

HOUSE BILL No. 1143

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-13-8-15; IC 13-14-9; IC 13-22-2-4.

Synopsis: Environmental rules and standards. Prohibits the environmental rules board from adopting a rule or standard that is more stringent than the corresponding regulation or standard established under federal law. Makes corresponding changes in the law concerning the adoption of environmental rules.

Effective: July 1, 2014.

Wolkins

January 9, 2014, read first time and referred to Committee on Environmental Affairs.



Second Regular Session 118th General Assembly (2014)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1143



A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

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

1 SECTION 1. IC 13-13-8-15, AS ADDED BY P.L.133-2012,
2 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 15. (a) The board shall adopt rules under
4 IC 4-22-2 and IC 13-14-9 that are consistent with the purposes of this
5 title.

6 (b) **A rule or standard adopted by the board may not be more**
7 **stringent than the corresponding regulation or standard**
8 **established under federal law.**

9 SECTION 2. IC 13-14-9-3, AS AMENDED BY P.L.100-2006,
10 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2014]: Sec. 3. (a) Except as provided in subsection (b), the
12 department shall provide notice in the Indiana Register of the first
13 public comment period required by section 2 of this chapter. A notice
14 provided under this section must do the following:

15 (1) Identify the authority under which the proposed rule is to be
16 adopted.



- 1 (2) Describe the subject matter and the basic purpose of the
 2 proposed rule. The description required by this subdivision must:
 3 (A) list all alternatives being considered by the department at
 4 the time of the notice;
 5 (B) ~~state whether each attest that no~~ alternative listed under
 6 clause (A) ~~creates~~ ~~(i)~~ **would create** a restriction or
 7 requirement more stringent than a restriction or requirement
 8 imposed under federal law; ~~or~~
 9 ~~(ii)~~ **(C) state whether any alternative listed under clause**
 10 **(A) would create** a restriction or requirement in a subject area
 11 in which federal law does not impose restrictions or
 12 requirements;
 13 ~~(E)~~ **(D)** state the extent to which each alternative listed under
 14 clause (A) differs from federal law;
 15 ~~(E)~~ **(E)** include any information known to the department
 16 about the potential fiscal impact of each alternative **listed**
 17 under clause (A) that ~~creates: (i) a restriction or requirement~~
 18 ~~more stringent than a restriction or requirement imposed under~~
 19 ~~federal law; or (ii) would create~~ a restriction or requirement
 20 in a subject area in which federal law does not impose
 21 restrictions or requirements; and
 22 ~~(E)~~ **(F)** set forth the basis for each alternative listed under
 23 clause (A).
- 24 (3) Describe the relevant statutory or regulatory requirements or
 25 restrictions relating to the subject matter of the proposed rule that
 26 exist before the adoption of the proposed rule.
- 27 (4) Request the submission of alternative ways to achieve the
 28 purpose of the proposed rule.
- 29 (5) Request the submission of comments, including suggestions
 30 of specific language for the proposed rule.
- 31 (6) Include a detailed statement of the issue to be addressed by
 32 adoption of the proposed rule.
- 33 (b) This section does not apply to rules adopted under
 34 IC 13-18-22-2, IC 13-18-22-3, or IC 13-18-22-4.
- 35 (c) The notice required under subsection (a) shall be published
 36 electronically in the Indiana Register under procedures established by
 37 the publisher.
- 38 SECTION 3. IC 13-14-9-4, AS AMENDED BY P.L.100-2006,
 39 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2014]: Sec. 4. (a) The department shall provide notice in the
 41 Indiana Register of the second public comment period required by
 42 section 2 of this chapter. A notice provided under this section must do



- 1 the following:
- 2 (1) Contain the full text of the proposed rule, to the extent
- 3 required under IC 4-22-2-24(c).
- 4 (2) Contain a summary of the response of the department to
- 5 written comments submitted under section 3 of this chapter
- 6 during the first public comment period.
- 7 (3) Request the submission of comments, including suggestions
- 8 of specific amendments to the language contained in the proposed
- 9 rule.
- 10 (4) Contain the full text of the commissioner's written findings
- 11 under section 7 of this chapter, if applicable.
- 12 (5) Identify each element of the proposed rule that imposes a
- 13 restriction or requirement on persons to whom the proposed rule
- 14 **that applies that (A) is more stringent than a restriction or**
- 15 **requirement imposed under federal law; or (B) applies in a**
- 16 **subject area in which federal law does not impose a restriction or**
- 17 **requirement.**
- 18 (6) With respect to each element identified under subdivision (5),
- 19 identify:
- 20 (A) the environmental circumstance or hazard that dictates the
- 21 imposition of the proposed restriction or requirement to
- 22 protect human health and the environment; **and**
- 23 **(B) examples in which federal law is inadequate to provide the**
- 24 **protection referred to in clause (A); and**
- 25 **(C) (B) the:**
- 26 (i) estimated fiscal impact; and
- 27 (ii) expected benefits;
- 28 based on ~~the extent to which the proposed rule is more~~
- 29 ~~stringent than the restrictions or requirements of federal law;~~
- 30 ~~or on the creation of restrictions or requirements in a subject~~
- 31 ~~area in which federal law does not impose restrictions or~~
- 32 ~~requirements.~~
- 33 (7) For any element of the proposed rule ~~that imposes a restriction~~
- 34 ~~or requirement that is more stringent than a restriction or~~
- 35 ~~requirement imposed under federal law or that applies in a subject~~
- 36 ~~area in which federal law does not impose restrictions or~~
- 37 ~~requirements, describe the availability for public inspection of all~~
- 38 ~~materials relied upon by the department in the development of the~~
- 39 ~~proposed rule, including, if applicable:~~
- 40 (A) health criteria;
- 41 (B) analytical methods;
- 42 (C) treatment technology;



- 1 (D) economic impact data;
2 (E) environmental assessment data;
3 (F) analyses of methods to effectively implement the proposed
4 rule; and
5 (G) other background data.

6 (b) The notice required under subsection (a) shall be published
7 electronically in the Indiana Register under procedures established by
8 the publisher.

9 SECTION 4. IC 13-22-2-4 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The board shall
11 adopt rules under IC 4-22-2 and IC 13-14-8 on the proper and safe
12 transportation, treatment, storage, and disposal of hazardous wastes.
13 Whenever possible, the rules adopted under this section must allow for
14 variation in Indiana with regard to population density, climate, and
15 geology.

16 (b) Rules adopted under this section concerning incinerators used
17 as hazardous waste facilities may **not** establish requirements more
18 stringent than the requirements for hazardous waste incinerators
19 established by regulations adopted by the Administrator of the United
20 States Environmental Protection Agency under the following statutes:

- 21 (1) The federal Resource Conservation and Recovery Act (42
22 U.S.C. 6901 et seq.).
23 (2) The federal Clean Air Act (42 U.S.C. 7401 et seq.), as
24 amended by the federal Clean Air Act Amendments of 1990
25 (P.L.101-549).

