



April 5, 2011

**ENGROSSED
SENATE BILL No. 433**

DIGEST OF SB 433 (Updated March 31, 2011 10:20 am - DI 69)

Citations Affected: IC 13-11; IC 13-13; IC 13-14; IC 13-15; IC 13-17; IC 13-18; IC 13-20; IC 13-20.5; IC 13-21; IC 13-23; IC 13-25; IC 32-21; IC 36-1; IC 36-2; IC 36-3; IC 36-4; IC 36-5; IC 36-7.

Synopsis: Environmental issues. Expands the duties of solid waste management districts to include the implementation of educational programs for the public concerning reuse and recycling of electronic waste, collection programs, and proper disposal of electronic waste. Provides that the electronic digital signature act does not apply to the department of environmental management (IDEM). Amends definitions of "owner" and "operator" and defines "foreclosure" to delineate exceptions from potential liability for cleanup that: (1) are consistent with federal law under underground storage tank, petroleum facility, and hazardous substance facility statutes; and (2) apply to lenders that foreclose on sites at which they did not participate in management before foreclosure and that undertake certain enumerated activities after foreclosure. Replaces the undefined term "sanitary landfill" with "solid waste landfill". Establishes deadlines for action by IDEM on various permit applications with respect to certain solid
(Continued next page)

Effective: Upon passage; July 1, 2011.

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Gard, Charbonneau, Buck
(HOUSE SPONSOR — WOLKINS)

January 12, 2011, read first time and referred to Committee on Energy and Environmental Affairs.
February 3, 2011, reported favorably — Do Pass.
February 7, 2011, read second time, amended, ordered engrossed.
February 8, 2011, engrossed.
February 10, 2011, read third time, passed. Yeas 49, nays 0.
HOUSE ACTION
March 28, 2011, read first time and referred to Committee on Environmental Affairs.
April 5, 2011, amended, reported — Do Pass.

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waste processing facilities. Expands the grounds on which the commissioner of IDEM may suspend or revoke a drinking water or wastewater operator certification. For purposes of wastewater management statutes, replaces the term "wastewater" with "septage". Provides that wastewater management statutes apply to land application of septage. Removes the limitation on the number of landfill inspectors IDEM may designate. Provides that an environmental restrictive ordinance (ERO) is an ordinance adopted by a municipal corporation that seeks to control the use of groundwater in a manner and to a degree that protects human health and the environment against unacceptable exposure to a release of hazardous substances, petroleum, or both. Requires IDEM to give written notice to a municipal corporation that the department is relying on an ERO adopted by the municipal corporation as part of a risk based remediation proposal. Requires a municipal corporation to notify IDEM of adoption, repeal, or amendment of an ERO only if the municipal corporation received that written notice. Allows, in streamlined rulemaking processes, the adoption of a proposed rule with amendments at the public hearing, and requires that the amendments meet logical outgrowth requirements. Modifies the deductible for claims against the underground petroleum storage tank excess liability trust fund by certain underground storage tank owners. Requires disclosure in the residential real estate sales disclosure form of known contamination caused by the manufacture of a controlled substance on the property that has not been certified as decontaminated by an approved environmental inspector. Provides that an owner or agent is required to disclose to a transferee any knowledge of a psychologically affected property in a real estate transaction if the transferred property is listed on the Indiana criminal justice institute's methamphetamine registry web site. Requires the environmental quality service council to study in 2011 each program administered by IDEM for which the annual revenue generated by the program exceeds IDEM's annual cost to administer the program. Authorizes IDEM to administer certain federal programs. Repeals a provision concerning air pollution control board permit or registration exemptions. Eliminates the northwest Indiana advisory board. Provides that for purposes of rules adopted by the air pollution control board, until April 1, 2012, a reference to "chemical process plants" does not include an ethanol production operation that: (1) produces ethanol by natural fermentation after July 2, 2007; and (2) is included in the North American Industry Classification System (NAICS) code 325193 (Ethyl Alcohol Manufacturing) or 312140 (Distilleries), as described in 72 FR 24059 (May 1, 2007). Provides that certain environmental rulemaking procedures do not apply to a proposed rule that constitutes an amendment to an existing Indiana rule if the primary and intended purpose of the rule is to clarify the existing rule.

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April 5, 2011

First Regular Session 117th General Assembly (2011)

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.

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ENGROSSED SENATE BILL No. 433

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 13-11-2-17, AS AMENDED BY P.L.2-2005,
 2 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2011]: Sec. 17. (a) "Board", except as provided in subsections
 4 (b) through (i); **(h)**, refers to:
 5 (1) the air pollution control board;
 6 (2) the water pollution control board; or
 7 (3) the solid waste management board.
 8 ~~(b)~~ "Board", for purposes of IC 13-13-6, refers to the northwest
 9 Indiana advisory board.
 10 ~~(c)~~ **(b)** "Board", for purposes of IC 13-17, refers to the air pollution
 11 control board.
 12 ~~(d)~~ **(c)** "Board", for purposes of IC 13-18, refers to the water
 13 pollution control board.
 14 ~~(e)~~ **(d)** "Board", for purposes of:
 15 (1) IC 13-19;

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- 1 (2) IC 13-20;
- 2 (3) IC 13-22;
- 3 (4) IC 13-23, except IC 13-23-11;
- 4 (5) IC 13-24; and
- 5 (6) IC 13-25;

6 refers to the solid waste management board.

7 (f) (e) "Board", for purposes of IC 13-21, refers to the board of
8 directors of a solid waste management district.

9 (g) (f) "Board", for purposes of IC 13-23-11, refers to the
10 underground storage tank financial assurance board.

11 (h) (g) "Board", for purposes of IC 13-26, refers to the board of
12 trustees of a regional water, sewage, or solid waste district.

13 (i) (h) "Board", for purposes of IC 13-27 and IC 13-27.5, refers to
14 the clean manufacturing technology board.

15 SECTION 2. IC 13-11-2-71.2, AS ADDED BY P.L.78-2009,
16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 UPON PASSAGE]: Sec. 71.2. "Environmental restrictive ordinance"
18 means, with respect to land, any ordinance that:

19 (1) is adopted by a municipal corporation (as defined in
20 IC 36-1-2-10); and

21 (2) ~~limits, regulates, or prohibits any of the following with respect~~
22 ~~to seeks to control the use of~~ groundwater

23 (A) ~~Withdrawal.~~

24 (B) ~~Human consumption.~~

25 (C) ~~Any other use.~~

26 **in a manner and to a degree that protects human health and**
27 **the environment against unacceptable exposure to a release of**
28 **hazardous substances or petroleum, or both.**

29 SECTION 3. IC 13-11-2-85.6 IS ADDED TO THE INDIANA
30 CODE AS A NEW SECTION TO READ AS FOLLOWS
31 [EFFECTIVE UPON PASSAGE]: Sec. 85.6. "Foreclosure", for
32 purposes of sections 148(e)(2), 150(c), and 151(e) of this chapter,
33 means the acquisition of a vessel or facility for purposes of
34 IC 13-25-4-8(c), an underground storage tank for purposes of
35 IC 13-23-13, or a petroleum facility for purposes of IC 13-24-1
36 through any of the following:

37 (1) If the vessel or facility, underground storage tank, or
38 petroleum facility was security for an extension of credit
39 previously contracted:

40 (A) purchase at sale under a judgment or decree, power of
41 sale, or nonjudicial foreclosure;

42 (B) a deed in lieu of foreclosure or a similar conveyance

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- 1 **from a trustee; or**
- 2 **(C) repossession.**
- 3 **(2) Conveyance under an extension of credit previously**
- 4 **contracted, including the termination of a lease agreement.**
- 5 **(3) Any other formal or informal manner by which the person**
- 6 **acquires, for subsequent disposition, title to or possession of**
- 7 **a vessel or facility, underground storage tank, or petroleum**
- 8 **facility in order to protect the security interest of the person.**

9 SECTION 4. IC 13-11-2-148, AS AMENDED BY P.L.78-2009,
 10 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 UPON PASSAGE]: Sec. 148. (a) "Operator", for purposes of
 12 IC 13-18-10, means the person in direct or responsible charge or
 13 control of one (1) or more confined feeding operations.

14 (b) "Operator", for purposes of IC 13-18-11 and environmental
 15 management laws, means the person in direct or responsible charge and
 16 supervising the operation of:

- 17 (1) a water treatment plant;
- 18 (2) a wastewater treatment plant; or
- 19 (3) a water distribution system.

20 (c) "Operator", for purposes of IC 13-20-6, means a corporation, a
 21 limited liability company, a partnership, a business association, a unit,
 22 or an individual who is a sole proprietor that is one (1) of the following:

- 23 (1) A broker.
- 24 (2) A person who manages the activities of a transfer station that
 25 receives municipal waste.
- 26 (3) A transporter.

27 (d) "Operator", for purposes of IC 13-23, except as provided in
 28 subsections (e), (g), and (h), means a person:

- 29 (1) in control of; or
 - 30 (2) having responsibility for;
- 31 the daily operation of an underground storage tank.

32 (e) "Operator", for purposes of IC 13-23-13, does not include the
 33 following:

- 34 (1) A person who:
 - 35 (A) does not participate in the management of an underground
 36 storage tank;
 - 37 (B) is otherwise not engaged in the:
 - 38 (i) production;
 - 39 (ii) refining; and
 - 40 (iii) marketing;
 - 41 of regulated substances; and
 - 42 (C) holds evidence of ownership, primarily to protect the

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owner's security interest in the tank.

(2) A person that is a lender that did not participate in management of an underground storage tank before foreclosure, notwithstanding that the person:

- (A) forecloses on the vessel or facility; and**
- (B) after foreclosure, sells, re-leases (in the case of a lease finance transaction), or liquidates the underground storage tank, maintains business activities, winds up operations, undertakes a response action under Section 107(d)(1) of CERCLA (42 U.S.C. 9607(d)(1)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan with respect to the underground storage tank, or takes any other measure to preserve, protect, or prepare the underground storage tank prior to sale or disposition;**

if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the underground storage tank at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.

~~(2)~~ **(3) A person who:**

- (A) does not own or lease, directly or indirectly, the facility or business at which the underground storage tank is located;**
- (B) does not participate in the management of the facility or business described in clause (A); and**
- (C) is engaged only in:**
 - (i) filling;**
 - (ii) gauging; or**
 - (iii) filling and gauging;**

the product level in the course of delivering fuel to an underground storage tank.

~~(3)~~ **(4) A political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that:**

- (A) acquires ownership or control of an underground storage tank on a brownfield because of:**
 - (i) bankruptcy;**
 - (ii) foreclosure;**
 - (iii) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;**
 - (iv) abandonment;**
 - (v) the exercise of eminent domain, including any purchase**

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1 of property once an offer to purchase has been tendered
 2 under IC 32-24-1-5;
 3 (vi) receivership;
 4 (vii) transfer from another political subdivision or unit of
 5 federal or state government;
 6 (viii) acquiring an area needing redevelopment (as defined
 7 in IC 36-7-1-3) or conducting redevelopment activities,
 8 specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,
 9 IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and
 10 IC 36-7-15.1-15.5;
 11 (ix) other circumstances in which the political subdivision
 12 or unit of federal or state government involuntarily acquired
 13 an interest in the property because of the political
 14 subdivision's or unit's function as sovereign; or
 15 (x) any other means to conduct remedial actions on a
 16 brownfield; and
 17 (B) is engaged only in activities in conjunction with:
 18 (i) investigation or remediation of hazardous substances,
 19 petroleum, and other pollutants associated with a
 20 brownfield, including complying with land use restrictions
 21 and institutional controls; or
 22 (ii) monitoring or closure of an underground storage tank;
 23 unless existing contamination on the brownfield is exacerbated
 24 due to gross negligence or intentional misconduct by the
 25 political subdivision or unit of federal or state government.
 26 (f) For purposes of subsection (e)(3)(B), reckless, willful, or wanton
 27 misconduct constitutes gross negligence.
 28 (g) "Operator" does not include a person that after June 30, 2009,
 29 meets, for purposes of the determination under IC 13-23-13 of liability
 30 for a release from an underground storage tank, the exemption criteria
 31 under Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for
 32 purposes of the determination of liability for a release of a hazardous
 33 substance.
 34 (h) "Operator" does not include a person that meets, for purposes of
 35 the determination under IC 13-23-13 of liability for a release from an
 36 underground storage tank, the exemption criteria under Section 107(r)
 37 of CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the
 38 determination of liability for a release of a hazardous substance, except
 39 that the person acquires ownership of the facility after June 30, 2009.
 40 SECTION 5. IC 13-11-2-150, AS AMENDED BY P.L.78-2009,
 41 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 UPON PASSAGE]: Sec. 150. (a) "Owner", for purposes of IC 13-23

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1 (except as provided in subsections (b), (c), (d), (e), ~~and (f)~~ **and (g)**
2 means:
3 (1) for an underground storage tank that:
4 (A) was:
5 (i) in use on November 8, 1984; or
6 (ii) brought into use after November 8, 1984;
7 for the storage, use, or dispensing of regulated substances, a
8 person who owns the underground storage tank **or the real**
9 **property that is the underground storage tank site, or**
10 **both;** or
11 (B) ~~is:~~ **was:**
12 (i) in use before November 8, 1984; but
13 (ii) no longer in use on November 8, 1984;
14 a person who owned the tank immediately before the
15 discontinuation of the tank's use; or
16 (2) a person who conveyed ownership or control of the
17 underground storage tank to a political subdivision (as defined in
18 IC 36-1-2-13) or unit of federal or state government because of:
19 (A) bankruptcy;
20 (B) foreclosure;
21 (C) tax delinquency, including a conveyance under
22 IC 6-1.1-24 or IC 6-1.1-25;
23 (D) abandonment;
24 (E) the exercise of eminent domain, including any purchase of
25 property once an offer to purchase has been tendered under
26 IC 32-24-1-5;
27 (F) receivership;
28 (G) acquiring an area needing redevelopment (as defined in
29 IC 36-7-1-3) or conducting redevelopment activities,
30 specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,
31 IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
32 (H) other circumstances in which a political subdivision or
33 unit of federal or state government involuntarily acquired
34 ownership or control because of the political subdivision's or
35 unit's function as sovereign; or
36 (I) any other means to conduct remedial actions on a
37 brownfield;
38 if the person was a person described in subdivision (1)
39 immediately before the person conveyed ownership or control of
40 the underground storage tank.
41 (b) "Owner", for purposes of IC 13-23-13, does not include a person
42 who:

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- 1 (1) does not participate in the management of an underground
- 2 storage tank;
- 3 (2) is otherwise not engaged in the:
- 4 (A) production;
- 5 (B) refining; and
- 6 (C) marketing;
- 7 of regulated substances; and
- 8 (3) holds indicia of ownership primarily to protect the owner's
- 9 security interest in the tank.

