit or service administered or provided by an agency, or for filing taxes with an agency;
2. provides information about any state benefit or service; or
3. explains to the public how to comply with a requirement an agency administers or enforces.

The term includes (whether in paper or electronic form) a letter, publication, form, notice, or instruction. The term does not include a rule subject to the format, numbering system, standards, and techniques established under IC 4-22-2-42.

## IC 4-22-10-3 "Plain writing"

Sec. 3. As used in this chapter, "plain writing" means writing that is clear, concise, and well-organized, and follows other best practices appropriate to the subject or field and intended audience.

## IC 4-22-10-4 Plain writing requirement for government documents

Sec. 4. An agency shall use plain writing in every covered document that the agency issues or substantially revises.

## IC 4-22-10-5 Plain writing requirement; compliance date

Sec. 5. An agency must be fully in compliance with this chapter after September 30, 2013.

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# IC 8-1-22.5-7

(a) A person who is engaged in transportation or owns, operates, or leases pipeline facilities who violates any provision of this chapter or any regulations issued pursuant to this chapter, is subject to a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each violation for each day that the violation persists. However, the maximum civil penalty may not exceed one million dollars ($1,000,000) for any related series of violations.

(b) The commission may, after notice and opportunity for public hearing, impose a civil penalty not to exceed the amount specified in subsection (a) against a person who violates this chapter or any rules issued pursuant to this chapter, and may compromise and collect the penalties which are payable to the state as otherwise provided by law. However, a penalty may not be assessed or collected for any violation for which the person has been found liable under 49 U.S.C. 60101 et seq.

# IC 8-1-2-34.5

(a) The Commission shall establish reasonable rules and regulations to govern the relations between public utilities and any or all classes of their customers. Those rules and regulations shall cover the following subjects:

(1) extension of service;

(2) extension of credit;

(3) deposits, including interest thereon;

(4) billing procedures;

(5) termination of service;

(6) complaints; and

(7) information and notice to customers of their rights under the rules.

(b) Notwithstanding IC 8-1-2-54, the commission may investigate and enter orders on complaints filed by individual customers arising under this section. The commission may establish an appeals division to act on its own behalf regarding individual customer complaints. The decision of the division shall be binding on all parties to the complaint. The commission shall review decisions of the appeals division upon timely request by an affected party.

(c) This section does not invalidate any rule or regulation adopted by the commission before July 1, 1979, to govern the relations between public utilities and their consumers if the rule or regulation is consistent with this section.

# IC 8-1-2-52

Every public utility shall furnish to the commission all information required by it to carry into effect the provisions of this chapter and shall make specific answers to all questions submitted by the commission.

# IC 8-1-2-53

Any public utility receiving from the commission any blanks, with directions to fill the same, shall cause the same to be properly filled out so as to answer fully and correctly each question therein propounded, and, in case it is unable to answer any question, it shall give a good and sufficient reason for such failure, and said answers shall be verified under oath by the president, secretary, superintendent or general manager or person in charge of such public utility and returned to the commission at its office within the period fixed by the commission. Whenever required by the commission, every public utility shall deliver to the commission for examination any or all maps, profiles, contracts, reports of engineer and all documents, books, accounts, papers and records, or copies of any or all of the same, with a complete inventory of all its property in such form as the commission may direct.

# IC 8-1-2-54

Upon a complaint made against any public utility by any mercantile, agricultural or manufacturing society or by any body politic or municipal organization or by ten (10) persons, firms, limited liability companies, corporations, or associations, or ten (10) complainants of all or any of the aforementioned classes, or by any public utility, that any of the rates, tolls, charges or schedules or any joint rate or rates in which such petitioner is directly interested are in any respect unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act whatsoever affecting or relating to the service of any public utility, or any service in connection therewith, is in any respect unreasonable, unsafe, insufficient or unjustly discriminatory, or that any service is inadequate or can not be obtained, the commission shall proceed, with or without notice, to make such investigation as it may deem necessary or convenient. But no order affecting said rates, tolls, charges, schedules, regulations, measurements, practice or act, complained of, shall be entered by the commission without a formal public hearing.

# IC 8-1-2-58

Whenever the commission shall believe that any rate or charge may be unreasonable or unjustly discriminatory or that any service is inadequate, or can not be obtained, or that an investigation of any matters relating to any public utility should for any reason be made, it may, on its motion, summarily investigate the same, with or without notice.

