

# SENATE BILL No. 433

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-11-2; IC 13-13; IC 13-14; IC 13-15-4-1; IC 13-17-3-4.5; IC 13-18; IC 13-20; IC 13-23; IC 13-25; IC 32-21; IC 36-1; IC 36-2-4-8; IC 36-3-4-14; IC 36-4-6-14; IC 36-5-2-10; IC 36-7-13.5.

**Synopsis:** Environmental issues. 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 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.  
(Continued next page)

**Effective:** Upon passage; July 1, 2011.

**Gard**

January 12, 2011, read first time and referred to Committee on Energy and Environmental Affairs.



C  
o  
p  
y

Digest Continued

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.

**C**  
**O**  
**P**  
**Y**



Introduced

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.

C  
O  
P  
Y

## 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;



- 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

C  
o  
p  
y



- 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

**C**  
**O**  
**P**  
**Y**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

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**

**C  
O  
P  
Y**



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

COPY



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:

C  
O  
P  
Y



- 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 ~~(c)~~ **(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;

C  
O  
P  
Y



- 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:

C  
o  
p  
y



- 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

**C**  
**O**  
**P**  
**Y**



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.**

C  
O  
P  
Y



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**

C  
o  
p  
y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**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:

C  
o  
p  
y



- 1 (A) issues designated by the legislative council;  
 2 **(B) in 2011 each program administered by the department**  
 3 **for which the department's annual cost to administer the**  
 4 **program exceeds the annual revenue generated by the**  
 5 **program to evaluate whether to recommend measures to**  
 6 **reduce or eliminate that excess; 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:

C  
O  
P  
Y



- 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 amendment to an existing Indiana rule, the
  - 11 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

C  
O  
P  
Y



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:

C  
O  
P  
Y



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 ~~(3)~~ **(3)** reject the proposed rule; or  
 24 ~~(4)~~ **(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:

COPY



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.

C  
o  
p  
y



- 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.

C  
O  
P  
Y



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

- 22 (1) Cooperate with the United States Surgeon General and other
- 23 agencies of the federal government, other states, interstate
- 24 agencies, and other interested parties in all matters relating to
- 25 water pollution, including the development of programs for
- 26 eliminating or reducing pollution and improving the sanitary
- 27 condition of waters.
- 28 (2) On behalf of Indiana, apply for and receive money made
- 29 available to the department under the Federal Water Pollution
- 30 Control Act by any agency of the federal government. However,
- 31 all money received from any federal agency:
- 32 (A) shall be paid into the state treasury; and
- 33 (B) shall be expended, under the direction of the department,
- 34 solely for the purpose for which the grant has been made.
- 35 (3) Approve projects for which application for loans or grants
- 36 under the Federal Water Pollution Control Act is made by:
- 37 (A) any political subdivision or other public body created by
- 38 or under Indiana law and having jurisdiction over disposal of
- 39 sewage, industrial wastes, or other wastes;
- 40 (B) a state agency; or
- 41 (C) an interstate agency.
- 42 (4) Participate through the department's authorized

COPY



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

C  
o  
p  
y



1                   **comparable to the purpose for which a certificate is issued**  
 2                   **under this chapter;**  
 3                   **has been revoked.**

4                   **(5) The operator has been convicted of a crime related to a**  
 5                   **certificate of the operator issued:**

6                   **(A) under this chapter; or**

7                   **(B) by any other state or jurisdiction for a purpose**  
 8                   **comparable to the purpose for which a certificate is issued**  
 9                   **under this chapter.**

10                   (b) A hearing and further proceedings shall be conducted in  
 11                   accordance with IC 4-21.5-7.

12                   SECTION 23. IC 13-18-12-1 IS AMENDED TO READ AS  
 13                   FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. The water pollution  
 14                   control board and the department shall regulate persons who provide  
 15                   wastewater **septage** management services.

16                   SECTION 24. IC 13-18-12-2, AS AMENDED BY P.L.114-2008,  
 17                   SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18                   JULY 1, 2011]: Sec. 2. (a) A person may not transport, treat, store, or  
 19                   dispose of **wastewater septage** in violation of this chapter.

20                   (b) A person may not engage in:

21                   (1) the cleaning of sewage disposal systems; or

22                   (2) the transportation, treatment, storage, or disposal of  
 23                   ~~wastewater;~~ **septage;**

24                   without a **wastewater septage** management permit unless the person is  
 25                   exempted under section 7 of this chapter.

26                   (c) A person may not operate a vehicle for the transportation of  
 27                   ~~wastewater septage~~ without a **wastewater septage** management vehicle  
 28                   identification number issued under this chapter. ~~unless the person is~~  
 29                   ~~exempted under section 4(a)(2) of this chapter.~~

30                   (d) A person may not dispose of **wastewater septage** by land  
 31                   application without first obtaining approval of the land application site  
 32                   under this chapter.

