



January 29, 2016

HOUSE BILL No. 1082

DIGEST OF HB 1082 (Updated January 27, 2016 12:29 pm - DI 69)

Citations Affected: IC 13-13; IC 13-14; IC 13-22.

Synopsis: Environmental rules and standards. Prohibits the environmental rules board (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. Allows the board to adopt a rule or standard if: (1) a corresponding regulation or standard established under federal law does not exist; and (2) the rule or standard is adopted under appropriate general or specific statutory authority granted to the board. Prohibits the department of environmental management (department) from enforcing a rule or standard adopted after July 1, 2016, that is more stringent than a corresponding regulation or standard established under federal law unless specific statutory authority is granted to the department to enforce the more stringent rule or standard.

Effective: July 1, 2016.

Wolkins, VanNatter

January 5, 2016, read first time and referred to Committee on Environmental Affairs.
January 28, 2016, amended, reported — Do Pass.

HB 1082—LS 6453/DI 55



January 29, 2016

Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1082

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, 2016]: 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 (c) **The board may adopt a rule or standard if:**
10 (1) **a corresponding regulation or standard established under
11 federal law does not exist; and**
12 (2) **the rule or standard is adopted by the board under
13 appropriate general or specific statutory authority granted to
14 the board.**
15 (d) **If a regulation is established under federal law that is less
16 stringent than a corresponding state rule, the state rule remains in
17 effect until the earlier of the date:**

HB 1082—LS 6453/DI 55



1 **(1) the state rule is amended to conform to the less stringent**
 2 **federal regulation; or**

3 **(2) specific statutory authority is granted to the department**
 4 **to enforce the rule that is more stringent than the federal**
 5 **regulation;**

6 **subject to IC 13-14-8-12.**

7 SECTION 2. IC 13-14-8-12 IS ADDED TO THE INDIANA CODE
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 9 1, 2016]: **Sec. 12. The department may not enforce a rule or**
 10 **standard after July 1, 2016, that is more stringent than a**
 11 **corresponding regulation or standard established under federal**
 12 **law unless specific statutory authority is granted to the department**
 13 **to enforce the more stringent rule or standard as provided in**
 14 **IC 13-13-8-15(d)(2).**

15 SECTION 3. IC 13-14-9-3, AS AMENDED BY P.L.100-2006,
 16 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2016]: Sec. 3. (a) Except as provided in subsection (b), the
 18 department shall provide notice in the Indiana Register of the first
 19 public comment period required by section 2 of this chapter. A notice
 20 provided under this section must do the following:

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

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

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

27 (B) ~~state whether each~~ **attest that no** alternative listed under
 28 clause (A) ~~creates~~ **(i) would create** a restriction or
 29 requirement more stringent than a restriction or requirement
 30 imposed under federal law; ~~or~~

31 ~~(ii)~~ **(C) state whether any alternative listed under clause**
 32 **(A) would create** a restriction or requirement in a subject area
 33 in which federal law does not impose restrictions or
 34 requirements;

35 ~~(E)~~ **(D)** state the extent to which each alternative listed under
 36 clause (A) differs from federal law;

37 ~~(E)~~ **(E)** include any information known to the department
 38 about the potential fiscal impact of each alternative **listed**
 39 under clause (A) that ~~creates: (i) a restriction or requirement~~
 40 **more stringent than a restriction or requirement imposed under**
 41 **federal law; or (ii) would create** a restriction or requirement
 42 in a subject area in which federal law does not impose



