COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Energy and Environmental Affairs, to which was referred House Bill No. 1187, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-16.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 16.6. "Biomass", for purposes of sections 16.7 and 16.8 of this chapter and IC 13-20-10.5, means biological material that is available on a renewable recurring basis and is used as a source of renewable energy, including the following:**

(1) Agricultural crops.

(2) Agricultural wastes and residues.

(3) Wood and wood byproducts, including the following:

(A) Wood residue.

(B) Forest thinning.

(C) Mill residue wood.

(4) Animal wastes and byproducts, including manure.

(5) Aquatic plants.

(6) Algae.

(7) Byproducts of processing agricultural crops.

SECTION 2. IC 13-11-2-16.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2011]: **Sec. 16.7. "Biomass anaerobic digestion facility", for purposes of IC 13-20-10.5:**

(1) means a facility that incorporates equipment that promotes the decomposition of biomass to simple organics and biogas products in the oxygen free environment of a closed, sealed chamber; and

(2) includes a methane recovery system.

SECTION 3. IC 13-11-2-16.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 16.8. "Biomass gasification facility", for purposes of IC 13-20-10.5, means a facility that incorporates equipment to carry out a thermochemical process that, with little or no oxygen present, converts biomass into a synthesis gas.**

SECTION 4. IC 13-11-2-40, AS AMENDED BY P.L.127-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 40. "Confined feeding operation" ~~for purposes of IC 13-18-10,~~ means:

(1) any confined feeding of:

(A) at least three hundred (300) cattle;

(B) at least six hundred (600) swine or sheep;

(C) at least thirty thousand (30,000) fowl; or

(D) at least five hundred (500) horses.

(2) any animal feeding operation electing to be subject to IC 13-18-10; or

(3) any animal feeding operation that is causing a violation of:

(A) water pollution control laws;

(B) any rules of the water pollution control board; or

(C) IC 13-18-10.

A determination by the department under this subdivision is appealable under IC 4-21.5.

SECTION 5. IC 13-11-2-71, AS AMENDED BY P.L.127-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 71. "Environmental management laws" refers to the following:

(1) IC 13-12-2 and IC 13-12-3.

(2) IC 13-13.

(3) IC 13-14.

(4) IC 13-15.

(5) IC 13-16.

(6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.

(7) IC 13-18-10, **IC 13-18-10.5,** IC 13-18-12, IC 13-18-13-31,

and IC 13-18-15 through IC 13-18-20.

(8) IC 13-19-1, IC 13-19-4, and IC 13-19-5-17.

(9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15, IC 13-20-17.7, IC 13-20-19 through IC 13-20-21, and IC 13-20-22-21.

(10) IC 13-22.

(11) IC 13-23.

(12) IC 13-24.

(13) IC 13-25-1 through IC 13-25-5.

(14) IC 13-27-8.

(15) IC 13-30, except IC 13-30-1.

SECTION 6. IC 13-11-2-79.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 79.5. "Fertilizer material", for purposes of IC 13-18-4-5, has the meaning set forth in IC 15-16-2-11.**".

Page 2, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 7. IC 13-11-2-158, AS AMENDED BY P.L.137-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 158. (a) "Person", for purposes of:

(1) IC 13-21;

(2) air pollution control laws;

(3) water pollution control laws; and

(4) environmental management laws, except as provided in subsections (c), (d), (e), and (h);

means an individual, a partnership, a copartnership, a firm, a company, a corporation, an association, a joint stock company, a trust, an estate, a municipal corporation, a city, a school city, a town, a school town, a school district, a school corporation, a county, any consolidated unit of government, political subdivision, state agency, a contractor, or any other legal entity.

(b) "Person", for purposes of:

(1) IC 13-18-10;

(2) IC 13-18-10.5;

(3) IC 13-20-10.5; and

~~(2)~~ **(4)** IC 13-20-17;

means an individual, a partnership, a copartnership, a firm, a company, a corporation, an association, a joint stock company, a trust, an estate, a political subdivision, a state agency, or other legal entity, or their legal representative, agent, or assigns.

(c) "Person", for purposes of:

(1) IC 13-20-13;

(2) IC 13-20-14;

(3) IC 13-20-16; and

(4) IC 13-25-6;

means an individual, a corporation, a limited liability company, a partnership, or an unincorporated association.

(d) "Person", for purposes of IC 13-23, has the meaning set forth in subsection (a). The term includes a consortium, a joint venture, a commercial entity, and the United States government.

(e) "Person", for purposes of IC 13-20-17.5 and IC 13-25-3, means an individual, a corporation, a limited liability company, a partnership, a trust, an estate, or an unincorporated association.

(f) "Person", for purposes of IC 13-26, means an individual, a firm, a partnership, an association, a limited liability company, or a corporation other than an eligible entity.

(g) "Person", for purposes of IC 13-29-1, means any individual, corporation, business enterprise, or other legal entity either public or private and any legal successor, representative, agent, or agency of that individual, corporation, business enterprise, or legal entity.

(h) "Person", for purposes of IC 13-30-8-1, has the meaning set forth in IC 35-41-1.".

Page 2, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 8. IC 13-11-2-205 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 205. (a) "Solid waste", for purposes of IC 13-19, IC 13-21, IC 13-20-22, and environmental management laws, except as provided in subsection (b), means any garbage, refuse, sludge from a waste treatment plant, sludge from a water supply treatment plant, sludge from an air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations or from community activities. The term does not include:

(1) solid or dissolved material in:

(A) domestic sewage; or

(B) irrigation return flows or industrial discharges;

that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act Amendments (33 U.S.C. 1342);

(2) source, special nuclear, or byproduct material (as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.));

(3) manures or crop residues returned to the soil ~~at the point of generation~~ as fertilizers or soil conditioners as part of a total farm operation; or

(4) vegetative matter at composting facilities registered under IC 13-20-10.

