



February 24, 2012

**ENGROSSED  
SENATE BILL No. 130**

DIGEST OF SB 130 (Updated February 22, 2012 5:11 pm - DI 69)

**Citations Affected:** IC 4-21.5; IC 4-22; IC 13-11; IC 13-12; IC 13-13; IC 13-14; IC 13-15; IC 13-16; IC 13-17; IC 13-18; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-25; IC 13-27; IC 13-28; IC 13-29; IC 13-30; IC 16-18; IC 16-20.

**Synopsis:** Environmental boards and combined sewers. Repeals certain statutes creating the following boards: (1) Air pollution control. (2) Water pollution control. (3) Solid waste management board (collectively, the repealed boards). Establishes the environmental rules board (consolidated board). Transfers certain powers and duties of the repealed boards to the consolidated board. Requires that a member of the consolidated board representing a certain constituency possess knowledge, experience, or education that qualifies the individual to represent the constituency being represented. Requires the consolidated board to appoint a technical secretary. Allows the consolidated board to appoint: (1) legal counsel; and (2) members of advisory committees. Requires the consolidated board to use rulemaking procedures to adopt  
(Continued next page)

**Effective:** July 1, 2012; January 1, 2013.

**Gard, Charbonneau, Tallian**

(HOUSE SPONSOR — WOLKINS)

January 4, 2012, read first time and referred to Committee on Energy and Environmental Affairs.

January 17, 2012, amended, reported favorably — Do Pass.

January 19, 2012, read second time, amended, ordered engrossed.

January 20, 2012, engrossed.

January 23, 2012, read third time, passed. Yeas 50, nays 0. Technical correction. Re-engrossed.

HOUSE ACTION

January 31, 2012, read first time and referred to Committee on Environmental Affairs.

February 23, 2012, amended, reported — Do Pass; Yeas 58, nays 36.

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rules. Transfers to the consolidated board duties of the department of environmental management to adopt certain rules related to: (1) treatment plant or water distribution systems certification programs; and (2) the waste tire management fund. Requires an NPDES permit holder to review the feasibility of implementing additional or modified control measures to attain water quality standards if post-construction monitoring results indicate that performance criteria established for combined sewer overflow (CSO) control measures constructed in accordance with an approved long term control plan will not be met. (Current law requires an NPDES permit holder to conduct a review of the feasibility of implementing additional or new control alternatives periodically, but not less than every five years after approval of the long term control plan by the department of environmental management.)

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February 24, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 130

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 4-21.5-7-3, AS AMENDED BY P.L.99-2005,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2013]: Sec. 3. (a) The office of environmental  
4 adjudication is established to review, under this article, agency actions  
5 of the department of environmental management, actions of a board  
6 described in IC 13-14-9-1, and challenges to rulemaking actions by a  
7 board described in IC 13-14-9-1 made pursuant to IC 4-22-2-44 or  
8 IC 4-22-2-45.  
9 (b) The office of environmental adjudication shall:  
10 (1) conduct adjudicatory hearings required to implement:  
11 (A) air pollution control laws (as defined in IC 13-11-2-6),  
12 water pollution control laws (as defined in IC 13-11-2-261),  
13 environmental management laws (as defined in  
14 IC 13-11-2-71), and IC 13-19;  
15 (B) rules of **the board (as defined in IC 13-13-8-1) and the**  
16 **financial assurance board; and**  
17 (i) **the air pollution control board;**

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- 1 (ii) the water pollution control board;  
 2 (iii) the solid waste management board; and  
 3 (iv) the financial assurance board; and  
 4 (C) agency action of the department of environmental  
 5 management; and  
 6 (2) notify a board referred to in subdivision (1)(B) of a final order  
 7 of the office of environmental adjudication that interprets:  
 8 (A) a rule of the board; or  
 9 (B) a statute under which a rule of the board is authorized.
- 10 SECTION 2. IC 4-22-2-28.1, AS AMENDED BY P.L.110-2010,  
 11 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JANUARY 1, 2013]: Sec. 28.1. (a) This section applies to the  
 13 following:  
 14 (1) A rule for which the notice required by section 23 of this  
 15 chapter or by IC 13-14-9-3 is published by an agency or by any of  
 16 the boards (as defined in IC 13-11-2-18): **board (as defined in**  
 17 **IC 13-13-8-1).**  
 18 (2) A rule for which:  
 19 (A) the notice required by IC 13-14-9-3; or  
 20 (B) an appropriate later notice for circumstances described in  
 21 subsection (g);  
 22 is published by the department of environmental management  
 23 after June 30, 2006.  
 24 (b) As used in this section, "coordinator" refers to the small business  
 25 regulatory coordinator assigned to a rule by an agency under subsection  
 26 (e).  
 27 (c) As used in this section, "director" refers to the director or other  
 28 administrative head of an agency.  
 29 (d) As used in this section, "small business" has the meaning set  
 30 forth in IC 5-28-2-6.  
 31 (e) For each rulemaking action and rule finally adopted as a result  
 32 of a rulemaking action by an agency under this chapter, the agency  
 33 shall assign one (1) staff person to serve as the agency's small business  
 34 regulatory coordinator with respect to the proposed or adopted rule.  
 35 The agency shall assign a staff person to a rule under this subsection  
 36 based on the person's knowledge of, or experience with, the subject  
 37 matter of the rule. A staff person may serve as the coordinator for more  
 38 than one (1) rule proposed or adopted by the agency if the person is  
 39 qualified by knowledge or experience with respect to each rule. Subject  
 40 to subsection (f):  
 41 (1) in the case of a proposed rule, the notice of intent to adopt the  
 42 rule published under section 23 of this chapter; or

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1 (2) in the case of a rule proposed by the department of  
 2 environmental management or ~~any of the boards (as defined in~~  
 3 ~~IC 13-11-2-18)~~ **the board (as defined in IC 13-13-8-1)**, the  
 4 notice published under IC 13-14-9-3 or the findings published  
 5 under IC 13-14-9-8(b)(1), whichever applies;

6 must include the name, address, telephone number, and electronic mail  
 7 address of the small business coordinator for the proposed rule, the  
 8 name, address, telephone number, and electronic mail address of the  
 9 small business ombudsman designated under IC 5-28-17-5, and a  
 10 statement of the resources available to regulated entities through the  
 11 small business ombudsman designated under IC 5-28-17-5. Subject to  
 12 subsection (f), in the case of a rule finally adopted, the final rule, as  
 13 published in the Indiana Register, must include the name, address,  
 14 telephone number, and electronic mail address of the coordinator.

15 (f) This subsection applies to a rule adopted by the department of  
 16 environmental management or ~~any of the boards (as defined in~~  
 17 ~~IC 13-11-2-18)~~ **the board (as defined in IC 13-13-8-1)** under  
 18 IC 13-14-9. Subject to subsection (g), the department shall include in  
 19 the notice provided under IC 13-14-9-3 or in the findings published  
 20 under IC 13-14-9-8(b)(1), whichever applies, and in the publication of  
 21 the final rule in the Indiana Register:

22 (1) a statement of the resources available to regulated entities  
 23 through the technical and compliance assistance program  
 24 established under IC 13-28-3;

25 (2) the name, address, telephone number, and electronic mail  
 26 address of the ombudsman designated under IC 13-28-3-2;

27 (3) if applicable, a statement of:

28 (A) the resources available to small businesses through the  
 29 small business stationary source technical assistance program  
 30 established under IC 13-28-5; and

31 (B) the name, address, telephone number, and electronic mail  
 32 address of the ombudsman for small business designated under  
 33 IC 13-28-5-2(3); and

34 (4) the information required by subsection (e).

35 The coordinator assigned to the rule under subsection (e) shall work  
 36 with the ombudsman described in subdivision (2) and the office of  
 37 voluntary compliance established by IC 13-28-1-1 to coordinate the  
 38 provision of services required under subsection (h) and IC 13-28-3. If  
 39 applicable, the coordinator assigned to the rule under subsection (e)  
 40 shall work with the ombudsman referred to in subdivision (3)(B) to  
 41 coordinate the provision of services required under subsection (h) and  
 42 IC 13-28-5.

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1 (g) If the notice provided under IC 13-14-9-3 is not published as  
2 allowed by IC 13-14-9-7, the department of environmental  
3 management shall publish in the notice provided under IC 13-14-9-4  
4 the information that subsection (f) would otherwise require to be  
5 published in the notice under IC 13-14-9-3. If neither the notice under  
6 IC 13-14-9-3 nor the notice under IC 13-14-9-4 is published as allowed  
7 by IC 13-14-9-8, the department of environmental management shall  
8 publish in the commissioner's written findings under IC 13-14-9-8(b)  
9 the information that subsection (f) would otherwise require to be  
10 published in the notice under IC 13-14-9-3.

11 (h) The coordinator assigned to a rule under subsection (e) shall  
12 serve as a liaison between the agency and any small business subject  
13 to regulation under the rule. The coordinator shall provide guidance to  
14 small businesses affected by the rule on the following:

15 (1) Any requirements imposed by the rule, including any  
16 reporting, record keeping, or accounting requirements.

17 (2) How the agency determines or measures compliance with the  
18 rule, including any deadlines for action by regulated entities.

19 (3) Any penalties, sanctions, or fines imposed for noncompliance  
20 with the rule.

21 (4) Any other concerns of small businesses with respect to the  
22 rule, including the agency's application or enforcement of the rule  
23 in particular situations. However, in the case of a rule adopted  
24 under IC 13-14-9, the coordinator assigned to the rule may refer  
25 a small business with concerns about the application or  
26 enforcement of the rule in a particular situation to the ombudsman  
27 designated under IC 13-28-3-2 or, if applicable, under  
28 IC 13-28-5-2(3).

29 (i) The coordinator assigned to a rule under subsection (e) shall  
30 provide guidance under this section in response to questions and  
31 concerns expressed by small businesses affected by the rule. The  
32 coordinator may also issue general guidelines or informational  
33 pamphlets to assist small businesses in complying with the rule. Any  
34 guidelines or informational pamphlets issued under this subsection  
35 shall be made available:

36 (1) for public inspection and copying at the offices of the agency  
37 under IC 5-14-3; and

38 (2) electronically through electronic gateway access.

39 (j) The coordinator assigned to a rule under subsection (e) shall  
40 keep a record of all comments, questions, and complaints received  
41 from small businesses with respect to the rule. The coordinator shall  
42 deliver the record, along with any accompanying documents submitted

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1 by small businesses, to the director:

- 2 (1) not later than ten (10) days after the date on which the rule is  
 3 submitted to the publisher under section 35 of this chapter; and  
 4 (2) before July 15 of each year during which the rule remains in  
 5 effect.

6 The coordinator and the director shall keep confidential any  
 7 information concerning a small business to the extent that the  
 8 information is exempt from public disclosure under IC 5-14-3-4.

9 (k) Not later than November 1 of each year, the director shall:

10 (1) compile the records received from all of the agency's  
 11 coordinators under subsection (j);

12 (2) prepare a report that sets forth:

13 (A) the number of comments, complaints, and questions  
 14 received by the agency from small businesses during the most  
 15 recent state fiscal year, categorized by the subject matter of the  
 16 rules involved;

17 (B) the number of complaints or questions reported under  
 18 clause (A) that were resolved to the satisfaction of the agency  
 19 and the small businesses involved;

20 (C) the total number of staff serving as coordinators under this  
 21 section during the most recent state fiscal year;

22 (D) the agency's costs in complying with this section during  
 23 the most recent state fiscal year; and

24 (E) the projected budget required by the agency to comply  
 25 with this section during the current state fiscal year; and

26 (3) deliver the report to the legislative council in an electronic  
 27 format under IC 5-14-6 and to the small business ombudsman  
 28 designated by IC 5-28-17-5.

29 SECTION 3. IC 4-22-2-28.2, AS ADDED BY P.L.239-2005,  
 30 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JANUARY 1, 2013]: Sec. 28.2. (a) This section applies to a violation  
 32 described in subsection (c) that occurs after June 30, 2005. However,  
 33 in the case of a violation of a rule adopted under IC 13-14-9 by the  
 34 department of environmental management or ~~any of the boards board~~  
 35 (as defined in ~~IC 13-11-2-18~~; **IC 13-13-8-1**), the procedures set forth  
 36 in IC 13-30-4-3 and IC 13-30-7 apply instead of this section.

37 (b) As used in this section, "small business" has the meaning set  
 38 forth in section 28.1(d) of this chapter.

39 (c) Except as provided in subsection (d), a small business that  
 40 voluntarily provides notice to an agency of the small business's actual  
 41 or potential violation of a rule adopted by the agency under this chapter  
 42 is immune from civil or criminal liability resulting from an agency

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1 action relating to the violation if the small business does the following:  
 2 (1) Provides written notice of the violation to the agency not later  
 3 than forty-five (45) days after the small business knew or should  
 4 have known that the violation occurred.  
 5 (2) Corrects the violation within a time agreed to by the agency  
 6 and the small business. However, the small business shall be  
 7 given at least ninety (90) days after the date of the notice  
 8 described in subdivision (1) to correct the violation. The small  
 9 business may correct the violation at any time before the  
 10 expiration of the period agreed to under this subdivision.  
 11 (3) Cooperates with any reasonable request by the agency in any  
 12 investigation initiated in response to the notice.  
 13 (d) A small business is not immune from civil or criminal liability  
 14 relating to a violation of which the small business provides notice  
 15 under subsection (c) if any of the following apply:  
 16 (1) The violation resulted in serious harm or in imminent and  
 17 substantial endangerment to the public health, safety, or welfare.  
 18 (2) The violation resulted in a substantial economic benefit that  
 19 afforded the small business a clear advantage over the small  
 20 business's competitors.  
 21 (3) The small business has a pattern of continuous or repeated  
 22 violations of the rule at issue or any other rules of the agency.  
 23 (e) Information that a small business provides under this section,  
 24 including actions and documents that identify or describe the small  
 25 business, to an agency in providing notice of the small business's actual  
 26 or potential violation of a rule adopted by the agency is confidential,  
 27 unless a clear and immediate danger to the public health, safety, or  
 28 welfare or to the environment exists. Information described in this  
 29 subsection may not be made available for use by the agency for  
 30 purposes other than the purposes of this section without the consent of  
 31 the small business.  
 32 (f) Voluntary notice of an actual or a potential violation of a rule  
 33 that is provided by a small business under subsection (c) is not  
 34 admissible as evidence in a proceeding, other than an agency  
 35 proceeding, to prove liability for the rule violation or the effects of the  
 36 rule violation.  
 37 SECTION 4. IC 4-22-2-37.1, AS AMENDED BY P.L.229-2011,  
 38 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39 JANUARY 1, 2013]: Sec. 37.1. (a) This section applies to a  
 40 rulemaking action resulting in any of the following rules:  
 41 (1) An order adopted by the commissioner of the Indiana  
 42 department of transportation under IC 9-20-1-3(d) or

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- 1 IC 9-21-4-7(a) and designated by the commissioner as an  
 2 emergency rule.
- 3 (2) An action taken by the director of the department of natural  
 4 resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- 5 (3) An emergency temporary standard adopted by the  
 6 occupational safety standards commission under  
 7 IC 22-8-1.1-16.1.
- 8 (4) An emergency rule adopted by the ~~solid waste management~~  
 9 **environmental rules** board under IC 13-22-2-3 and classifying  
 10 a waste as hazardous.
- 11 (5) A rule, other than a rule described in subdivision (6), adopted  
 12 by the department of financial institutions under IC 24-4.5-6-107  
 13 and declared necessary to meet an emergency.
- 14 (6) A rule required under IC 24-4.5-1-106 that is adopted by the  
 15 department of financial institutions and declared necessary to  
 16 meet an emergency under IC 24-4.5-6-107.
- 17 (7) A rule adopted by the Indiana utility regulatory commission to  
 18 address an emergency under IC 8-1-2-113.
- 19 (8) An emergency rule adopted by the state lottery commission  
 20 under IC 4-30-3-9.
- 21 (9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the  
 22 executive board of the state department of health declares is  
 23 necessary to meet an emergency.
- 24 (10) An emergency rule adopted by the Indiana finance authority  
 25 under IC 8-21-12.
- 26 (11) An emergency rule adopted by the insurance commissioner  
 27 under IC 27-1-23-7 or IC 27-1-12.1.
- 28 (12) An emergency rule adopted by the Indiana horse racing  
 29 commission under IC 4-31-3-9.
- 30 (13) An emergency rule adopted by the ~~air pollution control~~  
 31 ~~board, the solid waste management board, or the water pollution~~  
 32 ~~control~~ **environmental rules** board under IC 13-15-4-10(4) or to  
 33 comply with a deadline required by or other date provided by  
 34 federal law, provided:
- 35 (A) the variance procedures are included in the rules; and  
 36 (B) permits or licenses granted during the period the  
 37 emergency rule is in effect are reviewed after the emergency  
 38 rule expires.
- 39 (14) An emergency rule adopted by the Indiana election  
 40 commission under IC 3-6-4.1-14.
- 41 (15) An emergency rule adopted by the department of natural  
 42 resources under IC 14-10-2-5.

