

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that House Bill 1002 be amended to read as follows:

- 1           Page 6, between lines 28 and 29, begin a new paragraph and insert:  
2           "SECTION 6. IC 4-21.5-7-3, AS AMENDED BY P.L.99-2005,  
3           SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4           JANUARY 1, 2013]: Sec. 3. (a) The office of environmental  
5           adjudication is established to review, under this article, agency actions  
6           of the department of environmental management, actions of a board  
7           described in IC 13-14-9-1, and challenges to rulemaking actions by a  
8           board described in IC 13-14-9-1 made pursuant to IC 4-22-2-44 or  
9           IC 4-22-2-45.  
10          (b) The office of environmental adjudication shall:  
11           (1) conduct adjudicatory hearings required to implement:  
12           (A) air pollution control laws (as defined in IC 13-11-2-6),  
13           water pollution control laws (as defined in IC 13-11-2-261),  
14           environmental management laws (as defined in  
15           IC 13-11-2-71), and IC 13-19;  
16           (B) **rules of the board (as defined in IC 13-13-8-1) and the**  
17           **financial assurance board; and**  
18           (i) ~~the air pollution control board;~~  
19           (ii) ~~the water pollution control board;~~  
20           (iii) ~~the solid waste management board; and~~  
21           (iv) ~~the financial assurance board; and~~  
22           (C) agency action of the department of environmental  
23           management; and  
24           (2) notify a board referred to in subdivision (1)(B) of a final order  
25           of the office of environmental adjudication that interprets:  
26           (A) a rule of the board; or  
27           (B) a statute under which a rule of the board is authorized.  
28           SECTION 7. IC 4-22-2-28.1, AS AMENDED BY P.L.110-2010,  
29           SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30           JANUARY 1, 2013]: Sec. 28.1. (a) This section applies to the

- 1 following:
- 2 (1) A rule for which the notice required by section 23 of this
- 3 chapter or by IC 13-14-9-3 is published by an agency or ~~by any of~~
- 4 ~~the boards (as defined in IC 13-11-2-18)~~; **board (as defined in**
- 5 **IC 13-13-8-1).**
- 6 (2) A rule for which:
- 7 (A) the notice required by IC 13-14-9-3; or
- 8 (B) an appropriate later notice for circumstances described in
- 9 subsection (g);
- 10 is published by the department of environmental management
- 11 after June 30, 2006.
- 12 (b) As used in this section, "coordinator" refers to the small business
- 13 regulatory coordinator assigned to a rule by an agency under subsection
- 14 (e).
- 15 (c) As used in this section, "director" refers to the director or other
- 16 administrative head of an agency.
- 17 (d) As used in this section, "small business" has the meaning set
- 18 forth in IC 5-28-2-6.
- 19 (e) For each rulemaking action and rule finally adopted as a result
- 20 of a rulemaking action by an agency under this chapter, the agency
- 21 shall assign one (1) staff person to serve as the agency's small business
- 22 regulatory coordinator with respect to the proposed or adopted rule.
- 23 The agency shall assign a staff person to a rule under this subsection
- 24 based on the person's knowledge of, or experience with, the subject
- 25 matter of the rule. A staff person may serve as the coordinator for more
- 26 than one (1) rule proposed or adopted by the agency if the person is
- 27 qualified by knowledge or experience with respect to each rule. Subject
- 28 to subsection (f):
- 29 (1) in the case of a proposed rule, the notice of intent to adopt the
- 30 rule published under section 23 of this chapter; or
- 31 (2) in the case of a rule proposed by the department of
- 32 environmental management or ~~any of the boards (as defined in~~
- 33 ~~IC 13-11-2-18)~~ **the board (as defined in IC 13-13-8-1)**, the
- 34 notice published under IC 13-14-9-3 or the findings published
- 35 under IC 13-14-9-8(b)(1), whichever applies;
- 36 must include the name, address, telephone number, and electronic mail
- 37 address of the small business coordinator for the proposed rule, the
- 38 name, address, telephone number, and electronic mail address of the
- 39 small business ombudsman designated under IC 5-28-17-5, and a
- 40 statement of the resources available to regulated entities through the
- 41 small business ombudsman designated under IC 5-28-17-5. Subject to
- 42 subsection (f), in the case of a rule finally adopted, the final rule, as
- 43 published in the Indiana Register, must include the name, address,
- 44 telephone number, and electronic mail address of the coordinator.
- 45 (f) This subsection applies to a rule adopted by the department of
- 46 environmental management or ~~any of the boards (as defined in~~

1 ~~IC 13-11-2-18~~ **the board (as defined in IC 13-13-8-1)** under  
 2 IC 13-14-9. Subject to subsection (g), the department shall include in  
 3 the notice provided under IC 13-14-9-3 or in the findings published  
 4 under IC 13-14-9-8(b)(1), whichever applies, and in the publication of  
 5 the final rule in the Indiana Register:

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

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

11 (3) if applicable, a statement of:

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

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

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

19 The coordinator assigned to the rule under subsection (e) shall work  
 20 with the ombudsman described in subdivision (2) and the office of  
 21 voluntary compliance established by IC 13-28-1-1 to coordinate the  
 22 provision of services required under subsection (h) and IC 13-28-3. If  
 23 applicable, the coordinator assigned to the rule under subsection (e)  
 24 shall work with the ombudsman referred to in subdivision (3)(B) to  
 25 coordinate the provision of services required under subsection (h) and  
 26 IC 13-28-5.

27 (g) If the notice provided under IC 13-14-9-3 is not published as  
 28 allowed by IC 13-14-9-7, the department of environmental  
 29 management shall publish in the notice provided under IC 13-14-9-4  
 30 the information that subsection (f) would otherwise require to be  
 31 published in the notice under IC 13-14-9-3. If neither the notice under  
 32 IC 13-14-9-3 nor the notice under IC 13-14-9-4 is published as allowed  
 33 by IC 13-14-9-8, the department of environmental management shall  
 34 publish in the commissioner's written findings under IC 13-14-9-8(b)  
 35 the information that subsection (f) would otherwise require to be  
 36 published in the notice under IC 13-14-9-3.

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

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

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

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

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

9 (i) The coordinator assigned to a rule under subsection (e) shall  
 10 provide guidance under this section in response to questions and  
 11 concerns expressed by small businesses affected by the rule. The  
 12 coordinator may also issue general guidelines or informational  
 13 pamphlets to assist small businesses in complying with the rule. Any  
 14 guidelines or informational pamphlets issued under this subsection  
 15 shall be made available:

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

18 (2) electronically through electronic gateway access.

19 (j) The coordinator assigned to a rule under subsection (e) shall  
 20 keep a record of all comments, questions, and complaints received  
 21 from small businesses with respect to the rule. The coordinator shall  
 22 deliver the record, along with any accompanying documents submitted  
 23 by small businesses, to the director:

24 (1) not later than ten (10) days after the date on which the rule is  
 25 submitted to the publisher under section 35 of this chapter; and

26 (2) before July 15 of each year during which the rule remains in  
 27 effect.

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

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

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

34 (2) prepare a report that sets forth:

35 (A) the number of comments, complaints, and questions  
 36 received by the agency from small businesses during the most  
 37 recent state fiscal year, categorized by the subject matter of the  
 38 rules involved;

