

## **IC 13-22-2**

### **Chapter 2. Regulation Generally; Adoption of Specific Rules**

#### **IC 13-22-2-1**

##### **Duty of department to regulate transportation, treatment, storage, and disposal of hazardous waste**

Sec. 1. The department shall regulate and require the proper and safe transportation, treatment, storage, and disposal of hazardous waste that is generated in or transported into Indiana.

*As added by P.L.1-1996, SEC.12.*

#### **IC 13-22-2-2**

##### **Rules to implement chapter**

Sec. 2. The board shall adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter through IC 13-22-8, IC 13-22-11.5, and IC 13-22-13 through IC 13-22-14.

*As added by P.L.1-1996, SEC.12. Amended by P.L.45-1997, SEC.16; P.L.128-1997, SEC.4; P.L.133-2012, SEC.149.*

#### **IC 13-22-2-3**

##### **Criteria for determining; listing; emergency rule**

Sec. 3. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-8 to develop criteria for determining hazardous waste. In developing those criteria, the board shall determine whether any waste to be or being disposed of meets any of the following conditions:

- (1) Presents immediate or persistent hazards to humans or wildlife.
- (2) Is resistant to natural degradation or detoxification.
- (3) Is bioconcentrative, flammable, reactive, toxic, corrosive, or infectious in addition to any other harmful characteristics.

(b) The board shall do the following:

- (1) Compile and maintain a listing of wastes that have been determined to be hazardous:

(A) under the criteria described in subsection (a); or

(B) by regulation of the United States Environmental Protection Agency.

- (2) Issue the listing by adopting rules under IC 4-22-2. However, the board may by resolution adopt an emergency rule under IC 4-22-2-37.1 to declare any waste determined to be hazardous under this section.

(c) The board shall consider actions taken by adjoining states and the federal government for purposes of uniform criteria relating to the listing and delisting of waste under this section.

(d) The commissioner may exclude a waste produced at a particular generating facility from the listing under subsection (b) if the person seeking exclusion of the waste demonstrates to the satisfaction of the commissioner that the waste does not meet any of

the criteria under which the waste was listed as a hazardous waste and:

- (1) the person seeking exclusion has already obtained exclusion of the waste from the listing maintained under 40 CFR 261 by the United States Environmental Protection Agency; or
- (2) if the department has received authority from the United States Environmental Protection Agency to delist waste under 40 CFR 260.20 and 260.22, the person petitions the commissioner to consider the removal of a waste from the listing, and the commissioner follows the authorized procedure for delisting.

(e) The department shall establish a procedure by which a person may petition the commissioner to consider the removal of a specific waste from the lists maintained under subsection (b).

*As added by P.L.1-1996, SEC.12. Amended by P.L.45-1997, SEC.17; P.L.128-1997, SEC.5.*

#### **IC 13-22-2-4**

##### **Rules**

Sec. 4. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-8 on the proper and safe transportation, treatment, storage, and disposal of hazardous wastes. Whenever possible, the rules adopted under this section must allow for variation in Indiana with regard to population density, climate, and geology.

(b) Rules adopted under this section concerning incinerators used as hazardous waste facilities may establish requirements more stringent than the requirements for hazardous waste incinerators established by regulations adopted by the Administrator of the United States Environmental Protection Agency under the following statutes:

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

*As added by P.L.1-1996, SEC.12.*

#### **IC 13-22-2-5**

##### **Hazardous waste facilities; rules**

Sec. 5. The rules adopted by the board concerning the construction and operation of hazardous waste facilities must require, without limitation, the following:

- (1) Provision of contingency plans for effective containment and control of any emergency condition resulting from an unanticipated occurrence.
- (2) Satisfactory proof of the financial capability of the operator and owner of the facility.
- (3) Satisfactory submission of a plan for and financial assurance

of closure and postclosure monitoring and maintenance of the facility.

(4) Access to adequate testing facilities onsite or offsite to verify the chemical and physical characteristics of the hazardous wastes stored, received, or transferred.

(5) Provision and maintenance of liability insurance by the owner or operator through self-insurance or from an insurer licensed or eligible to insure facilities in Indiana for accidental occurrences in accordance with rules of the board.

(6) Corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a hazardous waste facility for which a permit is sought under IC 13-22-3, regardless of the time at which waste was placed in the unit. The rules must provide that, if corrective action as required under this subdivision cannot be completed at the site of a facility before issuance of the permit, the permit must contain schedules of compliance for any required corrective action.

*As added by P.L.1-1996, SEC.12.*

#### **IC 13-22-2-6**

##### **Rules setting standards for closure and postclosure monitoring and maintenance plans**

Sec. 6. The board shall do the following:

(1) Adopt rules under IC 4-22-2 and IC 13-14-9 setting standards for closure and postclosure monitoring and maintenance plans.

(2) Include in the rules a requirement for prior notice of closure and a time limit for completion of closure.

*As added by P.L.1-1996, SEC.12. Amended by P.L.133-2012, SEC.150.*

#### **IC 13-22-2-7**

##### **Rules setting standards for corrective action for release of hazardous waste**

Sec. 7. The board shall adopt rules under IC 4-22-2 and IC 13-14-9 setting standards for corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a hazardous waste facility. The standards must require that corrective action be taken beyond the facility boundary where necessary to protect human health and the environment, unless the owner or operator of the facility concerned demonstrates to the satisfaction of the commissioner that, despite the best efforts of the owner or operator, the owner or operator is unable to obtain the necessary permission to undertake that action. The rules adopted under this section apply to the following:

(1) All facilities operating under permits issued under IC 13-22-3 or IC 13-7-8.5 (before its repeal).

(2) All landfills, surface impoundments, and waste piles, including any new units, replacements of existing units, and lateral expansions of existing units, that receive hazardous waste after July 26, 1982.

*As added by P.L.1-1996, SEC.12. Amended by P.L.133-2012, SEC.151.*