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- 1 (16) An emergency rule adopted by the Indiana gaming  
 2 commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3,  
 3 IC 4-33-4-14, IC 4-33-22-12, or IC 4-35-4-2.  
 4 (17) An emergency rule adopted by the alcohol and tobacco  
 5 commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or  
 6 IC 7.1-3-20-24.4.  
 7 (18) An emergency rule adopted by the department of financial  
 8 institutions under IC 28-15-11.  
 9 (19) An emergency rule adopted by the office of the secretary of  
 10 family and social services under IC 12-8-1-12.  
 11 (20) An emergency rule adopted by the office of the children's  
 12 health insurance program under IC 12-17.6-2-11.  
 13 (21) An emergency rule adopted by the office of Medicaid policy  
 14 and planning under IC 12-15-41-15.  
 15 (22) An emergency rule adopted by the Indiana state board of  
 16 animal health under IC 15-17-10-9.  
 17 (23) An emergency rule adopted by the board of directors of the  
 18 Indiana education savings authority under IC 21-9-4-7.  
 19 (24) An emergency rule adopted by the Indiana board of tax  
 20 review under IC 6-1.1-4-34 (repealed).  
 21 (25) An emergency rule adopted by the department of local  
 22 government finance under IC 6-1.1-4-33 (repealed).  
 23 (26) An emergency rule adopted by the boiler and pressure vessel  
 24 rules board under IC 22-13-2-8(c).  
 25 (27) An emergency rule adopted by the Indiana board of tax  
 26 review under IC 6-1.1-4-37(l) (repealed) or an emergency rule  
 27 adopted by the department of local government finance under  
 28 IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.  
 29 (28) An emergency rule adopted by the board of the Indiana  
 30 economic development corporation under IC 5-28-5-8.  
 31 (29) A rule adopted by the department of financial institutions  
 32 under IC 34-55-10-2.5.  
 33 (30) A rule adopted by the Indiana finance authority:  
 34 (A) under IC 8-15.5-7 approving user fees (as defined in  
 35 IC 8-15.5-2-10) provided for in a public-private agreement  
 36 under IC 8-15.5;  
 37 (B) under IC 8-15-2-17.2(a)(10):  
 38 (i) establishing enforcement procedures; and  
 39 (ii) making assessments for failure to pay required tolls;  
 40 (C) under IC 8-15-2-14(a)(3) authorizing the use of and  
 41 establishing procedures for the implementation of the  
 42 collection of user fees by electronic or other nonmanual

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- 1 means; or  
 2 (D) to make other changes to existing rules related to a toll  
 3 road project to accommodate the provisions of a public-private  
 4 agreement under IC 8-15.5.
- 5 (31) An emergency rule adopted by the board of the Indiana  
 6 health informatics corporation under IC 5-31-5-8.
- 7 (32) An emergency rule adopted by the department of child  
 8 services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or  
 9 IC 31-27-4-3.
- 10 (33) An emergency rule adopted by the Indiana real estate  
 11 commission under IC 25-34.1-2-5(15).
- 12 (34) A rule adopted by the department of financial institutions  
 13 under IC 24-4.4-1-101 and determined necessary to meet an  
 14 emergency.
- 15 (35) An emergency rule adopted by the state board of pharmacy  
 16 regarding returning unused medication under IC 25-26-23.
- 17 (36) An emergency rule adopted by the department of local  
 18 government finance under IC 6-1.1-12.6 or IC 6-1.1-12.8.
- 19 (37) An emergency rule adopted by the office of the secretary of  
 20 family and social services or the office of Medicaid policy and  
 21 planning concerning the following:
- 22 (A) Federal Medicaid waiver program provisions.
- 23 (B) Federal programs administered by the office of the  
 24 secretary.
- 25 (b) The following do not apply to rules described in subsection (a):
- 26 (1) Sections 24 through 36 of this chapter.
- 27 (2) IC 13-14-9.
- 28 (c) After a rule described in subsection (a) has been adopted by the  
 29 agency, the agency shall submit the rule to the publisher for the  
 30 assignment of a document control number. The agency shall submit the  
 31 rule in the form required by section 20 of this chapter and with the  
 32 documents required by section 21 of this chapter. The publisher shall  
 33 determine the format of the rule and other documents to be submitted  
 34 under this subsection.
- 35 (d) After the document control number has been assigned, the  
 36 agency shall submit the rule to the publisher for filing. The agency  
 37 shall submit the rule in the form required by section 20 of this chapter  
 38 and with the documents required by section 21 of this chapter. The  
 39 publisher shall determine the format of the rule and other documents  
 40 to be submitted under this subsection.
- 41 (e) Subject to section 39 of this chapter, the publisher shall:
- 42 (1) accept the rule for filing; and

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- 1 (2) electronically record the date and time that the rule is  
 2 accepted.
- 3 (f) A rule described in subsection (a) takes effect on the latest of the  
 4 following dates:
- 5 (1) The effective date of the statute delegating authority to the  
 6 agency to adopt the rule.
- 7 (2) The date and time that the rule is accepted for filing under  
 8 subsection (e).
- 9 (3) The effective date stated by the adopting agency in the rule.
- 10 (4) The date of compliance with every requirement established by  
 11 law as a prerequisite to the adoption or effectiveness of the rule.
- 12 (g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6,  
 13 IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in  
 14 subsections (j), (k), and (l), a rule adopted under this section expires  
 15 not later than ninety (90) days after the rule is accepted for filing under  
 16 subsection (e). Except for a rule adopted under subsection (a)(13),  
 17 (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting  
 18 another rule under this section, but only for one (1) extension period.  
 19 The extension period for a rule adopted under subsection (a)(28) may  
 20 not exceed the period for which the original rule was in effect. A rule  
 21 adopted under subsection (a)(13) may be extended for two (2)  
 22 extension periods. Subject to subsection (j), a rule adopted under  
 23 subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited  
 24 number of extension periods. Except for a rule adopted under  
 25 subsection (a)(13), for a rule adopted under this section to be effective  
 26 after one (1) extension period, the rule must be adopted under:
- 27 (1) sections 24 through 36 of this chapter; or  
 28 (2) IC 13-14-9;  
 29 as applicable.
- 30 (h) A rule described in subsection (a)(8), (a)(12), (a)(19), (a)(20),  
 31 (a)(21), (a)(29), or (a)(37) expires on the earlier of the following dates:
- 32 (1) The expiration date stated by the adopting agency in the rule.  
 33 (2) The date that the rule is amended or repealed by a later rule  
 34 adopted under sections 24 through 36 of this chapter or this  
 35 section.
- 36 (i) This section may not be used to readopt a rule under IC 4-22-2.5.
- 37 (j) A rule described in subsection (a)(24) or (a)(25) expires not later  
 38 than January 1, 2006.
- 39 (k) A rule described in subsection (a)(28) expires on the expiration  
 40 date stated by the board of the Indiana economic development  
 41 corporation in the rule.
- 42 (l) A rule described in subsection (a)(30) expires on the expiration

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1 date stated by the Indiana finance authority in the rule.  
 2 (m) A rule described in subsection (a)(5) or (a)(6) expires on the  
 3 date the department is next required to issue a rule under the statute  
 4 authorizing or requiring the rule.  
 5 SECTION 5. IC 13-11-2-17, AS AMENDED BY P.L.159-2011,  
 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JANUARY 1, 2013]: Sec. 17. (a) "Board", except as provided in  
 8 subsections (b) through ~~(h)~~, **(d)**, refers to **the environmental rules**  
 9 **board established by IC 13-13-8-3.**  
 10 (1) the air pollution control board;  
 11 (2) the water pollution control board; or  
 12 (3) the solid waste management board.  
 13 (b) "Board", for purposes of IC 13-17, refers to the air pollution  
 14 control board.  
 15 (c) "Board", for purposes of IC 13-18, refers to the water pollution  
 16 control board.  
 17 (d) "Board", for purposes of:  
 18 (1) IC 13-19;  
 19 (2) IC 13-20;  
 20 (3) IC 13-22;  
 21 (4) IC 13-23, except IC 13-23-11;  
 22 (5) IC 13-24; and  
 23 (6) IC 13-25;  
 24 refers to the solid waste management board.  
 25 (e) **(b)** "Board", for purposes of IC 13-21, refers to the board of  
 26 directors of a solid waste management district.  
 27 ~~(f)~~ **(c)** "Board", for purposes of **IC 13-14**, IC 13-23-11, and  
 28 **IC 13-30-2-1**, refers to the underground storage tank financial  
 29 assurance board.  
 30 ~~(g)~~ **(d)** "Board", for purposes of IC 13-26, refers to the board of  
 31 trustees of a regional water, sewage, or solid waste district.  
 32 (h) "Board", for purposes of IC 13-27 and IC 13-27.5, refers to the  
 33 clean manufacturing technology board.  
 34 SECTION 6. IC 13-11-2-18 IS REPEALED [EFFECTIVE  
 35 JANUARY 1, 2013]. Sec. 18: "Boards" refers to all of the following:  
 36 (1) The air pollution control board.  
 37 (2) The water pollution control board.  
 38 (3) The solid waste management board.  
 39 SECTION 7. IC 13-11-2-165 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 165. "Pollution  
 41 control laws" refers to the following:  
 42 (1) IC 13-12-4 and IC 13-12-5.

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- 1 (2) IC 13-17, except for the following:  
 2 (A) IC 13-17-3-15.  
 3 (B) IC 13-17-7.  
 4 (C) IC 13-17-8-10.  
 5 (D) IC 13-17-10.  
 6 (E) IC 13-17-11.  
 7 (F) IC 13-17-13.  
 8 (3) IC 13-18, except for the following:  
 9 (A) IC 13-18-12 and IC 13-18-13.  
 10 (B) IC 13-18-15 through IC 13-18-20.  
 11 (4) ~~IC 13-19-2~~ and IC 13-19-3.  
 12 (5) IC 13-20-16 and IC 13-20-17.  
 13 SECTION 8. IC 13-12-4-5 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. To the fullest  
 15 extent possible:  
 16 (1) the policies, rules, and statutes of the state shall be interpreted  
 17 and administered in accordance with the policies set forth in this  
 18 chapter; and  
 19 (2) all state agencies shall do the following:  
 20 (A) Use a systematic, interdisciplinary approach that will  
 21 ensure the integrated use of the natural and social sciences and  
 22 the environmental design arts in planning and decision making  
 23 that may have an impact on the environment.  
 24 (B) Identify and develop methods and procedures that will  
 25 ensure that unquantified environmental amenities and values  
 26 may be given appropriate consideration in decision making  
 27 along with economic and technical considerations.  
 28 (C) Include in every recommendation or report on proposals  
 29 for legislation and other major state actions significantly  
 30 affecting the quality of the human environment a detailed  
 31 statement by the responsible official on the following:  
 32 (i) The environmental impact of the proposed action.  
 33 (ii) Any adverse environmental effects that cannot be  
 34 avoided should the proposal be implemented.  
 35 (iii) Alternatives to the proposed action.  
 36 (iv) The relationship between local short term uses of the  
 37 environment and the maintenance and enhancement of long  
 38 term productivity.  
 39 (v) Any irreversible and irretrievable commitments of  
 40 resources that would be involved if the proposed action  
 41 should be implemented.  
 42 Before making a detailed statement, the responsible state

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1 official shall consult with and obtain the comments of each  
 2 state agency that has jurisdiction by law or special expertise  
 3 with respect to any environmental impact involved. Copies of  
 4 the statement and the comments and views of the appropriate  
 5 federal, state, and local agencies that are authorized to develop  
 6 and enforce environmental standards shall be made available  
 7 to the governor and to the public and must accompany the  
 8 proposal through the agency review processes. The ~~air~~  
 9 ~~pollution control board, water pollution control board, and~~  
 10 ~~solid waste management~~ board shall by rule define the actions  
 11 that constitute a major state action significantly affecting the  
 12 quality of the human environment.

13 (D) Study, develop, and describe appropriate alternatives to  
 14 recommend courses of action in any proposal that involves  
 15 unresolved conflicts concerning alternative uses of available  
 16 resources.

17 (E) Recognize the long range character of environmental  
 18 problems and, where consistent with the policy of the state,  
 19 lend appropriate support to initiatives, resolutions, and  
 20 programs designed to maximize state cooperation in  
 21 anticipating and preventing a decline in the quality of the  
 22 environment.

23 (F) Make available to counties, municipalities, institutions,  
 24 and individuals advice and information useful in restoring,  
 25 maintaining, and enhancing the quality of the environment.

26 (G) Initiate and use ecological information in the planning and  
 27 development of resource oriented projects.