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

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

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

46 (E) the projected budget required by the agency to comply

- 1                   with this section during the current state fiscal year; and  
 2                   (3) deliver the report to the legislative council in an electronic  
 3                   format under IC 5-14-6 and to the small business ombudsman  
 4                   designated by IC 5-28-17-5.
- 5                   SECTION 8. IC 4-22-2-28.2, AS ADDED BY P.L.239-2005,  
 6                   SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7                   JANUARY 1, 2013]: Sec. 28.2. (a) This section applies to a violation  
 8                   described in subsection (c) that occurs after June 30, 2005. However,  
 9                   in the case of a violation of a rule adopted under IC 13-14-9 by the  
 10                   department of environmental management or ~~any of the boards board~~  
 11                   (as defined in ~~IC 13-11-2-18~~; **IC 13-13-8-1**), the procedures set forth  
 12                   in IC 13-30-4-3 and IC 13-30-7 apply instead of this section.
- 13                   (b) As used in this section, "small business" has the meaning set  
 14                   forth in section 28.1(d) of this chapter.
- 15                   (c) Except as provided in subsection (d), a small business that  
 16                   voluntarily provides notice to an agency of the small business's actual  
 17                   or potential violation of a rule adopted by the agency under this chapter  
 18                   is immune from civil or criminal liability resulting from an agency  
 19                   action relating to the violation if the small business does the following:
- 20                   (1) Provides written notice of the violation to the agency not later  
 21                   than forty-five (45) days after the small business knew or should  
 22                   have known that the violation occurred.
- 23                   (2) Corrects the violation within a time agreed to by the agency  
 24                   and the small business. However, the small business shall be  
 25                   given at least ninety (90) days after the date of the notice  
 26                   described in subdivision (1) to correct the violation. The small  
 27                   business may correct the violation at any time before the  
 28                   expiration of the period agreed to under this subdivision.
- 29                   (3) Cooperates with any reasonable request by the agency in any  
 30                   investigation initiated in response to the notice.
- 31                   (d) A small business is not immune from civil or criminal liability  
 32                   relating to a violation of which the small business provides notice  
 33                   under subsection (c) if any of the following apply:
- 34                   (1) The violation resulted in serious harm or in imminent and  
 35                   substantial endangerment to the public health, safety, or welfare.
- 36                   (2) The violation resulted in a substantial economic benefit that  
 37                   afforded the small business a clear advantage over the small  
 38                   business's competitors.
- 39                   (3) The small business has a pattern of continuous or repeated  
 40                   violations of the rule at issue or any other rules of the agency.
- 41                   (e) Information that a small business provides under this section,  
 42                   including actions and documents that identify or describe the small  
 43                   business, to an agency in providing notice of the small business's actual  
 44                   or potential violation of a rule adopted by the agency is confidential,  
 45                   unless a clear and immediate danger to the public health, safety, or  
 46                   welfare or to the environment exists. Information described in this

1 subsection may not be made available for use by the agency for  
 2 purposes other than the purposes of this section without the consent of  
 3 the small business.

4 (f) Voluntary notice of an actual or a potential violation of a rule  
 5 that is provided by a small business under subsection (c) is not  
 6 admissible as evidence in a proceeding, other than an agency  
 7 proceeding, to prove liability for the rule violation or the effects of the  
 8 rule violation.

9 SECTION 9. IC 4-22-2-37.1, AS AMENDED BY P.L.229-2011,  
 10 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JANUARY 1, 2013]: Sec. 37.1. (a) This section applies to a  
 12 rulemaking action resulting in any of the following rules:

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

17 (2) An action taken by the director of the department of natural  
 18 resources under IC 14-22-2-6(d) or IC 14-22-6-13.

19 (3) An emergency temporary standard adopted by the  
 20 occupational safety standards commission under  
 21 IC 22-8-1.1-16.1.

22 (4) An emergency rule adopted by the ~~solid waste management~~  
 23 **environmental rules** board under IC 13-22-2-3 and classifying  
 24 a waste as hazardous.

25 (5) A rule, other than a rule described in subdivision (6), adopted  
 26 by the department of financial institutions under IC 24-4.5-6-107  
 27 and declared necessary to meet an emergency.

28 (6) A rule required under IC 24-4.5-1-106 that is adopted by the  
 29 department of financial institutions and declared necessary to  
 30 meet an emergency under IC 24-4.5-6-107.

31 (7) A rule adopted by the Indiana utility regulatory commission to  
 32 address an emergency under IC 8-1-2-113.

33 (8) An emergency rule adopted by the state lottery commission  
 34 under IC 4-30-3-9.

35 (9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the  
 36 executive board of the state department of health declares is  
 37 necessary to meet an emergency.

38 (10) An emergency rule adopted by the Indiana finance authority  
 39 under IC 8-21-12.

40 (11) An emergency rule adopted by the insurance commissioner  
 41 under IC 27-1-23-7 or IC 27-1-12.1.

42 (12) An emergency rule adopted by the Indiana horse racing  
 43 commission under IC 4-31-3-9.

44 (13) An emergency rule adopted by the ~~air pollution control~~  
 45 **board, the solid waste management board, or the water pollution**  
 46 **control environmental rules** board under IC 13-15-4-10(4) or to

- 1 comply with a deadline required by or other date provided by  
 2 federal law, provided:
- 3 (A) the variance procedures are included in the rules; and  
 4 (B) permits or licenses granted during the period the  
 5 emergency rule is in effect are reviewed after the emergency  
 6 rule expires.
- 7 (14) An emergency rule adopted by the Indiana election  
 8 commission under IC 3-6-4.1-14.
- 9 (15) An emergency rule adopted by the department of natural  
 10 resources under IC 14-10-2-5.
- 11 (16) An emergency rule adopted by the Indiana gaming  
 12 commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3,  
 13 IC 4-33-4-14, IC 4-33-22-12, or IC 4-35-4-2.
- 14 (17) An emergency rule adopted by the alcohol and tobacco  
 15 commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or  
 16 IC 7.1-3-20-24.4.
- 17 (18) An emergency rule adopted by the department of financial  
 18 institutions under IC 28-15-11.
- 19 (19) An emergency rule adopted by the office of the secretary of  
 20 family and social services under IC 12-8-1-12.
- 21 (20) An emergency rule adopted by the office of the children's  
 22 health insurance program under IC 12-17.6-2-11.
- 23 (21) An emergency rule adopted by the office of Medicaid policy  
 24 and planning under IC 12-15-41-15.
- 25 (22) An emergency rule adopted by the Indiana state board of  
 26 animal health under IC 15-17-10-9.
- 27 (23) An emergency rule adopted by the board of directors of the  
 28 Indiana education savings authority under IC 21-9-4-7.
- 29 (24) An emergency rule adopted by the Indiana board of tax  
 30 review under IC 6-1.1-4-34 (repealed).
- 31 (25) An emergency rule adopted by the department of local  
 32 government finance under IC 6-1.1-4-33 (repealed).
- 33 (26) An emergency rule adopted by the boiler and pressure vessel  
 34 rules board under IC 22-13-2-8(c).
- 35 (27) An emergency rule adopted by the Indiana board of tax  
 36 review under IC 6-1.1-4-37(l) (repealed) or an emergency rule  
 37 adopted by the department of local government finance under  
 38 IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.
- 39 (28) An emergency rule adopted by the board of the Indiana  
 40 economic development corporation under IC 5-28-5-8.
- 41 (29) A rule adopted by the department of financial institutions  
 42 under IC 34-55-10-2.5.
- 43 (30) A rule adopted by the Indiana finance authority:  
 44 (A) under IC 8-15.5-7 approving user fees (as defined in  
 45 IC 8-15.5-2-10) provided for in a public-private agreement  
 46 under IC 8-15.5;

- 1 (B) under IC 8-15-2-17.2(a)(10):  
 2 (i) establishing enforcement procedures; and  
 3 (ii) making assessments for failure to pay required tolls;  
 4 (C) under IC 8-15-2-14(a)(3) authorizing the use of and  
 5 establishing procedures for the implementation of the  
 6 collection of user fees by electronic or other nonmanual  
 7 means; or  
 8 (D) to make other changes to existing rules related to a toll  
 9 road project to accommodate the provisions of a public-private  
 10 agreement under IC 8-15.5.
- 11 (31) An emergency rule adopted by the board of the Indiana  
 12 health informatics corporation under IC 5-31-5-8.
- 13 (32) An emergency rule adopted by the department of child  
 14 services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or  
 15 IC 31-27-4-3.
- 16 (33) An emergency rule adopted by the Indiana real estate  
 17 commission under IC 25-34.1-2-5(15).
- 18 (34) A rule adopted by the department of financial institutions  
 19 under IC 24-4.4-1-101 and determined necessary to meet an  
 20 emergency.
- 21 (35) An emergency rule adopted by the state board of pharmacy  
 22 regarding returning unused medication under IC 25-26-23.
- 23 (36) An emergency rule adopted by the department of local  
 24 government finance under IC 6-1.1-12.6 or IC 6-1.1-12.8.
- 25 (37) An emergency rule adopted by the office of the secretary of  
 26 family and social services or the office of Medicaid policy and  
 27 planning concerning the following:  
 28 (A) Federal Medicaid waiver program provisions.  
 29 (B) Federal programs administered by the office of the  
 30 secretary.
- 31 (b) The following do not apply to rules described in subsection (a):  
 32 (1) Sections 24 through 36 of this chapter.  
 33 (2) IC 13-14-9.
- 34 (c) After a rule described in subsection (a) has been adopted by the  
 35 agency, the agency shall submit the rule to the publisher for the  
 36 assignment of a document control number. The agency shall submit the  
 37 rule in the form required by section 20 of this chapter and with the  
 38 documents required by section 21 of this chapter. The publisher shall  
 39 determine the format of the rule and other documents to be submitted  
 40 under this subsection.
- 41 (d) After the document control number has been assigned, the  
 42 agency shall submit the rule to the publisher for filing. The agency  
 43 shall submit the rule in the form required by section 20 of this chapter  
 44 and with the documents required by section 21 of this chapter. The  
 45 publisher shall determine the format of the rule and other documents  
 46 to be submitted under this subsection.