33                   (e) The department may issue a ~~wastewater septage~~ management  
 34                   permit that incorporates issuance of a **wastewater septage** management  
 35                   vehicle identification number and approval of a land application site.

36                   (f) The department may issue new and renewal permits,  
 37                   identification numbers, and approvals under this chapter for a period  
 38                   the department determines appropriate. However, the period may not  
 39                   exceed three (3) years.

40                   SECTION 25. IC 13-18-12-3 IS AMENDED TO READ AS  
 41                   FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. The board shall  
 42                   initiate, in accordance with IC 13-15, a ~~wastewater~~ **septage**

C  
O  
P  
Y



1 management permit program for all persons who offer to perform or are  
2 performing **wastewater septage** management services.

3 SECTION 26. IC 13-18-12-4, AS AMENDED BY P.L.114-2008,  
4 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2011]: Sec. 4. (a) The board shall, in accordance with  
6 IC 13-14-8, adopt rules to establish the following:

7 (1) Standards for the following:

8 (A) The issuance of **wastewater septage** management permits  
9 under section 3 of this chapter.

10 ~~(B) Cleaning of sewage disposal systems:~~

11 ~~(C) (B) Transportation, storage, and treatment of wastewater;~~  
12 **septage**, and disposal of **wastewater; septage**, including land  
13 application.

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

19 (3) Procedures and standards for approval of sites for land  
20 application of **wastewater; septage**.

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

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

28 (1) **wastewater septage** management permits;

29 (2) **wastewater septage** management vehicle identification  
30 numbers; and

31 (3) land application site approvals;

32 under this chapter.

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

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

37 (d) Whenever the board designates a county or city health agency as  
38 the board's agent to approve land application sites under this chapter,  
39 the county or city health agency shall collect and retain the land  
40 application approval fee.

41 SECTION 28. IC 13-18-12-7, AS AMENDED BY P.L.114-2008,  
42 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

C  
o  
p  
y



1 JULY 1, 2011]: Sec. 7. This chapter does not require a person to obtain  
 2 a permit or vehicle identification number under this chapter if the  
 3 person is:

4 (1) engaged in:

5 (A) servicing or maintaining publicly owned wastewater  
 6 treatment facilities; or

7 (B) transportation of wastewater from a publicly owned  
 8 wastewater treatment facility;

9 as long as the wastewater at that facility has been fully treated and  
 10 is stabilized;

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

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

19 SECTION 29. IC 13-20-11-1 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. The department shall  
 21 designate ~~ten (10)~~ employees of the department as landfill inspectors.  
 22 However, the department may not designate a landfill inspector for a  
 23 county that has a consolidated city.

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

28 (1) the person selling or providing the mercury commodity  
 29 provides a material safety data sheet with the mercury  
 30 commodity; and

31 (2) the person selling or providing the mercury commodity  
 32 requires the purchaser or recipient to sign a statement with respect  
 33 to the mercury in the mercury commodity that the purchaser or  
 34 recipient:

35 (A) will use the mercury only:

36 (i) for medical purposes;

37 (ii) in dental amalgam dispose-caps;

38 (iii) for training;

39 (iv) for research; or

40 (v) for manufacturing purposes;

41 (B) understands that mercury is toxic;

42 (C) will store and use the mercury appropriately so that no

C  
o  
p  
y



1 individual is exposed to the mercury under normal conditions  
 2 of use; and  
 3 (D) will not intentionally:  
 4 (i) place or cause to be placed; or  
 5 (ii) allow anyone under the control of the purchaser or  
 6 recipient to place or cause to be placed;  
 7 the mercury commodity in solid waste for disposal, or in a  
 8 ~~wastewater sewage~~ disposal system, **or in a wastewater**  
 9 **treatment plant.**

10 SECTION 31. IC 13-20-21-3 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) **Except as**  
 12 **provided in subsections (b) and (c),** for solid waste permits, the  
 13 application fees are as follows:

14 New Permit or Major Modification	
15	15 Fee
16 <del>Sanitary Landfill</del>	<del>\$31,300</del>
17 Construction\Demolition Site	\$20,000
18 Restricted Waste Site	
19 Type I	\$31,300
20 Type II	\$31,300
21 Type III	\$20,000
22 Processing Facility	
23 Transfer Station	\$12,150
24 Other	\$12,150
25 Incinerator	\$28,650
26 Waste Tire Storage	
27 Registration	\$ 500
28 Waste Tire Processing	\$ 200
29 Waste Tire	
30 Transportation	\$ 25
31	Permit Renewal
32 <del>Sanitary Landfill</del>	<del>\$ 15,350</del>
33 Construction\ 34 Demolition Site	\$ 7,150
35 Restricted Waste Site	
36 Type I	\$ 15,350
37 Type II	\$ 15,350
38 Type III	\$ 7,150
39 Processing Facility	
40 Transfer Station	\$ 2,200
41 Other	\$ 2,200
42 Incinerator	\$ 5,900