28 SECTION 9. IC 13-13-8 IS ADDED TO THE INDIANA CODE AS  
 29 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 30 1, 2012]:

31 **Chapter 8. Environmental Rules Board**

32 **Sec. 1. As used in this chapter, "board" refers to the**  
 33 **environmental rules board established by section 3 of this chapter.**

34 **Sec. 2. (a) The following entities are abolished on January 1,**  
 35 **2013:**

36 **(1) The air pollution control board (established by IC 13-17-2**  
 37 **before its repeal).**

38 **(2) The water pollution control board (established by**  
 39 **IC 13-18-1 before its repeal).**

40 **(3) The solid waste management board (established by**  
 41 **IC 13-19-2 before its repeal).**

42 **(b) All powers, duties, and liabilities are transferred from the**

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1 entities abolished under subsection (a) to the environmental rules  
2 board established by section 3 of this chapter effective January 1,  
3 2013.

4 (c) On and after January 1, 2013, a reference to an entity  
5 abolished under subsection (a) in a statute or rule shall be treated  
6 as a reference to the environmental rules board.

7 (d) The rules adopted by the entities abolished under subsection  
8 (a) shall be treated, administered, and implemented as follows:

9 (1) The rules adopted before January 1, 2013, by the air  
10 pollution control board abolished under subsection (a)(1):

11 (A) shall be treated as though the rules were adopted by  
12 the environmental rules board; and

13 (B) shall be administered and implemented by the air  
14 pollution control division of the department described in  
15 IC 13-13-3-2(1).

16 (2) The rules adopted before January 1, 2013, by the water  
17 pollution control board abolished under subsection (a)(2):

18 (A) shall be treated as though the rules were adopted by  
19 the environmental rules board; and

20 (B) shall be administered and implemented by the water  
21 pollution control division of the department described in  
22 IC 13-13-3-2(2).

23 (3) The rules adopted before January 1, 2013, by the solid  
24 waste management board abolished under subsection (a)(3):

25 (A) shall be treated as though the rules were adopted by  
26 the environmental rules board; and

27 (B) shall be administered and implemented by the solid  
28 waste management division of the department described in  
29 IC 13-13-3-2(3).

30 (e) A member of an entity abolished under subsection (a) may  
31 serve until December 31, 2012. The initial members of the  
32 environmental rules board shall be appointed under section 4 of  
33 this chapter not later than December 31, 2012.

34 Sec. 3. The environmental rules board is established as an  
35 independent board.

36 Sec. 4. (a) The board consists of the following sixteen (16)  
37 members:

38 (1) The following ex officio members:

39 (A) The commissioner of the state department of health.

40 (B) The director of the department of natural resources.

41 (C) The lieutenant governor.

42 (D) The secretary of commerce or the secretary's designee.

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- 1           **(E) The commissioner of the department of environmental**  
 2           **management, who shall serve as a nonvoting member.**  
 3           **(2) The following eleven (11) members, who shall be**  
 4           **appointed by the governor based on recommendations from**  
 5           **representative constituencies:**  
 6           **(A) One (1) representative of agriculture.**  
 7           **(B) One (1) representative of manufacturing.**  
 8           **(C) One (1) representative of environmental interests.**  
 9           **(D) One (1) representative of labor.**  
 10           **(E) One (1) representative of local government.**  
 11           **(F) One (1) representative of small business.**  
 12           **(G) One (1) health professional who holds a license to**  
 13           **practice in Indiana.**  
 14           **(H) One (1) representative of the solid waste management**  
 15           **industry.**  
 16           **(I) One (1) representative of a public utility that engages in**  
 17           **the production and transmission of electricity.**  
 18           **(J) Two (2) representatives of the general public, who**  
 19           **cannot qualify to sit on the board under any of the other**  
 20           **clauses in this subdivision.**  
 21           **(b) An individual appointed under subsection (a)(2) must**  
 22           **possess knowledge, experience, or education qualifying the**  
 23           **individual to represent the constituency the individual is being**  
 24           **recommended to represent.**  
 25           **Sec. 5. An ex officio member of the board may designate in**  
 26           **writing a technical representative to serve as a voting member of**  
 27           **the board when the ex officio member is unable to attend a board**  
 28           **meeting.**  
 29           **Sec. 6. Not more than six (6) of the appointed members of the**  
 30           **board may be members of the same political party.**  
 31           **Sec. 7. (a) An appointed member of the board serves a term of**  
 32           **four (4) years.**  
 33           **(b) The term of each member of the board continues until a**  
 34           **successor is appointed and qualified.**  
 35           **(c) If a vacancy occurs in the appointed membership of the**  
 36           **board, the governor shall appoint a member not later than ninety**  
 37           **(90) days after the vacancy occurs for the remainder of the**  
 38           **unexpired term created by the vacancy. The board shall suspend**  
 39           **the exercise of the board's duties if the vacancy has not been filled**  
 40           **not later than ninety (90) days after the vacancy occurs.**  
 41           **(d) The governor may remove an appointed member of the**  
 42           **board for cause. Cause includes the repeated failure to attend**

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meetings.

**Sec. 8. (a) Ex officio members of the board serve without additional compensation.**

**(b) Each appointed member of the board is entitled to the following:**

**(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).**

**(2) Reimbursement for traveling expenses provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.**

**(c) The per diem salary and mileage reimbursement are valid claims against the department.**

**Sec. 9. Eight (8) voting members of the board, five (5) of whom must be appointed members of the board, constitute a quorum. A quorum must be present to transact business at a meeting of the board. Meetings of the board are subject to the public meeting requirements under IC 5-14-1.5.**

**Sec. 10. The governor shall annually select:**

**(1) one (1) of the appointed members of the board to serve as chairperson; and**

**(2) another of the appointed members to serve as vice chairperson.**

**Sec. 11. Each member of the board shall fully disclose any potential conflicts of interest relating to permits or enforcement orders under the:**

**(1) Clean Air Act (42 U.S.C. 7401 et seq.), as amended by the Clean Air Act Amendments of 1990;**

**(2) Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.);**

**(3) Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the federal Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9601 through 9675);**

**(4) Water Pollution Control Act (33 U.S.C. 1251 et seq.); and**

**(5) Safe Drinking Water Act (42 U.S.C. 300f through 300j).**

**Sec. 12. (a) The board shall select, from a list of three (3) qualified individuals recommended by the governor, an independent third party to serve as technical secretary of the board. The technical secretary of the board is an employee of the**

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1 department.

2 (b) Between meetings of the board, the department shall do the  
3 following:

4 (1) Handle correspondence.

5 (2) Make or arrange for investigations and surveys.

6 (3) Obtain, assemble, or prepare reports and data as directed  
7 by the board.

8 (c) The technical secretary shall review all materials prepared  
9 for the board by the department to make any necessary revisions.  
10 Provisions of this chapter concerning terms of appointment,  
11 vacancies, and compensation of appointed board members apply  
12 to the technical secretary. The technical secretary is not a voting  
13 member of the board.

14 Sec. 13. (a) The board may select, from a list of three (3)  
15 qualified individuals recommended by the governor, an  
16 independent third party to serve as legal counsel. The legal counsel  
17 to the board is an employee of the department.

18 (b) The legal counsel shall do the following:

19 (1) Advise the board on legal matters or proceedings arising  
20 from the exercise of the board's duties.

21 (2) Review all materials prepared for the board by the  
22 department for legal accuracy and sufficiency and direct the  
23 department to make any necessary revisions.

24 (c) Provisions of this chapter concerning terms of appointment,  
25 vacancies, and compensation of appointed board members apply  
26 to the legal counsel. The legal counsel is not a voting member of the  
27 board.

28 Sec. 14. The board may establish advisory committees for the  
29 purpose of giving advice on any matters pertaining to the business  
30 of the board. A member appointed to an advisory committee shall  
31 serve at the pleasure of the board and is not entitled to a salary, per  
32 diem, or reimbursement of expenses.

33 Sec. 15. The board shall adopt rules under IC 4-22-2 and  
34 IC 13-14-9 that are consistent with the purposes of this title.

35 SECTION 10. IC 13-14-1-3 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. The department  
37 shall assure accomplishment of the comprehensive, long term programs  
38 established by the ~~boards:~~ **board.**

39 SECTION 11. IC 13-14-1-4 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. The department  
41 shall procure compliance with standards and rules adopted by the  
42 ~~boards:~~ **board.**



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1 SECTION 12. IC 13-14-1-7 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The  
 3 commissioner shall prepare the proposed budget of the department and  
 4 the ~~boards:~~ **board.**

5 SECTION 13. IC 13-14-1-8 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 8. The  
 7 commissioner may propose financing a structure to the ~~boards:~~ **board.**

8 SECTION 14. IC 13-14-1-9, AS AMENDED BY P.L.172-2011,  
 9 SECTION 113, IS AMENDED TO READ AS FOLLOWS  
 10 [EFFECTIVE JANUARY 1, 2013]: Sec. 9. (a) The commissioner shall  
 11 issue permits, licenses, orders, and variances as authorized by:

- 12 (1) this title;
- 13 (2) other statutes; and
- 14 (3) rules of the ~~boards:~~ **board.**

15 (b) If the commissioner is notified by the department of state  
 16 revenue that a person is on the most recent tax warrant list, the  
 17 commissioner may not issue a permit or license to the applicant until:

- 18 (1) the applicant provides a statement to the commissioner from  
 19 the department of state revenue indicating that the applicant's tax  
 20 warrant has been satisfied; or
- 21 (2) the commissioner receives a notice from the commissioner of  
 22 the department of state revenue under IC 6-8.1-8-2(k).

23 SECTION 15. IC 13-14-1-12 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 12. The  
 25 commissioner shall enforce rules consistent with the purposes of:

- 26 (1) air pollution control laws;
- 27 (2) water pollution control laws;
- 28 (3) IC 13-18-9;
- 29 (4) IC 13-18-10;
- 30 ~~(5) IC 13-19-2;~~
- 31 ~~(6)~~ **(5)** IC 13-19-3; and
- 32 ~~(7)~~ **(6)** IC 36-9-30.

33 SECTION 16. IC 13-14-2-2 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. The department  
 35 may have a designated agent, upon presentation of proper credentials,  
 36 enter upon private or public property to inspect for and investigate  
 37 possible violations of any of the following:

- 38 (1) Air pollution control laws.
- 39 (2) Water pollution control laws.
- 40 (3) Environmental management laws.
- 41 (4) IC 13-18-9.
- 42 (5) IC 13-18-10.



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~~(6) IC 13-19-2.~~  
~~(7) (6) IC 13-19-3.~~  
~~(8) (7) Any rule adopted by ~~one (1)~~ of the ~~boards~~: **board**.~~  
SECTION 17. IC 13-14-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. The department may do the following:

- (1) Represent the state in all matters pertaining to plans, procedures, or negotiations for interstate compacts or other governmental arrangements for environmental protection.
- (2) Conduct, convoke, attend, or participate in official or unofficial conferences or hearings within or outside Indiana concerning any matter within the scope of the power and duties of the ~~boards~~: **board** or the department.

SECTION 18. IC 13-14-2-6, AS AMENDED BY P.L.78-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. Except as provided in IC 13-14-6, the commissioner may proceed in court, by appropriate action, to:

- (1) enforce any final order of the commissioner or ~~of one (1)~~ of the ~~boards~~: **board**;
- (2) collect any penalties or fees;
- (3) procure or secure compliance with this title or any other law that the department has the duty or power to enforce;
- (4) procure compliance with any standard or rule ~~of one (1)~~ of the ~~boards~~: **board**;
- (5) enforce a restrictive covenant (as defined in IC 13-11-2-193.5) in accordance with the terms of the covenant if the covenant is:
  - (A) executed before July 1, 2009;
  - (B) approved by the commissioner; and
  - (C) created in connection with any:
    - (i) remediation;
    - (ii) closure;
    - (iii) cleanup;
    - (iv) corrective action; or
    - (v) determination exercising enforcement discretion or of no further action being required;
- (6) enforce a restrictive covenant (as defined in IC 13-11-2-193.5) in accordance with the terms of the covenant if the covenant is:
  - (A) executed after June 30, 2009; and
  - (B) created in connection with any of the following approved by the department under this title:
    - (i) A remediation.

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- 1 (ii) A closure.
- 2 (iii) A cleanup.
- 3 (iv) A corrective action.
- 4 (v) A determination exercising enforcement discretion or of
- 5 no further action being required.

6 SECTION 19. IC 13-14-4-3 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. (a) Each  
 8 person:

- 9 (1) discharging; or
  - 10 (2) proposing to discharge or emit;
- 11 contaminants that could affect environmental quality shall furnish to  
 12 the department the reasonable technical or monitoring program reports  
 13 that the ~~boards specify~~ **board specifies** by rule.

14 (b) An affidavit of the responsible officer or person in charge of the  
 15 operation involved must accompany each report.

16 SECTION 20. IC 13-14-5-5 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. The ~~boards~~  
 18 **board** shall adopt rules under IC 4-22-2 ~~and IC 13-14-9~~ to administer  
 19 this chapter and IC 13-30-7.

20 SECTION 21. IC 13-14-7-1 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The:

- 22 (1) governor may assign to ~~any of the boards~~ **board** the adoption
- 23 of rules in any area not provided for by law as of September 1,
- 24 1985; or
- 25 (2) board may directly exercise that power until a specific agency
- 26 for the exercise of the power is created.

27 SECTION 22. IC 13-14-8-1 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~boards~~  
 29 **board** may:

- 30 (1) adopt;
  - 31 (2) repeal;
  - 32 (3) rescind; or
  - 33 (4) amend;
- 34 rules and standards by proceeding in the manner prescribed in  
 35 IC 4-22-2 and IC 13-14-9.

36 SECTION 23. IC 13-14-8-2 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. (a) The  
 38 department may propose to the ~~boards~~ **board** the:

- 39 (1) adoption;
- 40 (2) repeal;
- 41 (3) rescission; or
- 42 (4) amendment;

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1 of any rule or standard.

2 (b) The rules proposed by the department must be adopted by the

3 ~~appropriate~~ board under IC 4-22-2 and IC 13-14-9 before the rules

4 become effective.

5 SECTION 24. IC 13-14-8-5 IS AMENDED TO READ AS

6 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) Any person

7 may present written proposals for the adoption, amendment, or repeal

8 of a rule by ~~one (1)~~ of the ~~boards~~: **board**. A proposal presented under

9 this section must be:

10 (1) supported by a statement of reasons; and

11 (2) accompanied by a petition signed by at least two hundred

12 (200) persons.

13 (b) If the board ~~with rulemaking authority in the subject area to~~

14 ~~which the rule pertains~~ finds that the proposal:

15 (1) is not plainly devoid of merit; and

16 (2) does not deal with a subject on which a hearing was held

17 within the previous six (6) months of the submission of the

18 proposal;

19 the board shall give notice and hold a hearing on the proposal.

20 SECTION 25. IC 13-14-8-7 IS AMENDED TO READ AS

21 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. (a) Without

22 limiting the generality of the regulatory authority of the ~~boards~~ **board**

23 under this title, the ~~appropriate~~ board may adopt rules under IC 4-22-2

24 and IC 13-14-9 prescribing the following:

25 (1) Standards or requirements for discharge or emission

26 specifying the maximum permissible short term and long term

27 concentrations of various contaminants of the air, water, or land.