# IC 8-1-2-61

(a) Any public utility may make complaint as to any matter affecting its own rates or service. The petition or complaint must include a statement as to whether the utility, if a not-for-profit water utility or municipal utility, has any outstanding indebtedness to the federal government. The public utility shall publish a notice of the filing of such petition or complaint in a newspaper of general circulation published in any county in which the public utility renders service. An order affecting rates or service may be entered by the commission without a formal public hearing, if:

(1) the utility is a not-for-profit water utility or a municipal utility; and

(2) the utility has obtained written consent to obtain an order affecting its rates from the commission without a formal hearing from any agency of the federal government with which the utility has outstanding evidence of indebtedness to the federal government.

The commission may, however, on its own motion require a formal public hearing, and shall, upon a motion filed by the utility consumer counselor, by any public or municipal corporation, or by ten (10) individuals, firms, corporations, limited liability companies, or associations, or ten (10) complainants of all or any of these classes, hold a formal public hearing with respect to any such petition or complaint.

(b) In any general rate proceeding under subsection (a) which requires a public hearing and in which an increase in revenues is sought which exceeds the sum of two million five hundred thousand dollars ($2,500,000), the commission shall conduct at least one (1) public hearing in the largest municipality located within such utility's service area.

# IC 8-1-2-61.5

(a) An order affecting rates of service may be entered by the commission without a formal public hearing in the case of any public or municipally owned utility that:

(1) either:

(A) serves less than eight thousand (8,000) customers; or

(B) has initiated a rate case on behalf of a single division of the utility and that division:

(i) serves less than five thousand (5,000) customers;

(ii) has a commission-approved schedule of rates and charges that is separate and independent from that of any other division of the utility; and

(iii) itself satisfies subdivisions (2) and (3);

(2) primarily provides retail service to customers; and

(3) does not serve extensively another utility.

(b) The commission may require a formal public hearing on any petition or complaint filed under this section concerning a rate change request by a utility upon the commission's own motion or upon motion of any of the following:

(1) The utility consumer counselor.

(2) A public or municipal corporation.

(3) Ten (10) individuals, firms, limited liability companies, corporations, or associations.

(4) Ten (10) complainants of any class described in this subsection.

(c) A not-for-profit water utility or a not-for-profit sewer utility must include in its petition a statement as to whether it has an outstanding indebtedness to the federal government. When an indebtedness is shown to exist, the commission shall require a formal hearing, unless the utility also has included in its filing written consent from the agency of the federal government with which the utility has outstanding indebtedness for the utility to obtain an order affecting its rates from the commission without a formal hearing.

(d) Notwithstanding any other provision of this chapter, the commission may:

(1) on the commission's own motion; or

(2) at the request of:

(A) the utility consumer counselor;

(B) a water or sewer utility described in subsection (a);

(C) ten (10) individuals, firms, limited liability companies, corporations, or associations; or

(D) ten (10) complainants of any class described in this subsection;

adopt a rule under IC 4-22-2, or issue an order in a specific proceeding, providing for the development, investigation, testing, and use of regulatory procedures or generic standards with respect to water or sewer utilities described in subsection (a) or their services.

(e) The commission may adopt a rule or enter an order under subsection (d) only if it finds, after notice and hearing, that the proposed regulatory procedures or standards are in the public interest and promote at least one (1) of the following:

(1) Utility cost minimalization to the extent that a utility's quality of service or facilities are not diminished.

(2) A more accurate evaluation by the commission of a utility's physical or financial conditions or needs.

(3) A less costly regulatory procedure for a utility, its consumers, or the commission.

(4) Increased utility management efficiency that is beneficial to consumers.

# IC 8-1-26-10

As used in this chapter, “operator” means a person who owns or operates an underground facility, other than an underground facility that:

(1) is located on real property that the person owns or occupies; and

(2) the person operates for the person's benefits.

# IC 8-1-26-11

As used in this chapter, “person” means an individual, a corporation, a partnership, a limited liability company, an association, or other entity organized under the laws of any state. The term includes state, local, and federal agencies. The term does not include the association.

# IC 8-1-26-23

(a) The underground plant protection advisory committee is established.

(b) The advisory committee consists of the following seven (7) members appointed by the governor:

(1) One (1) member representing the association.

(2) One (1) member representing investor owned gas utilities.

(3) One (1) member representing operators of pipeline facilities or pipelines.

(4) One (1) member representing municipal gas utilities.

(5) Two (2) members representing commercial excavators.

(6) One (1) member representing providers of facility locate marking services.

(c) The term of a member is four (4) years. A member of the advisory committee serves at the pleasure of the governor. The governor shall fill a vacancy in the membership of the advisory committee for the unexpired term of the vacating member.

(d) The association and the commission shall provide staff support and meeting space to the advisory committee.