10 (c) "Owner", for purposes of IC 13-23, does not include a
 11 person that is a lender that did not participate in management of
 12 an underground storage tank before foreclosure, notwithstanding
 13 that the person:

- 14 (1) forecloses on the underground storage tank; and
- 15 (2) after foreclosure, sells, re-leases (in the case of a lease
- 16 finance transaction), or liquidates the underground storage
- 17 tank, maintains business activities, winds up operations,
- 18 undertakes a response action under Section 107(d)(1) of
- 19 CERCLA (42 U.S.C. 9607(d)(1)) or under the direction of an
- 20 on-scene coordinator appointed under the National
- 21 Contingency Plan with respect to the underground storage
- 22 tank, or takes any other measure to preserve, protect, or
- 23 prepare the underground storage tank prior to sale or
- 24 disposition;

25 if the person seeks to sell, re-lease (in the case of a lease finance
 26 transaction), or otherwise divest the person of the underground
 27 storage tank at the earliest practicable, commercially reasonable
 28 time, on commercially reasonable terms, taking into account
 29 market conditions and legal and regulatory requirements.

30 (d) "Owner", for purposes of IC 13-23, does not include a
 31 political subdivision (as defined in IC 36-1-2-13) or unit of federal or
 32 state government that acquired ownership or control of an underground
 33 storage tank because of:

- 34 (1) bankruptcy;
- 35 (2) foreclosure;
- 36 (3) tax delinquency, including an acquisition under IC 6-1.1-24 or
- 37 IC 6-1.1-25;
- 38 (4) abandonment;
- 39 (5) the exercise of eminent domain, including any purchase of
- 40 property once an offer to purchase has been tendered under
- 41 IC 32-24-1-5;
- 42 (6) receivership;

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- 1 (7) transfer from another political subdivision or unit of federal or
- 2 state government;
- 3 (8) acquiring an area needing redevelopment (as defined in
- 4 IC 36-7-1-3) or conducting redevelopment activities, specifically
- 5 under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1,
- 6 IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
- 7 (9) other circumstances in which the political subdivision or unit
- 8 of federal or state government involuntarily acquired ownership
- 9 or control because of the political subdivision's or unit's function
- 10 as sovereign; or
- 11 (10) any other means to conduct remedial actions on a
- 12 brownfield;

13 unless the political subdivision or unit of federal or state government
 14 causes or contributes to the release or threatened release of a regulated
 15 substance, in which case the political subdivision or unit of federal or
 16 state government is subject to IC 13-23 in the same manner and to the
 17 same extent as a nongovernmental entity under IC 13-23.

18 ~~(d)~~ (e) "Owner", for purposes of IC 13-23, does not include a
 19 nonprofit corporation that acquired ownership or control of an
 20 underground storage tank to assist and support a political subdivision's
 21 revitalization and reuse of a brownfield for noncommercial purposes,
 22 including conservation, preservation, and recreation, unless the
 23 nonprofit corporation causes or contributes to the release or threatened
 24 release of a regulated substance, in which case the nonprofit
 25 corporation is subject to IC 13-23 in the same manner and to the same
 26 extent as any other nongovernmental entity under IC 13-23.

27 ~~(e)~~ (f) "Owner" does not include a person that after June 30, 2009,
 28 meets, for purposes of the determination under IC 13-23-13 of liability
 29 for a release from an underground storage tank, the exemption criteria
 30 under Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for
 31 purposes of the determination of liability for a release of a hazardous
 32 substance.

33 ~~(f)~~ (g) "Owner" does not include a person that meets, for purposes
 34 of the determination under IC 13-23-13 of liability for a release from
 35 an underground storage tank, the exemption criteria under Section
 36 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the
 37 determination of liability for a release of a hazardous substance, except
 38 that the person acquires ownership of the facility after June 30, 2009.

39 SECTION 6. IC 13-11-2-151, AS AMENDED BY P.L.78-2009,
 40 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 UPON PASSAGE]: Sec. 151. (a) "Owner or operator", for purposes of
 42 IC 13-24-1, means the following:

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- 1 (1) For a petroleum facility, a person who owns or operates the
- 2 facility.
- 3 (2) For a petroleum facility where title or control has been
- 4 conveyed because of:
 - 5 (A) bankruptcy;
 - 6 (B) foreclosure;
 - 7 (C) tax delinquency, including a conveyance under
 - 8 IC 6-1.1-24 or IC 6-1.1-25;
 - 9 (D) abandonment;
 - 10 (E) the exercise of eminent domain, including any purchase of
 - 11 property once an offer to purchase has been tendered under
 - 12 IC 32-24-1-5;
 - 13 (F) receivership;
 - 14 (G) acquiring an area needing redevelopment (as defined in
 - 15 IC 36-7-1-3) or conducting redevelopment activities,
 - 16 specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,
 - 17 IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
 - 18 (H) other circumstances in which a political subdivision (as
 - 19 defined in IC 36-1-2-13) or unit of federal or state government
 - 20 involuntarily acquired title or control because of the political
 - 21 subdivision's or unit's function as sovereign; or
 - 22 (I) any other means to conduct remedial actions on a
 - 23 brownfield;
 - 24 to a political subdivision or unit of federal or state government, a
 - 25 person who owned, operated, or otherwise controlled the
 - 26 petroleum facility immediately before title or control was
 - 27 conveyed.
 - 28 (b) Subject to subsection (c), the term does not include a political
 - 29 subdivision or unit of federal or state government that acquired
 - 30 ownership or control of the facility through:
 - 31 (1) bankruptcy;
 - 32 (2) foreclosure;
 - 33 (3) tax delinquency, including an acquisition under IC 6-1.1-24 or
 - 34 IC 6-1.1-25;
 - 35 (4) abandonment;
 - 36 (5) the exercise of eminent domain, including any purchase of
 - 37 property once an offer to purchase has been tendered under
 - 38 IC 32-24-1-5;
 - 39 (6) receivership;
 - 40 (7) transfer from another political subdivision or unit of federal or
 - 41 state government;
 - 42 (8) acquiring an area needing redevelopment (as defined in

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1 IC 36-7-1-3) or conducting redevelopment activities, specifically
 2 under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1,
 3 IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
 4 (9) other circumstances in which the political subdivision or unit
 5 of federal or state government involuntarily acquired ownership
 6 or control because of the political subdivision's or unit's function
 7 as sovereign; or
 8 (10) any other means to conduct remedial actions on a brownfield.
 9 (c) The term includes a political subdivision or unit of federal or
 10 state government that causes or contributes to the release or threatened
 11 release of a regulated substance, in which case the political subdivision
 12 or unit of federal or state government is subject to IC 13-24-1:
 13 (1) in the same manner; and
 14 (2) to the same extent;
 15 as a nongovernmental entity under IC 13-24-1.
 16 (d) The term does not include a person who:
 17 (1) does not participate in the management of a petroleum facility;
 18 (2) is otherwise not engaged in the:
 19 (A) production;
 20 (B) refining; and
 21 (C) marketing;
 22 of petroleum; and
 23 (3) holds evidence of ownership in a petroleum facility, primarily
 24 to protect the owner's security interest in the petroleum facility.
 25 **(e) The term does not include a person that is a lender that did**
 26 **not participate in management of a petroleum facility before**
 27 **foreclosure, notwithstanding that the person:**
 28 **(1) forecloses on the petroleum facility; and**
 29 **(2) after foreclosure, sells, re-leases (in the case of a lease**
 30 **finance transaction), or liquidates the petroleum facility,**
 31 **maintains business activities, winds up operations, undertakes**
 32 **a response action under Section 107(d)(1) of CERCLA (42**
 33 **U.S.C. 9607(d)(1)) or under the direction of an on-scene**
 34 **coordinator appointed under the National Contingency Plan**
 35 **with respect to the petroleum facility, or takes any other**
 36 **measure to preserve, protect, or prepare the petroleum**
 37 **facility prior to sale or disposition;**
 38 **if the person seeks to sell, re-lease (in the case of a lease finance**
 39 **transaction), or otherwise divest the person of the petroleum**
 40 **facility at the earliest practicable, commercially reasonable time,**
 41 **on commercially reasonable terms, taking into account market**
 42 **conditions and legal and regulatory requirements.**

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1 (f) The term does not include a nonprofit corporation that
2 acquired ownership or control of a facility to assist and support a
3 political subdivision's revitalization and reuse of a brownfield for
4 noncommercial purposes, including conservation, preservation, and
5 recreation, unless the nonprofit corporation causes or contributes to the
6 release or threatened release of a regulated substance, in which case the
7 nonprofit corporation is subject to IC 13-24-1 in the same manner and
8 to the same extent as any other nongovernmental entity under
9 IC 13-24-1.

10 (g) The term does not include a person that after June 30, 2009,
11 meets, for purposes of the determination under IC 13-24-1 of liability
12 for a release of petroleum, the exemption criteria under Section 107(q)
13 of CERCLA (42 U.S.C. 9607(q)) that apply for purposes of the
14 determination of liability for a release of a hazardous substance.

15 (h) The term does not include a person that meets, for purposes
16 of the determination under IC 13-24-1 of liability for a release of
17 petroleum, the exemption criteria under Section 107(r) of CERCLA (42
18 U.S.C. 9607(r)) that apply for purposes of the determination of liability
19 for a release of a hazardous substance, except that the person acquires
20 ownership of the facility after June 30, 2009.

21 SECTION 7. IC 13-11-2-167 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 167. "Portable sanitary
23 unit", for purposes of ~~IC 13-18-12~~, **this chapter**, includes the
24 following:

- 25 (1) Portable toilets.
- 26 (2) Mobile restrooms.
- 27 (3) Similar devices or equipment of a portable nature containing
28 sanitary facilities for temporary or short term use.

29 SECTION 8. IC 13-11-2-199.2 IS ADDED TO THE INDIANA
30 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
31 [EFFECTIVE JULY 1, 2011]: **Sec. 199.2. "Septage", for purposes of**
32 **this chapter and IC 13-18-12, means the following:**

- 33 **(1) The following from sewage disposal systems:**
 - 34 **(A) Human excreta.**
 - 35 **(B) Water.**
 - 36 **(C) Scum.**
 - 37 **(D) Sludge.**
 - 38 **(E) Sewage.**
 - 39 **(F) Incidental or accidental seepage.**
- 40 **(2) Retained contents of sewage holding tanks and portable**
41 **sanitary units.**
- 42 **(3) Grease, fats, and retained wastes from grease traps or**

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interceptors.

(4) Human wastes carried in liquid from ordinary living processes.

SECTION 9. IC 13-11-2-199.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 199.3. "Septage management", for purposes of IC 13-18-12, includes the following:**

(1) The cleaning of sewage disposal systems.

(2) The transportation, storage, treatment, or disposal of septage.

SECTION 10. IC 13-11-2-201 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 201. "Sewage disposal system", for purposes of **this chapter, IC 13-18-12, and IC 13-20-17.5**, means septic tanks, ~~wastewater~~ **septage** holding tanks, seepage pits, cesspools, privies, composting toilets, interceptors or grease traps, portable sanitary units, and other equipment, facilities, or devices used to:

- (1) store;
- (2) treat;
- (3) make inoffensive; or
- (4) dispose of;

human excrement or liquid carrying wastes of a domestic nature.

