

HOUSE BILL No. 1049

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-8-2; IC 14-37.

Synopsis: Environmental review of hydraulic fracturing. Requires a drilling operator that performs hydraulic fracturing on certain Class II wells to submit an environmental compliance plan to the department of natural resources for review and approval. Requires a drilling operator that performs hydraulic fracturing to disclose chemical constituents used in the hydraulic fracturing process. Requires a drilling operator to disclose proprietary chemical formulas only in the event of a medical emergency.

Effective: July 1, 2011.

Moses

January 5, 2011, read first time and referred to Committee on Natural Resources.

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 2010 Regular Session of the General Assembly.

HOUSE BILL No. 1049

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SOURCE: IC 14-8-2-128.4; (11)IN1049.1.1. --> SECTION 1. IC 14-8-2-128.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 128.4. "Hydraulic fracturing", for purposes of IC 14-37, means the process of creating fractures in underground formations by injecting fluids and propping agents, other than diesel fuel used in the hydraulic fracturing process, under high pressure into a Class II well to allow water or natural gas to flow from the well into the fractures and be pumped to the surface.**

SOURCE: IC 14-8-2-128.6; (11)IN1049.1.2. --> SECTION 2. IC 14-8-2-128.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 128.6. "Hydraulic fracturing process", for purposes of IC 14-37, includes the acquisition of source water, well construction, well stimulation, and waste disposal.**

SOURCE: IC 14-8-2-287; (11)IN1049.1.3. --> SECTION 3. IC 14-8-2-287 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 287. "Underground

injection" **has the following meaning:**

(1) For purposes of IC 14-32-5-4, ~~has~~ the meaning set forth in IC 14-32-5-4.

(2) **For purposes of IC 14-37, the subsurface emplacement of fluids by well injection. The term includes the underground injection of fluids or propping agents pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities. The term does not include the underground injection of natural gas for the purpose of storage.**

SOURCE: IC 14-37-3-5; (11)IN1049.1.4. --> SECTION 4. IC 14-37-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. The commission shall regulate the drilling, casing, operating, **hydraulic fracturing**, plugging, and abandoning of wells and any related fluid storage to prevent the following:

- (1) Waste.
- (2) Fresh water pollution.
- (3) Blowouts.
- (4) Cavings.
- (5) Seepages.
- (6) Fires.
- (7) Unreasonably detrimental effects upon fish, wildlife, and botanical resources.

SOURCE: IC 14-37-3-7; (11)IN1049.1.5. --> SECTION 5. IC 14-37-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. The commission shall regulate the following:

- (1) Drilling.
- (2) Testing.
- (3) Equipping.

(4) Completing.

(5) Producing.

(6) Hydraulic fracturing.

~~(6)~~ (7) All other operations for the production of oil or gas.

SOURCE: IC 14-37-7-1; (11)IN1049.1.6. --> SECTION 6. IC 14-37-7-1, AS AMENDED BY P.L.80-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. The commission may require a person drilling or modifying a well for oil and gas purposes to furnish the following:

(1) A copy of the driller's log and completion report of the well.

(2) A copy of any geophysical or instrumental log.

(3) Drill cuttings or cores.

(4) An environmental compliance plan under IC 14-37-14.

~~(4)~~ (5) Other information required by rule.

SOURCE: IC 14-37-14; (11)IN1049.1.7. --> SECTION 7. IC 14-37-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 14. Hydraulic Fracturing

Sec. 1. (a) A drilling operator that performs or intends to perform hydraulic fracturing on an existing or new Class II well that is subject to the Underground Injection Control Program promulgated under:

(1) Part C of the federal Safe Drinking Water Act (Public Law 95-523, as amended by Public Law 96-502, 42 U.S.C. 300f et seq.) in effect January 1, 1988; and

(2) 40 CFR Parts 124, 144, 145, 146, and 147 Subpart P, in effect January 1, 1988;

shall submit an environmental compliance plan to the department for review and approval before the drilling operator may proceed with the hydraulic fracturing.

(b) An environmental compliance plan must contain at least the following information:

(1) Well location and total depth.

(2) A list of injection fluids and propping agents used in the hydraulic fracturing process.

(3) Subject to section 4 of this chapter, the chemical constituents and additives used in, and wastes generated during, the hydraulic fracturing process.

(4) A detailed geographic analysis of the well and its surrounding area, including the rock type and the direction and magnitude of regional tectonic stresses.

(5) The results of any predrilling or prealteration survey performed on the well with respect to the hydraulic fracturing process.

(6) An analysis of whether the proposed hydraulic fracturing process will pollute or otherwise endanger the water or land in Indiana.

The department may require the submission of additional information.

Sec. 2. (a) The department shall consider the following criteria when reviewing an environmental compliance plan:

(1) The impact of the hydraulic fracturing process on the drilling operator's compliance with the federal Safe Drinking Water Act (Public Law 95-523, as amended by Public Law 96-502, 42 U.S.C. 300f et seq.).

(2) Whether the hydraulic fracturing process will pollute or

otherwise endanger the water or land in Indiana.

(b) The department may consider additional criteria.

(c) The department shall use in its review data, maps, and other publications made available by the Indiana geological survey.

Sec. 3. (a) If the department determines that an environmental compliance plan satisfies its criteria, the department shall approve the environmental compliance plan.

(b) If the department determines that an environmental compliance plan does not satisfy its criteria, the department shall disapprove the environmental compliance plan.

(c) A drilling operator may amend and resubmit an environmental compliance plan that is disapproved under subsection (b).

Sec. 4. (a) As part of the environmental compliance plan submitted to the department under section 2 of this chapter, a drilling operator shall disclose:

(1) the chemical constituents and additives used in; and

(2) the wastes generated during;

the fracturing process. However, a drilling operator is not required to submit to the department a proprietary chemical formula or the specific chemical identity of a trade secret chemical except as provided in subsection (b).

(b) If the department or an agent of the department, including a medical services professional, determines that:

(1) a medical emergency exists; and

(2) the proprietary chemical formula or specific chemical identity of a trade secret chemical is necessary for emergency or first aid treatment;

a drilling operator shall immediately disclose to the department or its agent, as applicable, the proprietary chemical formula or specific chemical identity, as applicable. The department shall establish a procedure by which a drilling operator may comply with this subsection.

(c) The department shall publish the information received under subsection (a) on the department's Internet web site.

Sec. 5. (a) The department may adopt rules under IC 4-22-2 to implement this chapter, including a rule requiring periodic updates of an environmental compliance plan approved under section 3 of this chapter.

(b) A rule or regulation adopted under this section may not conflict with the federal Safe Drinking Water Act (42 U.S.C. 300) and its implementing regulations.

Sec. 6. (a) Not later than December 31, 2013, the department shall review the department's rules to determine if any rules require repeal or amendment to comply with this chapter and other amendments made to this article in 2011.

(b) If the department determines that a rule requires repeal or amendment under subsection (a), the department shall repeal or amend the rule.

(c) This section expires January 1, 2014.