(e) The members of the advisory committee shall elect a chairperson. The advisory committee shall meet at the call of the chairperson.

(f) The affirmative vote of a majority of members appointed under subsection (b) is required to take action.

(g) The pipeline safety division shall investigate alleged violations of this chapter. If the pipeline safety division finds that a person has violated this chapter, the pipeline safety division shall forward its finding to the advisory committee.

(h) The advisory committee shall act in an advisory capacity to the commission concerning the implementation and enforcement of this chapter. In this capacity, and subject to subsections (i) and (j), the advisory committee may recommend the following penalties with respect to persons that the pipeline safety division has found to violate this chapter:

(1) Civil penalties consistent with this chapter.

(2) Participation in education or training programs developed and implemented by the commission.

(3) Warning letters.

(4) Development of a plan to avoid future violations of this chapter.

Before making a recommendation under this subsection, the advisory committee shall provide notice to the person found to be in violation of this chapter of an opportunity to appear before the advisory committee with respect to the violation.

(i) The advisory board may consider the following when making a recommendation under subsection (h):

(1) Whether the person found to be in violation of this chapter is a first time or repeat violator.

(2) Whether the person found to be in violation of this chapter is:

(A) a homeowner or tenant performing excavation or demolition:

(i) on the homeowner's or tenant's residential property; and

(ii) outside an operator's easement or right of way; or

(B) a business entity.

(3) The severity of the violation.

(j) If the advisory committee determines that:

(1) the person found to be in violation of this chapter is a first time violator described in subsection (i)(2)(A); and

(2) the violation did not result in physical harm to a person;

the advisory committee may not recommend a penalty described in subsection (h)(1) or (h)(4).

(k) Upon receiving a recommendation from the advisory committee under subsection (h), and after notice and opportunity for a public hearing, the commission shall do the following as applicable:

(1) Uphold or reverse the finding of a violation by the pipeline safety division under subsection (g).

(2) Approve or disapprove each recommendation of the advisory committee.

(3) Collect any civil penalties and deposit the penalties in the underground plant protection account.

# IC 8-1-2-70

In its order upon any investigation made under the provisions of this chapter, IC 8-1.5-3, or IC 8-1.5-6, either upon complaint against any municipal utility, upon the petition of any such municipal utility, or upon the initiation of the commission, the commission shall ascertain and declare the expenses incurred by it upon such investigation, and the municipal utility affected thereby shall pay into the commission public utility fund account described in IC 8-1-6-2 the amount of the expenses, so ascertained and declared, within a time to be fixed in the order, not exceeding twenty (20) days from the date thereof. The commission shall cause a certified copy of all such orders to be delivered to an officer or agent of the municipal utility affected thereby, and all such orders shall, of their own force, take effect and become operative twenty (20) days after service thereof unless a different time be provided in said order. Any order of the commission as may increase any rate of such municipal utility shall not take effect until such expenses are paid into the commission public utility fund account described in IC 8-1-6-2.

# IC 8-1-2-85

The commission shall charge every municipality receiving permission from it to issue any bonds, notes, or other securities an amount equal to twenty-five cents ($.25) for each one hundred dollars ($100) for such bonds, notes, or other securities, but in no case shall the fee be less than one hundred dollars ($100). All of such fees assessed under this section shall be paid to the secretary of the commission within thirty (30) days of the receipt of the bond proceeds by the municipality and only if the bonds, notes, or other securities are issued. The fees collected by the secretary shall be paid into the state treasury and deposited in the commission public utility fund account established under IC 8-1-6, as if they were fees collected under IC 8-1-6.

# IC 8-1-3-8

The cost of preparing the transcript of the record, on reasonable terms fixed by general administrative order of the commission, shall be paid in the first instance upon receipt of the transcript by the person filing the written request for the transcript, and the amount shall be stated as paid in the certificate of the secretary which authenticates the transcript of record. However, all costs incurred in connection with the appeal shall be awarded and taxed as provided in other appeals of a civil nature in the supreme court or the court of appeals. That part of the cost of the transcript of the record which is incurred by reason of the transcription of oral testimony by any reporter appointed by the commission shall become the property of the reporter when paid.

# Indiana Trial Rule 86(I)

Signature.

(1) All documents electronically filed that require a signature must include a person's signature using one of the following methods:

(a) a graphic image of a handwritten signature, including an actual signature on a scanned document; or

(b) the indicator “/s/” followed by the person's name.

(2) A document that is signed and E-filed must be subject to the terms and provisions of Trial Rule 11(A). A Registered User may include the Signature of other attorneys in documents E-filed with the court but in doing so represents to the court that any such Signature is authorized.