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

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

3 Page 39, between lines 38 and 39, begin a new paragraph and insert:  
 4 "SECTION 69. IC 13-11-2-17, AS AMENDED BY P.L.159-2011,  
 5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JANUARY 1, 2013]: Sec. 17. (a) "Board", except as provided in  
 7 subsections (b) through ~~(h)~~, **(d)**, refers to **the environmental rules**  
 8 **board established by IC 13-13-8-3.**

- 9 (1) ~~the air pollution control board;~~
- 10 (2) ~~the water pollution control board; or~~
- 11 (3) ~~the solid waste management board.~~

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

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

- 16 ~~(d) "Board", for purposes of:~~
- 17 ~~(1) IC 13-19;~~
  - 18 ~~(2) IC 13-20;~~
  - 19 ~~(3) IC 13-22;~~
  - 20 ~~(4) IC 13-23, except IC 13-23-11;~~
  - 21 ~~(5) IC 13-24; and~~
  - 22 ~~(6) IC 13-25;~~

23 ~~refers to the solid waste management board.~~

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

26 ~~(f) (c) "Board", for purposes of IC 13-14, IC 13-23-11, and~~  
 27 ~~IC 13-30-2-1, refers to the underground storage tank financial~~  
 28 ~~assurance board.~~

29 ~~(g) (d) "Board", for purposes of IC 13-26, refers to the board of~~  
 30 ~~trustees of a regional water, sewage, or solid waste district.~~

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

33 SECTION 70. IC 13-11-2-18 IS REPEALED [EFFECTIVE  
 34 JANUARY 1, 2013]. Sec. 18: "Boards" refers to all of the following:

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

38 SECTION 71. IC 13-11-2-165 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 165. "Pollution  
 40 control laws" refers to the following:

- 41 (1) IC 13-12-4 and IC 13-12-5.
- 42 (2) IC 13-17, except for the following:
  - 43 (A) IC 13-17-3-15.
  - 44 (B) IC 13-17-7.
  - 45 (C) IC 13-17-8-10.
  - 46 (D) IC 13-17-10.

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

8 SECTION 72. IC 13-12-4-5 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. To the fullest  
 10 extent possible:

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

37 Before making a detailed statement, the responsible state  
 38 official shall consult with and obtain the comments of each  
 39 state agency that has jurisdiction by law or special expertise  
 40 with respect to any environmental impact involved. Copies of  
 41 the statement and the comments and views of the appropriate  
 42 federal, state, and local agencies that are authorized to develop  
 43 and enforce environmental standards shall be made available  
 44 to the governor and to the public and must accompany the  
 45 proposal through the agency review processes. The ~~air~~  
 46 ~~pollution control board; water pollution control board; and~~

- 1           solid waste management board shall by rule define the actions
- 2           that constitute a major state action significantly affecting the
- 3           quality of the human environment.
- 4           (D) Study, develop, and describe appropriate alternatives to
- 5           recommend courses of action in any proposal that involves
- 6           unresolved conflicts concerning alternative uses of available
- 7           resources.
- 8           (E) Recognize the long range character of environmental
- 9           problems and, where consistent with the policy of the state,
- 10          lend appropriate support to initiatives, resolutions, and
- 11          programs designed to maximize state cooperation in
- 12          anticipating and preventing a decline in the quality of the
- 13          environment.
- 14          (F) Make available to counties, municipalities, institutions,
- 15          and individuals advice and information useful in restoring,
- 16          maintaining, and enhancing the quality of the environment.
- 17          (G) Initiate and use ecological information in the planning and
- 18          development of resource oriented projects.

19           SECTION 73. IC 13-13-8 IS ADDED TO THE INDIANA CODE  
 20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2012]:

22           **Chapter 8. Environmental Rules Board**

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

25           **Sec. 2. (a) The following entities are abolished on January 1,**  
 26 **2013:**

- 27           **(1) The air pollution control board (established by IC 13-17-2**
- 28           **before its repeal).**
- 29           **(2) The water pollution control board (established by**
- 30           **IC 13-18-1 before its repeal).**
- 31           **(3) The solid waste management board (established by**
- 32           **IC 13-19-2 before its repeal).**

33           **(b) All powers, duties, and liabilities are transferred from the**  
 34 **entities abolished under subsection (a) to the environmental rules**  
 35 **board established by section 3 of this chapter effective January 1,**  
 36 **2013.**

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

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

- 42           **(1) The rules adopted before January 1, 2013, by the air**
- 43           **pollution control board abolished under subsection (a)(1):**
  - 44           **(A) shall be treated as though the rules were adopted by**
  - 45           **the environmental rules board; and**
  - 46           **(B) shall be administered and implemented by the air**

- 1                   pollution control division of the department described in
- 2                   IC 13-13-3-2(1).
- 3           (2) The rules adopted before January 1, 2013, by the water
- 4           pollution control board abolished under subsection (a)(2):
- 5           (A) shall be treated as though the rules were adopted by
- 6           the environmental rules board; and
- 7           (B) shall be administered and implemented by the water
- 8           pollution control division of the department described in
- 9           IC 13-13-3-2(2).
- 10          (3) The rules adopted before January 1, 2013, by the solid
- 11          waste management board abolished under subsection (a)(3):
- 12          (A) shall be treated as though the rules were adopted by
- 13          the environmental rules board; and
- 14          (B) shall be administered and implemented by the solid
- 15          waste management division of the department described in
- 16          IC 13-13-3-2(3).
- 17          (e) A member of an entity abolished under subsection (a) may
- 18          serve until December 31, 2012. The initial members of the
- 19          environmental rules board shall be appointed under section 4 of
- 20          this chapter not later than December 31, 2012.
- 21          Sec. 3. The environmental rules board is established as an
- 22          independent board.
- 23          Sec. 4. (a) The board consists of the following sixteen (16)
- 24          members:
- 25               (1) The following ex officio members:
- 26               (A) The commissioner. The commissioner, or the
- 27               commissioner's designee, serves as a nonvoting member of
- 28               the board.
- 29               (B) The commissioner of the state department of health.
- 30               (C) The director of the department of natural resources.
- 31               (D) The lieutenant governor.
- 32               (E) The secretary of commerce or the secretary's designee.
- 33               (2) The following eleven (11) members, who shall be
- 34               appointed by the governor based on recommendations from
- 35               representative constituencies:
- 36               (A) One (1) representative of agriculture.
- 37               (B) One (1) representative of manufacturing.
- 38               (C) One (1) representative of environmental interests.
- 39               (D) One (1) representative of labor.
- 40               (E) One (1) representative of local government.
- 41               (F) One (1) representative of small business.
- 42               (G) One (1) health professional who holds a license to
- 43               practice in Indiana.
- 44               (H) One (1) representative of the solid waste management
- 45               industry.
- 46               (I) One (1) representative of a public utility that engages in
- 47               the production and transmission of electricity.

1           **(J) Two (2) representatives of the general public, who**  
2           **cannot qualify to sit on the board under any of the other**  
3           **clauses in this subdivision.**

4           **(b) An individual appointed under subsection (a)(2) must**  
5           **possess knowledge, experience, or education qualifying the**  
6           **individual to represent the constituency the individual is being**  
7           **recommended to represent.**

8           **Sec. 5. Except as provided in section 4(a)(1)(A) of this chapter,**  
9           **an ex officio member of the board may designate in writing a**  
10           **technical representative to serve as a voting member of the board**  
11           **when the ex officio member is unable to attend a board 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           **within 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 Indiana**  
37           **department of administration and approved by the budget**  
38           **agency.**