28 (2) Procedures for the administration of a system of permits for:

29 (A) the discharge of any contaminants;

30 (B) the construction, installation, or modification of any:

31 (i) facility;

32 (ii) equipment; or

33 (iii) device;

34 that may be designed to control or prevent pollution; or

35 (C) the operation of any:

36 (i) facility;

37 (ii) equipment; or

38 (iii) device;

39 to control or to prevent pollution.

40 (3) Standards and conditions for the use of any fuel or vehicle

41 determined to constitute an air pollution hazard.

42 (4) Standards for the filling or sealing of abandoned:

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- 1 (A) water wells;  
 2 (B) water holes; and  
 3 (C) drainage holes;  
 4 to protect ground water against contamination.  
 5 (5) Alert criteria and abatement standards for pollution episodes  
 6 or emergencies constituting an acute danger to health or to the  
 7 environment, including priority lists for terminating activities that  
 8 contribute to the hazard, whether or not the activities would meet  
 9 all discharge requirements of the board under normal conditions.  
 10 (6) Requirements and procedures for the inspection of any  
 11 equipment, facility, vehicle, vessel, or aircraft that may cause or  
 12 contribute to pollution.  
 13 (7) Requirements and standards for equipment and procedures  
 14 for:  
 15 (A) monitoring contaminant discharges at their sources;  
 16 (B) the collection of samples; and  
 17 (C) the collection, reporting, and retention, in accordance with  
 18 record retention schedules adopted under IC 5-15-5.1, of data  
 19 resulting from that monitoring.  
 20 (8) Standards or requirements to control:  
 21 (A) the discharge; or  
 22 (B) the pretreatment;  
 23 of contaminants introduced or discharged into publicly owned  
 24 treatment works.  
 25 (b) If the ~~solid waste management board or air pollution control~~  
 26 board is required to adopt new rules or amend existing rules to  
 27 implement an amendment to the federal Resource Conservation and  
 28 Recovery Act or an amendment to or addition of a National Emission  
 29 Standard for Hazardous Air Pollutants under the federal Clean Air Act,  
 30 the board shall adopt the new rules or amend the existing rules not  
 31 more than nine (9) months after the date the federal law becomes  
 32 effective. This subsection does not limit ~~a~~ **the** board's authority to  
 33 amend at any time the rules adopted under this subsection.  
 34 SECTION 26. IC 13-14-9-1, AS AMENDED BY P.L.204-2007,  
 35 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JANUARY 1, 2013]: Sec. 1. (a) Except as provided in sections 8 and  
 37 14 of this chapter, this chapter applies to the following:  
 38 (1) ~~A~~ **The** board.  
 39 (2) The underground storage tank financial assurance board  
 40 established by IC 13-23-11-1.  
 41 (b) In addition to the requirements of IC 4-22-2 and IC 13-14-8, a  
 42 board may not adopt a rule except in accordance with this chapter.

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1 SECTION 27. IC 13-14-9-14, AS AMENDED BY P.L.159-2011,  
 2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JANUARY 1, 2013]: Sec. 14. (a) Except as provided in subsection (g),  
 4 sections 1 through 13 of this chapter do not apply to a rule adopted  
 5 under this section.

6 (b) The ~~water pollution control~~ board may use the procedures in this  
 7 section to adopt a rule to establish new water quality standards for a  
 8 community served by a combined sewer that has:

- 9 (1) an approved long term control plan; and  
 10 (2) an approved use attainability analysis that supports the use of  
 11 a CSO wet weather limited use subcategory established under  
 12 IC 13-18-3-2.5.

13 (c) After the department approves the long term control plan and use  
 14 attainability analysis, the department shall publish in the Indiana  
 15 Register a notice of adoption of a proposed rule to establish a CSO wet  
 16 weather limited use subcategory for the area defined by the approved  
 17 use attainability analysis.

18 (d) The notice under subsection (c) must include the following:

- 19 (1) Suggested rule language that amends the designated use to  
 20 allow for a CSO wet weather limited use subcategory in  
 21 accordance with IC 13-18-3-2.5.  
 22 (2) A written comment period of at least thirty (30) days.  
 23 (3) A notice of public hearing before the ~~water pollution control~~  
 24 board.

25 (e) The department shall include the following in the written  
 26 materials to be considered by the ~~water pollution control~~ board at the  
 27 public hearing referred to in subsection (d)(3):

- 28 (1) The full text of the proposed rule as most recently prepared by  
 29 the department.  
 30 (2) Written responses of the department to written comments  
 31 received during the comment period referred to in subsection  
 32 (d)(2).  
 33 (3) The letter prepared by the department approving the long term  
 34 control plan and use attainability analysis.

35 (f) At the public hearing referred to in subsection (d)(3), the board  
 36 may:

- 37 (1) adopt the proposed rule to establish a new water quality  
 38 standard amending the designated use to allow for a CSO wet  
 39 weather limited use subcategory;  
 40 (2) adopt the proposed rule with amendments;  
 41 (3) reject the proposed rule; or  
 42 (4) determine to reconsider the proposed rule at a subsequent

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1 board meeting.  
 2 (g) If the board adopts the proposed rule with amendments under  
 3 subsection (f)(2), the amendments must meet the logical outgrowth  
 4 requirements of section 10 of this chapter, except that the board, in  
 5 determining whether the amendments are a logical outgrowth of  
 6 comments provided to the board, and in considering whether the  
 7 language of comments provided to the board fairly apprised interested  
 8 persons of the specific subjects and issues contained in the  
 9 amendments, shall consider the comments provided to the board at the  
 10 public hearing referred to in subsection (d)(3).

11 (h) The department shall submit a new water quality standard  
 12 established in a rule adopted under subsection (f) to the United States  
 13 Environmental Protection Agency for approval.

14 SECTION 28. IC 13-14-11-4 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. The department  
 16 shall, subject to the approval of ~~all three (3) of the boards;~~ **board**,  
 17 develop written procedures for the separate storage and security of files  
 18 containing records excepted from disclosure requirements under  
 19 IC 5-14-3-4.

20 SECTION 29. IC 13-14-11-5 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. The ~~boards~~  
 22 **board** shall adopt rules requiring the execution of a confidentiality  
 23 agreement with persons employed, contracted, or subcontracted by the  
 24 department that is enforceable by:

- 25 (1) the state; and
- 26 (2) the submitter of the information.

27 SECTION 30. IC 13-14-12-2 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. The money on  
 29 deposit in the environmental management special fund shall be used  
 30 exclusively for the purposes of the department and the ~~boards;~~ **board**.  
 31 The revenues accruing to the fund are appropriated to the department  
 32 for purposes of this title. However, expenditures for projects authorized  
 33 by the department or ~~a~~ **the** board must be approved by the governor and  
 34 the budget agency.

35 SECTION 31. IC 13-14-12-4 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. (a) The auditor  
 37 of state shall issue a report on the fund not later than ten (10) working  
 38 days following the last day of each four (4) month period.

- 39 (b) The report must:
  - 40 (1) include the beginning and ending balance, disbursements, and
  - 41 receipts, including accrued interest or other investment earnings
  - 42 of the fund;

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- 1 (2) comply with accounting standards under IC 4-13-2-7(a)(1);
- 2 and
- 3 (3) be available to the public.
- 4 (c) The auditor of state shall forward copies of the report to the
- 5 following:
- 6 (1) The commissioner.
- 7 (2) The standing committees of the house of representatives and
- 8 the senate concerned with the environment.
- 9 (3) The ~~air pollution control~~ board.
- 10 (4) ~~The water pollution control board.~~
- 11 (5) ~~The solid waste management board.~~

12 SECTION 32. IC 13-15-1-1 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~air~~  
 14 ~~pollution control~~ board shall establish requirements for the issuance of  
 15 permits to control air pollution, noise, and atomic radiation, including  
 16 the following:

- 17 (1) Permits to control or limit the emission of any contaminants
- 18 into the atmosphere.
- 19 (2) Permits for the construction, installation, or modification of
- 20 facilities, equipment, or devices to control or limit any discharge,
- 21 emission, or disposal of contaminants into the air.
- 22 (3) Permits for the operation of facilities, equipment, or devices
- 23 to control or limit the discharge, emission, or disposal of any
- 24 contaminants into the environment.

25 SECTION 33. IC 13-15-1-2 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. The ~~water~~  
 27 ~~pollution control~~ board shall establish requirements for the issuance of  
 28 permits to control water pollution and atomic radiation, including the  
 29 following:

- 30 (1) Permits to control or limit the discharge of any contaminants
- 31 into state waters or into a publicly owned treatment works.
- 32 (2) Permits for the construction, installation, or modification of
- 33 facilities, equipment, or devices to control or limit any discharge,
- 34 emission, or disposal of contaminants into the waters of Indiana
- 35 or into a publicly owned treatment works.
- 36 (3) Permits for the operation of facilities, equipment, or devices
- 37 to control or limit the discharge, emission, or disposal of any
- 38 contaminants into the waters of Indiana or into a publicly owned
- 39 treatment works.

40 However, the ~~water pollution control~~ board may not require a permit  
 41 under subdivision (2) for any facility, equipment, or device  
 42 constructed, installed, or modified as part of a surface coal mining

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1 operation that is operated under a permit issued under IC 14-34.  
2 SECTION 34. IC 13-15-1-3 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. The ~~solid waste~~  
4 ~~management~~ board shall establish requirements for the issuance of  
5 permits to control solid waste, hazardous waste, and atomic radiation,  
6 including the following:

- 7 (1) Permits to control or limit the disposal of any contaminants
- 8 onto or into the land.
- 9 (2) Permits for the construction, installation, or modification of
- 10 facilities, equipment, or devices:
  - 11 (A) to control or limit any discharge, emission, or disposal of
  - 12 contaminants into the land; or
  - 13 (B) for the storage, treatment, processing, transferring, or
  - 14 disposal of solid waste or hazardous waste.
- 15 (3) Permits for the operation of facilities, equipment, or devices:
  - 16 (A) to control or limit the discharge, emission, transfer, or
  - 17 disposal of any contaminants into the land; or
  - 18 (B) for the storage, transportation, treatment, processing,
  - 19 transferring, or disposal of solid waste or hazardous waste.

20 SECTION 35. IC 13-15-2-1 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) ~~Each~~ **The**  
22 board shall adopt rules under IC 4-22-2 **and IC 13-14-9** to establish  
23 requirements and procedures for the issuance of permits.

24 (b) In rules for the issuance of permits, ~~each~~ **the** board may do the  
25 following:

- 26 (1) Prescribe standards for the discharge, emission, or disposal of
- 27 contaminants and the operation of any facility, equipment, or
- 28 device.
- 29 (2) Impose the conditions that are considered necessary to
- 30 accomplish the purposes of this title.

31 SECTION 36. IC 13-15-2-2 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. (a) The ~~boards~~  
33 **board** may adopt rules under IC 4-22-2 and IC 13-14-9 to allow the  
34 department to issue permits that do the following:

- 35 (1) Provide incentives to owners and operators of facilities to
- 36 assess the pollution emitted by the facilities into all environmental
- 37 media.
- 38 (2) Provide incentives to owners and operators of facilities to
- 39 implement the most innovative and effective pollution control or
- 40 pollution prevention strategies while maintaining enforceable
- 41 performance goals.
- 42 (3) Provide incentives to owners and operators of facilities to

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- 1           reduce pollution levels at the facilities below the levels required
- 2           by law.
- 3           (4) Consolidate environmental requirements into one (1) permit
- 4           that would otherwise be included in more than one (1) permit.
- 5           (5) Reduce the time and money spent by owners and operators of
- 6           facilities and the department on administrative tasks that do not
- 7           benefit the environment.
- 8           (6) Provide owners and operators of facilities with as much
- 9           operational flexibility as can reasonably be provided while being
- 10          consistent with enforcement of permit requirements.
- 11          (b) The rules adopted under this section may provide for permits
- 12          that contain the following:
- 13               (1) Authorization of emission trading.
- 14               (2) Consolidated reporting mechanisms.
- 15               (3) Third party certifications.
- 16               (4) Multimedia regulation.
- 17               (5) Other conditions consistent with subsection (a).
- 18          (c) The rules adopted under this section must provide that a permit
- 19          issued under the rules adopted under this section meets the following
- 20          criteria:
- 21               (1) Activities conducted under the permit must result in greater
- 22               overall environmental protection than would otherwise be
- 23               achieved under applicable law.
- 24               (2) Upon issuance of a permit, all limits, conditions, and
- 25               standards contained in the permit are enforceable under
- 26               IC 13-30-3.
- 27               (3) The permit applicant must give notice in accordance with
- 28               IC 13-15-8, and the commissioner shall give notice to the public
- 29               and provide an opportunity to comment on the proposed permit in
- 30               accordance with IC 13-15-5.
- 31          (d) The rules adopted under this section must allow the department
- 32          to give priority to applications involving permits that are issued as
- 33          described in this section based on:
- 34               (1) the degree of environmental benefit that may be obtained
- 35               under the permit;
- 36               (2) the potential application of any innovative control
- 37               technologies or regulatory procedures that may be made available
- 38               to other permit applicants and permit holders; and
- 39               (3) other criteria that the ~~boards~~ **board** may establish.
- 40          (e) The rules adopted under this section must be consistent with
- 41          federal law for federally authorized or delegated permit programs.
- 42          SECTION 37. IC 13-15-3-5, AS AMENDED BY P.L.78-2009,

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1 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JANUARY 1, 2013]: Sec. 5. (a) Whenever a permit is required by any  
3 rule of ~~one (1) of the boards~~ **board** under IC 13-15-1 for the  
4 construction, installation, operation, or modification of any facility,  
5 equipment, or device, the permit may be issued only after the  
6 department staff has:

- 7 (1) approved the plans and specifications; and  
8 (2) determined that the facility, equipment, or device meets the  
9 requirement of the rule.

10 (b) Notwithstanding subsection (a) and subject to subsection (c), a  
11 person to whom a permit has been issued may not start the  
12 construction, installation, operation, or modification of a facility,  
13 equipment, or a device until the person has obtained any approval  
14 required by any:

- 15 (1) county;  
16 (2) city; or  
17 (3) town;

18 in which the facility, equipment, or device is located.

19 (c) Subsection (b) applies only to an approval required in an  
20 applicable ordinance, rule, or regulation in effect at the time the person  
21 submits the permit application to the issuing state agency.

22 SECTION 38. IC 13-15-3-6 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. (a) When a  
24 person holding a valid permit concerning an activity of a continuing  
25 nature has made a timely and sufficient application for a renewal or a  
26 new permit in accordance with rules of ~~one (1) of the boards;~~ **board**,  
27 the existing permit does not expire until a final determination on the  
28 application has been made by the department. However, the  
29 commissioner may seek injunctive relief with regard to the continuing  
30 activity of the permit applicant while the permit application is pending  
31 if the continuing activity of the permit applicant constitutes a threat to  
32 the public health, safety, or welfare.