- 1 restrictions or requirements; and
 2 ~~(E)~~ (F) set forth the basis for each alternative listed under
 3 clause (A).
 4 (3) Describe the relevant statutory or regulatory requirements or
 5 restrictions relating to the subject matter of the proposed rule that
 6 exist before the adoption of the proposed rule.
 7 (4) Request the submission of alternative ways to achieve the
 8 purpose of the proposed rule.
 9 (5) Request the submission of comments, including suggestions
 10 of specific language for the proposed rule.
 11 (6) Include a detailed statement of the issue to be addressed by
 12 adoption of the proposed rule.
 13 (b) This section does not apply to rules adopted under
 14 IC 13-18-22-2, IC 13-18-22-3, or IC 13-18-22-4.
 15 (c) The notice required under subsection (a) shall be published
 16 electronically in the Indiana Register under procedures established by
 17 the publisher.
 18 SECTION 4. IC 13-14-9-4, AS AMENDED BY P.L.100-2006,
 19 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2016]: Sec. 4. (a) The department shall provide notice in the
 21 Indiana Register of the second public comment period required by
 22 section 2 of this chapter. A notice provided under this section must do
 23 the following:
 24 (1) Contain the full text of the proposed rule, to the extent
 25 required under IC 4-22-2-24(c).
 26 (2) Contain a summary of the response of the department to
 27 written comments submitted under section 3 of this chapter
 28 during the first public comment period.
 29 (3) Request the submission of comments, including suggestions
 30 of specific amendments to the language contained in the proposed
 31 rule.
 32 (4) Contain the full text of the commissioner's written findings
 33 under section 7 of this chapter, if applicable.
 34 (5) Identify each element of the proposed rule that imposes a
 35 restriction or requirement on persons to whom the proposed rule
 36 applies that (A) is more stringent than a restriction or requirement
 37 imposed under federal law; or (B) applies in a subject area in
 38 which federal law does not impose a restriction or requirement.
 39 (6) With respect to each element identified under subdivision (5),
 40 identify:
 41 (A) the environmental circumstance or hazard that dictates the
 42 imposition of the proposed restriction or requirement to



1 protect human health and the environment; **and**
 2 ~~(B) examples in which federal law is inadequate to provide the~~
 3 ~~protection referred to in clause (A); and~~
 4 ~~(C) (B) the:~~

- 5 (i) estimated fiscal impact; and
- 6 (ii) expected benefits;

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

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

- 19 (A) health criteria;
- 20 (B) analytical methods;
- 21 (C) treatment technology;
- 22 (D) economic impact data;
- 23 (E) environmental assessment data;
- 24 (F) analyses of methods to effectively implement the proposed
- 25 rule; and
- 26 (G) other background data.

27 (b) The notice required under subsection (a) shall be published
 28 electronically in the Indiana Register under procedures established by
 29 the publisher.

30 SECTION 5. IC 13-22-2-4 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) The board shall
 32 adopt rules under IC 4-22-2 and IC 13-14-8 on the proper and safe
 33 transportation, treatment, storage, and disposal of hazardous wastes.
 34 Whenever possible, the rules adopted under this section must allow for
 35 variation in Indiana with regard to population density, climate, and
 36 geology.

37 (b) Rules adopted under this section concerning incinerators used
 38 as hazardous waste facilities may **not** establish requirements more
 39 stringent than the requirements for hazardous waste incinerators
 40 established by regulations adopted by the Administrator of the United
 41 States Environmental Protection Agency under the following statutes:

- 42 (1) The federal Resource Conservation and Recovery Act (42



1 U.S.C. 6901 et seq.).
2 (2) The federal Clean Air Act (42 U.S.C. 7401 et seq.), as
3 amended by the federal Clean Air Act Amendments of 1990
4 (P.L.101-549).



COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1082, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 8 and 9, begin a new paragraph and insert:

"(c) The board may adopt a rule or standard if:

(1) a corresponding regulation or standard established under federal law does not exist; and

(2) the rule or standard is adopted by the board under appropriate general or specific statutory authority granted to the board.

(d) If a regulation is established under federal law that is less stringent than a corresponding state rule, the state rule remains in effect until the earlier of the date:

(1) the state rule is amended to conform to the less stringent federal regulation; or

(2) specific statutory authority is granted to the department to enforce the rule that is more stringent than the federal regulation;

subject to IC 13-14-8-12.

SECTION 2. IC 13-14-8-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 12. The department may not enforce a rule or standard after July 1, 2016, that is more stringent than a corresponding regulation or standard established under federal law unless specific statutory authority is granted to the department to enforce the more stringent rule or standard as provided in IC 13-13-8-15(d)(2)."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1082 as introduced.)

WOLKINS

Committee Vote: yeas 7, nays 6.