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

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

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

47           **(1) one (1) of the appointed members of the board to serve as**

- 1 chairperson; and
- 2 (2) another of the appointed members to serve as vice
- 3 chairperson.
- 4 **Sec. 11. Each member of the board shall fully disclose any**
- 5 **potential conflicts of interest relating to permits or enforcement**
- 6 **orders under the:**
  - 7 (1) federal Clean Air Act (42 U.S.C. 7401 et seq.), as amended
  - 8 by the Clean Air Act Amendments of 1990;
  - 9 (2) federal Resource Conservation and Recovery Act (42
  - 10 U.S.C. 6901 et seq.);
  - 11 (3) federal Comprehensive Environmental Response,
  - 12 Compensation, and Liability Act of 1980, as amended by the
  - 13 federal Superfund Amendments and Reauthorization Act of
  - 14 1986 (42 U.S.C. 9601 through 9675);
  - 15 (4) federal Water Pollution Control Act (33 U.S.C. 1251 et
  - 16 seq.); and
  - 17 (5) federal Safe Drinking Water Act (42 U.S.C. 300f through
  - 18 300j).
- 19 **Sec. 12. (a) The board shall select, from a list of three (3)**
- 20 **qualified individuals recommended by the governor, an**
- 21 **independent third party who is not an employee of the state to**
- 22 **serve as technical secretary of the board.**
- 23 **(b) Between meetings of the board, the department shall do the**
- 24 **following:**
  - 25 (1) Handle correspondence.
  - 26 (2) Make or arrange for investigations and surveys.
  - 27 (3) Obtain, assemble, or prepare reports and data as directed
  - 28 by the board.
- 29 **(c) The technical secretary shall review all materials prepared**
- 30 **for the board by the department to make any necessary revisions.**
- 31 **Provisions of this chapter concerning terms of appointment,**
- 32 **vacancies, and compensation of appointed board members apply**
- 33 **to the technical secretary. The technical secretary is not a voting**
- 34 **member of the board.**
- 35 **Sec. 13. (a) The board may select, from a list of three (3)**
- 36 **qualified individuals recommended by the governor, an**
- 37 **independent third party who is not an employee of the state to**
- 38 **serve as legal counsel.**
- 39 **(b) The legal counsel shall do the following:**
  - 40 (1) Advise the board on legal matters or proceedings arising
  - 41 from the exercise of the board's duties.
  - 42 (2) Review all materials prepared for the board by the
  - 43 department for legal accuracy and sufficiency and direct the
  - 44 department to make any necessary revisions.
- 45 **(c) Provisions of this chapter concerning terms of appointment,**
- 46 **vacancies, and compensation of appointed board members apply**
- 47 **to the legal counsel. The legal counsel is not a voting member of the**

1 board.

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

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

9 SECTION 74. IC 13-14-1-3 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. The department  
11 shall assure accomplishment of the comprehensive, long term programs  
12 established by the ~~boards:~~ **board.**

13 SECTION 75. IC 13-14-1-4 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. The department  
15 shall procure compliance with standards and rules adopted by the  
16 ~~boards:~~ **board.**

17 SECTION 76. IC 13-14-1-7 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The  
19 commissioner shall prepare the proposed budget of the department and  
20 the ~~boards:~~ **board.**

21 SECTION 77. IC 13-14-1-8 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 8. The  
23 commissioner may propose financing a structure to the ~~boards:~~ **board.**

24 SECTION 78. IC 13-14-1-9, AS AMENDED BY P.L.172-2011,  
25 SECTION 113, IS AMENDED TO READ AS FOLLOWS  
26 [EFFECTIVE JANUARY 1, 2013]: Sec. 9. (a) The commissioner shall  
27 issue permits, licenses, orders, and variances as authorized by:

- 28 (1) this title;
- 29 (2) other statutes; and
- 30 (3) rules of the ~~boards:~~ **board.**

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

- 34 (1) the applicant provides a statement to the commissioner from  
35 the department of state revenue indicating that the applicant's tax  
36 warrant has been satisfied; or
- 37 (2) the commissioner receives a notice from the commissioner of  
38 the department of state revenue under IC 6-8.1-8-2(k).

39 SECTION 79. IC 13-14-1-12 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 12. The  
41 commissioner shall enforce rules consistent with the purposes of:

- 42 (1) air pollution control laws;
- 43 (2) water pollution control laws;
- 44 (3) IC 13-18-9;
- 45 (4) IC 13-18-10;
- 46 ~~(5) IC 13-19-2;~~

- 1           ~~(6)~~ **(5)** IC 13-19-3; and
- 2           ~~(7)~~ **(6)** IC 36-9-30.
- 3           SECTION 80. IC 13-14-2-2 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. The department
- 5 may have a designated agent, upon presentation of proper credentials,
- 6 enter upon private or public property to inspect for and investigate
- 7 possible violations of any of the following:
- 8           (1) Air pollution control laws.
- 9           (2) Water pollution control laws.
- 10          (3) Environmental management laws.
- 11          (4) IC 13-18-9.
- 12          (5) IC 13-18-10.
- 13          ~~(6) IC 13-19-2.~~
- 14          ~~(7)~~ **(6)** IC 13-19-3.
- 15          ~~(8)~~ **(7)** Any rule adopted by ~~one (1) of the boards;~~ **board.**
- 16          SECTION 81. IC 13-14-2-3 IS AMENDED TO READ AS
- 17 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. The department
- 18 may do the following:
- 19          (1) Represent the state in all matters pertaining to plans,
- 20          procedures, or negotiations for interstate compacts or other
- 21          governmental arrangements for environmental protection.
- 22          (2) Conduct, convoke, attend, or participate in official or
- 23          unofficial conferences or hearings within or outside Indiana
- 24          concerning any matter within the scope of the power and duties
- 25          of the ~~boards~~ **board** or the department.
- 26          SECTION 82. IC 13-14-2-6, AS AMENDED BY P.L.78-2009,
- 27 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 28 JANUARY 1, 2013]: Sec. 6. Except as provided in IC 13-14-6, the
- 29 commissioner may proceed in court, by appropriate action, to:
- 30          (1) enforce any final order of the commissioner or ~~of one (1) of~~
- 31          the ~~boards;~~ **board;**
- 32          (2) collect any penalties or fees;
- 33          (3) procure or secure compliance with this title or any other law
- 34          that the department has the duty or power to enforce;
- 35          (4) procure compliance with any standard or rule ~~of one (1) of the~~
- 36          ~~boards;~~ **board;**
- 37          (5) enforce a restrictive covenant (as defined in IC 13-11-2-193.5)
- 38          in accordance with the terms of the covenant if the covenant is:
- 39                  (A) executed before July 1, 2009;
- 40                  (B) approved by the commissioner; and
- 41                  (C) created in connection with any:
- 42                          (i) remediation;
- 43                          (ii) closure;
- 44                          (iii) cleanup;
- 45                          (iv) corrective action; or
- 46                          (v) determination exercising enforcement discretion or of no

- 1 further action being required;
- 2 approved by the department under this title; or
- 3 (6) enforce a restrictive covenant (as defined in IC 13-11-2-193.5)
- 4 in accordance with the terms of the covenant if the covenant is:
- 5 (A) executed after June 30, 2009; and
- 6 (B) created in connection with any of the following approved
- 7 by the department under this title:
- 8 (i) A remediation.
- 9 (ii) A closure.
- 10 (iii) A cleanup.
- 11 (iv) A corrective action.
- 12 (v) A determination exercising enforcement discretion or of
- 13 no further action being required.

14 SECTION 83. IC 13-14-4-3 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. (a) Each  
 16 person:

- 17 (1) discharging; or
- 18 (2) proposing to discharge or emit;
- 19 contaminants that could affect environmental quality shall furnish to
- 20 the department the reasonable technical or monitoring program reports
- 21 that the ~~boards specify~~ **board specifies** by rule.

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

24 SECTION 84. IC 13-14-5-5 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. The ~~boards~~  
 26 **board** shall adopt rules under IC 4-22-2 **and IC 13-14-9** to administer  
 27 this chapter and IC 13-30-7.

28 SECTION 85. IC 13-14-7-1 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The:

- 30 (1) governor may assign to ~~any of the boards~~ **board** the adoption
- 31 of rules in any area not provided for by law as of September 1,
- 32 1985; or
- 33 (2) board may directly exercise that power until a specific agency
- 34 for the exercise of the power is created.

35 SECTION 86. IC 13-14-8-1 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~boards~~  
 37 **board** may:

- 38 (1) adopt;
- 39 (2) repeal;
- 40 (3) rescind; or
- 41 (4) amend;
- 42 rules and standards by proceeding in the manner prescribed in
- 43 IC 4-22-2 and IC 13-14-9.

