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# SENATE BILL No. 130

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-21.5-7-3; IC 4-22-2; IC 13-11-2; IC 13-12-4-5; IC 13-13-8; IC 13-14; 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 13-25-4-7; IC 13-27-8-3; IC 13-28-1-3; IC 13-29-1-13; IC 13-30; IC 16-18-2-372; IC 16-20-5-1.

**Synopsis:** Environmental board consolidation. Repeals certain statutes creating the following boards: (1) Air pollution control. (2) Water pollution control. (3) Financial assurance (collectively, the repealed boards). Defines "board" to exclude the repealed boards. Establishes the environmental rules board (consolidated board). Requires the consolidated board to use rulemaking procedures to adopt rules. Transfers to the 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. Transfers certain powers and duties of the repealed boards to the consolidated board.

**Effective:** July 1, 2012.

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

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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.

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## 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 JULY 1, 2012]: Sec. 3. (a) The office of environmental adjudication is  
4 established to review, under this article, agency actions of the  
5 department of environmental management, actions of a board described  
6 in IC 13-14-9-1, and challenges to rulemaking actions by a board  
7 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**  
16 (i) ~~the air pollution control board;~~  
17 (ii) ~~the water pollution control board;~~



1 (iii) the solid waste management board; and  
 2 (iv) the financial assurance board; and  
 3 (C) agency action of the department of environmental  
 4 management; and  
 5 (2) notify a board referred to in subdivision (1)(B) of a final order  
 6 of the office of environmental adjudication that interprets:  
 7 (A) a rule of the board; or  
 8 (B) a statute under which a rule of the board is authorized.

9 SECTION 2. IC 4-22-2-28.1, AS AMENDED BY P.L.110-2010,  
 10 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2012]: Sec. 28.1. (a) This section applies to the following:  
 12 (1) A rule for which the notice required by section 23 of this  
 13 chapter or by IC 13-14-9-3 is published by an agency or ~~by any of~~  
 14 ~~the boards (as defined in IC 13-11-2-18):~~ **board (as defined in**  
 15 **IC 13-13-8-1).**  
 16 (2) A rule for which:  
 17 (A) the notice required by IC 13-14-9-3; or  
 18 (B) an appropriate later notice for circumstances described in  
 19 subsection (g);  
 20 is published by the department of environmental management  
 21 after June 30, 2006.  
 22 (b) As used in this section, "coordinator" refers to the small business  
 23 regulatory coordinator assigned to a rule by an agency under subsection  
 24 (e).  
 25 (c) As used in this section, "director" refers to the director or other  
 26 administrative head of an agency.  
 27 (d) As used in this section, "small business" has the meaning set  
 28 forth in IC 5-28-2-6.  
 29 (e) For each rulemaking action and rule finally adopted as a result  
 30 of a rulemaking action by an agency under this chapter, the agency  
 31 shall assign one (1) staff person to serve as the agency's small business  
 32 regulatory coordinator with respect to the proposed or adopted rule.  
 33 The agency shall assign a staff person to a rule under this subsection  
 34 based on the person's knowledge of, or experience with, the subject  
 35 matter of the rule. A staff person may serve as the coordinator for more  
 36 than one (1) rule proposed or adopted by the agency if the person is  
 37 qualified by knowledge or experience with respect to each rule. Subject  
 38 to subsection (f):  
 39 (1) in the case of a proposed rule, the notice of intent to adopt the  
 40 rule published under section 23 of this chapter; or  
 41 (2) in the case of a rule proposed by the department of  
 42 environmental management or ~~any of the boards (as defined in~~

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1           ~~IC 13-11-2-18~~ **the board (as defined in IC 13-13-8-1)**, the  
 2           notice published under IC 13-14-9-3 or the findings published  
 3           under IC 13-14-9-8(b)(1), whichever applies;  
 4           must include the name, address, telephone number, and electronic mail  
 5           address of the small business coordinator for the proposed rule, the  
 6           name, address, telephone number, and electronic mail address of the  
 7           small business ombudsman designated under IC 5-28-17-5, and a  
 8           statement of the resources available to regulated entities through the  
 9           small business ombudsman designated under IC 5-28-17-5. Subject to  
 10          subsection (f), in the case of a rule finally adopted, the final rule, as  
 11          published in the Indiana Register, must include the name, address,  
 12          telephone number, and electronic mail address of the coordinator.

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

- 20           (1) a statement of the resources available to regulated entities  
 21           through the technical and compliance assistance program  
 22           established under IC 13-28-3;  
 23           (2) the name, address, telephone number, and electronic mail  
 24           address of the ombudsman designated under IC 13-28-3-2;  
 25           (3) if applicable, a statement of:  
 26                (A) the resources available to small businesses through the  
 27                small business stationary source technical assistance program  
 28                established under IC 13-28-5; and  
 29                (B) the name, address, telephone number, and electronic mail  
 30                address of the ombudsman for small business designated under  
 31                IC 13-28-5-2(3); and  
 32           (4) the information required by subsection (e).

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

41          (g) If the notice provided under IC 13-14-9-3 is not published as  
 42          allowed by IC 13-14-9-7, the department of environmental

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1 management shall publish in the notice provided under IC 13-14-9-4  
2 the information that subsection (f) would otherwise require to be  
3 published in the notice under IC 13-14-9-3. If neither the notice under  
4 IC 13-14-9-3 nor the notice under IC 13-14-9-4 is published as allowed  
5 by IC 13-14-9-8, the department of environmental management shall  
6 publish in the commissioner's written findings under IC 13-14-9-8(b)  
7 the information that subsection (f) would otherwise require to be  
8 published in the notice under IC 13-14-9-3.

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

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

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

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

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

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

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

36 (2) electronically through electronic gateway access.

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

42 (1) not later than ten (10) days after the date on which the rule is

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1 submitted to the publisher under section 35 of this chapter; and  
 2 (2) before July 15 of each year during which the rule remains in  
 3 effect.  
 4 The coordinator and the director shall keep confidential any  
 5 information concerning a small business to the extent that the  
 6 information is exempt from public disclosure under IC 5-14-3-4.  
 7 (k) Not later than November 1 of each year, the director shall:  
 8 (1) compile the records received from all of the agency's  
 9 coordinators under subsection (j);  
 10 (2) prepare a report that sets forth:  
 11 (A) the number of comments, complaints, and questions  
 12 received by the agency from small businesses during the most  
 13 recent state fiscal year, categorized by the subject matter of the  
 14 rules involved;  
 15 (B) the number of complaints or questions reported under  
 16 clause (A) that were resolved to the satisfaction of the agency  
 17 and the small businesses involved;  
 18 (C) the total number of staff serving as coordinators under this  
 19 section during the most recent state fiscal year;  
 20 (D) the agency's costs in complying with this section during  
 21 the most recent state fiscal year; and  
 22 (E) the projected budget required by the agency to comply  
 23 with this section during the current state fiscal year; and  
 24 (3) deliver the report to the legislative council in an electronic  
 25 format under IC 5-14-6 and to the small business ombudsman  
 26 designated by IC 5-28-17-5.  
 27 SECTION 3. IC 4-22-2-28.2, AS ADDED BY P.L.239-2005,  
 28 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2012]: Sec. 28.2. (a) This section applies to a violation  
 30 described in subsection (c) that occurs after June 30, 2005. However,  
 31 in the case of a violation of a rule adopted under IC 13-14-9 by the  
 32 department of environmental management or ~~any of the boards board~~  
 33 (as defined in ~~IC 13-11-2-18~~; **IC 13-13-8-1**), the procedures set forth  
 34 in IC 13-30-4-3 and IC 13-30-7 apply instead of this section.  
 35 (b) As used in this section, "small business" has the meaning set  
 36 forth in section 28.1(d) of this chapter.  
 37 (c) Except as provided in subsection (d), a small business that  
 38 voluntarily provides notice to an agency of the small business's actual  
 39 or potential violation of a rule adopted by the agency under this chapter  
 40 is immune from civil or criminal liability resulting from an agency  
 41 action relating to the violation if the small business does the following:  
 42 (1) Provides written notice of the violation to the agency not later

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1 than forty-five (45) days after the small business knew or should  
2 have known that the violation occurred.

3 (2) Corrects the violation within a time agreed to by the agency  
4 and the small business. However, the small business shall be  
5 given at least ninety (90) days after the date of the notice  
6 described in subdivision (1) to correct the violation. The small  
7 business may correct the violation at any time before the  
8 expiration of the period agreed to under this subdivision.

9 (3) Cooperates with any reasonable request by the agency in any  
10 investigation initiated in response to the notice.

11 (d) A small business is not immune from civil or criminal liability  
12 relating to a violation of which the small business provides notice  
13 under subsection (c) if any of the following apply:

14 (1) The violation resulted in serious harm or in imminent and  
15 substantial endangerment to the public health, safety, or welfare.

16 (2) The violation resulted in a substantial economic benefit that  
17 afforded the small business a clear advantage over the small  
18 business's competitors.

19 (3) The small business has a pattern of continuous or repeated  
20 violations of the rule at issue or any other rules of the agency.

21 (e) Information that a small business provides under this section,  
22 including actions and documents that identify or describe the small  
23 business, to an agency in providing notice of the small business's actual  
24 or potential violation of a rule adopted by the agency is confidential,  
25 unless a clear and immediate danger to the public health, safety, or  
26 welfare or to the environment exists. Information described in this  
27 subsection may not be made available for use by the agency for  
28 purposes other than the purposes of this section without the consent of  
29 the small business.

30 (f) Voluntary notice of an actual or a potential violation of a rule  
31 that is provided by a small business under subsection (c) is not  
32 admissible as evidence in a proceeding, other than an agency  
33 proceeding, to prove liability for the rule violation or the effects of the  
34 rule violation.

35 SECTION 4. IC 4-22-2-37.1, AS AMENDED BY P.L.229-2011,  
36 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
37 JULY 1, 2012]: Sec. 37.1. (a) This section applies to a rulemaking  
38 action resulting in any of the following rules:

39 (1) An order adopted by the commissioner of the Indiana  
40 department of transportation under IC 9-20-1-3(d) or  
41 IC 9-21-4-7(a) and designated by the commissioner as an  
42 emergency rule.