SECTION 11. IC 13-11-2-208 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 208. "Solid waste landfill", for purposes of IC 13-20-9, ~~IC 13-20-21-6~~, **IC 13-20-21**, and IC 13-22-9, means a solid waste disposal facility at which solid waste is deposited on or beneath the surface of the ground as an intended place of final location.

SECTION 12. IC 13-11-2-258 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 258. "Wastewater treatment plant", for purposes of IC 13-18-11, **IC 13-20-17.5**, and environmental management laws, means the system of treatment works, regulatory devices, equipment, and other facilities and appurtenances installed to treat sewage, industrial wastes, and other wastes delivered by a system of sewers and other related facilities, whether owned or operated by the state, a municipality, or a person, firm, or corporation. The term does not include septic tank disposal systems.

SECTION 13. IC 13-13-7-9, AS AMENDED BY P.L.178-2009, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The council shall do the following:

- (1) Study:

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- 1 (A) issues designated by the legislative council;
- 2 **(B) in 2011, each program administered by the department**
- 3 **for which the program's annual cost of administration**
- 4 **exceeds the annual revenue generated by the program and**
- 5 **evaluate whether to recommend measures to reduce or**
- 6 **eliminate the excess cost; and**
- 7 ~~(B)~~ **(C) the following in 2012:**
 - 8 (i) The effectiveness of the electronic waste provisions of
 - 9 IC 13-20.5.
 - 10 (ii) Appropriate guidelines for the Indiana recycling market
 - 11 development board for determining under IC 13-20.5-2-2
 - 12 whether a manufacturer has made good faith progress to
 - 13 achieve substantial compliance with IC 13-20.5.
- 14 (2) Advise the commissioner on policy issues decided on by the
- 15 council.
- 16 (3) Review the mission and goals of the department and evaluate
- 17 the implementation of the mission.
- 18 (4) Serve as a council of the general assembly to evaluate:
 - 19 (A) resources and structural capabilities of the department to
 - 20 meet the department's priorities; and
 - 21 (B) program requirements and resource requirements for the
 - 22 department.
- 23 (5) Serve as a forum for citizens, the regulated community, and
- 24 legislators to discuss broad policy directions.
- 25 (6) Submit a final report to the legislative council, in an electronic
- 26 format under IC 5-14-6, that contains at least the following:
 - 27 (A) An outline of activities of the council.
 - 28 (B) Recommendations for department action.
 - 29 (C) Recommendations for legislative action.

30 SECTION 14. IC 13-14-9-2 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. Except as provided
 32 in sections 4.5, 7, ~~and 8,~~ **and 14** of this chapter, a board may not adopt
 33 a rule under this chapter until the board has conducted at least two (2)
 34 public comment periods, each of which must be at least thirty (30) days
 35 in length.

36 SECTION 15. IC 13-14-9-8, AS AMENDED BY P.L.204-2007,
 37 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2011]: Sec. 8. (a) **Except as provided in subsection (g),**
 39 unless a board determines that a proposed rule should be subject to
 40 additional comments or makes a determination described in subsection
 41 (f), sections 2 through 7 and sections 9 through 14 of this chapter do
 42 not apply to a rulemaking action if the commissioner determines that:

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- 1 (1) the proposed rule constitutes:
 2 (A) an adoption or incorporation by reference of a federal law,
 3 regulation, or rule that:
 4 (i) is or will be applicable to Indiana; and
 5 (ii) contains no amendments that have a substantive effect
 6 on the scope or intended application of the federal law or
 7 rule;
 8 (B) a technical amendment with no substantive effect on an
 9 existing Indiana rule; or
 10 (C) ~~a substantive an~~ amendment to an existing Indiana rule,
 11 the primary and intended purpose of which is to clarify the
 12 existing rule; and
 13 (2) the proposed rule is of such nature and scope that there is no
 14 reasonably anticipated benefit to the environment or the persons
 15 referred to in section 7(a)(2) of this chapter from the following:
 16 (A) Exposing the proposed rule to diverse public comment
 17 under section 3 or 4 of this chapter.
 18 (B) Affording interested or affected parties the opportunity to
 19 be heard under section 3 or 4 of this chapter.
 20 (C) Affording interested or affected parties the opportunity to
 21 develop evidence in the record collected under sections 3 and
 22 4 of this chapter.
 23 (b) If the commissioner makes a determination under subsection (a),
 24 the commissioner shall prepare written findings under this section. The
 25 full text of the commissioner's written findings shall be included in:
 26 (1) the notice of adoption of the proposed rule; and
 27 (2) the written materials to be considered by the board at the
 28 public hearing held under this section.
 29 (c) The notice of adoption of a proposed rule under this section
 30 must:
 31 (1) be published in the Indiana Register; and
 32 (2) include the following:
 33 (A) Draft rule language that includes the language described
 34 in subsection (a)(1).
 35 (B) A written comment period of at least thirty (30) days.
 36 (C) A notice of public hearing before the appropriate board.
 37 (d) The department shall include the following in the written
 38 materials to be considered by the board at the public hearing referred
 39 to in subsection (c):
 40 (1) The full text of the proposed rule as most recently prepared by
 41 the department.
 42 (2) Written responses of the department to written comments

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1 received during the comment period referred to in subsection (c).
 2 (3) The commissioner's findings under subsection (b).
 3 (e) At the public hearing referred to in subsection (c), the board
 4 may:
 5 (1) adopt the proposed rule;
 6 **(2) adopt the proposed rule with amendments;**
 7 ~~(2) (3)~~ reject the proposed rule;
 8 ~~(3) (4)~~ determine that additional public comment is necessary; or
 9 ~~(4) (5)~~ determine to reconsider the proposed rule at a subsequent
 10 board meeting.
 11 (f) If the board determines under subsection (e) that additional
 12 public comment is necessary, the department shall publish a second
 13 notice in accordance with section 4 of this chapter and complete the
 14 rulemaking in accordance with this chapter.
 15 **(g) If the board adopts the proposed rule with amendments**
 16 **under subsection (e)(2), the amendments must meet the logical**
 17 **outgrowth requirements of section 10 of this chapter, except that**
 18 **the board, in determining whether the amendments are a logical**
 19 **outgrowth of comments provided to the board, and in considering**
 20 **whether the language of comments provided to the board fairly**
 21 **apprised interested persons of the specific subjects and issues**
 22 **contained in the amendments, shall consider the comments**
 23 **provided to the board at the public hearing referred to in**
 24 **subsection (c)(2)(C).**
 25 SECTION 16. IC 13-14-9-14, AS ADDED BY P.L.100-2006,
 26 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2011]: Sec. 14. (a) **Except as provided in subsection (g),**
 28 sections 1 through 13 of this chapter do not apply to a rule adopted
 29 under this section.
 30 (b) The water pollution control board may use the procedures in this
 31 section to adopt a rule to establish new water quality standards for a
 32 community served by a combined sewer that has:
 33 (1) an approved long term control plan; and
 34 (2) an approved use attainability analysis that supports the use of
 35 a CSO wet weather limited use subcategory established under
 36 IC 13-18-3-2.5.
 37 (c) After the department approves the long term control plan and use
 38 attainability analysis, the department shall publish in the Indiana
 39 Register a notice of adoption of a proposed rule to establish a CSO wet
 40 weather limited use subcategory for the area defined by the approved
 41 use attainability analysis.
 42 (d) The notice under subsection (c) must include the following:

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1 (1) Suggested rule language that amends the designated use to
 2 allow for a CSO wet weather limited use subcategory in
 3 accordance with IC 13-18-3-2.5.
 4 (2) A written comment period of at least thirty (30) days.
 5 (3) A notice of public hearing before the water pollution control
 6 board.
 7 (e) The department shall include the following in the written
 8 materials to be considered by the water pollution control board at the
 9 public hearing referred to in subsection (d)(3):
 10 (1) The full text of the proposed rule as most recently prepared by
 11 the department.
 12 (2) Written responses of the department to written comments
 13 received during the comment period referred to in subsection
 14 (d)(2).
 15 (3) The letter prepared by the department approving the long term
 16 control plan and use attainability analysis.
 17 (f) At the public hearing referred to in subsection (d)(3), the board
 18 may:
 19 (1) adopt the proposed rule to establish a new water quality
 20 standard amending the designated use to allow for a CSO wet
 21 weather limited use subcategory;
 22 **(2) adopt the proposed rule with amendments;**
 23 ~~(2) (3)~~ reject the proposed rule; or
 24 ~~(2) (4)~~ determine to reconsider the proposed rule at a subsequent
 25 board meeting.
 26 **(g) If the board adopts the proposed rule with amendments**
 27 **under subsection (f)(2), the amendments must meet the logical**
 28 **outgrowth requirements of section 10 of this chapter, except that**
 29 **the board, in determining whether the amendments are a logical**
 30 **outgrowth of comments provided to the board, and in considering**
 31 **whether the language of comments provided to the board fairly**
 32 **apprised interested persons of the specific subjects and issues**
 33 **contained in the amendments, shall consider the comments**
 34 **provided to the board at the public hearing referred to in**
 35 **subsection (d)(3).**
 36 ~~(g)~~ **(h)** The department shall submit a new water quality standard
 37 established in a rule adopted under subsection ~~(f)(1)~~ **(f)** to the United
 38 States Environmental Protection Agency for approval.
 39 SECTION 17. IC 13-14-13-2, AS ADDED BY P.L.114-2008,
 40 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 UPON PASSAGE]: Sec. 2. The department may accept the electronic
 42 submission of information only if the submission meets the following:

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- 1 ~~(1) Standards established under IC 5-24 and corresponding rules.~~
- 2 ~~(2) (1) Requirements of cross-media electronic reporting under 40~~
- 3 ~~CFR 3.~~
- 4 ~~(3) (2) Procedures established by the department to accept~~
- 5 ~~electronic information.~~

6 SECTION 18. IC 13-14-13-4, AS ADDED BY P.L.114-2008,
 7 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 UPON PASSAGE]: Sec. 4. (a) The department may adopt procedures
 9 that are consistent with federal law for compliance with this chapter to
 10 allow an applicant to submit an electronic document bearing the valid
 11 electronic signature of a signatory if that signatory would otherwise be
 12 required to sign the paper document for which the electronic document
 13 substitutes.

- 14 (b) The procedures adopted under subsection (a) may provide for
 15 electronic signature standards that are
- 16 ~~(1) acceptable to the state board of accounts under IC 5-24; and~~
- 17 ~~(2) consistent with 40 CFR 3.~~

18 SECTION 19. IC 13-14-13-6, AS ADDED BY P.L.114-2008,
 19 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 UPON PASSAGE]: Sec. 6. A person is subject to applicable state or
 21 federal civil, criminal, or other penalties and remedies for failure to
 22 comply with a reporting requirement if the person submits an electronic
 23 document that:

- 24 (1) is in place of a paper document under this chapter; and
- 25 (2) fails to comply with the following:
 - 26 ~~(A) Standards established under IC 5-24 and supporting rules.~~
 - 27 ~~(B) (A) Requirements of cross-media electronic reporting~~
 - 28 ~~under 40 CFR 3.~~
 - 29 ~~(C) (B) Procedures established by the department to accept~~
 - 30 ~~electronic information.~~

31 SECTION 20. IC 13-15-4-1 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Except as
 33 provided in sections 2, 3, and 6 of this chapter, the commissioner shall
 34 approve or deny an application filed with the department after July 1,
 35 1995, within the following number of days:

- 36 (1) Three hundred sixty-five (365) days for an application
 37 concerning the following:
 - 38 (A) A new hazardous waste or solid waste landfill.
 - 39 (B) A new hazardous waste or solid waste incinerator.
 - 40 (C) A major modification of a solid waste landfill.
 - 41 (D) A major modification of a solid waste incinerator.
 - 42 (E) A new hazardous waste treatment or storage facility.

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- 1 (F) A new Part B permit issued under 40 CFR 270 et seq. for
- 2 an existing hazardous waste treatment or storage facility.
- 3 (G) A Class 3 modification under 40 CFR 270.42 to a
- 4 hazardous waste landfill.
- 5 **(H) A new solid waste processing facility other than a**
- 6 **transfer station.**
- 7 (2) Except as provided in IC 13-18-3-2.1, two hundred seventy
- 8 (270) days for an application concerning the following:
- 9 (A) A Class 3 modification under 40 CFR 270.42 of a
- 10 hazardous waste treatment or storage facility.
- 11 (B) A major new National Pollutant Discharge Elimination
- 12 System permit.
- 13 **(C) A major modification to a solid waste processing**
- 14 **facility other than a transfer station.**
- 15 (3) Except as provided in IC 13-18-3-2.1, one hundred eighty
- 16 (180) days for an application concerning the following:
- 17 (A) ~~A new solid waste processing or recycling facility.~~
- 18 **transfer station or a major modification to a transfer**
- 19 **station.**
- 20 (B) A minor new National Pollutant Discharge Elimination
- 21 System individual permit.
- 22 (C) A permit concerning the land application of wastewater.
- 23 (4) Except as provided in IC 13-18-3-2.1, one hundred fifty (150)
- 24 days for an application concerning a minor new National
- 25 Pollutant Discharge Elimination System general permit.
- 26 (5) One hundred twenty (120) days for an application concerning
- 27 a Class 2 modification under 40 CFR 270.42 to a hazardous waste
- 28 facility.
- 29 (6) Ninety (90) days for an application concerning the following:
- 30 (A) A minor modification to a **permit for the following:**
- 31 **(i) A solid waste landfill. ~~or~~**
- 32 **(ii) A solid waste processing facility.**
- 33 **(iii) An incinerator. ~~permit.~~**
- 34 (B) A wastewater facility or water facility construction permit.
- 35 (7) The amount of time provided for in rules adopted by the air
- 36 pollution control board for an application concerning the
- 37 following:
- 38 (A) An air pollution construction permit that is subject to 326
- 39 IAC 2-2 and 326 IAC 2-3.
- 40 (B) An air pollution facility construction permit (other than as
- 41 defined in 326 IAC 2-2).
- 42 (C) Registration of an air pollution facility.