44 SECTION 87. IC 13-14-8-2 IS AMENDED TO READ AS  
 45 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. (a) The  
 46 department may propose to the ~~boards~~ **board** the:

- 1 (1) adoption;
- 2 (2) repeal;
- 3 (3) rescission; or
- 4 (4) amendment;
- 5 of any rule or standard.
- 6 (b) The rules proposed by the department must be adopted by the
- 7 ~~appropriate~~ board under IC 4-22-2 and IC 13-14-9 before the rules
- 8 become effective.
- 9 SECTION 88. IC 13-14-8-5 IS AMENDED TO READ AS
- 10 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) Any person
- 11 may present written proposals for the adoption, amendment, or repeal
- 12 of a rule by ~~one (1) of the boards:~~ **board**. A proposal presented under
- 13 this section must be:
- 14 (1) supported by a statement of reasons; and
- 15 (2) accompanied by a petition signed by at least two hundred
- 16 (200) persons.
- 17 (b) If the board ~~with rulemaking authority in the subject area to~~
- 18 ~~which the rule pertains~~ finds that the proposal:
- 19 (1) is not plainly devoid of merit; and
- 20 (2) does not deal with a subject on which a hearing was held
- 21 within the previous six (6) months of the submission of the
- 22 proposal;
- 23 the board shall give notice and hold a hearing on the proposal.
- 24 SECTION 89. IC 13-14-8-7 IS AMENDED TO READ AS
- 25 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. (a) Without
- 26 limiting the generality of the regulatory authority of the ~~boards~~ **board**
- 27 under this title, the ~~appropriate~~ board may adopt rules under IC 4-22-2
- 28 and IC 13-14-9 prescribing the following:
- 29 (1) Standards or requirements for discharge or emission
- 30 specifying the maximum permissible short term and long term
- 31 concentrations of various contaminants of the air, water, or land.
- 32 (2) Procedures for the administration of a system of permits for:
- 33 (A) the discharge of any contaminants;
- 34 (B) the construction, installation, or modification of any:
- 35 (i) facility;
- 36 (ii) equipment; or
- 37 (iii) device;
- 38 that may be designed to control or prevent pollution; or
- 39 (C) the operation of any:
- 40 (i) facility;
- 41 (ii) equipment; or
- 42 (iii) device;
- 43 to control or to prevent pollution.
- 44 (3) Standards and conditions for the use of any fuel or vehicle
- 45 determined to constitute an air pollution hazard.
- 46 (4) Standards for the filling or sealing of abandoned:

- 1 (A) water wells;
- 2 (B) water holes; and
- 3 (C) drainage holes;
- 4 to protect ground water against contamination.
- 5 (5) Alert criteria and abatement standards for pollution episodes
- 6 or emergencies constituting an acute danger to health or to the
- 7 environment, including priority lists for terminating activities that
- 8 contribute to the hazard, whether or not the activities would meet
- 9 all discharge requirements of the board under normal conditions.
- 10 (6) Requirements and procedures for the inspection of any
- 11 equipment, facility, vehicle, vessel, or aircraft that may cause or
- 12 contribute to pollution.
- 13 (7) Requirements and standards for equipment and procedures
- 14 for:
- 15 (A) monitoring contaminant discharges at their sources;
- 16 (B) the collection of samples; and
- 17 (C) the collection, reporting, and retention, in accordance with
- 18 record retention schedules adopted under IC 5-15-5.1, of data
- 19 resulting from that monitoring.
- 20 (8) Standards or requirements to control:
- 21 (A) the discharge; or
- 22 (B) the pretreatment;
- 23 of contaminants introduced or discharged into publicly owned
- 24 treatment works.
- 25 (b) If the ~~solid waste management board or air pollution control~~
- 26 board is required to adopt new rules or amend existing rules to
- 27 implement an amendment to the federal Resource Conservation and
- 28 Recovery Act or an amendment to or addition of a National Emission
- 29 Standard for Hazardous Air Pollutants under the federal Clean Air Act,
- 30 the board shall adopt the new rules or amend the existing rules not
- 31 more than nine (9) months after the date the federal law becomes
- 32 effective. This subsection does not limit ~~a~~ **the** board's authority to
- 33 amend at any time the rules adopted under this subsection.
- 34 SECTION 90. IC 13-14-9-1, AS AMENDED BY P.L.204-2007,
- 35 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 36 JANUARY 1, 2013]: Sec. 1. (a) Except as provided in sections 8 and
- 37 14 of this chapter, this chapter applies to the following:
- 38 (1) ~~A~~ **The** board.
- 39 (2) The underground storage tank financial assurance board
- 40 established by IC 13-23-11-1.
- 41 (b) In addition to the requirements of IC 4-22-2 and IC 13-14-8, a
- 42 board may not adopt a rule except in accordance with this chapter.
- 43 SECTION 91. IC 13-14-9-14, AS AMENDED BY P.L.159-2011,
- 44 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 45 JANUARY 1, 2013]: Sec. 14. (a) Except as provided in subsection (g),
- 46 sections 1 through 13 of this chapter do not apply to a rule adopted

- 1 under this section.
- 2 (b) The ~~water pollution control~~ board may use the procedures in this
- 3 section to adopt a rule to establish new water quality standards for a
- 4 community served by a combined sewer that has:
  - 5 (1) an approved long term control plan; and
  - 6 (2) an approved use attainability analysis that supports the use of
  - 7 a CSO wet weather limited use subcategory established under
  - 8 IC 13-18-3-2.5.
- 9 (c) After the department approves the long term control plan and use
- 10 attainability analysis, the department shall publish in the Indiana
- 11 Register a notice of adoption of a proposed rule to establish a CSO wet
- 12 weather limited use subcategory for the area defined by the approved
- 13 use attainability analysis.
- 14 (d) The notice under subsection (c) must include the following:
  - 15 (1) Suggested rule language that amends the designated use to
  - 16 allow for a CSO wet weather limited use subcategory in
  - 17 accordance with IC 13-18-3-2.5.
  - 18 (2) A written comment period of at least thirty (30) days.
  - 19 (3) A notice of public hearing before the ~~water pollution control~~
  - 20 board.
- 21 (e) The department shall include the following in the written
- 22 materials to be considered by the ~~water pollution control~~ board at the
- 23 public hearing referred to in subsection (d)(3):
  - 24 (1) The full text of the proposed rule as most recently prepared by
  - 25 the department.
  - 26 (2) Written responses of the department to written comments
  - 27 received during the comment period referred to in subsection
  - 28 (d)(2).
  - 29 (3) The letter prepared by the department approving the long term
  - 30 control plan and use attainability analysis.
- 31 (f) At the public hearing referred to in subsection (d)(3), the board
- 32 may:
  - 33 (1) adopt the proposed rule to establish a new water quality
  - 34 standard amending the designated use to allow for a CSO wet
  - 35 weather limited use subcategory;
  - 36 (2) adopt the proposed rule with amendments;
  - 37 (3) reject the proposed rule; or
  - 38 (4) determine to reconsider the proposed rule at a subsequent
  - 39 board meeting.
- 40 (g) If the board adopts the proposed rule with amendments under
- 41 subsection (f)(2), the amendments must meet the logical outgrowth
- 42 requirements of section 10 of this chapter, except that the board, in
- 43 determining whether the amendments are a logical outgrowth of
- 44 comments provided to the board, and in considering whether the
- 45 language of comments provided to the board fairly apprised interested
- 46 persons of the specific subjects and issues contained in the

1 amendments, shall consider the comments provided to the board at the  
2 public hearing referred to in subsection (d)(3).

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

6 SECTION 92. IC 13-14-11-4 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. The department  
8 shall, subject to the approval of ~~all three (3) of the boards;~~ **board**,  
9 develop written procedures for the separate storage and security of files  
10 containing records excepted from disclosure requirements under  
11 IC 5-14-3-4.

12 SECTION 93. IC 13-14-11-5 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. The ~~boards~~  
14 **board** shall adopt rules requiring the execution of a confidentiality  
15 agreement with persons employed, contracted, or subcontracted by the  
16 department that is enforceable by:

- 17 (1) the state; and
- 18 (2) the submitter of the information.

19 SECTION 94. IC 13-14-12-2 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. The money on  
21 deposit in the environmental management special fund shall be used  
22 exclusively for the purposes of the department and the ~~boards;~~ **board**.  
23 The revenues accruing to the fund are appropriated to the department  
24 for purposes of this title. However, expenditures for projects authorized  
25 by the department or ~~a~~ **the** board must be approved by the governor and  
26 the budget agency.

27 SECTION 95. IC 13-14-12-4 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. (a) The auditor  
29 of state shall issue a report on the fund not later than ten (10) working  
30 days following the last day of each four (4) month period.