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- 1 (2) An action taken by the director of the department of natural  
2 resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- 3 (3) An emergency temporary standard adopted by the  
4 occupational safety standards commission under  
5 IC 22-8-1.1-16.1.
- 6 (4) An emergency rule adopted by the ~~solid waste management~~  
7 **environmental rules** board under IC 13-22-2-3 and classifying  
8 a waste as hazardous.
- 9 (5) A rule, other than a rule described in subdivision (6), adopted  
10 by the department of financial institutions under IC 24-4.5-6-107  
11 and declared necessary to meet an emergency.
- 12 (6) A rule required under IC 24-4.5-1-106 that is adopted by the  
13 department of financial institutions and declared necessary to  
14 meet an emergency under IC 24-4.5-6-107.
- 15 (7) A rule adopted by the Indiana utility regulatory commission to  
16 address an emergency under IC 8-1-2-113.
- 17 (8) An emergency rule adopted by the state lottery commission  
18 under IC 4-30-3-9.
- 19 (9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the  
20 executive board of the state department of health declares is  
21 necessary to meet an emergency.
- 22 (10) An emergency rule adopted by the Indiana finance authority  
23 under IC 8-21-12.
- 24 (11) An emergency rule adopted by the insurance commissioner  
25 under IC 27-1-23-7 or IC 27-1-12.1.
- 26 (12) An emergency rule adopted by the Indiana horse racing  
27 commission under IC 4-31-3-9.
- 28 (13) An emergency rule adopted by the ~~air pollution control~~  
29 ~~board; the solid waste management board; or the water pollution~~  
30 ~~control~~ **environmental rules** board under IC 13-15-4-10(4) or to  
31 comply with a deadline required by or other date provided by  
32 federal law, provided:
- 33 (A) the variance procedures are included in the rules; and  
34 (B) permits or licenses granted during the period the  
35 emergency rule is in effect are reviewed after the emergency  
36 rule expires.
- 37 (14) An emergency rule adopted by the Indiana election  
38 commission under IC 3-6-4.1-14.
- 39 (15) An emergency rule adopted by the department of natural  
40 resources under IC 14-10-2-5.
- 41 (16) An emergency rule adopted by the Indiana gaming  
42 commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3,

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

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

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1 (f) A rule described in subsection (a) takes effect on the latest of the  
2 following dates:

3 (1) The effective date of the statute delegating authority to the  
4 agency to adopt the rule.

5 (2) The date and time that the rule is accepted for filing under  
6 subsection (e).

7 (3) The effective date stated by the adopting agency in the rule.

8 (4) The date of compliance with every requirement established by  
9 law as a prerequisite to the adoption or effectiveness of the rule.

10 (g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6,  
11 IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in  
12 subsections (j), (k), and (l), a rule adopted under this section expires  
13 not later than ninety (90) days after the rule is accepted for filing under  
14 subsection (e). Except for a rule adopted under subsection (a)(13),  
15 (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting  
16 another rule under this section, but only for one (1) extension period.  
17 The extension period for a rule adopted under subsection (a)(28) may  
18 not exceed the period for which the original rule was in effect. A rule  
19 adopted under subsection (a)(13) may be extended for two (2)  
20 extension periods. Subject to subsection (j), a rule adopted under  
21 subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited  
22 number of extension periods. Except for a rule adopted under  
23 subsection (a)(13), for a rule adopted under this section to be effective  
24 after one (1) extension period, the rule must be adopted under:

25 (1) sections 24 through 36 of this chapter; or

26 (2) IC 13-14-9;

27 as applicable.

28 (h) A rule described in subsection (a)(8), (a)(12), (a)(19), (a)(20),  
29 (a)(21), (a)(29), or (a)(37) expires on the earlier of the following dates:

30 (1) The expiration date stated by the adopting agency in the rule.

31 (2) The date that the rule is amended or repealed by a later rule  
32 adopted under sections 24 through 36 of this chapter or this  
33 section.

34 (i) This section may not be used to readopt a rule under IC 4-22-2.5.

35 (j) A rule described in subsection (a)(24) or (a)(25) expires not later  
36 than January 1, 2006.

37 (k) A rule described in subsection (a)(28) expires on the expiration  
38 date stated by the board of the Indiana economic development  
39 corporation in the rule.

40 (l) A rule described in subsection (a)(30) expires on the expiration  
41 date stated by the Indiana finance authority in the rule.

42 (m) A rule described in subsection (a)(5) or (a)(6) expires on the

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1 date the department is next required to issue a rule under the statute  
2 authorizing or requiring the rule.

3 SECTION 5. IC 13-11-2-17, AS AMENDED BY P.L.159-2011,  
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2012]: Sec. 17. (a) "Board", except as provided in subsections  
6 (b) through (h), and (c), refers to **the environmental rules board**  
7 **established by IC 13-13-8-3.**

- 8 (1) the air pollution control board;  
9 (2) the water pollution control board; or  
10 (3) the solid waste management board:

11 (b) "Board", for purposes of IC 13-17, refers to the air pollution  
12 control board:

13 (c) "Board", for purposes of IC 13-18, refers to the water pollution  
14 control board:

15 (d) "Board", for purposes of:

- 16 (1) IC 13-19;  
17 (2) IC 13-20;  
18 (3) IC 13-22;  
19 (4) IC 13-23, except IC 13-23-11;  
20 (5) IC 13-24; and  
21 (6) IC 13-25;

22 refers to the solid waste management board:

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

25 (f) "Board", for purposes of IC 13-23-11, refers to the underground  
26 storage tank financial assurance board:

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

29 (h) "Board", for purposes of IC 13-27 and IC 13-27.5, refers to the  
30 clean manufacturing technology board:

31 SECTION 6. IC 13-11-2-18 IS REPEALED [EFFECTIVE JULY 1,  
32 2012]. Sec. 18: "Boards" refers to all of the following:

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

36 SECTION 7. IC 13-11-2-84 IS REPEALED [EFFECTIVE JULY 1,  
37 2012]. Sec. 84: "Financial assurance board", for purposes of IC 13-23,  
38 refers to the underground petroleum storage tank financial assurance  
39 board:

40 SECTION 8. IC 13-11-2-165 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 165. "Pollution control  
42 laws" refers to the following:

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- 1 (1) IC 13-12-4 and IC 13-12-5.  
 2 (2) IC 13-17, except for the following:  
 3 (A) IC 13-17-3-15.  
 4 (B) IC 13-17-7.  
 5 (C) IC 13-17-8-10.  
 6 (D) IC 13-17-10.  
 7 (E) IC 13-17-11.  
 8 (F) IC 13-17-13.  
 9 (3) IC 13-18, except for the following:  
 10 (A) IC 13-18-12 and IC 13-18-13.  
 11 (B) IC 13-18-15 through IC 13-18-20.  
 12 (4) ~~IC 13-19-2~~ and IC 13-19-3.  
 13 (5) IC 13-20-16 and IC 13-20-17.

14 SECTION 9. IC 13-12-4-5 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. To the fullest extent  
 16 possible:

- 17 (1) the policies, rules, and statutes of the state shall be interpreted  
 18 and administered in accordance with the policies set forth in this  
 19 chapter; and  
 20 (2) all state agencies shall do the following:  
 21 (A) Use a systematic, interdisciplinary approach that will  
 22 ensure the integrated use of the natural and social sciences and  
 23 the environmental design arts in planning and decision making  
 24 that may have an impact on the environment.  
 25 (B) Identify and develop methods and procedures that will  
 26 ensure that unquantified environmental amenities and values  
 27 may be given appropriate consideration in decision making  
 28 along with economic and technical considerations.  
 29 (C) Include in every recommendation or report on proposals  
 30 for legislation and other major state actions significantly  
 31 affecting the quality of the human environment a detailed  
 32 statement by the responsible official on the following:  
 33 (i) The environmental impact of the proposed action.  
 34 (ii) Any adverse environmental effects that cannot be  
 35 avoided should the proposal be implemented.  
 36 (iii) Alternatives to the proposed action.  
 37 (iv) The relationship between local short term uses of the  
 38 environment and the maintenance and enhancement of long  
 39 term productivity.  
 40 (v) Any irreversible and irretrievable commitments of  
 41 resources that would be involved if the proposed action  
 42 should be implemented.

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

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

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

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

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

29 SECTION 10. IC 13-13-8 IS ADDED TO THE INDIANA CODE  
 30 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2012]:

32 **Chapter 8. Environmental Rules Board**

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

35 **Sec. 2. (a) The following entities are abolished:**

- 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 (4) **The financial assurance board (established by IC 13-23-11**

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- 1 before its repeal).
- 2 (b) All powers, duties, and liabilities are transferred from the
- 3 entities abolished under subsection (a) to the environmental rules
- 4 board established by section 3 of this chapter effective January 1,
- 5 2013.
- 6 (c) After January 1, 2013, a reference to an entity abolished
- 7 under subsection (a) in a statute or rule shall be treated as a
- 8 reference to the environmental rules board.
- 9 (d) Rules adopted by the entities abolished under subsection (a)
- 10 before January 1, 2013, shall be treated as though the rules were
- 11 adopted by the environmental rules board.
- 12 (e) A member of an entity abolished under subsection (a) may
- 13 serve until the expiration term of the abolished entities on
- 14 December 31, 2012. Members of the environmental rules board
- 15 shall be appointed under section 4 of this chapter not later than
- 16 December 31, 2012.
- 17 Sec. 3. The environmental rules board is established as an
- 18 independent board.
- 19 Sec. 4. The board consists of the following seventeen (17)
- 20 members:
- 21 (1) The following ex officio members:
- 22 (A) The commissioner of the department of environmental
- 23 management.
- 24 (B) The commissioner of the state department of health.
- 25 (C) The director of the department of natural resources.
- 26 (D) The lieutenant governor.
- 27 (E) The secretary of commerce or the secretary's designee.
- 28 (2) The following twelve (12) members, who shall be
- 29 appointed by the governor based on recommendations from
- 30 representative constituencies:
- 31 (A) One (1) representative of agriculture.
- 32 (B) One (1) representative of manufacturing.
- 33 (C) One (1) representative of environmental interests.
- 34 (D) One (1) representative of labor.
- 35 (E) One (1) representative of local government.
- 36 (F) One (1) representative of small business.
- 37 (G) One (1) health professional who holds a license to
- 38 practice in Indiana.
- 39 (H) One (1) representative of the solid waste management
- 40 industry.
- 41 (I) One (1) representative of businesses that:
- 42 (i) own; or