C  
O  
P  
Y



1	Waste Tire Processing	\$ 200
2	Minor Modification	
3	Minor Modification	\$2,500
4	<b>(b) The fee for:</b>	
5	<b>(1) a new permit; or</b>	
6	<b>(2) a permit for a major modification;</b>	
7	<b>for a solid waste landfill not covered by subsection (a) is thirty-one</b>	
8	<b>thousand three hundred dollars (\$31,300).</b>	
9	<b>(c) The fee for a permit renewal for a solid waste landfill not</b>	
10	<b>covered by subsection (a) is fifteen thousand three hundred fifty</b>	
11	<b>dollars (\$15,350).</b>	
12	SECTION 32. IC 13-20-21-4 IS AMENDED TO READ AS	
13	FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. For solid waste, the	
14	annual operation fees are as follows:	
15		Fee
16	<b>Sanitary Solid Waste Landfill</b>	
17	<b>Not Otherwise Covered in This Section</b>	
18	> 500 TPD	\$35,000
19	250-499 TPD	\$15,000
20	100-249 TPD	\$ 7,000
21	<100 TPD	\$ 2,000
22	Construction\	
23	Demolition Site	\$ 1,500
24	Restricted Waste Site	
25	Type I	\$35,000
26	Type II	\$25,000
27	Type III	\$10,000
28	Processing Facility	
29	Transfer Station	\$ 2,000
30	Other	\$ 2,000
31	Incinerator	
32	>500 TPD	\$35,000
33	250-499 TPD	\$15,000
34	100-249 TPD	\$ 7,000
35	<100 TPD	\$ 2,000
36	Infectious Waste	
37	Incinerator (>7 TPD)	\$ 5,000
38	Waste Tire Storage	
39	Registration	\$ 500
40	Waste Tire Transportation	
41	Registration	\$ 25
42	Groundwater	

C  
o  
p  
y



1 Compliance  
2 Sampling  
3 (per well)

\$ 250

4 SECTION 33. IC 13-20-21-9 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. Solid waste disposal  
6 fees must be paid by all solid waste disposal facilities, including  
7 ~~sanitary landfills~~, **solid waste landfills**, incinerators, and  
8 construction\demolition disposal facilities. Solid waste disposal fees:

9 (1) for the period of January 1 through June 30 of each year are due  
10 on August 1 of that year; and

11 (2) for the period of July 1 through December 31 of each year are  
12 due on February 1 of the following year.

13 SECTION 34. IC 13-23-8-3, AS AMENDED BY P.L.221-2007,  
14 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2011]: Sec. 3. For the purposes of section 2 of this chapter, the  
16 following amounts shall be used:

17 (1) If the underground petroleum storage tank that is involved in  
18 the occurrence for which claims are made:

19 (A) is not in compliance with rules adopted by the board  
20 concerning technical and safety requirements relating to the  
21 physical characteristics of underground petroleum storage tanks  
22 before the date the tank is required to be in compliance with the  
23 requirements; and

24 (B) is in compliance on a date required under the requirements  
25 described under section 4 of this chapter at the time a release  
26 was discovered;

27 the amount is thirty-five thousand dollars (\$35,000).

28 (2) If the underground petroleum storage tank that is involved in  
29 the occurrence for which claims are made:

30 (A) is in compliance with rules adopted by the board concerning  
31 technical and safety requirements relating to the physical  
32 characteristics of underground petroleum storage tanks before  
33 the date the tank is required to be in compliance with the  
34 requirements;

35 (B) is not a double walled underground petroleum storage tank;  
36 and

37 (C) has piping that does not have secondary containment;  
38 the amount is ~~twenty-five~~ **thirty** thousand dollars ~~(\$25,000)~~  
39 **(\$30,000)**.

40 (3) If the underground petroleum storage tank that is involved in  
41 the occurrence for which claims are made:

42 (A) is in compliance with rules adopted by the board concerning

C  
o  
p  
y



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

C  
O  
P  
Y



1 (2) exercises control at a level comparable to that of a manager of  
 2 the underground storage tank such that the person has assumed or  
 3 manifested responsibility:

4 (A) for the overall management of the underground storage tank  
 5 encompassing day to day decision making with respect to  
 6 environmental compliance; or

7 (B) over all or substantially all of the operational functions (as  
 8 distinguished from financial or administrative functions) of the  
 9 underground storage tank other than the function of  
 10 environmental compliance.