31 (b) The report must:

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

38 (c) The auditor of state shall forward copies of the report to the  
39 following:

- 40 (1) The commissioner.
- 41 (2) The standing committees of the house of representatives and  
42 the senate concerned with the environment.
- 43 (3) The ~~air pollution control~~ board.
- 44 ~~(4) The water pollution control board.~~
- 45 ~~(5) The solid waste management board.~~

46 SECTION 96. IC 13-15-1-1 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~air~~  
2 ~~pollution control~~ board shall establish requirements for the issuance of  
3 permits to control air pollution, noise, and atomic radiation, including  
4 the following:

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

13 SECTION 97. IC 13-15-1-2 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. The ~~water~~  
15 ~~pollution control~~ board shall establish requirements for the issuance of  
16 permits to control water pollution and atomic radiation, including the  
17 following:

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

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

32 SECTION 98. IC 13-15-1-3 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. The ~~solid waste~~  
34 ~~management~~ board shall establish requirements for the issuance of  
35 permits to control solid waste, hazardous waste, and atomic radiation,  
36 including the following:

- 37 (1) Permits to control or limit the disposal of any contaminants  
38 onto or into the land.
- 39 (2) Permits for the construction, installation, or modification of  
40 facilities, equipment, or devices:
  - 41 (A) to control or limit any discharge, emission, or disposal of  
42 contaminants into the land; or
  - 43 (B) for the storage, treatment, processing, transferring, or  
44 disposal of solid waste or hazardous waste.
- 45 (3) Permits for the operation of facilities, equipment, or devices:
  - 46 (A) to control or limit the discharge, emission, transfer, or

1 disposal of any contaminants into the land; or  
 2 (B) for the storage, transportation, treatment, processing,  
 3 transferring, or disposal of solid waste or hazardous waste.  
 4 SECTION 99. IC 13-15-2-1 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) ~~Each~~ **The**  
 6 board shall adopt rules under IC 4-22-2 **and IC 13-14-9** to establish  
 7 requirements and procedures for the issuance of permits.  
 8 (b) In rules for the issuance of permits, ~~each~~ **the** board may do the  
 9 following:  
 10 (1) Prescribe standards for the discharge, emission, or disposal of  
 11 contaminants and the operation of any facility, equipment, or  
 12 device.  
 13 (2) Impose the conditions that are considered necessary to  
 14 accomplish the purposes of this title.  
 15 SECTION 100. IC 13-15-2-2 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. (a) ~~The boards~~  
 17 **board** may adopt rules under IC 4-22-2 and IC 13-14-9 to allow the  
 18 department to issue permits that do the following:  
 19 (1) Provide incentives to owners and operators of facilities to  
 20 assess the pollution emitted by the facilities into all environmental  
 21 media.  
 22 (2) Provide incentives to owners and operators of facilities to  
 23 implement the most innovative and effective pollution control or  
 24 pollution prevention strategies while maintaining enforceable  
 25 performance goals.  
 26 (3) Provide incentives to owners and operators of facilities to  
 27 reduce pollution levels at the facilities below the levels required  
 28 by law.  
 29 (4) Consolidate environmental requirements into one (1) permit  
 30 that would otherwise be included in more than one (1) permit.  
 31 (5) Reduce the time and money spent by owners and operators of  
 32 facilities and the department on administrative tasks that do not  
 33 benefit the environment.  
 34 (6) Provide owners and operators of facilities with as much  
 35 operational flexibility as can reasonably be provided while being  
 36 consistent with enforcement of permit requirements.  
 37 (b) The rules adopted under this section may provide for permits  
 38 that contain the following:  
 39 (1) Authorization of emission trading.  
 40 (2) Consolidated reporting mechanisms.  
 41 (3) Third party certifications.  
 42 (4) Multimedia regulation.  
 43 (5) Other conditions consistent with subsection (a).  
 44 (c) The rules adopted under this section must provide that a permit  
 45 issued under the rules adopted under this section meets the following  
 46 criteria:

- 1 (1) Activities conducted under the permit must result in greater
- 2 overall environmental protection than would otherwise be
- 3 achieved under applicable law.
- 4 (2) Upon issuance of a permit, all limits, conditions, and
- 5 standards contained in the permit are enforceable under
- 6 IC 13-30-3.
- 7 (3) The permit applicant must give notice in accordance with
- 8 IC 13-15-8, and the commissioner shall give notice to the public
- 9 and provide an opportunity to comment on the proposed permit in
- 10 accordance with IC 13-15-5.

11 (d) The rules adopted under this section must allow the department  
 12 to give priority to applications involving permits that are issued as  
 13 described in this section based on:

- 14 (1) the degree of environmental benefit that may be obtained
- 15 under the permit;
- 16 (2) the potential application of any innovative control
- 17 technologies or regulatory procedures that may be made available
- 18 to other permit applicants and permit holders; and
- 19 (3) other criteria that the ~~boards~~ **board** may establish.

20 (e) The rules adopted under this section must be consistent with  
 21 federal law for federally authorized or delegated permit programs.

22 SECTION 101. IC 13-15-3-5, AS AMENDED BY P.L.78-2009,  
 23 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JANUARY 1, 2013]: Sec. 5. (a) Whenever a permit is required by any  
 25 rule of ~~one (1) of the boards~~ **board** under IC 13-15-1 for the  
 26 construction, installation, operation, or modification of any facility,  
 27 equipment, or device, the permit may be issued only after the  
 28 department staff has:

- 29 (1) approved the plans and specifications; and
- 30 (2) determined that the facility, equipment, or device meets the
- 31 requirement of the rule.

32 (b) Notwithstanding subsection (a) and subject to subsection (c), a  
 33 person to whom a permit has been issued may not start the  
 34 construction, installation, operation, or modification of a facility,  
 35 equipment, or a device until the person has obtained any approval  
 36 required by any:

- 37 (1) county;
- 38 (2) city; or
- 39 (3) town;

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

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

44 SECTION 102. IC 13-15-3-6 IS AMENDED TO READ AS  
 45 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. (a) When a  
 46 person holding a valid permit concerning an activity of a continuing

1 nature has made a timely and sufficient application for a renewal or a  
2 new permit in accordance with rules of ~~one (1) of the boards;~~ **board**,  
3 the existing permit does not expire until a final determination on the  
4 application has been made by the department. However, the  
5 commissioner may seek injunctive relief with regard to the continuing  
6 activity of the permit applicant while the permit application is pending  
7 if the continuing activity of the permit applicant constitutes a threat to  
8 the public health, safety, or welfare.

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

13 SECTION 103. IC 13-15-4-6 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. (a)  
15 Notwithstanding the periods specified in sections 1 through 4 of this  
16 chapter and this section, a person proposing to construct, modify, or  
17 operate any equipment, facility, or pollution control device that is  
18 demonstrated to achieve pollution control or pollution prevention in  
19 excess of applicable federal, state, or local requirements may apply to  
20 the commissioner for an interim permit to construct, modify, or operate  
21 the equipment, facility, or pollution control device.

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

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

31 ~~(d)~~ (c) This section does not relieve a person from complying with:  
32 (1) the permit requirements provided under this title; and  
33 (2) rules adopted under this title;  
34 to the extent that this title and the rules are not inconsistent with this  
35 section.

36 SECTION 104. IC 13-15-7-4 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. (a) This section  
38 applies to a facility that:

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

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

- 1 (1) The changes are not modifications under any provision of  
 2 Title I of the federal Clean Air Act (42 U.S.C. 7401 et seq.), as  
 3 amended by the federal Clean Air Act Amendments of 1990  
 4 (P.L.101-549).  
 5 (2) The changes do not exceed emissions:  
 6 (A) expressed as a rate of emissions; or  
 7 (B) expressed as total emissions;  
 8 allowable under the permit.  
 9 (3) The facility provides the commissioner with written  
 10 notification at least seven (7) days before the proposed changes  
 11 are made. However, the ~~air pollution control~~ board may adopt  
 12 rules that provide a different period for notifications that involve  
 13 emergency situations.

14 SECTION 105. IC 13-15-9-2 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. (a) ~~Each~~ **The**  
 16 board may adopt rules under IC 4-22-2 ~~and IC 13-14-9~~ establishing:

- 17 (1) conditions for the issuance of a permit under this chapter; and  
 18 (2) requirements for the operation of nuclear facilities.  
 19 (b) Rules adopted by the ~~air pollution control~~ board may relate to:  
 20 (1) air pollution from nuclear facilities; ~~Rules adopted by the~~  
 21 ~~water pollution control board may relate to~~  
 22 (2) water pollution from nuclear facilities; ~~or~~  
 23 (3) ~~Rules adopted by the solid waste management board may~~  
 24 ~~relate to~~ other environmental problems associated with nuclear  
 25 facilities.  
 26 (c) ~~The boards may not adopt rules that establish contradictory~~  
 27 ~~conditions and requirements.~~

28 SECTION 106. IC 13-15-9-3 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. A person  
 30 proposing to construct:

- 31 (1) a nuclear powered generating facility; or  
 32 (2) a nuclear fuel reprocessing plant;  
 33 shall file with the ~~technical secretary of each~~ board an environmental  
 34 feasibility report, on a form prescribed by the ~~boards,~~ **board**,  
 35 concurrently with the filing of the preliminary safety analysis required  
 36 to be filed with the United States Atomic Energy Commission.