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1           (ii) engage in the sale of petroleum from;  
 2           one (1) or more underground storage tanks.  
 3           (J) One (1) representative of a public utility that engages  
 4           in the production and transmission of electricity.  
 5           (K) Two (2) representatives of the general public, who  
 6           cannot qualify to sit on the board under any of the other  
 7           clauses in this subdivision.  
 8           Sec. 5. An ex officio member of the board may designate in  
 9           writing a technical representative to serve as a voting member of  
 10          the board when the ex officio member is unable to attend a board  
 11          meeting.  
 12          Sec. 6. Not more than six (6) of the appointed members of the  
 13          board may be members of the same political party.  
 14          Sec. 7. (a) An appointed member of the board serves a term of  
 15          four (4) years.  
 16          (b) The term of each member of the board continues until a  
 17          successor is appointed and qualified.  
 18          (c) If a vacancy occurs in the appointed membership of the  
 19          board, the governor shall appoint a member not later than ninety  
 20          (90) days after the vacancy occurs for the remainder of the  
 21          unexpired term created by the vacancy. The board shall suspend  
 22          the exercise of the board's duties if the vacancy has not been filled  
 23          not later than ninety (90) days after the vacancy occurs.  
 24          (d) The governor may remove an appointed member of the  
 25          board for cause. Cause includes the repeated failure to attend  
 26          meetings.  
 27          Sec. 8. (a) Ex officio members of the board serve without  
 28          additional compensation.  
 29          (b) Each appointed member of the board is entitled to the  
 30          following:  
 31                (1) The minimum salary per diem provided by  
 32                IC 4-10-11-2.1(b).  
 33                (2) Reimbursement for traveling expenses provided under  
 34                IC 4-13-1-4 and other expenses actually incurred in  
 35                connection with the member's duties, as provided in the state  
 36                policies and procedures established by the department of  
 37                administration and approved by the budget agency.  
 38          (c) The per diem salary and mileage reimbursement are valid  
 39          claims against the department.  
 40          Sec. 9. Nine (9) members of the board, six (6) of whom must be  
 41          appointed members of the board, constitute a quorum. A quorum  
 42          must be present to transact business at a meeting of the board.

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1 Meetings of the board are subject to the public meeting  
2 requirements under IC 5-14-1.5.

3 Sec. 10. The governor shall annually select:  
4 (1) one (1) of the appointed members of the board to serve as  
5 chairperson; and  
6 (2) another of the appointed members to serve as vice  
7 chairperson.

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

- 11 (1) Clean Air Act (42 U.S.C. 7401 et seq.), as amended by the
- 12 Clean Air Act Amendments of 1990;
- 13 (2) Resource Conservation and Recovery Act (42 U.S.C. 6901
- 14 et seq.);
- 15 (3) Comprehensive Environmental Response, Compensation,
- 16 and Liability Act of 1980, as amended by the federal
- 17 Superfund Amendments and Reauthorization Act of 1986 (42
- 18 U.S.C. 9601 through 9675);
- 19 (4) Water Pollution Control Act (33 U.S.C. 1251 et seq.); and
- 20 (5) Safe Drinking Water Act (42 U.S.C. 300f through 300j).

21 Sec. 12. The board shall adopt rules under IC 4-22-2 and  
22 IC 13-14-9 that are consistent with the purposes of this title.

23 SECTION 11. IC 13-14-1-3 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. The department shall  
25 assure accomplishment of the comprehensive, long term programs  
26 established by the ~~boards:~~ **board.**

27 SECTION 12. IC 13-14-1-4 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. The department shall  
29 procure compliance with standards and rules adopted by the ~~boards:~~  
30 **board.**

31 SECTION 13. IC 13-14-1-7 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. The commissioner  
33 shall prepare the proposed budget of the department and the ~~boards:~~  
34 **board.**

35 SECTION 14. IC 13-14-1-8 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. The commissioner  
37 may propose financing a structure to the ~~boards:~~ **board.**

38 SECTION 15. IC 13-14-1-9, AS AMENDED BY P.L.172-2011,  
39 SECTION 113, IS AMENDED TO READ AS FOLLOWS  
40 [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) The commissioner shall issue  
41 permits, licenses, orders, and variances as authorized by:

- 42 (1) this title;

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1 (2) other statutes; and  
 2 (3) rules of the ~~boards~~ **board**.  
 3 (b) If the commissioner is notified by the department of state  
 4 revenue that a person is on the most recent tax warrant list, the  
 5 commissioner may not issue a permit or license to the applicant until:  
 6 (1) the applicant provides a statement to the commissioner from  
 7 the department of state revenue indicating that the applicant's tax  
 8 warrant has been satisfied; or  
 9 (2) the commissioner receives a notice from the commissioner of  
 10 the department of state revenue under IC 6-8.1-8-2(k).  
 11 SECTION 16. IC 13-14-1-12 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. The commissioner  
 13 shall enforce rules consistent with the purposes of:  
 14 (1) air pollution control laws;  
 15 (2) water pollution control laws;  
 16 (3) IC 13-18-9;  
 17 (4) IC 13-18-10;  
 18 ~~(5) IC 13-19-2;~~  
 19 ~~(6)~~ **(5)** IC 13-19-3; and  
 20 ~~(7)~~ **(6)** IC 36-9-30.  
 21 SECTION 17. IC 13-14-2-2 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. The department may  
 23 have a designated agent, upon presentation of proper credentials, enter  
 24 upon private or public property to inspect for and investigate possible  
 25 violations of any of the following:  
 26 (1) Air pollution control laws.  
 27 (2) Water pollution control laws.  
 28 (3) Environmental management laws.  
 29 (4) IC 13-18-9.  
 30 (5) IC 13-18-10.  
 31 ~~(6) IC 13-19-2.~~  
 32 ~~(7)~~ **(6)** IC 13-19-3.  
 33 ~~(8)~~ **(7)** Any rule adopted by ~~one (1) of the boards~~ **board**.  
 34 SECTION 18. IC 13-14-2-3 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. The department may  
 36 do the following:  
 37 (1) Represent the state in all matters pertaining to plans,  
 38 procedures, or negotiations for interstate compacts or other  
 39 governmental arrangements for environmental protection.  
 40 (2) Conduct, convoke, attend, or participate in official or  
 41 unofficial conferences or hearings within or outside Indiana  
 42 concerning any matter within the scope of the power and duties

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1 of the ~~boards;~~ **board** or the department.  
2 SECTION 19. IC 13-14-2-6, AS AMENDED BY P.L.78-2009,  
3 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2012]: Sec. 6. Except as provided in IC 13-14-6, the  
5 commissioner may proceed in court, by appropriate action, to:  
6 (1) enforce any final order of the commissioner or ~~of one (1) of~~  
7 ~~the boards;~~ **board;**  
8 (2) collect any penalties or fees;  
9 (3) procure or secure compliance with this title or any other law  
10 that the department has the duty or power to enforce;  
11 (4) procure compliance with any standard or rule ~~of one (1) of the~~  
12 ~~boards;~~ **board;**  
13 (5) enforce a restrictive covenant (as defined in IC 13-11-2-193.5)  
14 in accordance with the terms of the covenant if the covenant is:  
15 (A) executed before July 1, 2009;  
16 (B) approved by the commissioner; and  
17 (C) created in connection with any:  
18 (i) remediation;  
19 (ii) closure;  
20 (iii) cleanup;  
21 (iv) corrective action; or  
22 (v) determination exercising enforcement discretion or of no  
23 further action being required;  
24 approved by the department under this title; or  
25 (6) enforce a restrictive covenant (as defined in IC 13-11-2-193.5)  
26 in accordance with the terms of the covenant if the covenant is:  
27 (A) executed after June 30, 2009; and  
28 (B) created in connection with any of the following approved  
29 by the department under this title:  
30 (i) A remediation.  
31 (ii) A closure.  
32 (iii) A cleanup.  
33 (iv) A corrective action.  
34 (v) A determination exercising enforcement discretion or of  
35 no further action being required.  
36 SECTION 20. IC 13-14-4-3 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) Each person:  
38 (1) discharging; or  
39 (2) proposing to discharge or emit;  
40 contaminants that could affect environmental quality shall furnish to  
41 the department the reasonable technical or monitoring program reports  
42 that the ~~boards specify~~ **board specifies** by rule.

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

3 SECTION 21. IC 13-14-5-5 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. The ~~boards~~ **board**  
5 shall adopt rules under IC 4-22-2 **and IC 13-14-9** to administer this  
6 chapter and IC 13-30-7.

7 SECTION 22. IC 13-14-7-1 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The:

9 (1) governor may assign to ~~any of the boards~~ **board** the adoption  
10 of rules in any area not provided for by law as of September 1,  
11 1985; or

12 (2) board may directly exercise that power until a specific agency  
13 for the exercise of the power is created.

14 SECTION 23. IC 13-14-8-1 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The ~~boards~~ **board**  
16 may:

- 17 (1) adopt;
- 18 (2) repeal;
- 19 (3) rescind; or
- 20 (4) amend;

21 rules and standards by proceeding in the manner prescribed in  
22 IC 4-22-2 and IC 13-14-9.

23 SECTION 24. IC 13-14-8-2 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The department  
25 may propose to the ~~boards~~ **board** the:

- 26 (1) adoption;
- 27 (2) repeal;
- 28 (3) rescission; or
- 29 (4) amendment;

30 of any rule or standard.

31 (b) The rules proposed by the department must be adopted by the  
32 appropriate board under IC 4-22-2 and IC 13-14-9 before the rules  
33 become effective.

34 SECTION 25. IC 13-14-8-5 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) Any person may  
36 present written proposals for the adoption, amendment, or repeal of a  
37 rule by ~~one (1) of the boards.~~ **board**. A proposal presented under this  
38 section must be:

- 39 (1) supported by a statement of reasons; and
- 40 (2) accompanied by a petition signed by at least two hundred  
41 (200) persons.