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- 1 (8) Sixty (60) days for an application concerning the following:
- 2 (A) A Class 1 modification under 40 CFR 270.42 requiring
- 3 prior written approval, to a hazardous waste:
- 4 (i) landfill;
- 5 (ii) incinerator;
- 6 (iii) treatment facility; or
- 7 (iv) storage facility.
- 8 (B) Any other permit not specifically described in this section
- 9 for which the application fee exceeds forty-nine dollars (\$49)
- 10 and for which a time frame has not been established under
- 11 section 3 of this chapter.

12 (b) When a person holding a valid permit concerning an activity of
 13 a continuing nature has made a timely and sufficient application for a
 14 renewal permit under the rules of one (1) of the boards, the
 15 commissioner shall approve or deny the application on or before the
 16 expiration date stated in the permit for which renewal is sought.

17 SECTION 21. IC 13-17-3-4 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The board
 19 shall adopt rules under IC 4-22-2 that are:

- 20 (1) consistent with the general intent and purposes declared in
- 21 IC 13-17-1 and section 1 of this chapter; and
- 22 (2) necessary to the implementation of the federal Clean Air Act
- 23 (42 U.S.C. 7401 et seq.), as amended by the Clean Air Act
- 24 Amendments of 1990 (P.L.101-549).

25 (b) Notwithstanding IC 13-15-5, the board may adopt rules under
 26 IC 4-22-2 and IC 13-14-9 that allow the commissioner's actions on
 27 permits and permit modifications to become effective immediately,
 28 regardless of whether a thirty (30) day comment period is held on the
 29 permits or permit modifications. The board may adopt rules under this
 30 subsection only after considering the:

- 31 (1) environmental significance of;
- 32 (2) federal requirements for federally delegated or approved
- 33 programs concerning; and
- 34 (3) need for opportunity for public participation on;
- 35 the permits or permit modifications.

36 (c) The board may adopt rules to require sources to report hazardous
 37 air pollutant emissions if the reporting is necessary to demonstrate
 38 compliance with emissions and other performance standards
 39 established under 42 U.S.C. 7412 or 42 U.S.C. 7429. The board may
 40 amend 326 IAC 2-6 to allow the department to request hazardous air
 41 pollutant emissions data from individual sources for the purpose of site
 42 specific studies of hazardous air pollutant:

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1 (1) emissions; and

2 (2) impacts.

3 (d) The board may amend 326 IAC 2-6 or adopt new rules to
4 establish a general requirement for sources to report hazardous air
5 pollutant emissions (as defined by 42 U.S.C. 7412(b)). However, the
6 rules amended or adopted by the board under this subsection may not
7 require sources to report hazardous air pollutant emissions before
8 January 1, 2004.

9 (e) **For purposes of rules adopted by the board, a reference to
10 "chemical process plants" does not include an ethanol production
11 operation that:**

12 (1) **produces ethanol by natural fermentation after July 2,
13 2007; and**

14 (2) **is included in the North American Industry Classification
15 System (NAICS) code:**

16 (A) **325193 (Ethyl Alcohol Manufacturing); or**

17 (B) **312140 (Distilleries);**

18 **as described in 72 FR 24059 et seq. (May 1, 2007).**

19 **This subsection expires April 1, 2012.**

20 SECTION 22. IC 13-18-2-1 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) In carrying out
22 the purposes of IC 13-13-5-1(1), the department may, in addition to any
23 other action that is necessary or appropriate to carry out the purpose of
24 IC 13-13-5-1(1), do the following:

25 (1) Cooperate with the United States Surgeon General and other
26 agencies of the federal government, other states, interstate
27 agencies, and other interested parties in all matters relating to
28 water pollution, including the development of programs for
29 eliminating or reducing pollution and improving the sanitary
30 condition of waters.

31 (2) On behalf of Indiana, apply for and receive money made
32 available to the department under the Federal Water Pollution
33 Control Act by any agency of the federal government. However,
34 all money received from any federal agency:

35 (A) shall be paid into the state treasury; and

36 (B) shall be expended, under the direction of the department,
37 solely for the purpose for which the grant has been made.

38 (3) Approve projects for which application for loans or grants
39 under the Federal Water Pollution Control Act is made by:

40 (A) any political subdivision or other public body created by
41 or under Indiana law and having jurisdiction over disposal of
42 sewage, industrial wastes, or other wastes;

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- 1 (B) a state agency; or
- 2 (C) an interstate agency.
- 3 (4) Participate through the department's authorized
- 4 representatives in proceedings under the Federal Water Pollution
- 5 Control Act.
- 6 (5) Give consent on behalf of Indiana to requests by the
- 7 Administrator of the Federal Security Agency to the Attorney
- 8 General of the United States for the bringing of suit for abatement
- 9 of pollution.
- 10 (6) Consent to the joinder as a defendant in a suit for the
- 11 abatement of pollution of a person who is alleged to be
- 12 discharging matter contributing to the pollution.
- 13 **(7) Except for a Class II well (as defined in IC14-8-2-41)**
- 14 **regulated under IC 14:**
- 15 (A) develop a regulatory program for implementation of;
- 16 and
- 17 (B) seek authority to implement;
- 18 **the Underground Injection Control program under the**
- 19 **federal Safe Drinking Water Act (42 U.S.C. 300f through**
- 20 **300j).**
- 21 **(8) Subject to subsection (b), enter into an agreement with the**
- 22 **United States Army Corps of Engineers and the United States**
- 23 **Environmental Protection Agency to administer a permitting**
- 24 **program under Section 404 of the Federal Water Pollution**
- 25 **Control Act (33 U.S.C. 1251 et seq.).**
- 26 **(b) Administration of a permitting program by the department**
- 27 **under an agreement entered into under subsection (a)(8) does not**
- 28 **affect the authority of the department of natural resources to**
- 29 **regulate activities within the waterways of Indiana under IC 14-26,**
- 30 **IC 14-28, or IC 14-29.**
- 31 SECTION 23. IC 13-18-11-8 IS AMENDED TO READ AS
- 32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The
- 33 commissioner may suspend or revoke the certificate of an operator
- 34 **issued under this chapter**, following a hearing under IC 13-15-7-3 and
- 35 IC 4-21.5, if any of the following conditions are found:
- 36 (1) The operator has practiced fraud or deception **in any state or**
- 37 **other jurisdiction.**
- 38 (2) Reasonable care, judgment, or the application of the operator's
- 39 knowledge or ability was not used in the performance of the
- 40 operator's duties.
- 41 (3) The operator is incompetent or unable to properly perform the
- 42 operator's duties.

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- 1 **(4) A certificate of the operator issued:**
- 2 **(A) under this chapter; or**
- 3 **(B) by any other state or jurisdiction for a purpose**
- 4 **comparable to the purpose for which a certificate is issued**
- 5 **under this chapter;**
- 6 **has been revoked.**
- 7 **(5) The operator has been convicted of a crime related to a**
- 8 **certificate of the operator issued:**
- 9 **(A) under this chapter; or**
- 10 **(B) by any other state or jurisdiction for a purpose**
- 11 **comparable to the purpose for which a certificate is issued**
- 12 **under this chapter.**
- 13 (b) A hearing and further proceedings shall be conducted in
- 14 accordance with IC 4-21.5-7.
- 15 SECTION 24. IC 13-18-12-1 IS AMENDED TO READ AS
- 16 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. The water pollution
- 17 control board and the department shall regulate persons who provide
- 18 wastewater **septage** management services.
- 19 SECTION 25. IC 13-18-12-2, AS AMENDED BY P.L.114-2008,
- 20 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 21 JULY 1, 2011]: Sec. 2. (a) A person may not transport, treat, store, or
- 22 dispose of **wastewater septage** in violation of this chapter.
- 23 (b) A person may not engage in:
- 24 (1) the cleaning of sewage disposal systems; or
- 25 (2) the transportation, treatment, storage, or disposal of
- 26 ~~wastewater; septage;~~
- 27 without a **wastewater septage** management permit unless the person is
- 28 exempted under section 7 of this chapter.
- 29 (c) A person may not operate a vehicle for the transportation of
- 30 ~~wastewater septage~~ without a **wastewater septage** management vehicle
- 31 identification number issued under this chapter. ~~unless the person is~~
- 32 ~~exempted under section 4(a)(2) of this chapter.~~
- 33 (d) A person may not dispose of **wastewater septage** by land
- 34 application without first obtaining approval of the land application site
- 35 under this chapter.
- 36 (e) The department may issue a **wastewater septage** management
- 37 permit that incorporates issuance of a **wastewater septage** management
- 38 vehicle identification number and approval of a land application site.
- 39 (f) The department may issue new and renewal permits,
- 40 identification numbers, and approvals under this chapter for a period
- 41 the department determines appropriate. However, the period may not
- 42 exceed three (3) years.

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1 SECTION 26. IC 13-18-12-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. The board shall
3 initiate, in accordance with IC 13-15, a **wastewater septage**
4 management permit program for all persons who offer to perform or are
5 performing **wastewater septage** management services.

6 SECTION 27. IC 13-18-12-4, AS AMENDED BY P.L.114-2008,
7 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2011]: Sec. 4. (a) The board shall, in accordance with
9 IC 13-14-8, adopt rules to establish the following:

- 10 (1) Standards for the following:
 - 11 (A) The issuance of **wastewater septage** management permits
 - 12 under section 3 of this chapter.
 - 13 ~~(B) Cleaning of sewage disposal systems;~~
 - 14 ~~(C)~~ **(B)** Transportation, storage, and treatment of **wastewater;**
 - 15 **septage,** and disposal of **wastewater; septage,** including land
 - 16 application.

- 17 (2) Issuance of identification numbers for all vehicles used in
- 18 **wastewater septage** management services. ~~However, the board~~
- 19 ~~may exempt by rule vehicles licensed on September 1, 1983;~~
- 20 ~~under the industrial waste haulers rule 320 IAC 5-10 as the rule~~
- 21 ~~existed on September 1, 1983.~~

- 22 (3) Procedures and standards for approval of sites for land
- 23 application of ~~wastewater;~~ **septage.**

24 (b) The board may designate a county or city health agency as the
25 board's agent to approve land application sites in accordance with rules
26 adopted under this section.

27 SECTION 28. IC 13-18-12-5, AS AMENDED BY P.L.114-2008,
28 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2011]: Sec. 5. (a) Subject to subsections (b) and (c), the board
30 may adopt a fee schedule for the issuance of:

- 31 (1) **wastewater septage** management permits;
- 32 (2) **wastewater septage** management vehicle identification
- 33 numbers; and
- 34 (3) land application site approvals;

35 under this chapter.

36 (b) A permit fee may not exceed one hundred dollars (\$100) per
37 year.

38 (c) A vehicle identification number or land application approval fee
39 may not exceed thirty dollars (\$30) per year per vehicle or site.

40 (d) Whenever the board designates a county or city health agency as
41 the board's agent to approve land application sites under this chapter,
42 the county or city health agency shall collect and retain the land

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1 application approval fee.

2 SECTION 29. IC 13-18-12-7, AS AMENDED BY P.L.114-2008,
3 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2011]: Sec. 7. This chapter does not require a person to obtain
5 a permit or vehicle identification number under this chapter if the
6 person is:

7 (1) engaged in:

8 (A) servicing or maintaining publicly owned wastewater
9 treatment facilities; or

10 (B) transportation of wastewater from a publicly owned
11 wastewater treatment facility;

12 as long as the wastewater at that facility has been fully treated and
13 is stabilized;

14 (2) transporting ~~wastewater~~ **septage** from the point of its removal
15 to another location on the same site or tract owned by the same
16 person, although disposal of the ~~wastewater~~ **septage** must be done
17 in accordance with this chapter; or

18 (3) a homeowner who cleans and services the sewage disposal
19 system serving only the homeowner's residence, although
20 transportation and disposal of **wastewater septage, including**
21 **land application**, must be done in compliance with this chapter.

22 SECTION 30. IC 13-20-11-1 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. The department shall
24 designate ~~ten~~ **(10)** employees of the department as landfill inspectors.
25 However, the department may not designate a landfill inspector for a
26 county that has a consolidated city.