11 SECTION 36. IC 13-25-4-8, AS AMENDED BY P.L.221-2007,  
 12 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 UPON PASSAGE]: Sec. 8. (a) Except as provided in subsection (b),  
 14 (c), or (d), a person that is liable under Section 107(a) of CERCLA (42  
 15 U.S.C. 9607(a)) for:

16 (1) the costs of removal or remedial action incurred by the  
 17 commissioner consistent with the national contingency plan;

18 (2) the costs of any health assessment or health effects study  
 19 carried out by or on behalf of the commissioner under Section  
 20 104(i) of CERCLA (42 U.S.C. 9604(i)); or

21 (3) damages for:

22 (A) injury to;

23 (B) destruction of; or

24 (C) loss of;

25 natural resources of Indiana;

26 is liable, in the same manner and to the same extent, to the state under  
 27 this section.

28 (b) The exceptions provided by Sections 107(b), 107(q), and 107(r)  
 29 of CERCLA 42 U.S.C. 9607(b), 42 U.S.C. 9607(q), and 42 U.S.C.  
 30 9607(r) to liability otherwise imposed by Section 107(a) of CERCLA  
 31 (42 U.S.C. 9607(a)) are equally applicable to any liability otherwise  
 32 imposed under subsection (a).

33 (c) Notwithstanding any liability imposed by the environmental  
 34 management laws:

35 (1) a lender **that meets, for purposes of the determination under**  
 36 **this section of liability for a release of hazardous substances,**  
 37 **the exception criteria under Section 101(20)(E) of CERCLA**  
 38 **(42 U.S.C. 9601(20)(E));**

39 (2) a secured or unsecured creditor; or

40 (3) a fiduciary;

41 is not liable under the environmental management laws, in connection  
 42 with the release or threatened release of a hazardous substance from a

C  
o  
p  
y



1 facility unless the lender, the fiduciary, or creditor has participated in  
2 the management of the hazardous substance at the facility.

3 (d) Notwithstanding any liability imposed by the environmental  
4 management laws, the liability of a fiduciary for a release or threatened  
5 release of a hazardous substance from a facility that is held by the  
6 fiduciary in its fiduciary capacity may be satisfied only from the assets  
7 held by the fiduciary in the same estate or trust as the facility that gives  
8 rise to the liability.

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

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

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

- 40 (1) in the same manner; and
- 41 (2) to the same extent;

42 as the person was liable immediately before the person's interest in the

**C**  
**O**  
**P**  
**Y**



1 property was acquired by the political subdivision or unit of federal or  
2 state government.

3 (g) Notwithstanding subsection (e), a political subdivision or unit of  
4 federal or state government that causes or contributes to the release or  
5 threatened release of a hazardous substance on, in, or at a property  
6 remains subject to this section:

- 7 (1) in the same manner; and
- 8 (2) to the same extent;

9 as a nongovernmental entity under this section.

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

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

- 20 (1) in the same manner; and
- 21 (2) to the same extent;

22 as any other nongovernmental entity under this section.

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

- 26 (1) investigation, removal, or remedial action on a brownfield,  
27 including complying with land use restrictions and institutional  
28 controls; or
- 29 (2) monitoring or closure of an underground storage tank;

30 without being considered as contributing to the existing release or  
31 threatened release of hazardous substances on, in, or at the brownfield  
32 unless existing contamination on the brownfield is exacerbated due to  
33 gross negligence or intentional misconduct by the political subdivision  
34 or unit of federal or state government.

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

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

C  
o  
p  
y



- 1 June 30, 2009.
- 2 (b) The remediation objectives for each hazardous substance and any  
3 petroleum on the site shall be based on:
- 4 (1) background levels of hazardous substances and petroleum that  
5 occur naturally on the site; or  
6 (2) an assessment of the risks pursuant to subsection (d) posed by  
7 the hazardous substance or petroleum presently found on the site  
8 taking into consideration the following:
- 9 (A) Expected future use of the site.  
10 (B) Measurable risks to human health, natural resources, or the  
11 environment based on the:
- 12 (i) activities that take place; and  
13 (ii) environmental impact;  
14 on the site.
- 15 (c) If the:
- 16 (1) nature and extent of the hazardous substance or petroleum is  
17 adequately characterized under the voluntary remediation work  
18 plan, considering the remediation objectives developed under this  
19 section; and  
20 (2) the level of the hazardous substance or petroleum is  
21 demonstrated to be below:
- 22 (A) background levels of the hazardous substances and  
23 petroleum that occur naturally on the site; or  
24 (B) the risk based levels developed under subsection (d);  
25 additional action is not necessary to protect human health or the  
26 environment.
- 27 (d) Risk based remediation objectives shall be based on one (1) of the  
28 following:
- 29 (1) Levels of hazardous substances and petroleum calculated by  
30 the department using standard equations and default values for  
31 particular hazardous substances or petroleum.  
32 (2) Levels of hazardous substances and petroleum calculated using  
33 site specific data for the default values in the department's standard  
34 equations.  
35 (3) Levels of hazardous substances and petroleum developed based  
36 on site specific risk assessments that take into account site specific  
37 factors, including remedial measures, restrictive covenants, and  
38 environmental restrictive ordinances that:
- 39 (A) manage risk; and  
40 (B) control completed or potential exposure pathways.
- 41 (e) The department shall consider and give effect to restrictive  
42 covenants and environmental restrictive ordinances in evaluating risk

C  
O  
P  
Y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

based remediation proposals.