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

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1 which the rule pertains finds that the proposal:  
 2 (1) is not plainly devoid of merit; and  
 3 (2) does not deal with a subject on which a hearing was held  
 4 within the previous six (6) months of the submission of the  
 5 proposal;  
 6 the board shall give notice and hold a hearing on the proposal.  
 7 SECTION 26. IC 13-14-8-7 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) Without limiting  
 9 the generality of the regulatory authority of the ~~boards~~ board under this  
 10 title, the appropriate board may adopt rules under IC 4-22-2 and  
 11 IC 13-14-9 prescribing the following:  
 12 (1) Standards or requirements for discharge or emission  
 13 specifying the maximum permissible short term and long term  
 14 concentrations of various contaminants of the air, water, or land.  
 15 (2) Procedures for the administration of a system of permits for:  
 16 (A) the discharge of any contaminants;  
 17 (B) the construction, installation, or modification of any:  
 18 (i) facility;  
 19 (ii) equipment; or  
 20 (iii) device;  
 21 that may be designed to control or prevent pollution; or  
 22 (C) the operation of any:  
 23 (i) facility;  
 24 (ii) equipment; or  
 25 (iii) device;  
 26 to control or to prevent pollution.  
 27 (3) Standards and conditions for the use of any fuel or vehicle  
 28 determined to constitute an air pollution hazard.  
 29 (4) Standards for the filling or sealing of abandoned:  
 30 (A) water wells;  
 31 (B) water holes; and  
 32 (C) drainage holes;  
 33 to protect ground water against contamination.  
 34 (5) Alert criteria and abatement standards for pollution episodes  
 35 or emergencies constituting an acute danger to health or to the  
 36 environment, including priority lists for terminating activities that  
 37 contribute to the hazard, whether or not the activities would meet  
 38 all discharge requirements of the board under normal conditions.  
 39 (6) Requirements and procedures for the inspection of any  
 40 equipment, facility, vehicle, vessel, or aircraft that may cause or  
 41 contribute to pollution.  
 42 (7) Requirements and standards for equipment and procedures

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1 for:

2 (A) monitoring contaminant discharges at their sources;

3 (B) the collection of samples; and

4 (C) the collection, reporting, and retention, in accordance with

5 record retention schedules adopted under IC 5-15-5.1, of data

6 resulting from that monitoring.

7 (8) Standards or requirements to control:

8 (A) the discharge; or

9 (B) the pretreatment;

10 of contaminants introduced or discharged into publicly owned

11 treatment works.

12 (b) If the solid waste management board or air pollution control

13 board is required to adopt new rules or amend existing rules to

14 implement an amendment to the federal Resource Conservation and

15 Recovery Act or an amendment to or addition of a National Emission

16 Standard for Hazardous Air Pollutants under the federal Clean Air Act,

17 the board shall adopt the new rules or amend the existing rules not

18 more than nine (9) months after the date the federal law becomes

19 effective. This subsection does not limit a board's authority to amend

20 at any time the rules adopted under this subsection.

21 SECTION 27. IC 13-14-9-1, AS AMENDED BY P.L.204-2007,

22 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

23 JULY 1, 2012]: Sec. 1. (a) Except as provided in sections 8 and 14 of

24 this chapter, this chapter applies to the ~~following:~~ **board.**

25 ~~(1) A board.~~

26 ~~(2) The underground storage tank financial assurance board~~

27 ~~established by IC 13-23-11-1.~~

28 (b) In addition to the requirements of IC 4-22-2 and IC 13-14-8, a

29 **the** board may not adopt a rule except in accordance with this chapter.

30 SECTION 28. IC 13-14-9-14, AS AMENDED BY P.L.159-2011,

31 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

32 JULY 1, 2012]: Sec. 14. (a) Except as provided in subsection (g),

33 sections 1 through 13 of this chapter do not apply to a rule adopted

34 under this section.

35 (b) The ~~water pollution control~~ board may use the procedures in this

36 section to adopt a rule to establish new water quality standards for a

37 community served by a combined sewer that has:

38 (1) an approved long term control plan; and

39 (2) an approved use attainability analysis that supports the use of

40 a CSO wet weather limited use subcategory established under

41 IC 13-18-3-2.5.

42 (c) After the department approves the long term control plan and use

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1 attainability analysis, the department shall publish in the Indiana  
 2 Register a notice of adoption of a proposed rule to establish a CSO wet  
 3 weather limited use subcategory for the area defined by the approved  
 4 use attainability analysis.

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

6 (1) Suggested rule language that amends the designated use to  
 7 allow for a CSO wet weather limited use subcategory in  
 8 accordance with IC 13-18-3-2.5.

9 (2) A written comment period of at least thirty (30) days.

10 (3) A notice of public hearing before the ~~water pollution control~~  
 11 board.

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

15 (1) The full text of the proposed rule as most recently prepared by  
 16 the department.

17 (2) Written responses of the department to written comments  
 18 received during the comment period referred to in subsection  
 19 (d)(2).

20 (3) The letter prepared by the department approving the long term  
 21 control plan and use attainability analysis.

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

24 (1) adopt the proposed rule to establish a new water quality  
 25 standard amending the designated use to allow for a CSO wet  
 26 weather limited use subcategory;

27 (2) adopt the proposed rule with amendments;

28 (3) reject the proposed rule; or

29 (4) determine to reconsider the proposed rule at a subsequent  
 30 board meeting.

31 (g) If the board adopts the proposed rule with amendments under  
 32 subsection (f)(2), the amendments must meet the logical outgrowth  
 33 requirements of section 10 of this chapter, except that the board, in  
 34 determining whether the amendments are a logical outgrowth of  
 35 comments provided to the board, and in considering whether the  
 36 language of comments provided to the board fairly apprised interested  
 37 persons of the specific subjects and issues contained in the  
 38 amendments, shall consider the comments provided to the board at the  
 39 public hearing referred to in subsection (d)(3).

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

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1 SECTION 29. IC 13-14-11-4 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. The department  
 3 shall, subject to the approval of ~~all three (3) of the boards;~~ **board**,  
 4 develop written procedures for the separate storage and security of files  
 5 containing records excepted from disclosure requirements under  
 6 IC 5-14-3-4.

7 SECTION 30. IC 13-14-11-5 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. The ~~boards~~ **board**  
 9 shall adopt rules requiring the execution of a confidentiality agreement  
 10 with persons employed, contracted, or subcontracted by the department  
 11 that is enforceable by:

- 12 (1) the state; and  
 13 (2) the submitter of the information.

14 SECTION 31. IC 13-14-12-2 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. The money on  
 16 deposit in the environmental management special fund shall be used  
 17 exclusively for the purposes of the department and the ~~boards;~~ **board**.  
 18 The revenues accruing to the fund are appropriated to the department  
 19 for purposes of this title. However, expenditures for projects authorized  
 20 by the department or a board must be approved by the governor and the  
 21 budget agency.

22 SECTION 32. IC 13-14-12-4 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The auditor of  
 24 state shall issue a report on the fund not later than ten (10) working  
 25 days following the last day of each four (4) month period.

26 (b) The report must:

- 27 (1) include the beginning and ending balance, disbursements, and  
 28 receipts, including accrued interest or other investment earnings  
 29 of the fund;  
 30 (2) comply with accounting standards under IC 4-13-2-7(a)(1);  
 31 and  
 32 (3) be available to the public.

33 (c) The auditor of state shall forward copies of the report to the  
 34 following:

- 35 (1) The commissioner.  
 36 (2) The standing committees of the house of representatives and  
 37 the senate concerned with the environment.  
 38 (3) The ~~air pollution control~~ board.  
 39 ~~(4) The water pollution control board.~~  
 40 ~~(5) The solid waste management board.~~

41 SECTION 33. IC 13-15-1-1 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The ~~air pollution~~

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1 ~~control~~ board shall establish requirements for the issuance of permits  
2 to control air pollution, noise, and atomic radiation, including the  
3 following:

- 4 (1) Permits to control or limit the emission of any contaminants  
5 into the atmosphere.
- 6 (2) Permits for the construction, installation, or modification of  
7 facilities, equipment, or devices to control or limit any discharge,  
8 emission, or disposal of contaminants into the air.
- 9 (3) Permits for the operation of facilities, equipment, or devices  
10 to control or limit the discharge, emission, or disposal of any  
11 contaminants into the environment.

12 SECTION 34. IC 13-15-1-2 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. The ~~water pollution~~  
14 ~~control~~ board shall establish requirements for the issuance of permits  
15 to control water pollution and atomic radiation, including the  
16 following:

- 17 (1) Permits to control or limit the discharge of any contaminants  
18 into state waters or into a publicly owned treatment works.
- 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 waters of Indiana  
22 or into a publicly owned treatment works.
- 23 (3) Permits for the operation of facilities, equipment, or devices  
24 to control or limit the discharge, emission, or disposal of any  
25 contaminants into the waters of Indiana or into a publicly owned  
26 treatment works.

27 However, the ~~water pollution control~~ board may not require a permit  
28 under subdivision (2) for any facility, equipment, or device  
29 constructed, installed, or modified as part of a surface coal mining  
30 operation that is operated under a permit issued under IC 14-34.

31 SECTION 35. IC 13-15-1-3 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. The ~~solid waste~~  
33 ~~management~~ board shall establish requirements for the issuance of  
34 permits to control solid waste, hazardous waste, and atomic radiation,  
35 including the following:

- 36 (1) Permits to control or limit the disposal of any contaminants  
37 onto or into the land.
- 38 (2) Permits for the construction, installation, or modification of  
39 facilities, equipment, or devices:
  - 40 (A) to control or limit any discharge, emission, or disposal of  
41 contaminants into the land; or
  - 42 (B) for the storage, treatment, processing, transferring, or

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1 disposal of solid waste or hazardous waste.  
 2 (3) Permits for the operation of facilities, equipment, or devices:  
 3 (A) to control or limit the discharge, emission, transfer, or  
 4 disposal of any contaminants into the land; or  
 5 (B) for the storage, transportation, treatment, processing,  
 6 transferring, or disposal of solid waste or hazardous waste.  
 7 SECTION 36. IC 13-15-2-1 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) ~~Each~~ **The** board  
 9 shall adopt rules under IC 4-22-2 **and IC 13-14-9** to establish  
 10 requirements and procedures for the issuance of permits.  
 11 (b) In rules for the issuance of permits, ~~each~~ **the** board may do the  
 12 following:  
 13 (1) Prescribe standards for the discharge, emission, or disposal of  
 14 contaminants and the operation of any facility, equipment, or  
 15 device.  
 16 (2) Impose the conditions that are considered necessary to  
 17 accomplish the purposes of this title.  
 18 SECTION 37. IC 13-15-2-2 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The ~~boards~~  
 20 **board** may adopt rules under IC 4-22-2 and IC 13-14-9 to allow the  
 21 department to issue permits that do the following:  
 22 (1) Provide incentives to owners and operators of facilities to  
 23 assess the pollution emitted by the facilities into all environmental  
 24 media.  
 25 (2) Provide incentives to owners and operators of facilities to  
 26 implement the most innovative and effective pollution control or  
 27 pollution prevention strategies while maintaining enforceable  
 28 performance goals.  
 29 (3) Provide incentives to owners and operators of facilities to  
 30 reduce pollution levels at the facilities below the levels required  
 31 by law.  
 32 (4) Consolidate environmental requirements into one (1) permit  
 33 that would otherwise be included in more than one (1) permit.  
 34 (5) Reduce the time and money spent by owners and operators of  
 35 facilities and the department on administrative tasks that do not  
 36 benefit the environment.  
 37 (6) Provide owners and operators of facilities with as much  
 38 operational flexibility as can reasonably be provided while being  
 39 consistent with enforcement of permit requirements.  
 40 (b) The rules adopted under this section may provide for permits  
 41 that contain the following:  
 42 (1) Authorization of emission trading.