33 (b) An application for renewal of a hazardous waste disposal facility  
34 operating permit under IC 13-22-3 must be submitted at least one  
35 hundred eighty (180) days before the expiration of the facility's current  
36 permit to be considered timely under this section.

37 SECTION 39. IC 13-15-4-6 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. (a)  
39 Notwithstanding the periods specified in sections 1 through 4 of this  
40 chapter and this section, a person proposing to construct, modify, or  
41 operate any equipment, facility, or pollution control device that is  
42 demonstrated to achieve pollution control or pollution prevention in

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1 excess of applicable federal, state, or local requirements may apply to  
2 the commissioner for an interim permit to construct, modify, or operate  
3 the equipment, facility, or pollution control device.

4 (b) The commissioner shall approve or deny the interim permit not  
5 later than sixty (60) days after receipt of the application for an interim  
6 permit, unless the applicant and the commissioner agree that a longer  
7 review period is necessary.

8 (c) ~~The boards shall adopt rules under IC 4-22-2 to implement this~~  
9 ~~section before January 1, 1997. The rules may not allow an interim~~  
10 ~~construction or operation permit pending a final permit determination~~  
11 ~~if an interim permit is not allowed under federal law for a federally~~  
12 ~~authorized or delegated permit program.~~

13 (d) (c) This section does not relieve a person from complying with:  
14 (1) the permit requirements provided under this title; and  
15 (2) rules adopted under this title;  
16 to the extent that this title and the rules are not inconsistent with this  
17 section.

18 SECTION 40. IC 13-15-7-4 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. (a) This section  
20 applies to a facility that:

- 21 (1) has been issued an operating permit by the ~~air pollution~~ board;
- 22 or
- 23 (2) is operating without a permit but has made a timely and  
24 complete application for a permit under IC 13-17-8-10.

25 (b) The ~~air pollution control~~ board shall adopt rules under IC 4-22-2  
26 **and IC 13-14-9** as part of the operating permit program established  
27 under 42 U.S.C. 7661 through 7661f providing that a facility may make  
28 changes without a permit revision if the following conditions exist:

- 29 (1) The changes are not modifications under any provision of  
30 Title I of the federal Clean Air Act (42 U.S.C. 7401 et seq.), as  
31 amended by the federal Clean Air Act Amendments of 1990  
32 (P.L.101-549).
- 33 (2) The changes do not exceed emissions:  
34 (A) expressed as a rate of emissions; or  
35 (B) expressed as total emissions;  
36 allowable under the permit.
- 37 (3) The facility provides the commissioner with written  
38 notification at least seven (7) days before the proposed changes  
39 are made. However, the ~~air pollution control~~ board may adopt  
40 rules that provide a different period for notifications that involve  
41 emergency situations.

42 SECTION 41. IC 13-15-9-2 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. (a) ~~Each~~ **The**  
 2 board may adopt rules under IC 4-22-2 **and IC 13-14-9** establishing:

- 3 (1) conditions for the issuance of a permit under this chapter; and  
 4 (2) requirements for the operation of nuclear facilities.

5 (b) Rules adopted by the ~~air pollution control~~ board may relate to:

6 (1) air pollution from nuclear facilities; ~~Rules adopted by the~~  
 7 ~~water pollution control board may relate to~~

8 (2) water pollution from nuclear facilities; **or**

9 (3) ~~Rules adopted by the solid waste management board may~~  
 10 ~~relate to~~ other environmental problems associated with nuclear  
 11 facilities.

12 (c) ~~The boards may not adopt rules that establish contradictory~~  
 13 ~~conditions and requirements.~~

14 SECTION 42. IC 13-15-9-3 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. A person  
 16 proposing to construct:

- 17 (1) a nuclear powered generating facility; or  
 18 (2) a nuclear fuel reprocessing plant;

19 shall file with the ~~technical secretary of each~~ board an environmental  
 20 feasibility report, on a form prescribed by the ~~boards,~~ **board,**  
 21 concurrently with the filing of the preliminary safety analysis required  
 22 to be filed with the United States Atomic Energy Commission.

23 SECTION 43. IC 13-15-9-4 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. (a) The  
 25 commissioner, on behalf of ~~each the~~ board, may conduct a public  
 26 hearing at a time and place to be determined by the department on the  
 27 environmental effects of the proposed operation.

28 (b) A person affected by the proposed construction may participate  
 29 in the hearing to the extent and in the manner that the board prescribes.

30 SECTION 44. IC 13-15-9-5 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) ~~Each~~ **The**  
 32 board shall adopt rules and standards under section 2 of this chapter to  
 33 protect the citizens of Indiana from the hazards of radiation.

34 (b) Each permit required under this chapter according to rules  
 35 adopted by the ~~boards~~ **board** must specify the maximum allowable  
 36 level of radioactive discharge.

37 (c) Each permit issued must include a requirement for:

- 38 (1) appropriate procedures of monitoring any discharge; and  
 39 (2) a report of each discharge to the department.

40 SECTION 45. IC 13-15-10-1 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~solid waste~~  
 42 ~~management~~ board shall adopt rules to establish a department operated

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1 training and certification program for the following:

2 (1) Operators of solid waste incinerators and waste to energy

3 facilities.

4 (2) Operators of land disposal sites.

5 (3) Operators of facilities described under IC 13-15-1-3 whose

6 operation could have an adverse impact on the environment if not

7 operated properly.

8 SECTION 46. IC 13-15-10-3 IS AMENDED TO READ AS

9 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. (a) The waste

10 facility operator trust fund is established. The ~~solid waste management~~

11 board shall deposit fees collected under this chapter in the fund.

12 (b) Money in the fund shall be used for paying the expenses of the

13 training and certification program described in this chapter.

14 SECTION 47. IC 13-15-10-4 IS AMENDED TO READ AS

15 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. The ~~solid waste~~

16 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**

17 to implement this chapter. The rules must include the following:

18 (1) Requirements for certification that consider any training that

19 is required by state rule or federal regulation.

20 (2) Mandatory testing and retraining.

21 (3) Recognition of training programs that the ~~solid waste~~

22 ~~management~~ board approves to serve as a training program that

23 this chapter requires. A recognized training program may be

24 offered by an employer or by any other provider.

25 (4) Recognition of an interim period for which existing facility

26 operators must obtain certification.

27 SECTION 48. IC 13-15-10-5 IS AMENDED TO READ AS

28 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) The ~~solid~~

29 ~~waste management~~ board shall establish by rule and cause to be

30 collected fees for the following:

31 (1) Examination of applicants for certification.

32 (2) Issuance, renewal, or transfer of a certificate.

33 (3) Restoration of an expired certificate when that action is

34 authorized by law.

35 (4) Issuance of certificates by reciprocity or endorsement for

36 out-of-state applicants.

37 (5) Issuance of board or committee reciprocity or endorsements

38 for resident practitioners who apply to another state for a

39 certificate.

40 (b) A fee may not be less than fifty dollars (\$50) unless the fee is

41 collected under a rule adopted by the ~~solid waste management~~ board

42 that sets a fee for miscellaneous expenses incurred by the department

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1 on behalf of the operators the ~~solid waste management~~ board regulates.  
 2 The fees may not be less than are required to pay all of the costs, both  
 3 direct and indirect, of the operation of the department under this  
 4 chapter.

5 (c) A fee may not be charged to an operator employed by a solid  
 6 waste facility that is wholly owned and operated by a unit of local  
 7 government.

8 SECTION 49. IC 13-15-10-6 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. (a) For the  
 10 payment of fees under this chapter, the ~~solid waste management~~ board  
 11 shall accept cash, a draft, a money order, a cashier's check, and a  
 12 certified or other personal check.

13 (b) If:

- 14 (1) the ~~solid waste management~~ board receives an uncertified  
 15 personal check for the payment of a fee; and  
 16 (2) the check does not clear the bank;

17 the ~~solid waste management~~ board may void the license, registration,  
 18 or certificate for which the check was received.

19 (c) Unless designated by rule, a fee is not refundable or transferable.

20 SECTION 50. IC 13-15-11-1 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The  
 22 environmental management permit operation fund is established for the  
 23 purpose of providing money for permitting and directly associated  
 24 activities of the following programs of the department and ~~boards:~~ **the**  
 25 **board:**

- 26 (1) National Pollutant Discharge Elimination System program.  
 27 (2) Solid waste program.  
 28 (3) Hazardous waste program.  
 29 (4) Safe drinking water program.

30 SECTION 51. IC 13-16-1-1 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. This chapter  
 32 applies to fees established under this title by ~~any of the following:~~ **the**  
 33 **board.**

- 34 ~~(1) The air pollution control board.~~  
 35 ~~(2) The water pollution control board.~~  
 36 ~~(3) The solid waste management board.~~

37 SECTION 52. IC 13-16-1-3 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. A fee  
 39 established by ~~one (1) of the boards~~ **board** under this chapter for a type  
 40 or class of permit may be based on the average of the costs specified in  
 41 section 2 of this chapter for all permits of that type or class.

42 SECTION 53. IC 13-16-1-4 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. The ~~boards~~  
 2 **board** shall periodically review the fees established under this chapter.  
 3 ~~★ The~~ board may change the amount of a fee if the board determines,  
 4 based upon the factors set forth in section 2 of this chapter, that the  
 5 amount of the fee is not appropriate.

6 SECTION 54. IC 13-17-1-1 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. It is the intent  
 8 and purpose of air pollution control laws to maintain the purity of the  
 9 air resource of Indiana, which shall be consistent with protection of the  
 10 public health and welfare and the public enjoyment of the air resource,  
 11 physical property and other resources, flora and fauna, maximum  
 12 employment, and full industrial development of Indiana. The ~~air~~  
 13 ~~pollution control~~ board and the department shall safeguard the air  
 14 resource through the prevention, abatement, and control of air pollution  
 15 by all practical and economically feasible methods.

16 SECTION 55. IC 13-17-2 IS REPEALED [EFFECTIVE JANUARY  
 17 1, 2013]. (Establishment of Air Pollution Control Board).

18 SECTION 56. IC 13-17-3-6 IS REPEALED [EFFECTIVE  
 19 JANUARY 1, 2013]. ~~Sec. 6: The board shall develop operating policies~~  
 20 ~~governing the implementation of air pollution control laws by the~~  
 21 ~~commissioner.~~

22 SECTION 57. IC 13-17-3-11 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 11. The board  
 24 may adopt rules under IC 4-22-2 **and IC 13-14-9** under discretionary  
 25 authority granted to the state by:

- 26 (1) the federal Clean Air Act (42 U.S.C. 7401 et seq.), as
- 27 amended by the Clean Air Act Amendments of 1990
- 28 (P.L.101-549); or
- 29 (2) a regulation adopted under the federal Clean Air Act.

30 SECTION 58. IC 13-17-5-1 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~air~~  
 32 ~~pollution control~~ board may adopt rules for the control of emissions  
 33 from vehicles. However, the board must, before adopting the rules,  
 34 forward to each member of the general assembly a copy of the  
 35 proposed rules. The rules may prescribe requirements for the  
 36 following:

- 37 (1) The installation and use of equipment designed to reduce or
- 38 eliminate emissions.
- 39 (2) The proper maintenance of that equipment and of vehicles.

40 SECTION 59. IC 13-17-8-3 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. The ~~air~~  
 42 ~~pollution control~~ board shall adopt fees to be collected under the



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1 operating permit program. The annual aggregate amount of fees  
 2 collected under the operating permit program from all sources subject  
 3 to the operating permit program must be sufficient to cover only the  
 4 direct and indirect reasonable costs of the following permit program  
 5 activities:

- 6 (1) Preparing rules, regulations, and guidance regarding  
 7 implementation and enforcement of the program.  
 8 (2) Reviewing and acting on the following:  
 9 (A) An application for an operating permit.  
 10 (B) An operating permit revision.  
 11 (C) An operating permit renewal.  
 12 (3) The general administrative cost of running the operating  
 13 permit program.  
 14 (4) Implementing and enforcing the terms of a permit granted  
 15 under the operating permit program. However, court costs for  
 16 enforcement actions are not included under this subdivision.  
 17 (5) Emissions and ambient monitoring.  
 18 (6) Modeling analyses and demonstrations.  
 19 (7) Preparing inventories and tracking emissions.  
 20 (8) Developing and administering a small business stationary  
 21 source technical and environmental compliance assistance  
 22 program.

23 SECTION 60. IC 13-17-13-1 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~air~~  
 25 ~~pollution control~~ board may adopt rules under IC 4-22-2 **and**  
 26 **IC 13-14-9** to establish categories of sources or facilities that may be  
 27 effectively restricted through specific requirements established by the  
 28 rules to emit less than the amount of air pollutants for which a Title V  
 29 air operating permit is required.

30 SECTION 61. IC 13-18-1 IS REPEALED [EFFECTIVE JANUARY  
 31 1, 2013]. (Establishment of Water Pollution Control Board).

32 SECTION 62. IC 13-18-3-1 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~water~~  
 34 ~~pollution control~~ board shall adopt rules for the control and prevention  
 35 of pollution in waters of Indiana with any substance:

- 36 (1) that is deleterious to:  
 37 (A) the public health; or  
 38 (B) the prosecution of any industry or lawful occupation; or  
 39 (2) by which:  
 40 (A) any fish life or any beneficial animal or vegetable life may  
 41 be destroyed; or  
 42 (B) the growth or propagation of fish life or beneficial animal



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1 or vegetable life is prevented or injuriously affected.  
 2 SECTION 63. IC 13-18-3-2.4, AS AMENDED BY P.L.54-2005,  
 3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 4 JULY 1, 2012]: Sec. 2.4. An NPDES permit holder shall review the  
 5 feasibility of implementing additional or **new modified** control  
 6 **alternatives measures** to attain water quality standards ~~The NPDES~~  
 7 ~~permit holder shall conduct such a review periodically, but not less~~  
 8 ~~than every five (5) years after approval of the long term control plan by~~  
 9 ~~the department. **if post-construction monitoring results indicate that**~~  
 10 **performance criteria established for CSO control measures**  
 11 **constructed in accordance with the approved long term control**  
 12 **plan will not be met.** The NPDES permit holder shall:

- 13 (1) document to the department that the long term control plan
- 14 has been reviewed;
- 15 (2) update the long term control plan as necessary **to incorporate**
- 16 **any additional or modified control measures selected as**
- 17 **feasible, cost effective, affordable, and necessary for**
- 18 **compliance with applicable performance criteria;**
- 19 (3) submit any amendments to the long term control plan to the
- 20 department for approval; and
- 21 (4) implement **any additional or modified** control ~~alternatives~~
- 22 ~~determined to be~~ **measures approved by the department as**
- 23 **feasible, cost effective, and affordable, and necessary for**
- 24 **compliance with applicable performance criteria.**

25 Cost effectiveness may be determined, at the option of the NPDES  
 26 permit holder, by using a knee of the curve analysis in accordance with  
 27 section 402(q) of the federal Clean Water Act (33 U.S.C. 1342(q)) and  
 28 59 FR 18688.