(b) "Solid waste", for purposes of IC 13-20-5, IC 13-20-22, and IC 13-21, does not include the following:

(1) A waste that is regulated under the following:

(A) IC 13-22-1 through IC 13-22-8.

(B) IC 13-22-13 through IC 13-22-14.

(2) An infectious waste (as defined in IC 16-41-16-4) that is disposed of at an incinerator permitted under rules adopted by the solid waste management board to dispose of infectious waste.

(c) "Solid waste", for purposes of IC 13-26, means all putrescible and nonputrescible solid and semisolid wastes, except human excreta. The term includes garbage, rubbish, ashes, street cleanings, dead animals, offal, and solid commercial, industrial, and institutional wastes.

SECTION 9. IC 13-18-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. **(a) Except as provided in subsection (b),** a person may not:

(1) throw, run, drain, or otherwise dispose; ~~into any of the streams or waters of Indiana,~~ or

(2) cause, permit, or suffer to be thrown, run, drained, allowed to seep, or otherwise disposed; ~~into any waters,~~

into any of the streams or waters of Indiana any organic or inorganic matter that causes or contributes to a polluted condition of any **of the streams or** waters **of Indiana,** as determined by a rule of the board adopted under sections 1 and 3 of this chapter.

(b) Subsection (a) does not apply to organic or inorganic matter that consists of fertilizer material contained in:

(1) runoff from a storm event; or

(2) irrigation return flow;

entering the waters of Indiana as a result of land application of fertilizer material in compliance with rules adopted by the state chemist under IC 15-16-2-44.

(c) The department shall request documentation of compliance with subsection (b) before a notice of violation can be issued.

(d) A person has thirty (30) days to submit documentation after receiving a request under subsection (c).

(e) The department may issue a notice of violation for failure to comply with subsection (d). No notice of violation can be issued if the department determines that a person complied with subsection (b).

(f) Before the rules for land application of fertilizer materials

adopted under IC 15-16-2-44 by the state chemist take effect, a person may meet the requirements under subsection (b) if the person maintains documentation of compliance with:

(1) the conditions for land application of manure requirements under IC 13-18-10; or

(2) the National Resources Conservation Services land application standards.

(g) Subsection (b) does not affect liability for killing wild animals under IC 14-22-10-6.".

Page 2, after line 35, begin a new paragraph and insert:

"SECTION 10. IC 13-20-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 10.5. Biomass Anaerobic Digestion Facilities and Biomass Gasification Facilities

Sec. 1. (a) A person may not after June 30, 2011, start:

(1) construction of:

(A) a biomass anaerobic digestion facility; or

(B) a biomass gasification facility; or

(2) expansion of:

(A) a biomass anaerobic digestion facility; or

(B) a biomass gasification facility;

without obtaining prior approval of the department.

(b) A person who proposes to construct or expand a biomass anaerobic digestion facility or a biomass gasification facility on the premises of a confined feeding operation must obtain the prior approval required under subsection (a) through the approval process for confined feeding operations under IC 13-18-10 and rules implementing that chapter.

Sec. 2. Except as provided in section 3 of this chapter, a biomass anaerobic digestion facility or a biomass gasification facility for which the only input is biomass is not subject to regulation as a solid waste processing facility.

Sec. 3. (a) The department may determine that a biomass anaerobic digestion facility or a biomass gasification facility for which the input is a combination of biomass and solid waste is subject to regulation as a solid waste processing facility.

(b) Anaerobic digestion and gasification facilities required to maintain a permit under IC 13-17 are not required to seek approval under this chapter.

Sec. 4. The board may adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter.

SECTION 11. IC 15-16-2-44, AS AMENDED BY P.L.81-2009, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 44. (a) The state chemist may adopt rules under IC 4-22-2 concerning the following:

(1) The distribution and use of fertilizer material, **including standards to protect waters of the state.**

(2) The distribution and storage of bulk fertilizers, including standards for the storage of bulk fertilizers to protect the waters of the state.

(b) The state chemist shall adopt rules under IC 4-22-2 concerning the following:

(1) Subject to subsection ~~(d),~~ **(e),** the establishment of certification and educational programs, as determined by the state chemist, relating to the application of fertilizer material, the transportation of fertilizer material, or both for the following:

(A) Persons who apply fertilizer material for hire, transport fertilizer material for hire, or both.

(B) Persons who apply fertilizer material, transport fertilizer material, or both from the following:

(i) Confined feeding operations (as defined in IC 13-11-2-40).

(ii) Operations outside Indiana that would be confined feeding operations (as defined in IC 13-11-2-40) if they were located in Indiana.

(2) The establishment of fees for the certification and education programs established under subdivision (1).

(c) The state chemist shall adopt rules under IC 4-22-2 before July 1, 2012, concerning the staging, management, and land application of fertilizer material.

~~(c)~~ **(d)** Any fees collected for a certification and educational programs under subsection (b)(1) shall be collected by the state chemist and deposited and administered under section 44.5 of this chapter.

~~(d)~~ **(e)** The state chemist may waive all or part of the certification requirements established under subsection (b)(1) on a reciprocal basis

with any state agency or federal agency that has substantially the same certification standards.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1187 as printed January 28, 2011.)

and when so amended that said bill do pass .

Committee Vote: Yeas 6, Nays 0.

Senator Gard, Chairperson