**(f) The department, or a person authorized under subsection (g), shall give written notice to a municipal corporation that the department is relying on an environmental restrictive ordinance adopted by the municipal corporation as part of a risk based remediation proposal:**

- (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.**

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

SECTION 38. IC 32-21-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. The Indiana real estate commission established by IC 25-34.1-2-1 shall adopt a specific disclosure form that contains the following:

- (1) Disclosure by the owner of the known condition of the following:
  - (A) The foundation.
  - (B) The mechanical systems.
  - (C) The roof.
  - (D) The structure.
  - (E) The water and sewer systems.
  - (F) Additions that may require improvements to the sewage disposal system.
  - (G) Other areas that the Indiana real estate commission determines are appropriate.

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

~~(2)~~ **(3)** A notice to the prospective buyer that contains substantially the following language:  
"The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property."

~~(3)~~ **(4)** A notice to the prospective buyer that contains substantially the following language:  
"The representations in this form are the representations of the owner and are not the representations of the agent, if any. This

C  
o  
p  
y



1 information is for disclosure only and is not intended to be a part  
 2 of any contract between the buyer and owner."  
 3 ~~(4)~~ (5) A disclosure by the owner that an airport is located within  
 4 a geographical distance from the property as determined by the  
 5 Indiana real estate commission. The commission may consider the  
 6 differences between an airport serving commercial airlines and an  
 7 airport that does not serve commercial airlines in determining the  
 8 distance to be disclosed.  
 9 SECTION 39. IC 32-21-6-5 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) An owner or  
 11 agent is not required to disclose to a transferee any knowledge of a  
 12 psychologically affected property in a real estate transaction.  
 13 (b) **Subsection (a) does not apply if the transferred property is**  
 14 **listed on the methamphetamine registry web site described in**  
 15 **IC 5-2-6-19.**  
 16 SECTION 40. IC 36-1-2-4.7, AS ADDED BY P.L.78-2009,  
 17 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 UPON PASSAGE]: Sec. 4.7. "Environmental restrictive ordinance"  
 19 means, with respect to land, any ordinance that:  
 20 (1) is adopted by a municipal corporation; and  
 21 (2) ~~limits, regulates, or prohibits one (1) or more of the following~~  
 22 ~~with respect 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 41. IC 36-1-6-11, AS ADDED BY P.L.78-2009,  
 30 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 UPON PASSAGE]: Sec. 11. (a) **Subject to subsection (e)**, the  
 32 legislative body of a municipal corporation shall:  
 33 (1) subject to subsection (b), give written notice to the department  
 34 of environmental management not later than sixty (60) days before  
 35 amendment or repeal of an environmental restrictive ordinance;  
 36 and  
 37 (2) give written notice to the department of environmental  
 38 management not later than thirty (30) days after passage,  
 39 amendment, or repeal of an environmental restrictive ordinance.  
 40 (b) Upon written request by the legislative body, the department of  
 41 environmental management may waive the notice requirement of  
 42 subsection (a)(1).

C  
o  
p  
y



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

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

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

11 (1) approved by the department; and

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

14 SECTION 42. IC 36-2-4-8, AS AMENDED BY P.L.78-2009,  
15 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 UPON PASSAGE]: Sec. 8. (a) An ordinance, order, or resolution is  
17 considered adopted when it is signed by the presiding officer. If  
18 required, an adopted ordinance, order, or resolution must be  
19 promulgated or published according to statute before it takes effect.

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

26 (1) the county executive proclaims the urgent necessity; and

27 (2) copies of the ordinance are posted in three (3) public places in  
28 each of the districts of the county before it takes effect.

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

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

33 (A) approved by signature of a majority of the county executive;

34 (B) neither approved nor vetoed by a majority of the executive,  
35 within ten (10) days after passage by the legislative body; or

36 (C) passed over the veto of the executive by a two-thirds (2/3)  
37 vote of the legislative body, within sixty (60) days after  
38 presentation of the ordinance or resolution to the executive.