29 SECTION 64. IC 13-18-3-2.5, AS AMENDED BY P.L.54-2005,  
 30 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2012]: Sec. 2.5. (a) A CSO wet weather limited use  
 32 subcategory is established for waters affected by receiving combined  
 33 sewer overflows, as specified in an approved long term control plan.  
 34 The CSO wet weather limited use subcategory applies to a specific  
 35 water body after implementation of an approved long term control plan  
 36 for the combined sewer system whose overflow discharges affect those  
 37 waters is implemented and the conditions of subsection (b) are  
 38 satisfied. The following requirements apply to the CSO wet weather  
 39 limited use subcategory:

- 40 (1) The water quality based requirements associated with the CSO
- 41 wet weather limited use subcategory that apply to waters affected
- 42 by wet weather combined sewer overflows are determined by an

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1 approved long term control plan for the combined sewer system.  
 2 The water quality based requirements remain in effect during the  
 3 time and to the physical extent that the recreational use  
 4 designation that applied to the waters immediately before the  
 5 application to the waters of the CSO wet weather limited use  
 6 subcategory is not attained, but for not more than four (4) days  
 7 after the date the overflow discharge ends.

8 (2) At all times other than those described in subdivision (1), the  
 9 water quality criteria associated with the appropriate recreational  
 10 use designation that applied to the waters immediately before the  
 11 application to the waters of the CSO wet weather limited use  
 12 subcategory apply unless there is a change in the use designation  
 13 as a result of a use attainability analysis.

14 (b) The CSO wet weather limited use subcategory applies if:

15 (1) the department has approved a long term control plan for the  
 16 NPDES permit holder for the combined sewer system;

17 (2) the approved long term control plan:

18 (A) is incorporated into:

19 (i) the NPDES permit holder's NPDES permit; or

20 (ii) an order of the commissioner under IC 13-14-2-6;

21 (B) satisfies the requirements of section 2.3 of this chapter;  
 22 and

23 (C) specifies the water quality based requirements that apply  
 24 to combined sewer overflows during and immediately  
 25 following wet weather events, as provided in subsection (a)(1);

26 (3) the NPDES permit holder has implemented the approved long  
 27 term control plan; and

28 (4) subject to subsection (c), 40 CFR 131.10, 40 CFR 131.20, and  
 29 40 CFR 131.21 are satisfied.

30 (c) For purposes of subsection (b)(4), 40 CFR 131.10 may be  
 31 satisfied by including appropriate data and information in the long term  
 32 control plan.

33 (d) The department shall implement the CSO wet weather limited  
 34 use subcategory and associated water quality based requirements under  
 35 this section when the subcategory and requirements are approved by  
 36 the United States Environmental Protection Agency. The department  
 37 shall seek approval of the United States Environmental Protection  
 38 Agency in a timely manner.

39 (e) The NPDES permit holder shall monitor its discharges and the  
 40 water quality in the affected receiving stream periodically as provided  
 41 in the long term control plan. The NPDES permit holder shall provide  
 42 all such information to the department.



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1 (f) ~~In conjunction with~~ **If any additional or modified control**  
 2 **measures are tentatively selected by an NPDES permit holder in a**  
 3 **review of the NPDES permit holder's long term control plan under**  
 4 **section 2.4 of this chapter and a use attainability analysis has been**  
 5 **approved previously under this section with respect to waters**  
 6 **affected by combined sewer overflows from the NPDES permit**  
 7 **holder's combined sewer system, the NPDES permit holder, at the**  
 8 **same time the NPDES permit holder conducts a long term control**  
 9 **plan review under section 2.4 of this chapter, shall review consider**  
 10 **information that pertains to the additional or modified control**  
 11 **measures, along with any other relevant information** generated after  
 12 the use attainability analysis was approved by the department, **in a**  
 13 **review of the use attainability analysis to determine assess** whether:

14 (1) the conclusion of the ~~use attainability analysis is still valid;~~  
 15 **would need to be revised if the new information were**  
 16 **incorporated; and**

17 (2) **the additional or modified control measures would be**  
 18 **feasible under the relevant criteria of 40 CFR 131.10(g).**

19 The NPDES permit holder shall provide the results of the review to the  
 20 department **for consideration in the department's decisions under**  
 21 **section 2.4 of this chapter.**

22 (g) The board shall adopt rules under IC 13-14-8 and IC 13-14-9 to  
 23 implement this section before October 1, 2006.

24 SECTION 65. IC 13-18-3-3 IS REPEALED [EFFECTIVE  
 25 JANUARY 1, 2013]. ~~Sec. 3: The board shall develop operating policies~~  
 26 ~~governing the implementation of the water pollution control laws by~~  
 27 ~~the department.~~

28 SECTION 66. IC 13-18-3-12 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 12. ~~The water~~  
 30 ~~pollution control board~~ shall adopt rules providing that whenever a  
 31 person submits plans to a unit concerning the design or construction of:

32 (1) a sanitary sewer or public water main, if:

33 (A) a professional engineer who is registered under IC 25-31  
 34 prepared the plans;

35 (B) the unit provided for review of the plans by a qualified  
 36 engineer and subsequently approved the plans; and

37 (C) all other requirements specified in rules adopted by the  
 38 water pollution control board are met; or

39 (2) a sanitary sewer extension for and within a subdivision, if:

40 (A) a qualified land surveyor who is registered under  
 41 IC 25-21.5 prepared the plans;

42 (B) the subdivision is being laid out or having been laid out by

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1 the land surveyor subject to IC 25-21.5-7;  
 2 (C) the unit provided for review of the plans by a qualified  
 3 engineer and subsequently approved the plans; and  
 4 (D) all other requirements specified in rules adopted by the  
 5 ~~water pollution control~~ board are met;  
 6 the plans are not required to be submitted to any state agency for a  
 7 permit, permission, or review, unless required by federal law.  
 8 SECTION 67. IC 13-18-11-1.5 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1.5. The  
 10 ~~department board~~ shall adopt regulations to implement certification  
 11 programs for operators of water treatment plants or water distribution  
 12 systems. The certification program for the operators shall be classified  
 13 in accordance with the complexity, size, and source of the water for the  
 14 treatment system and the complexity and size for the distribution  
 15 system.  
 16 SECTION 68. IC 13-18-12-1, AS AMENDED BY P.L.159-2011,  
 17 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JANUARY 1, 2013]: Sec. 1. The ~~water pollution control~~ board and the  
 19 department shall regulate persons who provide septage management  
 20 services.  
 21 SECTION 69. IC 13-18-12-2.5, AS ADDED BY P.L.223-2011,  
 22 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JANUARY 1, 2013]: Sec. 2.5. (a) The department and the ~~boards~~  
 24 **board** may allow a person to use industrial waste products in a land  
 25 application operation or as ingredients in a soil amendment or soil  
 26 substitute to be land applied if:  
 27 (1) the industrial waste products are not hazardous wastes;  
 28 (2) the industrial waste products:  
 29 (A) have a beneficial use (as defined in 327 IAC 6.1-2-6); or  
 30 (B) otherwise provide a benefit to the process of creating the  
 31 soil amendments or soil substitute or to the final soil  
 32 amendment, soil substitute, or material to be land applied,  
 33 such as bulking;  
 34 (3) the finished soil amendment, soil substitute, or material to be  
 35 land applied satisfies the applicable criteria in 327 IAC 6.1;  
 36 (4) the finished soil amendment, soil substitute, or material to be  
 37 land applied has a beneficial use;  
 38 (5) the requirements of subsection (b) are satisfied; and  
 39 (6) the person pays a permit fee in an amount determined by the  
 40 department that does not exceed the costs incurred by the  
 41 department to issue the permit.  
 42 (b) The department:

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- 1 (1) may allow the use of industrial waste products:  
 2 (A) in a land application operation; or  
 3 (B) as ingredients in a soil amendment or soil substitute to be  
 4 land applied;  
 5 on the same basis as other materials under the rules concerning  
 6 land application and marketing and distribution permits;  
 7 (2) may not:  
 8 (A) discriminate against the use of industrial waste products  
 9 on the basis that the industrial waste products lack biological  
 10 carbon;  
 11 (B) impose requirements beyond applicable criteria in 327  
 12 IAC 6.1, unless additional requirements are necessary for the  
 13 protection of human health and the environment;  
 14 (C) require that the finished soil amendment, soil substitute, or  
 15 material to be land applied must be of a particular economic  
 16 value; or  
 17 (D) for any pollutant that has a pollutant limit or concentration  
 18 in 327 IAC 6.1, require that an industrial waste product or the  
 19 finished soil amendment, soil substitute, or material to be land  
 20 applied satisfies:  
 21 (i) the department's risk integrated system of closures  
 22 nonrule policy document; or  
 23 (ii) any other standards other than criteria in 327 IAC 6.1;  
 24 and  
 25 (3) for any pollutant present in the industrial waste products that  
 26 does not have a pollutant limit or concentration in 327 IAC 6.1,  
 27 shall consider the benefits of the finished soil amendment, soil  
 28 substitute, or material to be land applied as compared to the  
 29 measurable risks to human health and the environment based on  
 30 the anticipated use of the finished soil amendment, soil substitute,  
 31 or material to be land applied; and  
 32 (4) shall require an application for a permit for the land  
 33 application of industrial waste products to include  
 34 characterization of individual industrial waste products at the  
 35 point of waste generation before mixing the waste streams.  
 36 (c) The board may adopt rules for pollutant limits or concentrations  
 37 for pollutants for which limits or concentrations do not exist in 327  
 38 IAC 6.1 as of July 1, 2011.  
 39 SECTION 70. IC 13-19-2 IS REPEALED [EFFECTIVE JANUARY  
 40 1, 2013]. (Establishment of Solid Waste Management Board).  
 41 SECTION 71. IC 13-19-3-1 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The solid waste

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- 1 ~~management~~ board shall do the following:
- 2 (1) Except as provided in sections 3 through 4 of this chapter,
- 3 adopt rules under IC 4-22-2 **and IC 13-14-9** to regulate solid and
- 4 hazardous waste and atomic radiation in Indiana, including rules
- 5 necessary to the implementation of the federal Resource
- 6 Conservation and Recovery Act (42 U.S.C. 6901 et seq.), as
- 7 amended.
- 8 (2) Develop operating policy concerning the activities of the
- 9 department.
- 10 (3) Carry out other duties imposed by law.
- 11 SECTION 72. IC 13-19-3-7 IS AMENDED TO READ AS
- 12 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The department
- 13 and the ~~boards~~ **board** shall allow a person to use foundry sand that
- 14 meets Type III criteria under 329 IAC 10-9 for the following activities
- 15 in accordance with guidance without requiring the person to obtain any
- 16 permits from the department:
- 17 (1) As a daily cover for litter and vermin control at a landfill in
- 18 accordance with any applicable permits issued for the landfill.
- 19 (2) As a protective cover for a landfill leachate system in
- 20 accordance with any applicable permits issued for the landfill.
- 21 (3) For use as capped embankments for ground and sight barriers
- 22 under ten thousand (10,000) cubic yards or embankments for
- 23 airports, bridges, or overpasses.
- 24 (4) For use:
- 25 (A) in a land application operation; or
- 26 (B) as a soil amendment;
- 27 if the application or amendment does not include the operation of
- 28 a landfill.
- 29 (5) As a structural fill base capped by clay, asphalt, or concrete
- 30 for the following:
- 31 (A) Roads.
- 32 (B) Road shoulders.
- 33 (C) Parking lots.
- 34 (D) Floor slabs.
- 35 (E) Utility trenches.
- 36 (F) Bridge abutments.
- 37 (G) Tanks and vaults.
- 38 (H) Construction or architectural fill.
- 39 (I) Other similar uses.
- 40 (6) As a raw material constituent incorporated into another
- 41 product, including the following:
- 42 (A) Flowable fill.

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- 1 (B) Concrete.
- 2 (C) Asphalt.
- 3 (D) Brick.
- 4 (E) Block.
- 5 (F) Portland cement.
- 6 (G) Glass.
- 7 (H) Roofing materials.
- 8 (I) Rock wool.
- 9 (J) Plastics.
- 10 (K) Fiberglass.
- 11 (L) Mineral wool.
- 12 (M) Lightweight aggregate.
- 13 (N) Paint.
- 14 (O) Plaster.
- 15 (P) Other similar products.

16 SECTION 73. IC 13-19-4-10 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 10. The board  
 18 may adopt rules under IC 4-22-2 **and IC 13-14-9** to administer this  
 19 chapter.

20 SECTION 74. IC 13-20-1-5 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. The ~~solid waste~~  
 22 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**  
 23 to implement this chapter.

24 SECTION 75. IC 13-20-2-7 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The ~~solid waste~~  
 26 ~~management~~ board may adopt rules under IC 4-22-2 **and IC 13-14-9**  
 27 to administer this chapter.

28 SECTION 76. IC 13-20-3-5 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. The board shall  
 30 adopt rules under IC 4-22-2 **and IC 13-14-9** to implement this chapter.

31 SECTION 77. IC 13-20-6-7 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. (a) The  
 33 department shall establish a uniform transfer station inspection  
 34 program to protect the health of the residents of Indiana and the  
 35 environment of Indiana:

- 36 (1) for transfer stations located:
  - 37 (A) inside Indiana; and
  - 38 (B) outside Indiana;
- 39 that receive municipal waste and that engage in waste transfer
- 40 activities; and
- 41 (2) under rules adopted by the ~~solid waste management~~ board.
- 42 (b) The ~~solid waste management~~ board shall establish fees payable

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1 by the transfer stations inspected. The amount of a fee imposed for the  
 2 inspection of a transfer station may not exceed the cost of time and  
 3 materials directly expended by:

- 4 (1) the department; or
- 5 (2) a contractor hired by the department;

6 for conducting the inspection of the transfer station.

7 SECTION 78. IC 13-20-8-1 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~solid waste~~  
 9 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**  
 10 to regulate the construction and operation of incinerators under  
 11 IC 13-14-8. The rules must incorporate by reference pertinent rules  
 12 adopted by the ~~air pollution control~~ board **concerning air pollution**  
 13 **control.**

14 SECTION 79. IC 13-20-8-5 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) The  
 16 department, in accordance with IC 13-15, shall operate a permit  
 17 program for all incinerators subject to regulation under the rules of the  
 18 ~~air pollution control board and the solid waste management~~ board.

19 (b) The department shall issue permits for an incinerator that is in  
 20 compliance with construction and operating rules adopted by the ~~solid~~  
 21 ~~waste management board and the air pollution control~~ board.

22 (c) The department shall grant operating authority under a permit  
 23 issued by the department only after the owner of the incinerator has:

- 24 (1) complied with all construction and pre-operational standards  
 25 established by pertinent rules; and
- 26 (2) submitted the results of a pre-operational emissions test that  
 27 demonstrate that the incinerator's performance complies with all  
 28 pertinent rules.