37 SECTION 107. IC 13-15-9-4 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. (a) The  
 39 commissioner, on behalf of ~~each~~ **the** board, may conduct a public  
 40 hearing at a time and place to be determined by the department on the  
 41 environmental effects of the proposed operation.

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

44 SECTION 108. IC 13-15-9-5 IS AMENDED TO READ AS  
 45 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) ~~Each~~ **The**  
 46 board shall adopt rules and standards under section 2 of this chapter to

1 protect the citizens of Indiana from the hazards of radiation.  
 2 (b) Each permit required under this chapter according to rules  
 3 adopted by the ~~boards~~ **board** must specify the maximum allowable  
 4 level of radioactive discharge.  
 5 (c) Each permit issued must include a requirement for:  
 6 (1) appropriate procedures of monitoring any discharge; and  
 7 (2) a report of each discharge to the department.  
 8 SECTION 109. IC 13-15-10-1 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~solid waste~~  
 10 ~~management~~ board shall adopt rules to establish a department operated  
 11 training and certification program for the following:  
 12 (1) Operators of solid waste incinerators and waste to energy  
 13 facilities.  
 14 (2) Operators of land disposal sites.  
 15 (3) Operators of facilities described under IC 13-15-1-3 whose  
 16 operation could have an adverse impact on the environment if not  
 17 operated properly.  
 18 SECTION 110. IC 13-15-10-3 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. (a) The waste  
 20 facility operator trust fund is established. The ~~solid waste management~~  
 21 board shall deposit fees collected under this chapter in the fund.  
 22 (b) Money in the fund shall be used for paying the expenses of the  
 23 training and certification program described in this chapter.  
 24 SECTION 111. IC 13-15-10-4 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. The ~~solid waste~~  
 26 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**  
 27 to implement this chapter. The rules must include the following:  
 28 (1) Requirements for certification that consider any training that  
 29 is required by state rule or federal regulation.  
 30 (2) Mandatory testing and retraining.  
 31 (3) Recognition of training programs that the ~~solid waste~~  
 32 ~~management~~ board approves to serve as a training program that  
 33 this chapter requires. A recognized training program may be  
 34 offered by an employer or by any other provider.  
 35 (4) Recognition of an interim period for which existing facility  
 36 operators must obtain certification.  
 37 SECTION 112. IC 13-15-10-5 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) The ~~solid~~  
 39 ~~waste management~~ board shall establish by rule and cause to be  
 40 collected fees for the following:  
 41 (1) Examination of applicants for certification.  
 42 (2) Issuance, renewal, or transfer of a certificate.  
 43 (3) Restoration of an expired certificate when that action is  
 44 authorized by law.  
 45 (4) Issuance of certificates by reciprocity or endorsement for  
 46 out-of-state applicants.

1 (5) Issuance of board or committee reciprocity or endorsements  
2 for resident practitioners who apply to another state for a  
3 certificate.

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

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

14 SECTION 113. IC 13-15-10-6 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. (a) For the  
16 payment of fees under this chapter, the ~~solid waste management~~ board  
17 shall accept cash, a draft, a money order, a cashier's check, and a  
18 certified or other personal check.

19 (b) If:  
20 (1) the ~~solid waste management~~ board receives an uncertified  
21 personal check for the payment of a fee; and  
22 (2) the check does not clear the bank;  
23 the ~~solid waste management~~ board may void the license, registration,  
24 or certificate for which the check was received.

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

26 SECTION 114. IC 13-15-11-1 IS AMENDED TO READ AS  
27 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The  
28 environmental management permit operation fund is established for the  
29 purpose of providing money for permitting and directly associated  
30 activities of the following programs of the department and ~~boards:~~ **the**  
31 **board:**

- 32 (1) National Pollutant Discharge Elimination System program.
- 33 (2) Solid waste program.
- 34 (3) Hazardous waste program.
- 35 (4) Safe drinking water program.

36 SECTION 115. IC 13-16-1-1 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. This chapter  
38 applies to fees established under this title by ~~any of the following:~~ **the**  
39 **board.**

- 40 ~~(1) The air pollution control board.~~
- 41 ~~(2) The water pollution control board.~~
- 42 ~~(3) The solid waste management board.~~

43 SECTION 116. IC 13-16-1-3 IS AMENDED TO READ AS  
44 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. A fee  
45 established by ~~one (1) of the boards~~ **board** under this chapter for a type  
46 or class of permit may be based on the average of the costs specified in

1 section 2 of this chapter for all permits of that type or class.  
2 SECTION 117. IC 13-16-1-4 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. The ~~boards~~  
4 **board** shall periodically review the fees established under this chapter.  
5 ~~▲ The~~ board may change the amount of a fee if the board determines,  
6 based upon the factors set forth in section 2 of this chapter, that the  
7 amount of the fee is not appropriate.  
8 SECTION 118. IC 13-17-1-1 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. It is the intent  
10 and purpose of air pollution control laws to maintain the purity of the  
11 air resource of Indiana, which shall be consistent with protection of the  
12 public health and welfare and the public enjoyment of the air resource,  
13 physical property and other resources, flora and fauna, maximum  
14 employment, and full industrial development of Indiana. The ~~air~~  
15 ~~pollution control~~ board and the department shall safeguard the air  
16 resource through the prevention, abatement, and control of air pollution  
17 by all practical and economically feasible methods.  
18 SECTION 119. IC 13-17-2 IS REPEALED [EFFECTIVE  
19 JANUARY 1, 2013]. (Establishment of Air Pollution Control Board).  
20 SECTION 120. IC 13-17-3-6 IS REPEALED [EFFECTIVE  
21 JANUARY 1, 2013]. ~~Sec. 6: The board shall develop operating policies~~  
22 ~~governing the implementation of air pollution control laws by the~~  
23 ~~commissioner.~~  
24 SECTION 121. IC 13-17-3-11 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 11. The board  
26 may adopt rules under IC 4-22-2 **and IC 13-14-9** under discretionary  
27 authority granted to the state by:  
28 (1) the federal Clean Air Act (42 U.S.C. 7401 et seq.), as  
29 amended by the Clean Air Act Amendments of 1990  
30 (P.L.101-549); or  
31 (2) a regulation adopted under the federal Clean Air Act.  
32 SECTION 122. IC 13-17-5-1 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~air~~  
34 ~~pollution control~~ board may adopt rules for the control of emissions  
35 from vehicles. However, the board must, before adopting the rules,  
36 forward to each member of the general assembly a copy of the  
37 proposed rules. The rules may prescribe requirements for the  
38 following:  
39 (1) The installation and use of equipment designed to reduce or  
40 eliminate emissions.  
41 (2) The proper maintenance of that equipment and of vehicles.  
42 SECTION 123. IC 13-17-8-3 IS AMENDED TO READ AS  
43 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. The ~~air~~  
44 ~~pollution control~~ board shall adopt fees to be collected under the  
45 operating permit program. The annual aggregate amount of fees  
46 collected under the operating permit program from all sources subject

1 to the operating permit program must be sufficient to cover only the  
2 direct and indirect reasonable costs of the following permit program  
3 activities:

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

21 SECTION 124. IC 13-17-13-1 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~air~~  
23 ~~pollution control~~ board may adopt rules under IC 4-22-2 **and**  
24 **IC 13-14-9** to establish categories of sources or facilities that may be  
25 effectively restricted through specific requirements established by the  
26 rules to emit less than the amount of air pollutants for which a Title V  
27 air operating permit is required.

28 SECTION 125. IC 13-18-1 IS REPEALED [EFFECTIVE  
29 JANUARY 1, 2013]. (Establishment of Water Pollution Control  
30 Board).

31 SECTION 126. IC 13-18-3-1 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~water~~  
33 ~~pollution control~~ board shall adopt rules for the control and prevention  
34 of pollution in waters of Indiana with any substance:

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

43 SECTION 127. IC 13-18-3-3 IS REPEALED [EFFECTIVE  
44 JANUARY 1, 2013]. ~~Sec. 3: The board shall develop operating policies~~  
45 ~~governing the implementation of the water pollution control laws by~~  
46 ~~the department.~~

1 SECTION 128. IC 13-18-3-12 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 12. The ~~water~~  
 3 ~~pollution control~~ board shall adopt rules providing that whenever a  
 4 person submits plans to a unit concerning the design or construction of:

- 5 (1) a sanitary sewer or public water main, if:  
 6 (A) a professional engineer who is registered under IC 25-31  
 7 prepared the plans;  
 8 (B) the unit provided for review of the plans by a qualified  
 9 engineer and subsequently approved the plans; and  
 10 (C) all other requirements specified in rules adopted by the  
 11 water pollution control board are met; or  
 12 (2) a sanitary sewer extension for and within a subdivision, if:  
 13 (A) a qualified land surveyor who is registered under  
 14 IC 25-21.5 prepared the plans;  
 15 (B) the subdivision is being laid out or having been laid out by  
 16 the land surveyor subject to IC 25-21.5-7;  
 17 (C) the unit provided for review of the plans by a qualified  
 18 engineer and subsequently approved the plans; and  
 19 (D) all other requirements specified in rules adopted by the  
 20 ~~water pollution control~~ board are met;

21 the plans are not required to be submitted to any state agency for a  
 22 permit, permission, or review, unless required by federal law.