27 SECTION 31. IC 13-20-17.5-5 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. After July 1, 2003,
29 a person may sell or provide a mercury commodity to another person
30 in this state (other than for collection for recycling) only if:

31 (1) the person selling or providing the mercury commodity
32 provides a material safety data sheet with the mercury
33 commodity; and

34 (2) the person selling or providing the mercury commodity
35 requires the purchaser or recipient to sign a statement with respect
36 to the mercury in the mercury commodity that the purchaser or
37 recipient:

38 (A) will use the mercury only:

39 (i) for medical purposes;

40 (ii) in dental amalgam dispose-caps;

41 (iii) for training;

42 (iv) for research; or

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- 1 (v) for manufacturing purposes;
 2 (B) understands that mercury is toxic;
 3 (C) will store and use the mercury appropriately so that no
 4 individual is exposed to the mercury under normal conditions
 5 of use; and
 6 (D) will not intentionally:
 7 (i) place or cause to be placed; or
 8 (ii) allow anyone under the control of the purchaser or
 9 recipient to place or cause to be placed;
 10 the mercury commodity in solid waste for disposal, ~~or~~ in a
 11 ~~wastewater sewage~~ disposal system, ~~or in a wastewater~~
 12 ~~treatment plant.~~

13 SECTION 32. IC 13-20-21-3 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. **(a) Except as**
 15 **provided in subsections (b) and (c),** for solid waste permits, the
 16 application fees are as follows:

17 New Permit or Major Modification	
	18 Fee
19 Sanitary Landfill	\$31,300
20 Construction\Demolition Site	\$20,000
21 Restricted Waste Site	
22 Type I	\$31,300
23 Type II	\$31,300
24 Type III	\$20,000
25 Processing Facility	
26 Transfer Station	\$12,150
27 Other	\$12,150
28 Incinerator	\$28,650
29 Waste Tire Storage	
30 Registration	\$ 500
31 Waste Tire Processing	\$ 200
32 Waste Tire	
33 Transportation	\$ 25
34	Permit Renewal
35 Sanitary Landfill	\$ 15,350
36 Construction\ 37 Demolition Site	\$ 7,150
38 Restricted Waste Site	
39 Type I	\$ 15,350
40 Type II	\$ 15,350
41 Type III	\$ 7,150
42 Processing Facility	

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1	Transfer Station	\$ 2,200
2	Other	\$ 2,200
3	Incinerator	\$ 5,900
4	Waste Tire Processing	\$ 200
5	Minor Modification	
6	Minor Modification	\$2,500

(b) The fee for:**(1) a new permit; or****(2) a permit for a major modification;**

for a solid waste landfill not covered by subsection (a) is thirty-one thousand three hundred dollars (\$31,300).

(c) The fee for a permit renewal for a solid waste landfill not covered by subsection (a) is fifteen thousand three hundred fifty dollars (\$15,350).

SECTION 33. IC 13-20-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. For solid waste, the annual operation fees are as follows:

	Fee
Sanitary Solid Waste Landfill	
Not Otherwise Covered in This Section	
> 500 TPD	\$35,000
250-499 TPD	\$15,000
100-249 TPD	\$ 7,000
<100 TPD	\$ 2,000
Construction\	
Demolition Site	\$ 1,500
Restricted Waste Site	
Type I	\$35,000
Type II	\$25,000
Type III	\$10,000
Processing Facility	
Transfer Station	\$ 2,000
Other	\$ 2,000
Incinerator	
>500 TPD	\$35,000
250-499 TPD	\$15,000
100-249 TPD	\$ 7,000
<100 TPD	\$ 2,000
Infectious Waste	
Incinerator (>7 TPD)	\$ 5,000
Waste Tire Storage	
Registration	\$ 500

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1	Waste Tire Transportation	
2	Registration	\$ 25
3	Groundwater	
4	Compliance	
5	Sampling	
6	(per well)	\$ 250

7 SECTION 34. IC 13-20-21-9 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. Solid waste disposal
 9 fees must be paid by all solid waste disposal facilities, including
 10 ~~sanitary landfills,~~ **solid waste landfills,** incinerators, and
 11 construction\demolition disposal facilities. Solid waste disposal fees:

- 12 (1) for the period of January 1 through June 30 of each year are
 13 due on August 1 of that year; and
- 14 (2) for the period of July 1 through December 31 of each year are
 15 due on February 1 of the following year.

16 SECTION 35. IC 13-20.5-7-10 IS ADDED TO THE INDIANA
 17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2011]: **Sec. 10. Solid waste management**
 19 **districts shall conduct educational programs under IC 13-21-3-12**
 20 **to provide information to the public concerning:**

- 21 (1) **reuse and recycling of electronic waste;**
- 22 (2) **collection programs available to the public for the disposal**
 23 **of electronic waste; and**
- 24 (3) **proper disposal of electronic waste.**

25 SECTION 36. IC 13-21-3-12, AS AMENDED BY P.L.114-2008,
 26 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2011]: Sec. 12. Except as provided in section 14.5 of this
 28 chapter, the powers of a district include the following:

- 29 (1) The power to develop and implement a district solid waste
 30 management plan under IC 13-21-5.
- 31 (2) The power to impose district fees on the final disposal of solid
 32 waste within the district under IC 13-21-13.
- 33 (3) The power to receive and disburse money, if the primary
 34 purpose of activities undertaken under this subdivision is to carry
 35 out the provisions of this article.
- 36 (4) The power to sue and be sued.
- 37 (5) The power to plan, design, construct, finance, manage, own,
 38 lease, operate, and maintain facilities for solid waste
 39 management.
- 40 (6) The power to enter with any person into a contract or an
 41 agreement that is necessary or incidental to the management of
 42 solid waste. Contracts or agreements that may be entered into

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under this subdivision include those for the following:

- (A) The design, construction, operation, financing, ownership, or maintenance of facilities by the district or any other person.
- (B) The managing or disposal of solid waste.
- (C) The sale or other disposition of materials or products generated by a facility.

Notwithstanding any other statute, the maximum term of a contract or an agreement described in this subdivision may not exceed forty (40) years.

- (7) The power to enter into agreements for the leasing of facilities in accordance with IC 36-1-10 or IC 36-9-30.
- (8) The power to purchase, lease, or otherwise acquire real or personal property for the management or disposal of solid waste.
- (9) The power to sell or lease any facility or part of a facility to any person.
- (10) The power to make and contract for plans, surveys, studies, and investigations necessary for the management or disposal of solid waste.
- (11) The power to enter upon property to make surveys, soundings, borings, and examinations.
- (12) The power to:
 - (A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and
 - (B) comply with the terms of the gift, grant, or loan.
- (13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:
 - (A) Regular budget and tax levy procedures.
 - (B) Section 16 of this chapter.

However, except as provided in sections 15 and 15.5 of this chapter, a property tax rate imposed under this article may not exceed eight and thirty-three hundredths cents (\$0.0833) on each one hundred dollars (\$100) of assessed valuation of property in the district.

- (14) The power to borrow in anticipation of taxes.
- (15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.
- (16) The power to otherwise do all things necessary for the:
 - (A) reduction, management, and disposal of solid waste; and
 - (B) recovery of waste products from the solid waste stream;
 if the primary purpose of activities undertaken under this

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- 1 subdivision is to carry out the provisions of this article.
- 2 (17) The power to adopt resolutions that have the force of law.
- 3 However, a resolution is not effective in a municipality unless the
- 4 municipality adopts the language of the resolution by ordinance
- 5 or resolution.
- 6 (18) The power to do the following:
 - 7 (A) Implement a household hazardous waste and conditionally
 - 8 exempt small quantity generator (as described in 40 CFR
 - 9 261.5(a)) collection and disposal project.
 - 10 (B) Apply for a household hazardous waste collection and
 - 11 disposal project grant under IC 13-20-20 and carry out all
 - 12 commitments contained in a grant application.
 - 13 (C) Establish and maintain a program of self-insurance for a
 - 14 household hazardous waste and conditionally exempt small
 - 15 quantity generator (as described in 40 CFR 261.5(a))
 - 16 collection and disposal project, so that at the end of the
 - 17 district's fiscal year the unused and unencumbered balance of
 - 18 appropriated money reverts to the district's general fund only
 - 19 if the district's board specifically provides by resolution to
 - 20 discontinue the self-insurance fund.
 - 21 (D) Apply for a household hazardous waste project grant as
 - 22 described in IC 13-20-22-2 and carry out all commitments
 - 23 contained in a grant application.
- 24 (19) The power to enter into an interlocal cooperation agreement
- 25 under IC 36-1-7 to obtain:
 - 26 (A) fiscal;
 - 27 (B) administrative;
 - 28 (C) managerial; or
 - 29 (D) operational;
- 30 services from a county or municipality.
- 31 (20) The power to compensate advisory committee members for
- 32 attending meetings at a rate determined by the board.
- 33 (21) The power to reimburse board and advisory committee
- 34 members for travel and related expenses at a rate determined by
- 35 the board.
- 36 (22) The power to pay a fee from district money to:
 - 37 (A) in a joint district, the county or counties in which a final
 - 38 disposal facility is located; or
 - 39 (B) a county that:
 - 40 (i) was part of a joint district;
 - 41 (ii) has withdrawn from the joint district as of January 1,
 - 42 2008; and

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- 1 (iii) has established its own district in which a final disposal
- 2 facility is located.
- 3 (23) The power to make grants or loans of:
- 4 (A) money;
- 5 (B) property; or
- 6 (C) services;
- 7 to public or private recycling programs, composting programs, or
- 8 any other programs that reuse any component of the waste stream
- 9 as a material component of another product, if the primary
- 10 purpose of activities undertaken under this subdivision is to carry
- 11 out the provisions of this article.
- 12 (24) The power to establish by resolution a nonreverting capital
- 13 fund. A district's board may appropriate money in the fund for:
- 14 (A) equipping;
- 15 (B) expanding;
- 16 (C) modifying; or
- 17 (D) remodeling;
- 18 an existing facility. Expenditures from a capital fund established
- 19 under this subdivision must further the goals and objectives
- 20 contained in a district's solid waste management plan. Not more
- 21 than five percent (5%) of the district's total annual budget for the
- 22 year may be transferred to the capital fund that year. The balance
- 23 in the capital fund may not exceed twenty-five percent (25%) of
- 24 the district's total annual budget. If a district's board determines
- 25 by resolution that a part of a capital fund will not be needed to
- 26 further the goals and objectives contained in the district's solid
- 27 waste management plan, that part of the capital fund may be
- 28 transferred to the district's general fund, to be used to offset
- 29 tipping fees, property tax revenues, or both tipping fees and
- 30 property tax revenues.
- 31 (25) The power to conduct promotional or educational programs
- 32 that include giving awards and incentives that further the district's
- 33 solid waste management plan.
- 34 (26) The power to conduct educational programs under
- 35 IC 13-20-17.5 to provide information to the public concerning:
- 36 (A) the reuse and recycling of mercury in:
- 37 (i) mercury commodities; and
- 38 (ii) mercury-added products; and
- 39 (B) collection programs available to the public for:
- 40 (i) mercury commodities; and
- 41 (ii) mercury-added products.
- 42 (27) The power to implement mercury collection programs under

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- 1 IC 13-20-17.5 for the public and small businesses.
- 2 **(28) The power to conduct educational programs under**
- 3 **IC 13-20.5 to provide information to the public concerning:**
- 4 **(A) reuse and recycling of electronic waste;**
- 5 **(B) collection programs available to the public for the**
- 6 **disposal of electronic waste; and**
- 7 **(C) proper disposal of electronic waste.**

8 SECTION 37. IC 13-23-8-3, AS AMENDED BY P.L.221-2007,
 9 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2011]: Sec. 3. For the purposes of section 2 of this chapter, the
 11 following amounts shall be used:

- 12 (1) If the underground petroleum storage tank that is involved in
- 13 the occurrence for which claims are made:
- 14 (A) is not in compliance with rules adopted by the board
- 15 concerning technical and safety requirements relating to the
- 16 physical characteristics of underground petroleum storage
- 17 tanks before the date the tank is required to be in compliance
- 18 with the requirements; and
- 19 (B) is in compliance on a date required under the requirements
- 20 described under section 4 of this chapter at the time a release
- 21 was discovered;
- 22 the amount is thirty-five thousand dollars (\$35,000).
- 23 (2) If the underground petroleum storage tank that is involved in
- 24 the occurrence for which claims are made:
- 25 (A) is in compliance with rules adopted by the board
- 26 concerning technical and safety requirements relating to the
- 27 physical characteristics of underground petroleum storage
- 28 tanks before the date the tank is required to be in compliance
- 29 with the requirements;
- 30 (B) is not a double walled underground petroleum storage
- 31 tank; and
- 32 (C) has piping that does not have secondary containment;
- 33 the amount is ~~twenty-five~~ **thirty** thousand dollars (~~\$25,000~~).
- 34 **(\$30,000).**
- 35 (3) If the underground petroleum storage tank that is involved in
- 36 the occurrence for which claims are made:
- 37 (A) is in compliance with rules adopted by the board
- 38 concerning technical and safety requirements relating to the
- 39 physical characteristics of underground petroleum storage
- 40 tanks before the date the tank is required to be in compliance
- 41 with the requirements;
- 42 (B) is not a double walled underground petroleum storage