29 (d) The pre-operational emissions test required by this section shall  
 30 be conducted under the supervision of the department. In addition, the  
 31 report of the results of the pre-operational emissions test must contain  
 32 a certification that the test was performed in compliance with the  
 33 following:

- 34 (1) All pertinent rules.
- 35 (2) The pre-operational emissions test plan submitted with the  
 36 permit application.

37 SECTION 80. IC 13-20-9-3 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. The ~~solid waste~~  
 39 ~~management~~ board may adopt rules under IC 4-22-2 **and IC 13-14-9**  
 40 to implement this chapter.

41 SECTION 81. IC 13-20-10-3 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. To register a

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1 composting facility for vegetative matter with the department, a person  
 2 must submit an application to the department that contains the  
 3 following:

4 (1) A:

5 (A) legal description; and

6 (B) topographic map;

7 of the site on which the composting facility will be located.

8 (2) A description of the composting facility that indicates the area  
 9 to be served by the composting operation.

10 (3) An estimate of the volume of materials that will be processed  
 11 annually by the composting facility.

12 (4) Any other information that the department or the ~~solid waste~~  
 13 ~~management~~ board requires by rule.

14 SECTION 82. IC 13-20-10-10 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 10. The board  
 16 may adopt rules under IC 4-22-2 **and IC 13-14-9** to implement this  
 17 chapter.

18 SECTION 83. IC 13-20-13-9, AS AMENDED BY P.L.204-2007,  
 19 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JANUARY 1, 2013]: Sec. 9. (a) The department may use money in the  
 21 fund to assist the department in:

22 (1) removing waste tires from sites where waste tires have been  
 23 disposed of improperly;

24 (2) properly managing waste tires;

25 (3) performing surveillance and enforcement activities used to  
 26 implement proper waste tire management; and

27 (4) conducting the waste tire education program under section 15  
 28 of this chapter.

29 (b) The department may use money in the fund to provide grants  
 30 and loans to entities to establish and operate programs involving the  
 31 following:

32 (1) Recycling or reuse of waste tires.

33 (2) Using waste tires as a source of fuel.

34 (3) Developing markets for waste tires and products containing  
 35 recycled or reused waste tires.

36 (c) The ~~department~~ **board** may adopt rules under IC 4-22-2 **and**  
 37 **IC 13-14-9** necessary to implement this section.

38 SECTION 84. IC 13-20-14-1 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) Except as  
 40 provided in:

41 (1) rules adopted under subsection (d); and

42 (2) section 10 of this chapter;

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1 a whole waste tire may not be disposed of at a solid waste landfill.

2 (b) The department may approve shredded or ground up tires for use  
3 as daily cover for a solid waste landfill.

4 (c) Material approved under subsection (b) is exempt from  
5 IC 13-20-22 and IC 13-21-13.

6 (d) The ~~solid waste management~~ board shall adopt rules that allow  
7 for the incidental disposal of small amounts of whole waste tires at  
8 solid waste landfills.

9 (e) The rules adopted under subsection (d) may allow a landfill  
10 operator to meet the requirements of the rule by employing procedures  
11 designed to achieve the objectives of subsection (d) in lieu of a numeric  
12 standard.

13 SECTION 85. IC 13-20-14-6 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. The ~~solid waste~~  
15 ~~management~~ board shall adopt rules under IC 4-22-2 and ~~IC 13-14-8~~  
16 **IC 13-14-9** to implement this chapter.

17 SECTION 86. IC 13-20-14-9.5 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 9.5. (a) Except as  
19 provided in rules adopted under subsection (c), an operator of a transfer  
20 station shall remove whole waste tires present in solid waste that is  
21 being transferred from a vehicle or container to another vehicle or  
22 container at the transfer station.

23 (b) Whole waste tires removed by an operator of a transfer station  
24 under subsection (a) shall be disposed of as provided in this chapter.

25 (c) The ~~solid waste management~~ board shall adopt rules that allow  
26 for the incidental transfer of small amounts of whole waste tires under  
27 subsection (a).

28 (d) The rules adopted under subsection (c) may allow a transfer  
29 station operator to meet the requirements of the rule by employing  
30 procedures designed to achieve the objectives of subsection (c) in lieu  
31 of a numeric standard.

32 SECTION 87. IC 13-20-15-1 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~solid waste~~  
34 ~~management board~~ **department** shall administer and implement this  
35 chapter to protect the public health, safety, and welfare from the toxic  
36 effects and environmental dangers of PCB. The board shall adopt the  
37 rules required by this chapter under IC 4-22-2 **and IC 13-14-9**.

38 SECTION 88. IC 13-22-2-2 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. The ~~solid waste~~  
40 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**  
41 to implement this chapter through IC 13-22-8, IC 13-22-11.5, and  
42 IC 13-22-13 through IC 13-22-14.

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1 SECTION 89. IC 13-22-2-6 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. The board shall  
 3 do the following:

- 4 (1) Adopt rules under IC 4-22-2 **and IC 13-14-9** setting standards  
 5 for closure and postclosure monitoring and maintenance plans.  
 6 (2) Include in the rules a requirement for prior notice of closure  
 7 and a time limit for completion of closure.

8 SECTION 90. IC 13-22-2-7 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The board shall  
 10 adopt rules under IC 4-22-2 **and IC 13-14-9** setting standards for  
 11 corrective action for all releases of hazardous waste or constituents  
 12 from any solid waste management unit at a hazardous waste facility.  
 13 The standards must require that corrective action be taken beyond the  
 14 facility boundary where necessary to protect human health and the  
 15 environment, unless the owner or operator of the facility concerned  
 16 demonstrates to the satisfaction of the commissioner that, despite the  
 17 best efforts of the owner or operator, the owner or operator is unable to  
 18 obtain the necessary permission to undertake that action. The rules  
 19 adopted under this section apply to the following:

- 20 (1) All facilities operating under permits issued under IC 13-22-3  
 21 or IC 13-7-8.5 (before its repeal).  
 22 (2) All landfills, surface impoundments, and waste piles,  
 23 including any new units, replacements of existing units, and  
 24 lateral expansions of existing units, that receive hazardous waste  
 25 after July 26, 1982.

26 SECTION 91. IC 13-22-8-1 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) The ~~solid~~  
 28 ~~waste management~~ board shall adopt rules under IC 4-22-2 **and**  
 29 **IC 13-14-9** on standards of financial responsibility for the following:

- 30 (1) Closure.  
 31 (2) Postclosure monitoring at hazardous waste facilities.  
 32 (3) Any required corrective action at those facilities.

33 (b) The rules adopted under this section must reflect the provisions  
 34 for financial responsibility prescribed by section 2 of this chapter.

35 SECTION 92. IC 13-23-1-1 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) The  
 37 department shall establish and operate an underground storage tank  
 38 release detection, prevention, and correction program under this article  
 39 according to rules adopted by the ~~solid waste management~~ board.

40 (b) The department may contract with another state agency to jointly  
 41 operate the program under a memorandum of agreement that:

- 42 (1) may be amended;

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1 (2) must contain the specific duties of the department and the  
 2 contracting agency; and  
 3 (3) is available to the public for inspection.  
 4 SECTION 93. IC 13-25-4-7 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The ~~solid waste~~  
 6 ~~management~~ board shall adopt rules establishing criteria for  
 7 determining the commissioner's priorities in selecting hazardous  
 8 substance response sites. Until these rules have been adopted, the  
 9 commissioner shall give priority to those sites presenting a significant  
 10 threat to public health and environment.  
 11 SECTION 94. IC 13-27-8-3, AS ADDED BY P.L.100-2006,  
 12 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JANUARY 1, 2013]: Sec. 3. (a) The following **boards** may adopt rules  
 14 to implement this chapter to the extent consistent with federal law:  
 15 (1) The ~~boards.~~ **board.**  
 16 (2) The underground storage tank financial assurance board  
 17 established by IC 13-23-11-1.  
 18 (b) The rules adopted ~~by the entities~~ under subsection (a) may  
 19 establish the following:  
 20 (1) Eligibility requirements for participation in environmental  
 21 performance based programs.  
 22 (2) Compliance methods and schedules that:  
 23 (A) differ from compliance methods and schedules that apply  
 24 to nonparticipants in environmental performance based  
 25 programs under rules adopted by the boards;  
 26 (B) apply only to participants in environmental performance  
 27 based programs; and  
 28 (C) include any of the following:  
 29 (i) Changes to monitoring and reporting requirements and  
 30 schedules.  
 31 (ii) Streamlined submission requirements for permit  
 32 renewals.  
 33 (iii) Prioritized applications.  
 34 (iv) Authorization to make without prior governmental  
 35 approval certain operational changes that do not result in  
 36 additional environmental impact.  
 37 (3) Recognition incentives to encourage participation in  
 38 environmental performance based programs.  
 39 (4) Other incentives consistent with the policies of this title and  
 40 federal law to encourage participation in environmental  
 41 performance based programs.  
 42 (5) Requirements for participants in environmental performance

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1 based programs to implement any of the following:

2 (A) Continuous improvement environmental systems.

3 (B) Pollution prevention and waste minimization programs  
4 developed under IC 13-27-7.

5 SECTION 95. IC 13-28-1-3 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. ~~Each of the~~  
7 ~~regulatory boards within the department~~ **The board** may adopt rules  
8 under IC 4-22-2 **and IC 13-14-9** as required to implement the  
9 compliance program described in this article.

10 SECTION 96. IC 13-29-1-13 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 13. The ~~solid~~  
12 ~~waste management~~ board shall adopt under IC 4-22-2 **and IC 13-14-9**  
13 the rules necessary to implement this chapter.

14 SECTION 97. IC 13-30-2-1 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. A person may  
16 not do any of the following:

17 (1) Discharge, emit, cause, allow, or threaten to discharge, emit,  
18 cause, or allow any contaminant or waste, including any noxious  
19 odor, either alone or in combination with contaminants from other  
20 sources, into:

21 (A) the environment; or

22 (B) any publicly owned treatment works;

23 in any form that causes or would cause pollution that violates or  
24 would violate rules, standards, or discharge or emission  
25 requirements adopted by the ~~appropriate~~ board under the  
26 environmental management laws.

27 (2) Increase the quantity or strength of a discharge of  
28 contaminants into the waters or construct or install a sewer or  
29 sewage treatment facility or a new outlet for contaminants into the  
30 waters of Indiana without prior approval of the department.

31 (3) Deposit any contaminants upon the land in a place and manner  
32 that creates or would create a pollution hazard that violates or  
33 would violate a rule adopted by ~~one (1) of the boards:~~ **board.**

34 (4) Deposit or cause or allow the deposit of any contaminants or  
35 solid waste upon the land, except through the use of sanitary  
36 landfills, incineration, composting, garbage grinding, or another  
37 method acceptable to the ~~solid waste management~~ board.

38 (5) Dump or cause or allow the open dumping of garbage or of  
39 any other solid waste in violation of rules adopted by the ~~solid~~  
40 ~~waste management~~ board.

41 (6) Dispose of solid waste in, upon, or within the limits of or  
42 adjacent to a public highway, state park, state nature preserve, or

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- 1 recreation area or in or immediately adjacent to a lake or stream,  
 2 except:
- 3 (A) in proper containers provided for sanitary storage of the  
 4 solid waste; or
  - 5 (B) as a part of a sanitary landfill operation or other land  
 6 disposal method approved by the department.
- 7 (7) Construct, install, operate, conduct, or modify, without prior  
 8 approval of the department, any equipment or facility of any type  
 9 that may:
- 10 (A) cause or contribute to pollution; or
  - 11 (B) be designed to prevent pollution.
- 12 However, the commissioner or the appropriate board may approve  
 13 experimental uses of any equipment, facility, or pollution control  
 14 device that is considered necessary for the further development of  
 15 the state of the art of pollution control.
- 16 (8) Conduct any salvage operation or open dump by open burning  
 17 or burn, cause, or allow the burning of any solid waste in a  
 18 manner that violates either:
- 19 (A) the air pollution control laws; or
  - 20 (B) the rules adopted by the ~~air pollution control~~ board.
- 21 (9) Commence construction of a proposed hazardous waste  
 22 facility without having first:
- 23 (A) filed an application for; and
  - 24 (B) received;
- 25 a permit from the department.
- 26 (10) Commence or engage in the operation of a hazardous waste  
 27 facility without having first obtained a permit from the  
 28 department.
- 29 (11) Deliver any hazardous waste to a hazardous waste facility  
 30 that:
- 31 (A) is not approved; or
  - 32 (B) does not hold a permit from the department.
- 33 (12) Cause or allow the transportation of a hazardous waste  
 34 without a manifest if a manifest is required by law.
- 35 (13) Violate any:
- 36 (A) condition;
  - 37 (B) limitation; or
  - 38 (C) stipulation;
- 39 placed upon a certificate of environmental compatibility by the  
 40 hazardous waste facility site approval authority or any other  
 41 provision of IC 13-22-10.
- 42 (14) Apply or allow the application of used oil to any ground

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1 surface, except for purposes of treatment in accordance with a  
 2 permit issued by the department under any of the following:

- 3 (A) IC 13-15, except IC 13-15-9.
- 4 (B) IC 13-17-11.
- 5 (C) IC 13-18-18.
- 6 (D) IC 13-20-1.

7 (15) Commence construction of a solid waste incinerator without  
 8 first obtaining a permit from the department under IC 13-20-8.

9 (16) Commence operation of a solid waste incinerator without  
 10 first obtaining the approval of the department under IC 13-20-8.

11 SECTION 98. IC 13-30-3-11 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 11. An order of  
 13 the commissioner under this chapter may do any of the following:

14 (1) Include a direction to cease and desist from violations of the  
 15 following:

- 16 (A) Environmental management laws.
- 17 (B) Air pollution control laws.
- 18 (C) Water pollution control laws.
- 19 (D) A rule adopted by ~~one (†) of the boards;~~ **board.**

20 **(E) A rule adopted by the underground storage tank**  
 21 **financial assurance board.**

22 (2) Impose monetary penalties in accordance with the following:

- 23 (A) Environmental management laws.
- 24 (B) Air pollution control laws.
- 25 (C) Water pollution control laws.

26 (3) Mandate corrective action, including corrective action to be  
 27 taken beyond the boundaries of the area owned or controlled by  
 28 the person to whom the order is directed, to alleviate the violation.

29 (4) Revoke a permit or condition or modify the terms of a permit.