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

41 (A) subject to subdivision (3), give written notice to the  
42 department of environmental management not later than sixty

C  
o  
p  
y



- 1 (60) days before amendment or repeal of an environmental  
 2 restrictive ordinance; and
- 3 (B) 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 (3) Upon written request by the legislative body, the department of  
 7 environmental management may waive the notice requirement of  
 8 subdivision (2)(A).
- 9 (4) An environmental restrictive ordinance passed or amended  
 10 after 2009 by the legislative body must state the notice  
 11 requirements of subdivision (2).
- 12 (5) The failure of an environmental restrictive ordinance to comply  
 13 with subdivision (4) does not void the ordinance.
- 14 (d) After an ordinance or resolution passed by the legislative body of  
 15 a county subject to IC 36-2-3.5 has been signed by the presiding  
 16 officer, the county auditor shall present it to the county executive, and  
 17 record the time of the presentation. Within ten (10) days after an  
 18 ordinance or resolution is presented to it, the executive shall:
- 19 (1) approve the ordinance or resolution, by signature of a majority  
 20 of the executive, and send the legislative body a message  
 21 announcing its approval; or
- 22 (2) veto the ordinance or resolution, by returning it to the  
 23 legislative body with a message announcing its veto and stating its  
 24 reasons for the veto.
- 25 (e) This section (**other than subsection (c)(2)**) does not apply to a  
 26 zoning ordinance or amendment to a zoning ordinance, or a resolution  
 27 approving a comprehensive plan, that is adopted under IC 36-7.
- 28 (f) An ordinance increasing a building permit fee on new  
 29 development must:
- 30 (1) be published:
- 31 (A) one (1) time in accordance with IC 5-3-1; and
- 32 (B) not later than thirty (30) days after the ordinance is adopted  
 33 by the legislative body in accordance with IC 5-3-1; and
- 34 (2) delay the implementation of the fee increase for ninety (90)  
 35 days after the date the ordinance is published under subdivision  
 36 (1).
- 37 (g) **The notice requirements of subsection (c)(2) apply only if the**  
 38 **municipal corporation received under IC 13-25-5-8.5(f) written**  
 39 **notice that the department is relying on the environmental**  
 40 **restrictive ordinance referred to in subsection (c)(2) as part of a**  
 41 **risk based remediation proposal:**
- 42 (1) approved by the department; and

C  
 O  
 P  
 Y



1           **(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4,**  
 2           **or IC 13-25-5.**  
 3           SECTION 43. IC 36-3-4-14, AS AMENDED BY P.L.78-2009,  
 4           SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5           UPON PASSAGE]: Sec. 14. (a) An ordinance or resolution passed by  
 6           a legislative body is considered adopted when it is:  
 7               (1) signed by the presiding officer; and  
 8               (2) if subject to veto, either approved by the executive or passed  
 9               over the executive's veto by the legislative body, under section 16  
 10              of this chapter.  
 11           (b) All ordinances and resolutions of a legislative body are subject to  
 12           veto, except the following:  
 13               (1) An ordinance or resolution, or part of either, providing for the  
 14               budget or appropriating money for an office or officer of the county  
 15               provided for by the Constitution of Indiana or for a judicial office  
 16               or officer.  
 17               (2) An ordinance or resolution approving or modifying the budget  
 18               of a political subdivision that the legislative body is permitted by  
 19               statute to review.  
 20               (3) A resolution making an appointment that the legislative body  
 21               is authorized to make.  
 22               (4) A resolution selecting officers or employees of the legislative  
 23               body.  
 24               (5) A resolution prescribing rules for the internal management of  
 25               the legislative body.  
 26               (6) A zoning ordinance or amendment to a zoning ordinance, or a  
 27               resolution approving a comprehensive plan, that is adopted under  
 28               IC 36-7.  
 29           (c) An ordinance prescribing a penalty or forfeiture for a violation  
 30           must, before it takes effect, be published in the manner prescribed by  
 31           IC 5-3-1, unless:  
 32               (1) it is published under subsection (d); or  
 33               (2) there is an urgent necessity requiring its immediate  
 34               effectiveness, the executive proclaims the urgent necessity, and  
 35               copies of the ordinance are posted in three (3) public places in the  
 36               county.  
 37           (d) If a legislative body publishes any of its ordinances in book or  
 38           pamphlet form, no other publication is required. If an ordinance  
 39           prescribing a penalty or forfeiture for a violation is published under this  
 40           subsection, it takes effect two (2) weeks after the publication of the  
 41           book or pamphlet. Publication under this subsection, if authorized by  
 42           the legislative body, constitutes presumptive evidence:

C  
o  
p  
y



1 (1) of the ordinances in the book or pamphlet;  
 2 (2) of the date of adoption of the ordinances; and  
 3 (3) that the ordinances have been properly signed, attested,  
 4 recorded, and approved.  
 5 (e) Unless a legislative body provides in an ordinance or resolution  
 6 for a later effective date, the ordinance or resolution takes effect when  
 7 it is adopted, subject to subsections (c) and (d).  
 8 (f) Subsections (a), (c), (d), and (e) do not apply to zoning ordinances  
 9 or amendments to zoning ordinances, or resolutions approving  
 10 comprehensive plans, that are adopted under IC 36-7.  
 11 (g) **Subject to subsection (k)**, the legislative body shall:  
 12 (1) subject to subsection (h), give written notice to the department  
 13 of environmental management not later than sixty (60) days before  
 14 amendment or repeal of an environmental restrictive ordinance;  
 15 and  
 16 (2) give written notice to the department of environmental  
 17 management not later than thirty (30) days after passage,  
 18 amendment, or repeal of an environmental restrictive ordinance.  
 19 (h) Upon written request by the legislative body, the department of  
 20 environmental management may waive the notice requirement of  
 21 subsection (g)(1).  
 22 (i) An environmental restrictive ordinance passed or amended after  
 23 2009 by the legislative body must state the notice requirements of  
 24 subsection (g).  
 25 (j) The failure of an environmental restrictive ordinance to comply  
 26 with subsection (i) does not void the ordinance.  
 27 **(k) The notice requirements of subsection (g) apply only if the**  
 28 **municipal corporation received under IC 13-25-5-8.5(f) written**  
 29 **notice that the department is relying on the environmental**  
 30 **restrictive ordinance referred to in subsection (g) as part of a risk**  
 31 **based remediation proposal:**  
 32 **(1) approved by the department; and**  
 33 **(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4,**  
 34 **or IC 13-25-5.**  
 35 SECTION 44. IC 36-4-6-14, AS AMENDED BY P.L.78-2009,  
 36 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 UPON PASSAGE]: Sec. 14. (a) An ordinance, order, or resolution  
 38 passed by the legislative body is considered adopted when it is:  
 39 (1) signed by the presiding officer; and  
 40 (2) either approved by the city executive or passed over the  
 41 executive's veto by the legislative body, under section 16 of this  
 42 chapter.

C  
o  
p  
y



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

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

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

7 (2) there is an urgent necessity requiring its immediate  
8 effectiveness, the city executive proclaims the urgent necessity,  
9 and copies of the ordinance are posted in three (3) public places in  
10 each of the districts from which members are elected to the  
11 legislative body.

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

18 (1) of the ordinances in the book or pamphlet;

19 (2) of the date of adoption of the ordinances; and

20 (3) that the ordinances have been properly signed, attested,  
21 recorded, and approved.

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

25 (e) An ordinance increasing a building permit fee on new  
26 development must:

27 (1) be published:

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

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

31 (2) delay the implementation of the fee increase for ninety (90)  
32 days after the date the ordinance is published under subdivision  
33 (1).

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

35 (1) subject to subsection (g), give written notice to the department  
36 of environmental management not later than sixty (60) days before  
37 amendment or repeal of an environmental restrictive ordinance;  
38 and

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

42 (g) Upon written request by the legislative body, the department of

C  
O  
P  
Y



1 environmental management may waive the notice requirement of  
 2 subsection (f)(1).  
 3 (h) An environmental restrictive ordinance passed or amended after  
 4 2009 by the legislative body must state the notice requirements of  
 5 subsection (f).  
 6 (i) The failure of an environmental restrictive ordinance to comply  
 7 with subsection (h) does not void the ordinance.  
 8 **(j) The notice requirements of subsection (f) apply only if the**  
 9 **municipal corporation received under IC 13-25-5-8.5(f) written**  
 10 **notice that the department is relying on the environmental**  
 11 **restrictive ordinance referred to in subsection (f) as part of a risk**  
 12 **based remediation proposal:**  
 13 **(1) approved by the department; and**  
 14 **(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4,**  
 15 **or IC 13-25-5.**  
 16 SECTION 45. IC 36-5-2-10, AS AMENDED BY P.L.78-2009,  
 17 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 UPON PASSAGE]: Sec. 10. (a) An ordinance, order, or resolution  
 19 passed by the legislative body is considered adopted when it is signed  
 20 by the executive. If required by statute, an adopted ordinance, order, or  
 21 resolution must be promulgated or published before it takes effect.  
 22 (b) An ordinance prescribing a penalty for a violation must, before  
 23 it takes effect, be published in the manner prescribed by IC 5-3-1,  
 24 unless:  
 25 (1) it is published under IC 36-1-5; or  
 26 (2) it declares an emergency requiring its immediate effectiveness  
 27 and is posted in:  
 28 (A) one (1) public place in each district in the town; or  
 29 (B) a number of public places in the town equal to the number of  
 30 town legislative body members, if the town has abolished  
 31 legislative body districts under section 4.1 of this chapter.  
 32 (c) This section **(other than subsection (e))** does not apply to a  
 33 zoning ordinance or amendment to a zoning ordinance, or a resolution  
 34 approving a comprehensive plan, that is adopted under IC 36-7.  
 35 (d) An ordinance increasing a building permit fee on new  
 36 development must:  
 37 (1) be published:  
 38 (A) one (1) time in accordance with IC 5-3-1; and  
 39 (B) not later than thirty (30) days after the ordinance is adopted  
 40 by the legislative body in accordance with IC 5-3-1; and  
 41 (2) delay the implementation of the fee increase for ninety (90)  
 42 days after the date the ordinance is published under subdivision