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1 tank; and
 2 (C) has piping that has secondary containment;
 3 the amount is twenty-five thousand dollars (\$25,000).
 4 (4) If the underground petroleum storage tank that is involved in
 5 the occurrence for which claims are made:
 6 (A) is in compliance with rules adopted by the board
 7 concerning technical and safety requirements relating to the
 8 physical characteristics of underground petroleum storage
 9 tanks before the date the tank is required to be in compliance
 10 with the requirements;
 11 (B) is a double walled underground petroleum storage tank;
 12 and
 13 (C) has piping that does not have secondary containment;
 14 the amount is twenty-five thousand dollars (\$25,000).
 15 (5) If the underground petroleum storage tank that was involved
 16 in the occurrence for which claims are made:
 17 (A) is in compliance with rules adopted by the board
 18 concerning technical and safety requirements relating to the
 19 physical characteristics of underground petroleum storage
 20 tanks before the date the tank is required to be in compliance
 21 with the requirements;
 22 (B) is a double walled underground petroleum storage tank;
 23 and
 24 (C) has piping that has secondary containment;
 25 the amount is twenty thousand dollars (\$20,000).
 26 SECTION 38. IC 13-23-13-14 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. For purposes
 28 of IC 13-11-2-148(e), ~~and~~ IC 13-11-2-150(b), **and IC 13-11-2-150(c)**,
 29 a person that is a lender and that holds evidence of ownership primarily
 30 to protect a security interest in an underground storage tank shall be
 31 considered to participate in management (as defined in
 32 IC 13-11-2-151.2) of the underground storage tank only if, while the
 33 borrower is still in possession of the underground storage tank
 34 encumbered by the security interest, the person:
 35 (1) exercises decision making control over the environmental
 36 compliance related to the underground storage tank such that the
 37 person has undertaken responsibility for the hazardous substance
 38 handling or disposal practices related to the underground storage
 39 tank; or
 40 (2) exercises control at a level comparable to that of a manager of
 41 the underground storage tank such that the person has assumed or
 42 manifested responsibility:

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- 1 (A) for the overall management of the underground storage
- 2 tank encompassing day to day decision making with respect to
- 3 environmental compliance; or
- 4 (B) over all or substantially all of the operational functions (as
- 5 distinguished from financial or administrative functions) of the
- 6 underground storage tank other than the function of
- 7 environmental compliance.

8 SECTION 39. IC 13-25-4-8, AS AMENDED BY P.L.221-2007,
 9 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 UPON PASSAGE]: Sec. 8. (a) Except as provided in subsection (b),
 11 (c), or (d), a person that is liable under Section 107(a) of CERCLA (42
 12 U.S.C. 9607(a)) for:

- 13 (1) the costs of removal or remedial action incurred by the
- 14 commissioner consistent with the national contingency plan;
- 15 (2) the costs of any health assessment or health effects study
- 16 carried out by or on behalf of the commissioner under Section
- 17 104(i) of CERCLA (42 U.S.C. 9604(i)); or
- 18 (3) damages for:
 - 19 (A) injury to;
 - 20 (B) destruction of; or
 - 21 (C) loss of;
- 22 natural resources of Indiana;

23 is liable, in the same manner and to the same extent, to the state under
 24 this section.

25 (b) The exceptions provided by Sections 107(b), 107(q), and 107(r)
 26 of CERCLA 42 U.S.C. 9607(b), 42 U.S.C. 9607(q), and 42 U.S.C.
 27 9607(r) to liability otherwise imposed by Section 107(a) of CERCLA
 28 (42 U.S.C. 9607(a)) are equally applicable to any liability otherwise
 29 imposed under subsection (a).

30 (c) Notwithstanding any liability imposed by the environmental
 31 management laws:

- 32 (1) a lender **that meets, for purposes of the determination**
- 33 **under this section of liability for a release of hazardous**
- 34 **substances, the exception criteria under Section 101(20)(E) of**
- 35 **CERCLA (42 U.S.C. 9601(20)(E));**
- 36 (2) a secured or unsecured creditor; or
- 37 (3) a fiduciary;

38 is not liable under the environmental management laws, in connection
 39 with the release or threatened release of a hazardous substance from a
 40 facility unless the lender, the fiduciary, or creditor has participated in
 41 the management of the hazardous substance at the facility.

42 (d) Notwithstanding any liability imposed by the environmental

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1 management laws, the liability of a fiduciary for a release or threatened
2 release of a hazardous substance from a facility that is held by the
3 fiduciary in its fiduciary capacity may be satisfied only from the assets
4 held by the fiduciary in the same estate or trust as the facility that gives
5 rise to the liability.

6 (e) Except as provided in subsection (g), a political subdivision (as
7 defined in IC 36-1-2-13) or unit of federal or state government is not
8 liable to the state under this section for costs or damages associated
9 with the presence of a hazardous substance on, in, or at a property in
10 which the political subdivision or unit of federal or state government
11 acquired an interest because of:

- 12 (1) bankruptcy;
- 13 (2) foreclosure;
- 14 (3) tax delinquency, including an acquisition under IC 6-1.1-24 or
15 IC 6-1.1-25;
- 16 (4) abandonment;
- 17 (5) the exercise of eminent domain, including any purchase of
18 property once an offer to purchase has been tendered under
19 IC 32-24-1-5;
- 20 (6) receivership;
- 21 (7) transfer from another political subdivision or unit of federal or
22 state government;
- 23 (8) acquiring an area needing redevelopment (as defined in
24 IC 36-7-1-3) or conducting redevelopment activities, specifically
25 under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1,
26 IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
- 27 (9) other circumstances in which the political subdivision or unit
28 of federal or state government involuntarily acquired ownership
29 or control because of the political subdivision's or unit's function
30 as sovereign; or
- 31 (10) any other means to conduct remedial actions on a brownfield.

32 (f) If a transfer of an interest in property as described in subsection
33 (e) occurs, a person who owned, operated, or otherwise controlled the
34 property immediately before the political subdivision or unit of federal
35 or state government acquired the interest in the property remains liable
36 under this section:

- 37 (1) in the same manner; and
- 38 (2) to the same extent;

39 as the person was liable immediately before the person's interest in the
40 property was acquired by the political subdivision or unit of federal or
41 state government.

42 (g) Notwithstanding subsection (e), a political subdivision or unit of

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1 federal or state government that causes or contributes to the release or
2 threatened release of a hazardous substance on, in, or at a property
3 remains subject to this section:

4 (1) in the same manner; and

5 (2) to the same extent;

6 as a nongovernmental entity under this section.

7 (h) Except as provided in subsection (i), a nonprofit corporation is
8 not liable to the state under this section for costs or damages associated
9 with the presence of a hazardous substance on, in, or at a property in
10 which the nonprofit corporation acquired an interest to assist and
11 support a political subdivision's revitalization and reuse of a brownfield
12 for noncommercial purposes, including conservation, preservation, and
13 recreation.

14 (i) Notwithstanding subsection (h), a nonprofit corporation that
15 causes or contributes to a release or threatened release of a hazardous
16 substance on, in, or at a property remains subject to this section:

17 (1) in the same manner; and

18 (2) to the same extent;

19 as any other nongovernmental entity under this section.

20 (j) A political subdivision or unit of federal or state government that
21 establishes an exemption or defense under subsection (b) or (e) may
22 undertake any activity related to:

23 (1) investigation, removal, or remedial action on a brownfield,
24 including complying with land use restrictions and institutional
25 controls; or

26 (2) monitoring or closure of an underground storage tank;
27 without being considered as contributing to the existing release or
28 threatened release of hazardous substances on, in, or at the brownfield
29 unless existing contamination on the brownfield is exacerbated due to
30 gross negligence or intentional misconduct by the political subdivision
31 or unit of federal or state government.

32 (k) For purposes of subsection (j), reckless, willful, or wanton
33 misconduct constitutes gross negligence.

34 SECTION 40. IC 13-25-5-8.5, AS AMENDED BY P.L.78-2009,
35 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 UPON PASSAGE]: Sec. 8.5. (a) A voluntary remediation work plan
37 must specify the remediation objectives for the site. Subsections (b)
38 through (e) apply to a site regardless of whether the site was entered
39 into the voluntary remediation program before July 1, 2009, or after
40 June 30, 2009.

41 (b) The remediation objectives for each hazardous substance and
42 any petroleum on the site shall be based on:

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- 1 (1) background levels of hazardous substances and petroleum that
- 2 occur naturally on the site; or
- 3 (2) an assessment of the risks pursuant to subsection (d) posed by
- 4 the hazardous substance or petroleum presently found on the site
- 5 taking into consideration the following:
- 6 (A) Expected future use of the site.
- 7 (B) Measurable risks to human health, natural resources, or the
- 8 environment based on the:
- 9 (i) activities that take place; and
- 10 (ii) environmental impact;
- 11 on the site.
- 12 (c) If the:
- 13 (1) nature and extent of the hazardous substance or petroleum is
- 14 adequately characterized under the voluntary remediation work
- 15 plan, considering the remediation objectives developed under this
- 16 section; and
- 17 (2) the level of the hazardous substance or petroleum is
- 18 demonstrated to be below:
- 19 (A) background levels of the hazardous substances and
- 20 petroleum that occur naturally on the site; or
- 21 (B) the risk based levels developed under subsection (d);
- 22 additional action is not necessary to protect human health or the
- 23 environment.
- 24 (d) Risk based remediation objectives shall be based on one (1) of
- 25 the following:
- 26 (1) Levels of hazardous substances and petroleum calculated by
- 27 the department using standard equations and default values for
- 28 particular hazardous substances or petroleum.
- 29 (2) Levels of hazardous substances and petroleum calculated
- 30 using site specific data for the default values in the department's
- 31 standard equations.
- 32 (3) Levels of hazardous substances and petroleum developed
- 33 based on site specific risk assessments that take into account site
- 34 specific factors, including remedial measures, restrictive
- 35 covenants, and environmental restrictive ordinances that:
- 36 (A) manage risk; and
- 37 (B) control completed or potential exposure pathways.
- 38 (e) The department shall consider and give effect to restrictive
- 39 covenants and environmental restrictive ordinances in evaluating risk
- 40 based remediation proposals.
- 41 **(f) The department, or a person authorized under subsection (g),**
- 42 **shall give written notice to a municipal corporation that the**

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1 department is relying on an environmental restrictive ordinance
2 adopted by the municipal corporation as part of a risk based
3 remediation proposal:

- 4 (1) approved by the department; and
- 5 (2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4,
- 6 or IC 13-25-5.

7 (g) The department may delegate authority to give the written
8 notice referred to in subsection (f) to the person who proposed the
9 risk based remediation.

10 SECTION 41. IC 32-21-5-7 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. The Indiana real
12 estate commission established by IC 25-34.1-2-1 shall adopt a specific
13 disclosure form that contains the following:

14 (1) Disclosure by the owner of the known condition of the
15 following:

- 16 (A) The foundation.
- 17 (B) The mechanical systems.
- 18 (C) The roof.
- 19 (D) The structure.
- 20 (E) The water and sewer systems.
- 21 (F) Additions that may require improvements to the sewage
22 disposal system.
- 23 (G) Other areas that the Indiana real estate commission
24 determines are appropriate.

25 (2) Disclosure by the owner of known contamination caused
26 by the manufacture of a controlled substance on the property
27 that has not been certified as decontaminated by an inspector
28 approved under IC 13-14-1-15.

29 ~~(2)~~ (3) A notice to the prospective buyer that contains
30 substantially the following language:

31 "The prospective buyer and the owner may wish to obtain
32 professional advice or inspections of the property and provide for
33 appropriate provisions in a contract between them concerning any
34 advice, inspections, defects, or warranties obtained on the
35 property."

36 ~~(3)~~ (4) A notice to the prospective buyer that contains
37 substantially the following language:

38 "The representations in this form are the representations of the
39 owner and are not the representations of the agent, if any. This
40 information is for disclosure only and is not intended to be a part
41 of any contract between the buyer and owner."

42 ~~(4)~~ (5) A disclosure by the owner that an airport is located within

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1 a geographical distance from the property as determined by the
2 Indiana real estate commission. The commission may consider the
3 differences between an airport serving commercial airlines and an
4 airport that does not serve commercial airlines in determining the
5 distance to be disclosed.