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- 1 (2) Consolidated reporting mechanisms.
- 2 (3) Third party certifications.
- 3 (4) Multimedia regulation.
- 4 (5) Other conditions consistent with subsection (a).
- 5 (c) The rules adopted under this section must provide that a permit
- 6 issued under the rules adopted under this section meets the following
- 7 criteria:
- 8 (1) Activities conducted under the permit must result in greater
- 9 overall environmental protection than would otherwise be
- 10 achieved under applicable law.
- 11 (2) Upon issuance of a permit, all limits, conditions, and
- 12 standards contained in the permit are enforceable under
- 13 IC 13-30-3.
- 14 (3) The permit applicant must give notice in accordance with
- 15 IC 13-15-8, and the commissioner shall give notice to the public
- 16 and provide an opportunity to comment on the proposed permit in
- 17 accordance with IC 13-15-5.
- 18 (d) The rules adopted under this section must allow the department
- 19 to give priority to applications involving permits that are issued as
- 20 described in this section based on:
- 21 (1) the degree of environmental benefit that may be obtained
- 22 under the permit;
- 23 (2) the potential application of any innovative control
- 24 technologies or regulatory procedures that may be made available
- 25 to other permit applicants and permit holders; and
- 26 (3) other criteria that the ~~boards~~ **board** may establish.
- 27 (e) The rules adopted under this section must be consistent with
- 28 federal law for federally authorized or delegated permit programs.
- 29 SECTION 38. IC 13-15-3-5, AS AMENDED BY P.L.78-2009,
- 30 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 31 JULY 1, 2012]: Sec. 5. (a) Whenever a permit is required by any rule
- 32 of ~~one (1) of the boards~~ **board** under IC 13-15-1 for the construction,
- 33 installation, operation, or modification of any facility, equipment, or
- 34 device, the permit may be issued only after the department staff has:
- 35 (1) approved the plans and specifications; and
- 36 (2) determined that the facility, equipment, or device meets the
- 37 requirement of the rule.
- 38 (b) Notwithstanding subsection (a) and subject to subsection (c), a
- 39 person to whom a permit has been issued may not start the
- 40 construction, installation, operation, or modification of a facility,
- 41 equipment, or a device until the person has obtained any approval
- 42 required by any:

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1 (1) county;  
 2 (2) city; or  
 3 (3) town;  
 4 in which the facility, equipment, or device is located.  
 5 (c) Subsection (b) applies only to an approval required in an  
 6 applicable ordinance, rule, or regulation in effect at the time the person  
 7 submits the permit application to the issuing state agency.  
 8 SECTION 39. IC 13-15-3-6 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) When a person  
 10 holding a valid permit concerning an activity of a continuing nature has  
 11 made a timely and sufficient application for a renewal or a new permit  
 12 in accordance with rules of ~~one (1) of the boards, board,~~ the existing  
 13 permit does not expire until a final determination on the application has  
 14 been made by the department. However, the commissioner may seek  
 15 injunctive relief with regard to the continuing activity of the permit  
 16 applicant while the permit application is pending if the continuing  
 17 activity of the permit applicant constitutes a threat to the public health,  
 18 safety, or welfare.  
 19 (b) An application for renewal of a hazardous waste disposal facility  
 20 operating permit under IC 13-22-3 must be submitted at least one  
 21 hundred eighty (180) days before the expiration of the facility's current  
 22 permit to be considered timely under this section.  
 23 SECTION 40. IC 13-15-4-6 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) Notwithstanding  
 25 the periods specified in sections 1 through 4 of this chapter and this  
 26 section, a person proposing to construct, modify, or operate any  
 27 equipment, facility, or pollution control device that is demonstrated to  
 28 achieve pollution control or pollution prevention in excess of  
 29 applicable federal, state, or local requirements may apply to the  
 30 commissioner for an interim permit to construct, modify, or operate the  
 31 equipment, facility, or pollution control device.  
 32 (b) The commissioner shall approve or deny the interim permit not  
 33 later than sixty (60) days after receipt of the application for an interim  
 34 permit, unless the applicant and the commissioner agree that a longer  
 35 review period is necessary.  
 36 ~~(c) The boards shall adopt rules under IC 4-22-2 to implement this~~  
 37 ~~section before January 1, 1997. The rules may not allow an interim~~  
 38 ~~construction or operation permit pending a final permit determination~~  
 39 ~~if an interim permit is not allowed under federal law for a federally~~  
 40 ~~authorized or delegated permit program.~~  
 41 ~~(c)~~ (c) This section does not relieve a person from complying with:  
 42 (1) the permit requirements provided under this title; and

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1 (2) rules adopted under this title;  
 2 to the extent that this title and the rules are not inconsistent with this  
 3 section.

4 SECTION 41. IC 13-15-7-4 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) This section  
 6 applies to a facility that:

7 (1) has been issued an operating permit by the ~~air pollution~~ board;

8 or

9 (2) is operating without a permit but has made a timely and  
 10 complete application for a permit under IC 13-17-8-10.

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

15 (1) The changes are not modifications under any provision of  
 16 Title I of the federal Clean Air Act (42 U.S.C. 7401 et seq.), as  
 17 amended by the federal Clean Air Act Amendments of 1990  
 18 (P.L.101-549).

19 (2) The changes do not exceed emissions:

20 (A) expressed as a rate of emissions; or

21 (B) expressed as total emissions;

22 allowable under the permit.

23 (3) The facility provides the commissioner with written  
 24 notification at least seven (7) days before the proposed changes  
 25 are made. However, the ~~air pollution control~~ board may adopt  
 26 rules that provide a different period for notifications that involve  
 27 emergency situations.

28 SECTION 42. IC 13-15-9-2 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) ~~Each~~ **The** board  
 30 may adopt rules under IC 4-22-2 **and IC 13-14-9** establishing:

31 (1) conditions for the issuance of a permit under this chapter; and

32 (2) requirements for the operation of nuclear facilities.

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

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

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

37 (3) ~~Rules adopted by the solid waste management board may~~  
 38 ~~relate to~~ other environmental problems associated with nuclear  
 39 facilities.

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

42 SECTION 43. IC 13-15-9-3 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. A person proposing  
2 to construct:

- 3 (1) a nuclear powered generating facility; or
- 4 (2) a nuclear fuel reprocessing plant;

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

9 SECTION 44. IC 13-15-9-4 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) The  
11 commissioner, on behalf of ~~each~~ **the** board, may conduct a public  
12 hearing at a time and place to be determined by the department on the  
13 environmental effects of the proposed operation.

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

16 SECTION 45. IC 13-15-9-5 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) ~~Each~~ **The** board  
18 shall adopt rules and standards under section 2 of this chapter to protect  
19 the citizens of Indiana from the hazards of radiation.

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

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

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

26 SECTION 46. IC 13-15-10-1 IS AMENDED TO READ AS  
27 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The ~~solid waste~~  
28 ~~management~~ board shall adopt rules to establish a department operated  
29 training and certification program for the following:

- 30 (1) Operators of solid waste incinerators and waste to energy  
31 facilities.
- 32 (2) Operators of land disposal sites.
- 33 (3) Operators of facilities described under IC 13-15-1-3 whose  
34 operation could have an adverse impact on the environment if not  
35 operated properly.

36 SECTION 47. IC 13-15-10-3 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) The waste facility  
38 operator trust fund is established. The ~~solid waste management~~ board  
39 shall deposit fees collected under this chapter in the fund.

40 (b) Money in the fund shall be used for paying the expenses of the  
41 training and certification program described in this chapter.

42 SECTION 48. IC 13-15-10-4 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. The ~~solid waste~~  
 2 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**  
 3 to implement this chapter. The rules must include the following:

- 4 (1) Requirements for certification that consider any training that  
 5 is required by state rule or federal regulation.  
 6 (2) Mandatory testing and retraining.  
 7 (3) Recognition of training programs that the solid waste  
 8 management board approves to serve as a training program that  
 9 this chapter requires. A recognized training program may be  
 10 offered by an employer or by any other provider.  
 11 (4) Recognition of an interim period for which existing facility  
 12 operators must obtain certification.

13 SECTION 49. IC 13-15-10-5 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) The ~~solid waste~~  
 15 ~~management~~ board shall establish by rule and cause to be collected fees  
 16 for the following:

- 17 (1) Examination of applicants for certification.  
 18 (2) Issuance, renewal, or transfer of a certificate.  
 19 (3) Restoration of an expired certificate when that action is  
 20 authorized by law.  
 21 (4) Issuance of certificates by reciprocity or endorsement for  
 22 out-of-state applicants.  
 23 (5) Issuance of board or committee reciprocity or endorsements  
 24 for resident practitioners who apply to another state for a  
 25 certificate.

26 (b) A fee may not be less than fifty dollars (\$50) unless the fee is  
 27 collected under a rule adopted by the ~~solid waste management~~ board  
 28 that sets a fee for miscellaneous expenses incurred by the department  
 29 on behalf of the operators the ~~solid waste management~~ board regulates.  
 30 The fees may not be less than are required to pay all of the costs, both  
 31 direct and indirect, of the operation of the department under this  
 32 chapter.

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

36 SECTION 50. IC 13-15-10-6 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) For the payment  
 38 of fees under this chapter, the ~~solid waste management~~ board shall  
 39 accept cash, a draft, a money order, a cashier's check, and a certified or  
 40 other personal check.

41 (b) If:

- 42 (1) the ~~solid waste management~~ board receives an uncertified

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1 personal check for the payment of a fee; and  
2 (2) the check does not clear the bank;  
3 the ~~solid waste management~~ board may void the license, registration,  
4 or certificate for which the check was received.

5 (c) Unless designated by rule, a fee is not refundable or transferable.  
6 SECTION 51. IC 13-15-11-1 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The environmental  
8 management permit operation fund is established for the purpose of  
9 providing money for permitting and directly associated activities of the  
10 following programs of the department and ~~boards:~~ **the board:**

- 11 (1) National Pollutant Discharge Elimination System program.
- 12 (2) Solid waste program.
- 13 (3) Hazardous waste program.
- 14 (4) Safe drinking water program.