C  
O  
P  
Y



- 1 (1).  
 2 (e) **Subject to subsection (i)**, the legislative body shall:  
 3 (1) subject to subsection (f), give written notice to the department  
 4 of environmental management not later than sixty (60) days before  
 5 amendment or repeal of an environmental restrictive ordinance;  
 6 and  
 7 (2) give written notice to the department of environmental  
 8 management not later than thirty (30) days after passage,  
 9 amendment, or repeal of an environmental restrictive ordinance.  
 10 (f) Upon written request by the legislative body, the department of  
 11 environmental management may waive the notice requirement of  
 12 subsection (e)(1).  
 13 (g) An environmental restrictive ordinance passed or amended after  
 14 2009 by the legislative body must state the notice requirements of  
 15 subsection (e).  
 16 (h) The failure of an environmental restrictive ordinance to comply  
 17 with subsection (g) does not void the ordinance.  
 18 (i) **The notice requirements of subsection (e) apply only if the**  
 19 **municipal corporation received under IC 13-25-5-8.5(f) written**  
 20 **notice that the department is relying on the environmental**  
 21 **restrictive ordinance referred to in subsection (e) as part of a risk**  
 22 **based remediation proposal:**  
 23 (1) **approved by the department; and**  
 24 (2) **conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4,**  
 25 **or IC 13-25-5.**  
 26 SECTION 46. IC 36-7-13.5-3, AS AMENDED BY P.L.33-2008,  
 27 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2011]: Sec. 3. The commission consists of the following  
 29 members:  
 30 (1) The following members appointed by the governor:  
 31 (A) The mayor of East Chicago.  
 32 (B) The mayor of Gary.  
 33 (C) The mayor of Hammond.  
 34 (D) The mayor of Michigan City.  
 35 (E) The mayor of Portage.  
 36 (F) The mayor of Whiting.  
 37 (G) Two (2) representatives, each from a steel company that  
 38 owns land abutting Lake Michigan with a continuous shoreline  
 39 of not less than one (1) mile.  
 40 (H) One (1) representative of a company that:  
 41 (i) is not a steel company; and  
 42 (ii) owns land abutting Lake Michigan with a continuous

C  
O  
P  
Y

- 1 shoreline of not less than three-tenths (0.3) mile.
- 2 (I) One (1) representative of the department of environmental  
3 management.
- 4 (J) One (1) representative of the department of natural resources.
- 5 (K) One (1) representative of the Indiana department of  
6 transportation.
- 7 (L) One (1) representative of Beverly Shores.
- 8 (M) One (1) representative of Burns Harbor.
- 9 (N) One (1) representative of Dune Acres.
- 10 (O) One (1) representative of Ogden Dunes.
- 11 ~~(P) One (1) representative of the northwest Indiana advisory~~  
12 ~~board established under IC 13-13-6.~~
- 13 ~~(P)~~ (P) One (1) representative of a public utility that owns real  
14 property that:
- 15 (i) is located in the counties contiguous to Lake Michigan; and
- 16 (ii) has a total assessed value that exceeds the total assessed  
17 value of real property in the counties contiguous to Lake  
18 Michigan that is owned by any other public utility.
- 19 ~~(R)~~ (Q) The port director of the Port of Indiana-Burns Harbor.
- 20 (2) One (1) member, preferably from a visitor and tourism  
21 business, appointed by the lieutenant governor.
- 22 (3) Two (2) members appointed by the speaker of the house of  
23 representatives who:
- 24 (A) are members of the house of representatives;
- 25 (B) represent house districts that have territory within the  
26 corridor; and
- 27 (C) are not affiliated with the same political party.
- 28 If all the house districts that have territory within the corridor are  
29 represented by members of the house of representatives who are  
30 from the same political party, the speaker shall appoint a member  
31 of the house of representatives who represents a house district that  
32 is located anywhere in a county that has territory within the  
33 corridor to satisfy the requirement under clause (C).
- 34 (4) Two (2) members appointed by the president pro tempore of  
35 the senate who:
- 36 (A) are members of the senate;
- 37 (B) represent senate districts that have territory within the  
38 corridor; and
- 39 (C) are not affiliated with the same political party.
- 40 If all the senate districts that have territory within the corridor are  
41 represented by members of the senate who are from the same  
42 political party, the president pro tempore shall appoint a member

C  
o  
p  
y



1 of the senate who represents a senate district that is located  
2 anywhere in a county that has territory within the corridor to satisfy  
3 the requirement under clause (C).

4 SECTION 47. THE FOLLOWING ARE REPEALED [EFFECTIVE  
5 JULY 1, 2011]: IC 13-11-2-256; IC 13-11-2-257; IC 13-13-6;  
6 IC 13-17-3-4.5.

7 SECTION 48. **An emergency is declared for this act.**

**C  
o  
p  
y**