6 SECTION 42. IC 36-1-2-4.7, AS ADDED BY P.L.78-2009,
7 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 UPON PASSAGE]: Sec. 4.7. "Environmental restrictive ordinance"
9 means, with respect to land, any ordinance that:

- 10 (1) is adopted by a municipal corporation; and
- 11 (2) ~~limits, regulates, or prohibits one (1) or more of the following~~
12 ~~with respect to~~ **seeks to control the use of** groundwater
 - 13 ~~(A) Withdrawal.~~
 - 14 ~~(B) Human consumption.~~
 - 15 ~~(C) Any other use.~~

16 **in a manner and to a degree that protects human health and**
17 **the environment against unacceptable exposure to a release of**
18 **hazardous substances or petroleum, or both.**

19 SECTION 43. IC 36-1-6-11, AS ADDED BY P.L.78-2009,
20 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 UPON PASSAGE]: Sec. 11. (a) **Subject to subsection (e)**, the
22 legislative body of a municipal corporation shall:

- 23 (1) subject to subsection (b), give written notice to the department
24 of environmental management not later than sixty (60) days
25 before amendment or repeal of an environmental restrictive
26 ordinance; and
- 27 (2) give written notice to the department of environmental
28 management not later than thirty (30) days after passage,
29 amendment, or repeal of an environmental restrictive ordinance.

30 (b) Upon written request by the legislative body, the department of
31 environmental management may waive the notice requirement of
32 subsection (a)(1).

33 (c) An environmental restrictive ordinance passed or amended after
34 2009 by the legislative body must state the notice requirements of
35 subsection (a).

36 (d) The failure of an environmental restrictive ordinance to comply
37 with subsection (c) does not void the ordinance.

38 **(e) The notice requirements of subsection (a) apply only if the**
39 **municipal corporation received under IC 13-25-5-8.5(f) written**
40 **notice that the department is relying on the environmental**
41 **restrictive ordinance referred to in subsection (a) as part of a risk**
42 **based remediation proposal:**

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- (1) approved by the department; and
- (2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4, or IC 13-25-5.

SECTION 44. IC 36-2-4-8, AS AMENDED BY P.L.78-2009, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) An ordinance, order, or resolution is considered adopted when it is signed by the presiding officer. If required, an adopted ordinance, order, or resolution must be promulgated or published according to statute before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published once each week for two (2) consecutive weeks, according to IC 5-3-1. However, if such an ordinance is adopted by the legislative body of a county subject to IC 36-2-3.5 and there is an urgent necessity requiring its immediate effectiveness, it need not be published if:

- (1) the county executive proclaims the urgent necessity; and
- (2) copies of the ordinance are posted in three (3) public places in each of the districts of the county before it takes effect.

(c) The following apply in addition to the other requirements of this section:

(1) An ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 is considered adopted only if it is:

- (A) approved by signature of a majority of the county executive;
- (B) neither approved nor vetoed by a majority of the executive, within ten (10) days after passage by the legislative body; or
- (C) passed over the veto of the executive by a two-thirds (2/3) vote of the legislative body, within sixty (60) days after presentation of the ordinance or resolution to the executive.

(2) **Subject to subsection (g)**, the legislative body of a county shall:

- (A) subject to subdivision (3), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and
- (B) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(3) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subdivision (2)(A).

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1 (4) An environmental restrictive ordinance passed or amended
2 after 2009 by the legislative body must state the notice
3 requirements of subdivision (2).

4 (5) The failure of an environmental restrictive ordinance to
5 comply with subdivision (4) does not void the ordinance.

6 (d) After an ordinance or resolution passed by the legislative body
7 of a county subject to IC 36-2-3.5 has been signed by the presiding
8 officer, the county auditor shall present it to the county executive, and
9 record the time of the presentation. Within ten (10) days after an
10 ordinance or resolution is presented to it, the executive shall:

11 (1) approve the ordinance or resolution, by signature of a majority
12 of the executive, and send the legislative body a message
13 announcing its approval; or

14 (2) veto the ordinance or resolution, by returning it to the
15 legislative body with a message announcing its veto and stating
16 its reasons for the veto.

17 (e) This section **(other than subsection (c)(2))** does not apply to a
18 zoning ordinance or amendment to a zoning ordinance, or a resolution
19 approving a comprehensive plan, that is adopted under IC 36-7.

20 (f) An ordinance increasing a building permit fee on new
21 development must:

22 (1) be published:

23 (A) one (1) time in accordance with IC 5-3-1; and

24 (B) not later than thirty (30) days after the ordinance is
25 adopted by the legislative body in accordance with IC 5-3-1;
26 and

27 (2) delay the implementation of the fee increase for ninety (90)
28 days after the date the ordinance is published under subdivision
29 (1).

30 **(g) The notice requirements of subsection (c)(2) apply only if the**
31 **municipal corporation received under IC 13-25-5-8.5(f) written**
32 **notice that the department is relying on the environmental**
33 **restrictive ordinance referred to in subsection (c)(2) as part of a**
34 **risk based remediation proposal:**

35 **(1) approved by the department; and**

36 **(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4,**
37 **or IC 13-25-5.**

38 SECTION 45. IC 36-3-4-14, AS AMENDED BY P.L.78-2009,
39 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 UPON PASSAGE]: Sec. 14. (a) An ordinance or resolution passed by
41 a legislative body is considered adopted when it is:

42 (1) signed by the presiding officer; and

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- 1 (2) if subject to veto, either approved by the executive or passed
- 2 over the executive's veto by the legislative body, under section 16
- 3 of this chapter.
- 4 (b) All ordinances and resolutions of a legislative body are subject
- 5 to veto, except the following:
- 6 (1) An ordinance or resolution, or part of either, providing for the
- 7 budget or appropriating money for an office or officer of the
- 8 county provided for by the Constitution of Indiana or for a judicial
- 9 office or officer.
- 10 (2) An ordinance or resolution approving or modifying the budget
- 11 of a political subdivision that the legislative body is permitted by
- 12 statute to review.
- 13 (3) A resolution making an appointment that the legislative body
- 14 is authorized to make.
- 15 (4) A resolution selecting officers or employees of the legislative
- 16 body.
- 17 (5) A resolution prescribing rules for the internal management of
- 18 the legislative body.
- 19 (6) A zoning ordinance or amendment to a zoning ordinance, or
- 20 a resolution approving a comprehensive plan, that is adopted
- 21 under IC 36-7.
- 22 (c) An ordinance prescribing a penalty or forfeiture for a violation
- 23 must, before it takes effect, be published in the manner prescribed by
- 24 IC 5-3-1, unless:
- 25 (1) it is published under subsection (d); or
- 26 (2) there is an urgent necessity requiring its immediate
- 27 effectiveness, the executive proclaims the urgent necessity, and
- 28 copies of the ordinance are posted in three (3) public places in the
- 29 county.
- 30 (d) If a legislative body publishes any of its ordinances in book or
- 31 pamphlet form, no other publication is required. If an ordinance
- 32 prescribing a penalty or forfeiture for a violation is published under this
- 33 subsection, it takes effect two (2) weeks after the publication of the
- 34 book or pamphlet. Publication under this subsection, if authorized by
- 35 the legislative body, constitutes presumptive evidence:
- 36 (1) of the ordinances in the book or pamphlet;
- 37 (2) of the date of adoption of the ordinances; and
- 38 (3) that the ordinances have been properly signed, attested,
- 39 recorded, and approved.
- 40 (e) Unless a legislative body provides in an ordinance or resolution
- 41 for a later effective date, the ordinance or resolution takes effect when
- 42 it is adopted, subject to subsections (c) and (d).

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1 (f) Subsections (a), (c), (d), and (e) do not apply to zoning
2 ordinances or amendments to zoning ordinances, or resolutions
3 approving comprehensive plans, that are adopted under IC 36-7.

4 (g) **Subject to subsection (k)**, the legislative body shall:

5 (1) subject to subsection (h), give written notice to the department
6 of environmental management not later than sixty (60) days
7 before amendment or repeal of an environmental restrictive
8 ordinance; and

9 (2) give written notice to the department of environmental
10 management not later than thirty (30) days after passage,
11 amendment, or repeal of an environmental restrictive ordinance.

12 (h) Upon written request by the legislative body, the department of
13 environmental management may waive the notice requirement of
14 subsection (g)(1).

15 (i) An environmental restrictive ordinance passed or amended after
16 2009 by the legislative body must state the notice requirements of
17 subsection (g).

18 (j) The failure of an environmental restrictive ordinance to comply
19 with subsection (i) does not void the ordinance.

20 **(k) The notice requirements of subsection (g) apply only if the**
21 **municipal corporation received under IC 13-25-5-8.5(f) written**
22 **notice that the department is relying on the environmental**
23 **restrictive ordinance referred to in subsection (g) as part of a risk**
24 **based remediation proposal:**

25 **(1) approved by the department; and**

26 **(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4,**
27 **or IC 13-25-5.**

28 SECTION 46. IC 36-4-6-14, AS AMENDED BY P.L.78-2009,
29 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 UPON PASSAGE]: Sec. 14. (a) An ordinance, order, or resolution
31 passed by the legislative body is considered adopted when it is:

32 (1) signed by the presiding officer; and

33 (2) either approved by the city executive or passed over the
34 executive's veto by the legislative body, under section 16 of this
35 chapter.

36 If required by statute, an adopted ordinance, order, or resolution must
37 be promulgated or published before it takes effect.

38 (b) An ordinance prescribing a penalty or forfeiture for a violation
39 must, before it takes effect, be published in the manner prescribed by
40 IC 5-3-1, unless:

41 (1) it is published under subsection (c); or

42 (2) there is an urgent necessity requiring its immediate

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1 effectiveness, the city executive proclaims the urgent necessity,
 2 and copies of the ordinance are posted in three (3) public places
 3 in each of the districts from which members are elected to the
 4 legislative body.

5 (c) Except as provided in subsection (e), if a city publishes any of
 6 its ordinances in book or pamphlet form, no other publication is
 7 required. If an ordinance prescribing a penalty or forfeiture for a
 8 violation is published under this subsection, it takes effect two (2)
 9 weeks after the publication of the book or pamphlet. Publication under
 10 this subsection, if authorized by the legislative body, constitutes
 11 presumptive evidence:

- 12 (1) of the ordinances in the book or pamphlet;
 13 (2) of the date of adoption of the ordinances; and
 14 (3) that the ordinances have been properly signed, attested,
 15 recorded, and approved.

16 (d) This section (**other than subsection (f)**) does not apply to a
 17 zoning ordinance or amendment to a zoning ordinance, or a resolution
 18 approving a comprehensive plan, that is adopted under IC 36-7.

19 (e) An ordinance increasing a building permit fee on new
 20 development must:

- 21 (1) be published:
 22 (A) one (1) time in accordance with IC 5-3-1; and
 23 (B) not later than thirty (30) days after the ordinance is
 24 adopted by the legislative body in accordance with IC 5-3-1;
 25 and
 26 (2) delay the implementation of the fee increase for ninety (90)
 27 days after the date the ordinance is published under subdivision
 28 (1).

29 (f) **Subject to subsection (j)**, the legislative body shall:

- 30 (1) subject to subsection (g), give written notice to the department
 31 of environmental management not later than sixty (60) days
 32 before amendment or repeal of an environmental restrictive
 33 ordinance; and
 34 (2) give written notice to the department of environmental
 35 management not later than thirty (30) days after passage,
 36 amendment, or repeal of an environmental restrictive ordinance.

37 (g) Upon written request by the legislative body, the department of
 38 environmental management may waive the notice requirement of
 39 subsection (f)(1).

40 (h) An environmental restrictive ordinance passed or amended after
 41 2009 by the legislative body must state the notice requirements of
 42 subsection (f).