15 SECTION 52. IC 13-16-1-1 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. This chapter applies  
17 to fees established under this title by ~~any of the following:~~ **the board.**

- 18 ~~(1) The air pollution control board.~~
- 19 ~~(2) The water pollution control board.~~
- 20 ~~(3) The solid waste management board.~~

21 SECTION 53. IC 13-16-1-3 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. A fee established by  
23 ~~one (1) of the boards~~ **board** under this chapter for a type or class of  
24 permit may be based on the average of the costs specified in section 2  
25 of this chapter for all permits of that type or class.

26 SECTION 54. IC 13-16-1-4 IS AMENDED TO READ AS  
27 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. The ~~boards~~ **board**  
28 shall periodically review the fees established under this chapter. ~~A~~ **The**  
29 board may change the amount of a fee if the board determines, based  
30 upon the factors set forth in section 2 of this chapter, that the amount  
31 of the fee is not appropriate.

32 SECTION 55. IC 13-17-1-1 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. It is the intent and  
34 purpose of air pollution control laws to maintain the purity of the air  
35 resource of Indiana, which shall be consistent with protection of the  
36 public health and welfare and the public enjoyment of the air resource,  
37 physical property and other resources, flora and fauna, maximum  
38 employment, and full industrial development of Indiana. The ~~air~~  
39 ~~pollution control~~ board and the department shall safeguard the air  
40 resource through the prevention, abatement, and control of air pollution  
41 by all practical and economically feasible methods.

42 SECTION 56. IC 13-17-2 IS REPEALED [EFFECTIVE JULY 1,

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1 2012]. (Establishment of Air Pollution Control Board).

2 SECTION 57. IC 13-17-3-6 IS REPEALED [EFFECTIVE JULY 1,  
3 2012]. ~~Sec. 6: The board shall develop operating policies governing the  
4 implementation of air pollution control laws by the commissioner.~~

5 SECTION 58. IC 13-17-3-11 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. The board may  
7 adopt rules under IC 4-22-2 **and IC 13-14-9** under discretionary  
8 authority granted to the state by:

9 (1) the federal Clean Air Act (42 U.S.C. 7401 et seq.), as  
10 amended by the Clean Air Act Amendments of 1990  
11 (P.L.101-549); or

12 (2) a regulation adopted under the federal Clean Air Act.

13 SECTION 59. IC 13-17-5-1 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The ~~air pollution  
15 control~~ board may adopt rules for the control of emissions from  
16 vehicles. However, the board must, before adopting the rules, forward  
17 to each member of the general assembly a copy of the proposed rules.  
18 The rules may prescribe requirements for the following:

19 (1) The installation and use of equipment designed to reduce or  
20 eliminate emissions.

21 (2) The proper maintenance of that equipment and of vehicles.

22 SECTION 60. IC 13-17-8-3 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. The ~~air pollution  
24 control~~ board shall adopt fees to be collected under the operating  
25 permit program. The annual aggregate amount of fees collected under  
26 the operating permit program from all sources subject to the operating  
27 permit program must be sufficient to cover only the direct and indirect  
28 reasonable costs of the following permit program activities:

29 (1) Preparing rules, regulations, and guidance regarding  
30 implementation and enforcement of the program.

31 (2) Reviewing and acting on the following:

32 (A) An application for an operating permit.

33 (B) An operating permit revision.

34 (C) An operating permit renewal.

35 (3) The general administrative cost of running the operating  
36 permit program.

37 (4) Implementing and enforcing the terms of a permit granted  
38 under the operating permit program. However, court costs for  
39 enforcement actions are not included under this subdivision.

40 (5) Emissions and ambient monitoring.

41 (6) Modeling analyses and demonstrations.

42 (7) Preparing inventories and tracking emissions.

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- 1 (8) Developing and administering a small business stationary  
 2 source technical and environmental compliance assistance  
 3 program.
- 4 SECTION 61. IC 13-17-13-1 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The ~~air pollution~~  
 6 ~~control~~ board may adopt rules under IC 4-22-2 **and IC 13-14-9** to  
 7 establish categories of sources or facilities that may be effectively  
 8 restricted through specific requirements established by the rules to emit  
 9 less than the amount of air pollutants for which a Title V air operating  
 10 permit is required.
- 11 SECTION 62. IC 13-18-1 IS REPEALED [EFFECTIVE JULY 1,  
 12 2012]. (Establishment of Water Pollution Control Board).
- 13 SECTION 63. IC 13-18-3-1 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The ~~water pollution~~  
 15 ~~control~~ board shall adopt rules for the control and prevention of  
 16 pollution in waters of Indiana with any substance:
- 17 (1) that is deleterious to:
- 18 (A) the public health; or
- 19 (B) the prosecution of any industry or lawful occupation; or
- 20 (2) by which:
- 21 (A) any fish life or any beneficial animal or vegetable life may  
 22 be destroyed; or
- 23 (B) the growth or propagation of fish life or beneficial animal  
 24 or vegetable life is prevented or injuriously affected.
- 25 SECTION 64. IC 13-18-3-3 IS REPEALED [EFFECTIVE JULY 1,  
 26 2012]. ~~Sec. 3: The board shall develop operating policies governing the~~  
 27 ~~implementation of the water pollution control laws by the department.~~
- 28 SECTION 65. IC 13-18-3-12 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. The ~~water pollution~~  
 30 ~~control~~ board shall adopt rules providing that whenever a person  
 31 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 66. IC 13-18-11-1.5 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1.5. The ~~department~~  
 10 **board** shall adopt regulations to implement certification programs for  
 11 operators of water treatment plants or water distribution systems. The  
 12 certification program for the operators shall be classified in accordance  
 13 with the complexity, size, and source of the water for the treatment  
 14 system and the complexity and size for the distribution system.
- 15 SECTION 67. IC 13-18-12-1, AS AMENDED BY P.L.159-2011,  
 16 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2012]: Sec. 1. The ~~water pollution control~~ board and the  
 18 department shall regulate persons who provide septage management  
 19 services.
- 20 SECTION 68. IC 13-18-12-2.5, AS ADDED BY P.L.223-2011,  
 21 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2012]: Sec. 2.5. (a) The department and the ~~boards~~ **board** may  
 23 allow a person to use industrial waste products in a land application  
 24 operation or as ingredients in a soil amendment or soil substitute to be  
 25 land applied if:
- 26 (1) the industrial waste products are not hazardous wastes;
  - 27 (2) the industrial waste products:
    - 28 (A) have a beneficial use (as defined in 327 IAC 6.1-2-6); or
    - 29 (B) otherwise provide a benefit to the process of creating the  
 30 soil amendments or soil substitute or to the final soil  
 31 amendment, soil substitute, or material to be land applied,  
 32 such as bulking;
  - 33 (3) the finished soil amendment, soil substitute, or material to be  
 34 land applied satisfies the applicable criteria in 327 IAC 6.1;
  - 35 (4) the finished soil amendment, soil substitute, or material to be  
 36 land applied has a beneficial use;
  - 37 (5) the requirements of subsection (b) are satisfied; and
  - 38 (6) the person pays a permit fee in an amount determined by the  
 39 department that does not exceed the costs incurred by the  
 40 department to issue the permit.
- 41 (b) The department:  
 42 (1) may allow the use of industrial waste products:

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- 1 (A) in a land application operation; or  
 2 (B) as ingredients in a soil amendment or soil substitute to be  
 3 land applied;  
 4 on the same basis as other materials under the rules concerning  
 5 land application and marketing and distribution permits;  
 6 (2) may not:  
 7 (A) discriminate against the use of industrial waste products  
 8 on the basis that the industrial waste products lack biological  
 9 carbon;  
 10 (B) impose requirements beyond applicable criteria in 327  
 11 IAC 6.1, unless additional requirements are necessary for the  
 12 protection of human health and the environment;  
 13 (C) require that the finished soil amendment, soil substitute, or  
 14 material to be land applied must be of a particular economic  
 15 value; or  
 16 (D) for any pollutant that has a pollutant limit or concentration  
 17 in 327 IAC 6.1, require that an industrial waste product or the  
 18 finished soil amendment, soil substitute, or material to be land  
 19 applied satisfies:  
 20 (i) the department's risk integrated system of closures  
 21 nonrule policy document; or  
 22 (ii) any other standards other than criteria in 327 IAC 6.1;  
 23 and  
 24 (3) for any pollutant present in the industrial waste products that  
 25 does not have a pollutant limit or concentration in 327 IAC 6.1,  
 26 shall consider the benefits of the finished soil amendment, soil  
 27 substitute, or material to be land applied as compared to the  
 28 measurable risks to human health and the environment based on  
 29 the anticipated use of the finished soil amendment, soil substitute,  
 30 or material to be land applied; and  
 31 (4) shall require an application for a permit for the land  
 32 application of industrial waste products to include  
 33 characterization of individual industrial waste products at the  
 34 point of waste generation before mixing the waste streams.  
 35 (c) The board may adopt rules for pollutant limits or concentrations  
 36 for pollutants for which limits or concentrations do not exist in 327  
 37 IAC 6.1 as of July 1, 2011.  
 38 SECTION 69. IC 13-19-2 IS REPEALED [EFFECTIVE JULY 1,  
 39 2012]. (Establishment of Solid Waste Management Board).  
 40 SECTION 70. IC 13-19-3-1 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The ~~solid waste~~  
 42 ~~management~~ board shall do the following:



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1 (1) Except as provided in sections 3 through 4 of this chapter,  
2 adopt rules under IC 4-22-2 **and IC 13-14-9** to regulate solid and  
3 hazardous waste and atomic radiation in Indiana, including rules  
4 necessary to the implementation of the federal Resource  
5 Conservation and Recovery Act (42 U.S.C. 6901 et seq.), as  
6 amended.

7 (2) Develop operating policy concerning the activities of the  
8 department.

9 (3) Carry out other duties imposed by law.

10 SECTION 71. IC 13-19-3-7 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. The department and  
12 the ~~boards~~ **board** shall allow a person to use foundry sand that meets  
13 Type III criteria under 329 IAC 10-9 for the following activities in  
14 accordance with guidance without requiring the person to obtain any  
15 permits from the department:

16 (1) As a daily cover for litter and vermin control at a landfill in  
17 accordance with any applicable permits issued for the landfill.

18 (2) As a protective cover for a landfill leachate system in  
19 accordance with any applicable permits issued for the landfill.

20 (3) For use as capped embankments for ground and sight barriers  
21 under ten thousand (10,000) cubic yards or embankments for  
22 airports, bridges, or overpasses.

