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## Review of Interim Rulemaking – (FMC 5.4 July 1, 2024)

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**Section 1 – Background:** This Financial Management Circular (FMC) establishes the procedures to implement IC 4-22-2-37.2. IC 4-22-2-37.2(b) requires an agency demonstrate to the Governor’s satisfaction that the interim rulemaking procedures are necessary, and obtain written authorization, before the rulemaking can proceed.

**Section 2 – Procedure for Requesting Governor’s Authorization:** To receive authorization from the Governor, the agency head shall submit a request in writing to OMB via e-mail, sent to [sbarules@gov.in.gov](mailto:sbarules@gov.in.gov) with the phrase “Interim Rulemaking” in the subject line, which includes copies of the information required by this FMC. The agency head shall submit this request before filing the notice of interim rulemaking under IC 4-22-2-37.2(d). OMB will provide a copy of the agency’s submission to the Governor’s Office and coordinate with that office to expedite its review and authorization of the proposed rulemaking.

**Section 3 – Required Information:** In order to facilitate review of proposed rules, the agency’s request shall include the following information:

- a) A copy of the proposed rule;
- b) A copy of the regulatory analysis required under IC 4-22-2-22.7;
- c) A statement justifying the need for an interim rule;
- d) An indication whether the proposed rule includes a new or increased fee, fine, or civil penalty;
- e) Any comments received from regulated entities or interested parties regarding the proposed rule; and
- f) Contact information (name, phone number, email address) for an agency staff member who can answer substantive questions about the proposed rule and the underlying policy area.

For a proposed rulemaking under IC 4-22-2-37.2(b)(1) or (2), the statement justifying the use of interim rulemaking should include the following information:

- 1) The source of the new or changed law or standard, including its name (for example, HEA 1001);
- 2) The date the new or changed law or standard became or will become effective;
- 3) How the new or changed law or standard makes it necessary for the agency to conduct rulemaking, including listing, if applicable, any specific provision(s) in the new or changed law or standard that requires the agency to conduct interim rulemaking;
- 4) How the proposed rulemaking satisfies the circumstances making the interim rulemaking necessary identified in (3);

- 5) Any additional changes included in the proposed rulemaking not directly required by the provision(s) identified in (3) and the rationale for why they should be included in an interim rule; and
- 6) When the agency reasonably anticipates that regular rulemaking will be completed.

For a proposed rulemaking under IC 4-22-2-37.2(b)(3), the statement justifying the use of interim rulemaking should include the following information:

- 1) The source of authority in IC 4-22-2.3 that authorizes the use of interim rulemaking;
- 2) The specific circumstance(s) that makes it necessary for the agency to conduct interim rulemaking, including listing, if applicable, any specific requirements in state or federal law;
- 3) How the proposed rulemaking satisfies the circumstances making the interim rulemaking necessary identified in (2);
- 4) Any additional changes included in the proposed rulemaking not directly required by the circumstance(s) identified in (2) and the rationale for why they should be included in an interim rule; and
- 5) If the agency anticipates that regular rulemaking will be done on this subject and, if so, when the agency reasonably anticipates that regular rulemaking will be completed.

**Section 4 – Authorization:** If approved, the Governor will issue an authorization in writing that can be provided to the Indiana Register. An agency may not file a notice of interim rulemaking under IC 4-22-2-37.2 with the Indiana Register until it has obtained this authorization.

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