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- 1 (i) The failure of an environmental restrictive ordinance to comply
- 2 with subsection (h) does not void the ordinance.
- 3 (j) **The notice requirements of subsection (f) apply only if the**
- 4 **municipal corporation received under IC 13-25-5-8.5(f) written**
- 5 **notice that the department is relying on the environmental**
- 6 **restrictive ordinance referred to in subsection (f) as part of a risk**
- 7 **based remediation proposal:**
 - 8 (1) **approved by the department; and**
 - 9 (2) **conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4,**
 - 10 **or IC 13-25-5.**
- 11 SECTION 47. IC 36-5-2-10, AS AMENDED BY P.L.78-2009,
- 12 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 13 UPON PASSAGE]: Sec. 10. (a) An ordinance, order, or resolution
- 14 passed by the legislative body is considered adopted when it is signed
- 15 by the executive. If required by statute, an adopted ordinance, order, or
- 16 resolution must be promulgated or published before it takes effect.
- 17 (b) An ordinance prescribing a penalty for a violation must, before
- 18 it takes effect, be published in the manner prescribed by IC 5-3-1,
- 19 unless:
 - 20 (1) it is published under IC 36-1-5; or
 - 21 (2) it declares an emergency requiring its immediate effectiveness
 - 22 and is posted in:
 - 23 (A) one (1) public place in each district in the town; or
 - 24 (B) a number of public places in the town equal to the number
 - 25 of town legislative body members, if the town has abolished
 - 26 legislative body districts under section 4.1 of this chapter.
- 27 (c) This section (**other than subsection (e)**) does not apply to a
- 28 zoning ordinance or amendment to a zoning ordinance, or a resolution
- 29 approving a comprehensive plan, that is adopted under IC 36-7.
- 30 (d) An ordinance increasing a building permit fee on new
- 31 development must:
 - 32 (1) be published:
 - 33 (A) one (1) time in accordance with IC 5-3-1; and
 - 34 (B) not later than thirty (30) days after the ordinance is
 - 35 adopted by the legislative body in accordance with IC 5-3-1;
 - 36 and
 - 37 (2) delay the implementation of the fee increase for ninety (90)
 - 38 days after the date the ordinance is published under subdivision
 - 39 (1).
- 40 (e) **Subject to subsection (i)**, the legislative body shall:
 - 41 (1) subject to subsection (f), give written notice to the department
 - 42 of environmental management not later than sixty (60) days

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- 1 before amendment or repeal of an environmental restrictive
 2 ordinance; and
 3 (2) give written notice to the department of environmental
 4 management not later than thirty (30) days after passage,
 5 amendment, or repeal of an environmental restrictive ordinance.
 6 (f) Upon written request by the legislative body, the department of
 7 environmental management may waive the notice requirement of
 8 subsection (e)(1).
 9 (g) An environmental restrictive ordinance passed or amended after
 10 2009 by the legislative body must state the notice requirements of
 11 subsection (e).
 12 (h) The failure of an environmental restrictive ordinance to comply
 13 with subsection (g) does not void the ordinance.
 14 **(i) The notice requirements of subsection (e) apply only if the**
 15 **municipal corporation received under IC 13-25-5-8.5(f) written**
 16 **notice that the department is relying on the environmental**
 17 **restrictive ordinance referred to in subsection (e) as part of a risk**
 18 **based remediation proposal:**
 19 **(1) approved by the department; and**
 20 **(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4,**
 21 **or IC 13-25-5.**
 22 SECTION 48. IC 36-7-13.5-3, AS AMENDED BY P.L.33-2008,
 23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2011]: Sec. 3. The commission consists of the following
 25 members:
 26 (1) The following members appointed by the governor:
 27 (A) The mayor of East Chicago.
 28 (B) The mayor of Gary.
 29 (C) The mayor of Hammond.
 30 (D) The mayor of Michigan City.
 31 (E) The mayor of Portage.
 32 (F) The mayor of Whiting.
 33 (G) Two (2) representatives, each from a steel company that
 34 owns land abutting Lake Michigan with a continuous shoreline
 35 of not less than one (1) mile.
 36 (H) One (1) representative of a company that:
 37 (i) is not a steel company; and
 38 (ii) owns land abutting Lake Michigan with a continuous
 39 shoreline of not less than three-tenths (0.3) mile.
 40 (I) One (1) representative of the department of environmental
 41 management.
 42 (J) One (1) representative of the department of natural

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- 1 resources.
- 2 (K) One (1) representative of the Indiana department of
- 3 transportation.
- 4 (L) One (1) representative of Beverly Shores.
- 5 (M) One (1) representative of Burns Harbor.
- 6 (N) One (1) representative of Dune Acres.
- 7 (O) One (1) representative of Ogden Dunes.
- 8 ~~(P) One (1) representative of the northwest Indiana advisory~~
- 9 ~~board established under IC 13-13-6.~~
- 10 ~~(P)~~ (P) One (1) representative of a public utility that owns real
- 11 property that:
- 12 (i) is located in the counties contiguous to Lake Michigan;
- 13 and
- 14 (ii) has a total assessed value that exceeds the total assessed
- 15 value of real property in the counties contiguous to Lake
- 16 Michigan that is owned by any other public utility.
- 17 ~~(R)~~ (Q) The port director of the Port of Indiana-Burns Harbor.
- 18 (2) One (1) member, preferably from a visitor and tourism
- 19 business, appointed by the lieutenant governor.
- 20 (3) Two (2) members appointed by the speaker of the house of
- 21 representatives who:
- 22 (A) are members of the house of representatives;
- 23 (B) represent house districts that have territory within the
- 24 corridor; and
- 25 (C) are not affiliated with the same political party.
- 26 If all the house districts that have territory within the corridor are
- 27 represented by members of the house of representatives who are
- 28 from the same political party, the speaker shall appoint a member
- 29 of the house of representatives who represents a house district that
- 30 is located anywhere in a county that has territory within the
- 31 corridor to satisfy the requirement under clause (C).
- 32 (4) Two (2) members appointed by the president pro tempore of
- 33 the senate who:
- 34 (A) are members of the senate;
- 35 (B) represent senate districts that have territory within the
- 36 corridor; and
- 37 (C) are not affiliated with the same political party.
- 38 If all the senate districts that have territory within the corridor are
- 39 represented by members of the senate who are from the same
- 40 political party, the president pro tempore shall appoint a member
- 41 of the senate who represents a senate district that is located
- 42 anywhere in a county that has territory within the corridor to

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1 satisfy the requirement under clause (C).
2 SECTION 49. THE FOLLOWING ARE REPEALED [EFFECTIVE
3 JULY 1, 2011]: IC 13-11-2-256; IC 13-11-2-257; IC 13-13-6;
4 IC 13-17-3-4.5.
5 SECTION 50. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 433, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 433 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 9, Nays 0.

 SENATE MOTION

Madam President: I move that Senate Bill 433 be amended to read as follows:

Page 13, line 2, delete "2011" and insert "**2011**".

Page 13, line 3, delete "department's annual cost to administer the" and insert "**program's annual cost of administration exceeds the annual revenue generated by the program and evaluate whether to recommend measures to reduce or eliminate the excess cost;**".

Page 13, delete lines 4 through 5.

Page 13, line 6, delete "reduce or eliminate that excess;".

Page 26, between lines 12 and 13, begin a new paragraph and insert: "SECTION 34. IC 13-20.5-7-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 10. Solid waste management districts shall conduct educational programs under IC 13-21-3-12 to provide information to the public concerning:**

- (1) **reuse and recycling of electronic waste;**
- (2) **collection programs available to the public for the disposal of electronic waste; and**
- (3) **proper disposal of electronic waste.**

SECTION 35. IC 13-21-3-12, AS AMENDED BY P.L.114-2008, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. Except as provided in section 14.5 of this chapter, the powers of a district include the following:

- (1) The power to develop and implement a district solid waste management plan under IC 13-21-5.
- (2) The power to impose district fees on the final disposal of solid waste within the district under IC 13-21-13.
- (3) The power to receive and disburse money, if the primary

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purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(4) The power to sue and be sued.

(5) The power to plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for solid waste management.

(6) The power to enter with any person into a contract or an agreement that is necessary or incidental to the management of solid waste. Contracts or agreements that may be entered into under this subdivision include those for the following:

(A) The design, construction, operation, financing, ownership, or maintenance of facilities by the district or any other person.

(B) The managing or disposal of solid waste.

(C) The sale or other disposition of materials or products generated by a facility.

Notwithstanding any other statute, the maximum term of a contract or an agreement described in this subdivision may not exceed forty (40) years.

(7) The power to enter into agreements for the leasing of facilities in accordance with IC 36-1-10 or IC 36-9-30.

(8) The power to purchase, lease, or otherwise acquire real or personal property for the management or disposal of solid waste.

(9) The power to sell or lease any facility or part of a facility to any person.

(10) The power to make and contract for plans, surveys, studies, and investigations necessary for the management or disposal of solid waste.

(11) The power to enter upon property to make surveys, soundings, borings, and examinations.

(12) The power to:

(A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and

(B) comply with the terms of the gift, grant, or loan.

(13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:

(A) Regular budget and tax levy procedures.

(B) Section 16 of this chapter.

However, except as provided in sections 15 and 15.5 of this chapter, a property tax rate imposed under this article may not exceed eight and thirty-three hundredths cents (\$0.0833) on each one hundred dollars (\$100) of assessed valuation of property in

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the district.

(14) The power to borrow in anticipation of taxes.

(15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.

(16) The power to otherwise do all things necessary for the:

(A) reduction, management, and disposal of solid waste; and

(B) recovery of waste products from the solid waste stream;

if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(17) The power to adopt resolutions that have the force of law. However, a resolution is not effective in a municipality unless the municipality adopts the language of the resolution by ordinance or resolution.

(18) The power to do the following:

(A) Implement a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project.

(B) Apply for a household hazardous waste collection and disposal project grant under IC 13-20-20 and carry out all commitments contained in a grant application.

(C) Establish and maintain a program of self-insurance for a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project, so that at the end of the district's fiscal year the unused and unencumbered balance of appropriated money reverts to the district's general fund only if the district's board specifically provides by resolution to discontinue the self-insurance fund.

(D) Apply for a household hazardous waste project grant as described in IC 13-20-22-2 and carry out all commitments contained in a grant application.

(19) The power to enter into an interlocal cooperation agreement under IC 36-1-7 to obtain:

(A) fiscal;

(B) administrative;

(C) managerial; or

(D) operational;

services from a county or municipality.

(20) The power to compensate advisory committee members for attending meetings at a rate determined by the board.

(21) The power to reimburse board and advisory committee

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members for travel and related expenses at a rate determined by the board.

(22) The power to pay a fee from district money to:

(A) in a joint district, the county or counties in which a final disposal facility is located; or

(B) a county that:

(i) was part of a joint district;

(ii) has withdrawn from the joint district as of January 1, 2008; and

(iii) has established its own district in which a final disposal facility is located.

(23) The power to make grants or loans of:

(A) money;

(B) property; or

(C) services;

to public or private recycling programs, composting programs, or any other programs that reuse any component of the waste stream as a material component of another product, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(24) The power to establish by resolution a nonreverting capital fund. A district's board may appropriate money in the fund for:

(A) equipping;

(B) expanding;

(C) modifying; or

(D) remodeling;

an existing facility. Expenditures from a capital fund established under this subdivision must further the goals and objectives contained in a district's solid waste management plan. Not more than five percent (5%) of the district's total annual budget for the year may be transferred to the capital fund that year. The balance in the capital fund may not exceed twenty-five percent (25%) of the district's total annual budget. If a district's board determines by resolution that a part of a capital fund will not be needed to further the goals and objectives contained in the district's solid waste management plan, that part of the capital fund may be transferred to the district's general fund, to be used to offset tipping fees, property tax revenues, or both tipping fees and property tax revenues.

(25) The power to conduct promotional or educational programs that include giving awards and incentives that further the district's solid waste management plan.

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(26) The power to conduct educational programs under IC 13-20-17.5 to provide information to the public concerning:

- (A) the reuse and recycling of mercury in:
 - (i) mercury commodities; and
 - (ii) mercury-added products; and

(B) collection programs available to the public for:

- (i) mercury commodities; and
- (ii) mercury-added products.

(27) The power to implement mercury collection programs under IC 13-20-17.5 for the public and small businesses.

(28) The power to conduct educational programs under IC 13-20.5 to provide information to the public concerning:

- (A) reuse and recycling of electronic waste;**
- (B) collection programs available to the public for the disposal of electronic waste; and**
- (C) proper disposal of electronic waste."**

Page 33, delete lines 9 through 15.
Renumber all SECTIONS consecutively.

(Reference is to SB 433 as printed February 4, 2011.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 433, 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 14, line 10, strike "a substantive" and insert "**an**".

Page 19, between lines 16 and 17, begin a new paragraph and insert: "SECTION 21. IC 13-17-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The board shall adopt rules under IC 4-22-2 that are:

- (1) consistent with the general intent and purposes declared in IC 13-17-1 and section 1 of this chapter; and
- (2) necessary to the implementation of the federal Clean Air Act (42 U.S.C. 7401 et seq.), as amended by the Clean Air Act Amendments of 1990 (P.L.101-549).

(b) Notwithstanding IC 13-15-5, the board may adopt rules under IC 4-22-2 and IC 13-14-9 that allow the commissioner's actions on permits and permit modifications to become effective immediately,

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regardless of whether a thirty (30) day comment period is held on the permits or permit modifications. The board may adopt rules under this subsection only after considering the:

- (1) environmental significance of;
- (2) federal requirements for federally delegated or approved programs concerning; and
- (3) need for opportunity for public participation on;

the permits or permit modifications.

(c) The board may adopt rules to require sources to report hazardous air pollutant emissions if the reporting is necessary to demonstrate compliance with emissions and other performance standards established under 42 U.S.C. 7412 or 42 U.S.C. 7429. The board may amend 326 IAC 2-6 to allow the department to request hazardous air pollutant emissions data from individual sources for the purpose of site specific studies of hazardous air pollutant:

- (1) emissions; and
- (2) impacts.

(d) The board may amend 326 IAC 2-6 or adopt new rules to establish a general requirement for sources to report hazardous air pollutant emissions (as defined by 42 U.S.C. 7412(b)). However, the rules amended or adopted by the board under this subsection may not require sources to report hazardous air pollutant emissions before January 1, 2004.

(e) For purposes of rules adopted by the board, a reference to "chemical process plants" does not include an ethanol production operation that:

- (1) produces ethanol by natural fermentation after July 2, 2007; and**
 - (2) is included in the North American Industry Classification System (NAICS) code:**
 - (A) 325193 (Ethyl Alcohol Manufacturing); or**
 - (B) 312140 (Distilleries);**
- as described in 72 FR 24059 et seq. (May 1, 2007).**

This subsection expires April 1, 2012."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 433 as reprinted February 8, 2011.)

WOLKINS, Chair

Committee Vote: yeas 10, nays 0.

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