23 (4) For use:

24 (A) in a land application operation; or

25 (B) as a soil amendment;

26 if the application or amendment does not include the operation of  
27 a landfill.

28 (5) As a structural fill base capped by clay, asphalt, or concrete  
29 for the following:

30 (A) Roads.

31 (B) Road shoulders.

32 (C) Parking lots.

33 (D) Floor slabs.

34 (E) Utility trenches.

35 (F) Bridge abutments.

36 (G) Tanks and vaults.

37 (H) Construction or architectural fill.

38 (I) Other similar uses.

39 (6) As a raw material constituent incorporated into another  
40 product, including the following:

41 (A) Flowable fill.

42 (B) Concrete.

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

15 SECTION 72. IC 13-19-4-10 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. The board may  
 17 adopt rules under IC 4-22-2 **and IC 13-14-9** to administer this chapter.

18 SECTION 73. IC 13-20-1-5 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. The ~~solid waste~~  
 20 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**  
 21 to implement this chapter.

22 SECTION 74. IC 13-20-2-7 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. The ~~solid waste~~  
 24 ~~management~~ board may adopt rules under IC 4-22-2 **and IC 13-14-9**  
 25 to administer this chapter.

26 SECTION 75. IC 13-20-3-5 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. The board shall  
 28 adopt rules under IC 4-22-2 **and IC 13-14-9** to implement this chapter.

29 SECTION 76. IC 13-20-6-7 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) The department  
 31 shall establish a uniform transfer station inspection program to protect  
 32 the health of the residents of Indiana and the environment of Indiana:

33 (1) for transfer stations located:

34 (A) inside Indiana; and

35 (B) outside Indiana;

36 that receive municipal waste and that engage in waste transfer  
 37 activities; and

38 (2) under rules adopted by the ~~solid waste management~~ board.

39 (b) The ~~solid waste management~~ board shall establish fees payable  
 40 by the transfer stations inspected. The amount of a fee imposed for the  
 41 inspection of a transfer station may not exceed the cost of time and  
 42 materials directly expended by:

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1 (1) the department; or  
 2 (2) a contractor hired by the department;  
 3 for conducting the inspection of the transfer station.  
 4 SECTION 77. IC 13-20-8-1 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The ~~solid waste~~  
 6 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**  
 7 to regulate the construction and operation of incinerators under  
 8 IC 13-14-8. The rules must incorporate by reference pertinent rules  
 9 adopted by the ~~air pollution control~~ board **concerning air pollution**  
 10 **control.**  
 11 SECTION 78. IC 13-20-8-5 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) The department,  
 13 in accordance with IC 13-15, shall operate a permit program for all  
 14 incinerators subject to regulation under the rules of the ~~air pollution~~  
 15 ~~control board and the solid waste management~~ board.  
 16 (b) The department shall issue permits for an incinerator that is in  
 17 compliance with construction and operating rules adopted by the ~~solid~~  
 18 ~~waste management board and the air pollution control~~ board.  
 19 (c) The department shall grant operating authority under a permit  
 20 issued by the department only after the owner of the incinerator has:  
 21 (1) complied with all construction and pre-operational standards  
 22 established by pertinent rules; and  
 23 (2) submitted the results of a pre-operational emissions test that  
 24 demonstrate that the incinerator's performance complies with all  
 25 pertinent rules.  
 26 (d) The pre-operational emissions test required by this section shall  
 27 be conducted under the supervision of the department. In addition, the  
 28 report of the results of the pre-operational emissions test must contain  
 29 a certification that the test was performed in compliance with the  
 30 following:  
 31 (1) All pertinent rules.  
 32 (2) The pre-operational emissions test plan submitted with the  
 33 permit application.  
 34 SECTION 79. IC 13-20-9-3 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. The ~~solid waste~~  
 36 ~~management~~ board may adopt rules under IC 4-22-2 **and IC 13-14-9**  
 37 to implement this chapter.  
 38 SECTION 80. IC 13-20-10-3 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. To register a  
 40 composting facility for vegetative matter with the department, a person  
 41 must submit an application to the department that contains the  
 42 following:

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- 1 (1) A:
- 2 (A) legal description; and
- 3 (B) topographic map;
- 4 of the site on which the composting facility will be located.
- 5 (2) A description of the composting facility that indicates the area
- 6 to be served by the composting operation.
- 7 (3) An estimate of the volume of materials that will be processed
- 8 annually by the composting facility.
- 9 (4) Any other information that the department or the ~~solid waste~~
- 10 ~~management~~ board requires by rule.

11 SECTION 81. IC 13-20-10-10 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. The board may  
 13 adopt rules under IC 4-22-2 **and IC 13-14-9** to implement this chapter.

14 SECTION 82. IC 13-20-13-9, AS AMENDED BY P.L.204-2007,  
 15 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2012]: Sec. 9. (a) The department may use money in the fund  
 17 to assist the department in:

- 18 (1) removing waste tires from sites where waste tires have been
- 19 disposed of improperly;
- 20 (2) properly managing waste tires;
- 21 (3) performing surveillance and enforcement activities used to
- 22 implement proper waste tire management; and
- 23 (4) conducting the waste tire education program under section 15
- 24 of this chapter.

25 (b) The department may use money in the fund to provide grants  
 26 and loans to entities to establish and operate programs involving the  
 27 following:

- 28 (1) Recycling or reuse of waste tires.
- 29 (2) Using waste tires as a source of fuel.
- 30 (3) Developing markets for waste tires and products containing
- 31 recycled or reused waste tires.

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

34 SECTION 83. IC 13-20-14-1 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Except as  
 36 provided in:

- 37 (1) rules adopted under subsection (d); and
- 38 (2) section 10 of this chapter;
- 39 a whole waste tire may not be disposed of at a solid waste landfill.

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

42 (c) Material approved under subsection (b) is exempt from

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1 IC 13-20-22 and IC 13-21-13.

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

5 (e) The rules adopted under subsection (d) may allow a landfill  
6 operator to meet the requirements of the rule by employing procedures  
7 designed to achieve the objectives of subsection (d) in lieu of a numeric  
8 standard.

9 SECTION 84. IC 13-20-14-6 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. The ~~solid waste~~  
11 ~~management~~ board shall adopt rules under IC 4-22-2 and ~~IC 13-14-8~~  
12 **IC 13-14-9** to implement this chapter.

13 SECTION 85. IC 13-20-14-9.5 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9.5. (a) Except as  
15 provided in rules adopted under subsection (c), an operator of a transfer  
16 station shall remove whole waste tires present in solid waste that is  
17 being transferred from a vehicle or container to another vehicle or  
18 container at the transfer station.

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

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

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

28 SECTION 86. IC 13-20-15-1 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The ~~solid waste~~  
30 ~~management board~~ **department** shall administer and implement this  
31 chapter to protect the public health, safety, and welfare from the toxic  
32 effects and environmental dangers of PCB. The board shall adopt the  
33 rules required by this chapter under IC 4-22-2 **and IC 13-14-9**.

34 SECTION 87. IC 13-22-2-2 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. The ~~solid waste~~  
36 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**  
37 to implement this chapter through IC 13-22-8, IC 13-22-11.5, and  
38 IC 13-22-13 through IC 13-22-14.

39 SECTION 88. IC 13-22-2-6 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. The board shall do  
41 the following:

42 (1) Adopt rules under IC 4-22-2 **and IC 13-14-9** setting standards

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1 for closure and postclosure monitoring and maintenance plans.  
 2 (2) Include in the rules a requirement for prior notice of closure  
 3 and a time limit for completion of closure.  
 4 SECTION 89. IC 13-22-2-7 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. The board shall  
 6 adopt rules under IC 4-22-2 **and IC 13-14-9** setting standards for  
 7 corrective action for all releases of hazardous waste or constituents  
 8 from any solid waste management unit at a hazardous waste facility.  
 9 The standards must require that corrective action be taken beyond the  
 10 facility boundary where necessary to protect human health and the  
 11 environment, unless the owner or operator of the facility concerned  
 12 demonstrates to the satisfaction of the commissioner that, despite the  
 13 best efforts of the owner or operator, the owner or operator is unable to  
 14 obtain the necessary permission to undertake that action. The rules  
 15 adopted under this section apply to the following:  
 16 (1) All facilities operating under permits issued under IC 13-22-3  
 17 or IC 13-7-8.5 (before its repeal).  
 18 (2) All landfills, surface impoundments, and waste piles,  
 19 including any new units, replacements of existing units, and  
 20 lateral expansions of existing units, that receive hazardous waste  
 21 after July 26, 1982.  
 22 SECTION 90. IC 13-22-8-1 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) The ~~solid waste~~  
 24 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**  
 25 on standards of financial responsibility for the following:  
 26 (1) Closure.  
 27 (2) Postclosure monitoring at hazardous waste facilities.  
 28 (3) Any required corrective action at those facilities.  
 29 (b) The rules adopted under this section must reflect the provisions  
 30 for financial responsibility prescribed by section 2 of this chapter.  
 31 SECTION 91. IC 13-23-1-1 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) The department  
 33 shall establish and operate an underground storage tank release  
 34 detection, prevention, and correction program under this article  
 35 according to rules adopted by the ~~solid waste management~~ board.  
 36 (b) The department may contract with another state agency to jointly  
 37 operate the program under a memorandum of agreement that:  
 38 (1) may be amended;  
 39 (2) must contain the specific duties of the department and the  
 40 contracting agency; and  
 41 (3) is available to the public for inspection.  
 42 SECTION 92. IC 13-23-7-4 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. The expenses of  
 2 administering the provisions of this article that are funded by the trust  
 3 fund, including:

- 4 (1) IC 13-23-8;  
 5 (2) IC 13-23-9; **and**  
 6 ~~(3) IC 13-23-11; and~~  
 7 ~~(4)~~ **(3)** IC 13-23-12;

8 shall be paid from money in the fund.

9 SECTION 93. IC 13-23-8-1 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The department,  
 11 under rules adopted by the ~~underground storage tank financial~~  
 12 ~~assurance~~ board, ~~under IC 4-22-2~~, shall use money in the excess  
 13 liability trust fund, to the extent that money is available in the excess  
 14 liability trust fund, to pay claims submitted to the department for the  
 15 following:

16 (1) The payment of the costs allowed under IC 13-23-9-2,  
 17 excluding:

- 18 (A) liabilities to third parties; and  
 19 (B) the costs of repairing or replacing an underground storage  
 20 tank;

21 arising out of releases of petroleum.