30 SECTION 99. IC 13-30-4-1 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) Subject to  
 32 IC 13-14-6 and except as provided in IC 13-23-14-2 and  
 33 IC 13-23-14-3, a person who violates:

34 (1) any provision of:

- 35 (A) environmental management laws;
- 36 (B) air pollution control laws;
- 37 (C) water pollution control laws;
- 38 (D) IC 13-18-14-1; ~~or~~
- 39 (E) a rule or standard adopted by ~~one (†) of the boards;~~ **board;**  
 40 or

41 **(F) a rule or standard adopted by the underground storage**  
 42 **tank financial assurance board; or**

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1 (2) any determination, permit, or order made or issued by the  
 2 commissioner under:  
 3 (A) environmental management laws or IC 13-7 (before its  
 4 repeal);  
 5 (B) air pollution control laws or IC 13-1-1 (before its repeal);  
 6 or  
 7 (C) water pollution control laws or IC 13-1-3 (before its  
 8 repeal);  
 9 is liable for a civil penalty not to exceed twenty-five thousand dollars  
 10 (\$25,000) per day of any violation.

11 (b) The department may:  
 12 (1) recover the civil penalty described in subsection (a) in a civil  
 13 action commenced in any court with jurisdiction; and  
 14 (2) request in the action that the person be enjoined from  
 15 continuing the violation.

16 SECTION 100. IC 13-30-7-7 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The ~~boards~~  
 18 **following** shall adopt rules under IC 4-22-2 **and IC 13-14-9** to  
 19 administer this chapter:

- 20 (1) **The board.**
- 21 (2) **The underground storage tank financial assurance board.**

22 SECTION 101. IC 16-18-2-372 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 372. "Water  
 24 board", for purposes of IC 16-41, refers to the ~~water pollution control~~  
 25 board established by ~~IC 13-18-1-1~~ **IC 13-13-8-3**.

26 SECTION 102. IC 16-20-5-1 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) If a multiple  
 28 county sewer, water, wastewater, or similar district has been  
 29 established under IC 13-26 or IC 13-3-2 (before its repeal), the affected  
 30 counties may by concurrent resolution of each county executive  
 31 establish an area board of health for the sole purposes of administering  
 32 and enforcing, consistent with environmental management laws (as  
 33 defined in IC 13-11-2-71), all state and local environmental statutes,  
 34 rules, and ordinances relative to the maintenance of a high quality  
 35 environmental level in the district.

36 (b) Area boards of health created under this chapter have  
 37 jurisdiction with the ~~boards identified in IC 13-11-2-18~~ **board**  
 38 **established under IC 13-13-8** and the department of environmental  
 39 management within the uniform inspection and enforcement area  
 40 established under section 5 of this chapter.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 130, 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:

Replace the effective dates in SECTIONS 1 through 9 with "[EFFECTIVE JANUARY 1, 2013]".

Replace the effective dates in SECTIONS 11 through 106 with "[EFFECTIVE JANUARY 1, 2013]".

Page 1, line 15, delete "IC 13-13-8-1);" and insert "**IC 13-13-8-1) and the financial assurance board;**".

Page 11, line 6, reset in roman "through".

Page 11, line 6, delete "and (c)" and insert "**(d)**".

Page 11, reset in roman lines 25 through 26.

Page 11, line 25, strike "(f)" and insert "**(c)**".

Page 11, line 27, delete "(c)" and insert "**(d)**".

Page 11, delete lines 36 through 39.

Page 13, line 35, delete "abolished:" and insert "**abolished on January 1, 2013:**".

Page 13, delete line 42.

Page 14, delete line 1.

Page 14, line 6, delete "After" and insert "**On and after**".

Page 14, line 13, delete "the expiration term of the abolished entities on".

Page 14, line 14, delete "Members" and insert "**The initial members**".

Page 14, line 19, after "Sec. 4." insert "**(a)**".

Page 14, delete lines 22 through 23.

Page 14, line 24, delete "(B)" and insert "**(A)**".

Page 14, line 25, delete "(C)" and insert "**(B)**".

Page 14, line 26, delete "(D)" and insert "**(C)**".

Page 14, line 27, delete "(E)" and insert "**(D)**".

Page 15, between lines 7 and 8, begin a new paragraph and insert: "**(b) An individual appointed under subsection (a)(2) must possess knowledge, experience, or education qualifying the individual to represent the constituency the individual is being recommended to represent.**".

Page 15, line 36, after "the" insert "**Indiana**".

Page 16, between lines 20 and 21, begin a new paragraph and insert: "**Sec. 12. (a) The board shall select, from a list of three (3)**".



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qualified individuals recommended by the governor, an independent third party who is not an employee of the state to serve as technical secretary of the board.

(b) Between meetings of the board, the department shall do the following:

- (1) Handle correspondence.
- (2) Make or arrange for investigations and surveys.
- (3) Obtain, assemble, or prepare reports and data as directed by the board.

(c) The technical secretary shall review all materials prepared for the board by the department to make any necessary revisions. Provisions of this chapter concerning terms of appointment, vacancies, and compensation of appointed board members apply to the technical secretary. The technical secretary is not a voting member of the board.

Sec. 13. (a) The board may select, from a list of three (3) qualified individuals recommended by the governor, an independent third party who is not an employee of the state to serve as legal counsel.

(b) The legal counsel shall do the following:

- (1) Advise the board on legal matters or proceedings arising from the exercise of the board's duties.
- (2) Review all materials prepared for the board by the department for legal accuracy and sufficiency and direct the department to make any necessary revisions.

(c) Provisions of this chapter concerning terms of appointment, vacancies, and compensation of appointed board members apply to the legal counsel. The legal counsel is not a voting member of the board.

Sec. 14. The board may establish advisory committees for the purpose of giving advice on any matters pertaining to the business of the board. A member appointed to an advisory committee shall serve at the pleasure of the board and is not entitled to a salary, per diem, or reimbursement of expenses."

Page 16, line 21, delete "Sec. 12." and insert "Sec. 15."

Page 19, line 32, strike "appropriate".

Page 21, line 12, strike "solid waste management board or air pollution control".

Page 21, line 24, reset in roman "following:".

Page 21, line 24, delete "board.".

Page 21, line 25, reset in roman "(1)".

Page 21, line 25, after "A" insert "The".



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Page 21, line 25, reset in roman "board."  
 Page 21, reset in roman lines 26 through 27.  
 Page 23, line 20, strike "a" and insert "**the**".  
 Page 30, line 7, strike "solid waste".  
 Page 30, line 8, strike "management".  
 Page 34, line 5, strike "water pollution control".  
 Page 41, delete line 42.  
 Delete page 42.  
 Page 43, delete lines 1 through 12.  
 Page 43, line 22, reset in roman "following".  
 Page 43, line 22, delete "board" and insert "**boards**".  
 Page 43, line 24, reset in roman "(1) The".  
 Page 43, line 24, after "boards." insert "**board.**".  
 Page 43, reset in roman lines 25 through 26.  
 Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 130 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 7, Nays 1.

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SENATE MOTION

Madam President: I move that Senate Bill 130 be amended to read as follows:

Page 14, line 15, delete "seventeen (17)" and insert "**fifteen (15)**".  
 Page 14, delete lines 35 through 38.  
 Page 14, line 39, delete "(J)" and insert "**(I)**".  
 Page 14, line 41, delete "(K)" and insert "**(J)**".  
 Page 22, line 12, strike "a" and insert "**the**".  
 Page 43, line 14, delete "." and insert ":".  
 Page 43, line 25, reset in roman "boards;".  
 Page 43, line 25, delete "board;".

(Reference is to SB 130 as printed January 18, 2012.)

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## COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure reports that pursuant to Senate Rule 35(c), the following technical corrections are to be made to Engrossed Senate Bill 130.

Page 14, line 22, delete "twelve (12) members," and insert "**eleven (11) members,**".

Page 22, line 17, reset in roman "a".

Page 22, line 18, delete "the".

Page 43, line 10, delete "law." and insert "law:".

LONG, Chairperson

(Reference is to ESB 130 as reprinted January 20, 2012.)

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 COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 130, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the amendment made pursuant to Senate Rule 35(c) adopted January 23, 2012.

Page 11, line 27, after "of" insert "**IC 13-14,**".

Page 11, line 27, after "IC 13-23-11," insert "**and IC 13-30-2-1,**".

Page 14, delete lines 6 through 8, begin a new paragraph and insert:

**"(d) The rules adopted by the entities abolished under subsection (a) shall be treated, administered, and implemented as follows:**

**(1) The rules adopted before January 1, 2013, by the air pollution control board abolished under subsection (a)(1):**

**(A) shall be treated as though the rules were adopted by the environmental rules board; and**

**(B) shall be administered and implemented by the air pollution control division of the department described in IC 13-13-3-2(1).**

**(2) The rules adopted before January 1, 2013, by the water pollution control board abolished under subsection (a)(2):**

**(A) shall be treated as though the rules were adopted by the environmental rules board; and**

**(B) shall be administered and implemented by the water pollution control division of the department described in**



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**IC 13-13-3-2(2).**

**(3) The rules adopted before January 1, 2013, by the solid waste management board abolished under subsection (a)(3):**

**(A) shall be treated as though the rules were adopted by the environmental rules board; and**

**(B) shall be administered and implemented by the solid waste management division of the department described in IC 13-13-3-2(3)."**

Page 14, line 15, delete "fifteen (15)" and insert "**sixteen (16)**".

Page 14, between lines 21 and 22, begin a new line double block indented and insert:

**"(E) The commissioner of the department of environmental management, who shall serve as a nonvoting member."**

Page 14, line 22, delete "twelve (12)" and insert "**eleven (11)**".

Page 15, line 35, delete "Nine (9)" and insert "**Eight (8) voting**".

Page 15, line 35, delete "six (6)" and insert "**five (5)**".

Page 16, line 18, delete "who is not an employee of the state".

Page 16, line 19, after "board." insert "**The technical secretary of the board is an employee of the department."**

Page 16, line 34, delete "who is not an employee of the state".

Page 16, line 35, after "counsel." insert "**The legal counsel to the board is an employee of the department."**

Page 22, line 17, reset in roman "a".

Page 22, line 18, delete "the".

Page 34, between lines 19 and 20, begin a new paragraph and insert:

**"SECTION 62. IC 13-18-3-2.4, AS AMENDED BY P.L.54-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2.4. An NPDES permit holder shall review the feasibility of implementing additional or ~~new~~ **modified** control alternatives ~~measures~~ to attain water quality standards ~~The NPDES permit holder shall conduct such a review periodically, but not less than every five (5) years after approval of the long term control plan by the department. if post-construction monitoring results indicate that performance criteria established for CSO control measures constructed in accordance with the approved long term control plan will not be met.~~ The NPDES permit holder shall:**

(1) document to the department that the long term control plan has been reviewed;

(2) update the long term control plan as necessary **to incorporate any additional or modified control measures selected as feasible, cost effective, affordable, and necessary for compliance with applicable performance criteria;**



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(3) submit any amendments to the long term control plan to the department for approval; and

(4) implement **any additional or modified** control ~~alternatives determined to be~~ **measures approved by the department as feasible, cost effective, and affordable, and necessary for compliance with applicable performance criteria.**

Cost effectiveness may be determined, at the option of the NPDES permit holder, by using a knee of the curve analysis in accordance with section 402(q) of the federal Clean Water Act (33 U.S.C. 1342(q)) and 59 FR 18688.

SECTION 63. IC 13-18-3-2.5, AS AMENDED BY P.L.54-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2.5. (a) A CSO wet weather limited use subcategory is established for waters affected by receiving combined sewer overflows, as specified in an approved long term control plan. The CSO wet weather limited use subcategory applies to a specific water body after implementation of an approved long term control plan for the combined sewer system whose overflow discharges affect those waters is implemented and the conditions of subsection (b) are satisfied. The following requirements apply to the CSO wet weather limited use subcategory:

(1) The water quality based requirements associated with the CSO wet weather limited use subcategory that apply to waters affected by wet weather combined sewer overflows are determined by an approved long term control plan for the combined sewer system. The water quality based requirements remain in effect during the time and to the physical extent that the recreational use designation that applied to the waters immediately before the application to the waters of the CSO wet weather limited use subcategory is not attained, but for not more than four (4) days after the date the overflow discharge ends.

(2) At all times other than those described in subdivision (1), the water quality criteria associated with the appropriate recreational use designation that applied to the waters immediately before the application to the waters of the CSO wet weather limited use subcategory apply unless there is a change in the use designation as a result of a use attainability analysis.

(b) The CSO wet weather limited use subcategory applies if:

(1) the department has approved a long term control plan for the NPDES permit holder for the combined sewer system;

(2) the approved long term control plan:

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- (i) the NPDES permit holder's NPDES permit; or
- (ii) an order of the commissioner under IC 13-14-2-6;
- (B) satisfies the requirements of section 2.3 of this chapter; and
- (C) specifies the water quality based requirements that apply to combined sewer overflows during and immediately following wet weather events, as provided in subsection (a)(1);
- (3) the NPDES permit holder has implemented the approved long term control plan; and
- (4) subject to subsection (c), 40 CFR 131.10, 40 CFR 131.20, and 40 CFR 131.21 are satisfied.

(c) For purposes of subsection (b)(4), 40 CFR 131.10 may be satisfied by including appropriate data and information in the long term control plan.

(d) The department shall implement the CSO wet weather limited use subcategory and associated water quality based requirements under this section when the subcategory and requirements are approved by the United States Environmental Protection Agency. The department shall seek approval of the United States Environmental Protection Agency in a timely manner.

(e) The NPDES permit holder shall monitor its discharges and the water quality in the affected receiving stream periodically as provided in the long term control plan. The NPDES permit holder shall provide all such information to the department.

(f) ~~In conjunction with~~ **If any additional or modified control measures are tentatively selected by an NPDES permit holder in a review of the NPDES permit holder's long term control plan under section 2.4 of this chapter and a use attainability analysis has been approved previously under this section with respect to waters affected by combined sewer overflows from the NPDES permit holder's combined sewer system, the NPDES permit holder, at the same time the NPDES permit holder conducts a long term control plan review under section 2.4 of this chapter, shall review consider information that pertains to the additional or modified control measures, along with any other relevant information generated after the use attainability analysis was approved by the department, in a review of the use attainability analysis to determine assess whether:**

- (1) the conclusion of the use attainability analysis is still valid; would need to be revised if the new information were incorporated; and
- (2) the additional or modified control measures would be feasible under the relevant criteria of 40 CFR 131.10(g).



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The NPDES permit holder shall provide the results of the review to the department **for consideration in the department's decisions under section 2.4 of this chapter.**

(g) The board shall adopt rules under IC 13-14-8 and IC 13-14-9 to implement this section before October 1, 2006."

Page 43, line 10, delete "." and insert ":".

Page 46, between lines 15 and 16, begin a new line double block indented and insert:

**"(E) A rule adopted by the underground storage tank financial assurance board."**

Page 46, line 32, strike "or".

Page 46, between lines 34 and 35, begin a new line double block indented and insert:

**"(F) a rule or standard adopted by the underground storage tank financial assurance board; or"**

Page 47, line 10, delete "board" and insert "**following**".

Page 47, line 11, delete "." and insert ":

**(1) The board.**

**(2) The underground storage tank financial assurance board."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 130 as reprinted January 20, 2012, and as corrected under Senate Rule 35(c), January 23, 2012.)

WOLKINS, Chair

Committee Vote: yeas 6, nays 4.

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