22 (2) Providing payment of part of the liability of owners and  
 23 operators of underground petroleum storage tanks:

- 24 (A) to third parties under IC 13-23-9-3; or  
 25 (B) for reasonable attorney's fees incurred in defense of a third  
 26 party liability claim.

27 SECTION 94. IC 13-23-8-4.5 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4.5. The ~~financial~~  
 29 ~~assurance~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9** to  
 30 do the following:

31 (1) Establish standards, procedures, and penalties for submitting  
 32 or resubmitting a claim under section 1 of this chapter when the  
 33 owner or operator has failed to:

- 34 (A) register an underground petroleum storage tank from  
 35 which a release has occurred; or  
 36 (B) pay all registration fees that are due under IC 13-23-12-1  
 37 by the date the fees are due.

38 (2) Determine eligibility for new owners or operators that acquire  
 39 ownership or operation of the underground petroleum storage  
 40 tank as a result of:

- 41 (A) a bona fide, good faith transaction, negotiated at arm's  
 42 length, between parties under separate ownership and control;

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- 1 (B) a foreclosure or a deed transferred in lieu of a foreclosure;  
 2 (C) the exercise of the person's lien rights; or  
 3 (D) an inheritance.

4 SECTION 95. IC 13-23-8-5 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. The ~~financial~~  
 6 ~~assurance~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9** to  
 7 define the manner in which the priority order of liability claims and  
 8 loan guaranties is established. The rules must give priority to liability  
 9 claims associated with releases from underground storage tanks that  
 10 pose an immediate and significant threat to the environment.

11 SECTION 96. IC 13-23-11 IS REPEALED [EFFECTIVE JULY 1,  
 12 2012]. (Underground Storage Tank Financial Assurance Board).

13 SECTION 97. IC 13-25-4-7 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. The ~~solid waste~~  
 15 ~~management~~ board shall adopt rules establishing criteria for  
 16 determining the commissioner's priorities in selecting hazardous  
 17 substance response sites. Until these rules have been adopted, the  
 18 commissioner shall give priority to those sites presenting a significant  
 19 threat to public health and environment.

20 SECTION 98. IC 13-27-8-3, AS ADDED BY P.L.100-2006,  
 21 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2012]: Sec. 3. (a) The ~~following~~ **board** may adopt rules to  
 23 implement this chapter to the extent consistent with federal law.

24 ~~(1) The boards:~~

25 ~~(2) The underground storage tank financial assurance board~~  
 26 ~~established by IC 13-23-11-1.~~

27 (b) The rules adopted by ~~the entities~~ under subsection (a) may  
 28 establish the following:

29 (1) Eligibility requirements for participation in environmental  
 30 performance based programs.

31 (2) Compliance methods and schedules that:

32 (A) differ from compliance methods and schedules that apply  
 33 to nonparticipants in environmental performance based  
 34 programs under rules adopted by the ~~boards;~~ **board;**

35 (B) apply only to participants in environmental performance  
 36 based programs; and

37 (C) include any of the following:

38 (i) Changes to monitoring and reporting requirements and  
 39 schedules.

40 (ii) Streamlined submission requirements for permit  
 41 renewals.

42 (iii) Prioritized applications.

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- 1 (iv) Authorization to make without prior governmental
- 2 approval certain operational changes that do not result in
- 3 additional environmental impact.
- 4 (3) Recognition incentives to encourage participation in
- 5 environmental performance based programs.
- 6 (4) Other incentives consistent with the policies of this title and
- 7 federal law to encourage participation in environmental
- 8 performance based programs.
- 9 (5) Requirements for participants in environmental performance
- 10 based programs to implement any of the following:
- 11 (A) Continuous improvement environmental systems.
- 12 (B) Pollution prevention and waste minimization programs
- 13 developed under IC 13-27-7.

14 SECTION 99. IC 13-28-1-3 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. ~~Each of the~~  
 16 ~~regulatory boards within the department~~ **The board** may adopt rules  
 17 under IC 4-22-2 **and IC 13-14-9** as required to implement the  
 18 compliance program described in this article.

19 SECTION 100. IC 13-29-1-13 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. The ~~solid waste~~  
 21 ~~management~~ board shall adopt under IC 4-22-2 **and IC 13-14-9** the  
 22 rules necessary to implement this chapter.

23 SECTION 101. IC 13-30-2-1 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. A person may not do  
 25 any of the following:

- 26 (1) Discharge, emit, cause, allow, or threaten to discharge, emit,
- 27 cause, or allow any contaminant or waste, including any noxious
- 28 odor, either alone or in combination with contaminants from other
- 29 sources, into:
- 30 (A) the environment; or
- 31 (B) any publicly owned treatment works;
- 32 in any form that causes or would cause pollution that violates or
- 33 would violate rules, standards, or discharge or emission
- 34 requirements adopted by the ~~appropriate~~ board under the
- 35 environmental management laws.
- 36 (2) Increase the quantity or strength of a discharge of
- 37 contaminants into the waters or construct or install a sewer or
- 38 sewage treatment facility or a new outlet for contaminants into the
- 39 waters of Indiana without prior approval of the department.
- 40 (3) Deposit any contaminants upon the land in a place and manner
- 41 that creates or would create a pollution hazard that violates or
- 42 would violate a rule adopted by ~~one (1) of the boards:~~ **board.**

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- 1 (4) Deposit or cause or allow the deposit of any contaminants or
- 2 solid waste upon the land, except through the use of sanitary
- 3 landfills, incineration, composting, garbage grinding, or another
- 4 method acceptable to the ~~solid waste management~~ board.
- 5 (5) Dump or cause or allow the open dumping of garbage or of
- 6 any other solid waste in violation of rules adopted by the ~~solid~~
- 7 ~~waste management~~ board.
- 8 (6) Dispose of solid waste in, upon, or within the limits of or
- 9 adjacent to a public highway, state park, state nature preserve, or
- 10 recreation area or in or immediately adjacent to a lake or stream,
- 11 except:
- 12 (A) in proper containers provided for sanitary storage of the
- 13 solid waste; or
- 14 (B) as a part of a sanitary landfill operation or other land
- 15 disposal method approved by the department.
- 16 (7) Construct, install, operate, conduct, or modify, without prior
- 17 approval of the department, any equipment or facility of any type
- 18 that may:
- 19 (A) cause or contribute to pollution; or
- 20 (B) be designed to prevent pollution.
- 21 However, the commissioner or the ~~appropriate~~ board may approve
- 22 experimental uses of any equipment, facility, or pollution control
- 23 device that is considered necessary for the further development of
- 24 the state of the art of pollution control.
- 25 (8) Conduct any salvage operation or open dump by open burning
- 26 or burn, cause, or allow the burning of any solid waste in a
- 27 manner that violates either:
- 28 (A) the air pollution control laws; or
- 29 (B) the rules adopted by the ~~air pollution control~~ board.
- 30 (9) Commence construction of a proposed hazardous waste
- 31 facility without having first:
- 32 (A) filed an application for; and
- 33 (B) received;
- 34 a permit from the department.
- 35 (10) Commence or engage in the operation of a hazardous waste
- 36 facility without having first obtained a permit from the
- 37 department.
- 38 (11) Deliver any hazardous waste to a hazardous waste facility
- 39 that:
- 40 (A) is not approved; or
- 41 (B) does not hold a permit from the department.
- 42 (12) Cause or allow the transportation of a hazardous waste

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1 without a manifest if a manifest is required by law.

2 (13) Violate any:

3 (A) condition;

4 (B) limitation; or

5 (C) stipulation;

6 placed upon a certificate of environmental compatibility by the  
7 hazardous waste facility site approval authority or any other  
8 provision of IC 13-22-10.

9 (14) Apply or allow the application of used oil to any ground  
10 surface, except for purposes of treatment in accordance with a  
11 permit issued by the department under any of the following:

12 (A) IC 13-15, except IC 13-15-9.

13 (B) IC 13-17-11.

14 (C) IC 13-18-18.

15 (D) IC 13-20-1.

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

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

20 SECTION 102. IC 13-30-3-11 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. An order of the  
22 commissioner under this chapter may do any of the following:

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

25 (A) Environmental management laws.

26 (B) Air pollution control laws.

27 (C) Water pollution control laws.

28 (D) A rule adopted by ~~one (†) of the boards:~~ **board.**

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

30 (A) Environmental management laws.

31 (B) Air pollution control laws.

32 (C) Water pollution control laws.

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

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

37 SECTION 103. IC 13-30-4-1 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Subject to  
39 IC 13-14-6 and except as provided in IC 13-23-14-2 and  
40 IC 13-23-14-3, a person who violates:

41 (1) any provision of:

42 (A) environmental management laws;

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- 1 (B) air pollution control laws;
- 2 (C) water pollution control laws;
- 3 (D) IC 13-18-14-1; or
- 4 (E) a rule or standard adopted by ~~one (1) of the boards;~~ **board;**
- 5 or
- 6 (2) any determination, permit, or order made or issued by the
- 7 commissioner under:
- 8 (A) environmental management laws or IC 13-7 (before its
- 9 repeal);
- 10 (B) air pollution control laws or IC 13-1-1 (before its repeal);
- 11 or
- 12 (C) water pollution control laws or IC 13-1-3 (before its
- 13 repeal);

14 is liable for a civil penalty not to exceed twenty-five thousand dollars  
 15 (\$25,000) per day of any violation.

16 (b) The department may:

- 17 (1) recover the civil penalty described in subsection (a) in a civil
- 18 action commenced in any court with jurisdiction; and
- 19 (2) request in the action that the person be enjoined from
- 20 continuing the violation.

21 SECTION 104. IC 13-30-7-7 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. The ~~boards~~ **board**  
 23 shall adopt rules under IC 4-22-2 **and IC 13-14-9** to administer this  
 24 chapter.

25 SECTION 105. IC 16-18-2-372 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 372. "Water board", for  
 27 purposes of IC 16-41, refers to the ~~water pollution control~~ board  
 28 established by ~~IC 13-18-1-1.~~ **IC 13-13-8-3.**

29 SECTION 106. IC 16-20-5-1 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) If a multiple  
 31 county sewer, water, wastewater, or similar district has been  
 32 established under IC 13-26 or IC 13-3-2 (before its repeal), the affected  
 33 counties may by concurrent resolution of each county executive  
 34 establish an area board of health for the sole purposes of administering  
 35 and enforcing, consistent with environmental management laws (as  
 36 defined in IC 13-11-2-71), all state and local environmental statutes,  
 37 rules, and ordinances relative to the maintenance of a high quality  
 38 environmental level in the district.

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

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1 established under section 5 of this chapter.

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