23 SECTION 129. IC 13-18-11-1.5 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1.5. The  
 25 ~~department~~ **board** shall adopt regulations to implement certification  
 26 programs for operators of water treatment plants or water distribution  
 27 systems. The certification program for the operators shall be classified  
 28 in accordance with the complexity, size, and source of the water for the  
 29 treatment system and the complexity and size for the distribution  
 30 system.

31 SECTION 130. IC 13-18-12-1, AS AMENDED BY P.L.159-2011,  
 32 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JANUARY 1, 2013]: Sec. 1. The ~~water pollution control~~ board and the  
 34 department shall regulate persons who provide septage management  
 35 services.

36 SECTION 131. IC 13-18-12-2.5, AS ADDED BY P.L.223-2011,  
 37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JANUARY 1, 2013]: Sec. 2.5. (a) The department and the ~~boards~~  
 39 **board** may allow a person to use industrial waste products in a land  
 40 application operation or as ingredients in a soil amendment or soil  
 41 substitute to be land applied if:

- 42 (1) the industrial waste products are not hazardous wastes;  
 43 (2) the industrial waste products:  
 44 (A) have a beneficial use (as defined in 327 IAC 6.1-2-6); or  
 45 (B) otherwise provide a benefit to the process of creating the  
 46 soil amendments or soil substitute or to the final soil

- 1            amendment, soil substitute, or material to be land applied,
- 2            such as bulking;
- 3            (3) the finished soil amendment, soil substitute, or material to be
- 4            land applied satisfies the applicable criteria in 327 IAC 6.1;
- 5            (4) the finished soil amendment, soil substitute, or material to be
- 6            land applied has a beneficial use;
- 7            (5) the requirements of subsection (b) are satisfied; and
- 8            (6) the person pays a permit fee in an amount determined by the
- 9            department that does not exceed the costs incurred by the
- 10           department to issue the permit.
- 11           (b) The department:
- 12               (1) may allow the use of industrial waste products:
- 13                     (A) in a land application operation; or
- 14                     (B) as ingredients in a soil amendment or soil substitute to be
- 15                     land applied;
- 16               on the same basis as other materials under the rules concerning
- 17               land application and marketing and distribution permits;
- 18               (2) may not:
- 19                     (A) discriminate against the use of industrial waste products
- 20                     on the basis that the industrial waste products lack biological
- 21                     carbon;
- 22                     (B) impose requirements beyond applicable criteria in 327
- 23                     IAC 6.1, unless additional requirements are necessary for the
- 24                     protection of human health and the environment;
- 25                     (C) require that the finished soil amendment, soil substitute, or
- 26                     material to be land applied must be of a particular economic
- 27                     value; or
- 28                     (D) for any pollutant that has a pollutant limit or concentration
- 29                     in 327 IAC 6.1, require that an industrial waste product or the
- 30                     finished soil amendment, soil substitute, or material to be land
- 31                     applied satisfies:
- 32                     (i) the department's risk integrated system of closures
- 33                     nonrule policy document; or
- 34                     (ii) any other standards other than criteria in 327 IAC 6.1;
- 35                     and
- 36               (3) for any pollutant present in the industrial waste products that
- 37               does not have a pollutant limit or concentration in 327 IAC 6.1,
- 38               shall consider the benefits of the finished soil amendment, soil
- 39               substitute, or material to be land applied as compared to the
- 40               measurable risks to human health and the environment based on
- 41               the anticipated use of the finished soil amendment, soil substitute,
- 42               or material to be land applied; and
- 43               (4) shall require an application for a permit for the land
- 44               application of industrial waste products to include
- 45               characterization of individual industrial waste products at the
- 46               point of waste generation before mixing the waste streams.

1 (c) The board may adopt rules for pollutant limits or concentrations  
2 for pollutants for which limits or concentrations do not exist in 327  
3 IAC 6.1 as of July 1, 2011.

4 SECTION 132. IC 13-19-2 IS REPEALED [EFFECTIVE  
5 JANUARY 1, 2013]. (Establishment of Solid Waste Management  
6 Board).

7 SECTION 133. IC 13-19-3-1 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~solid waste~~  
9 ~~management~~ board shall do the following:

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

16 (2) Develop operating policy concerning the activities of the  
17 department.

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

19 SECTION 134. IC 13-19-3-7 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The department  
21 and the ~~boards~~ **board** shall allow a person to use foundry sand that  
22 meets Type III criteria under 329 IAC 10-9 for the following activities  
23 in accordance with guidance without requiring the person to obtain any  
24 permits from the department:

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

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

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

32 (4) For use:

33 (A) in a land application operation; or

34 (B) as a soil amendment;

35 if the application or amendment does not include the operation of  
36 a landfill.

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

39 (A) Roads.

40 (B) Road shoulders.

41 (C) Parking lots.

42 (D) Floor slabs.

43 (E) Utility trenches.

44 (F) Bridge abutments.

45 (G) Tanks and vaults.

46 (H) Construction or architectural fill.

- 1 (I) Other similar uses.
- 2 (6) As a raw material constituent incorporated into another
- 3 product, including the following:
- 4 (A) Flowable fill.
- 5 (B) Concrete.
- 6 (C) Asphalt.
- 7 (D) Brick.
- 8 (E) Block.
- 9 (F) Portland cement.
- 10 (G) Glass.
- 11 (H) Roofing materials.
- 12 (I) Rock wool.
- 13 (J) Plastics.
- 14 (K) Fiberglass.
- 15 (L) Mineral wool.
- 16 (M) Lightweight aggregate.
- 17 (N) Paint.
- 18 (O) Plaster.
- 19 (P) Other similar products.

20 SECTION 135. IC 13-19-4-10 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 10. The board  
 22 may adopt rules under IC 4-22-2 **and IC 13-14-9** to administer this  
 23 chapter.

24 SECTION 136. IC 13-20-1-5 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. The ~~solid waste~~  
 26 **management** board shall adopt rules under IC 4-22-2 **and IC 13-14-9**  
 27 to implement this chapter.

28 SECTION 137. IC 13-20-2-7 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The ~~solid waste~~  
 30 **management** board may adopt rules under IC 4-22-2 **and IC 13-14-9**  
 31 to administer this chapter.

32 SECTION 138. IC 13-20-3-5 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. The board shall  
 34 adopt rules under IC 4-22-2 **and IC 13-14-9** to implement this chapter.

35 SECTION 139. IC 13-20-6-7 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. (a) The  
 37 department shall establish a uniform transfer station inspection  
 38 program to protect the health of the residents of Indiana and the  
 39 environment of Indiana:

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

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

- 4 (1) the department; or
  - 5 (2) a contractor hired by the department;
- 6 for conducting the inspection of the transfer station.

7 SECTION 140. IC 13-20-8-1 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~solid waste~~  
9 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**  
10 to regulate the construction and operation of incinerators under  
11 IC 13-14-8. The rules must incorporate by reference pertinent rules  
12 adopted by the ~~air pollution control~~ board **concerning air pollution**  
13 **control.**

14 SECTION 141. IC 13-20-8-5 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) The  
16 department, in accordance with IC 13-15, shall operate a permit  
17 program for all incinerators subject to regulation under the rules of the  
18 ~~air pollution control board and the solid waste management~~ board.

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

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

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

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

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

37 SECTION 142. IC 13-20-9-3 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. The ~~solid waste~~  
39 ~~management~~ board may adopt rules under IC 4-22-2 **and IC 13-14-9**  
40 to implement this chapter.

41 SECTION 143. IC 13-20-10-3 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. To register a  
43 composting facility for vegetative matter with the department, a person  
44 must submit an application to the department that contains the  
45 following:

- 46 (1) A:

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

10 SECTION 144. IC 13-20-10-10 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 10. The board  
 12 may adopt rules under IC 4-22-2 **and IC 13-14-9** to implement this  
 13 chapter.

14 SECTION 145. IC 13-20-13-9, AS AMENDED BY P.L.204-2007,  
 15 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JANUARY 1, 2013]: Sec. 9. (a) The department may use money in the  
 17 fund 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 146. IC 13-20-14-1 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: 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  
 43 IC 13-20-22 and IC 13-21-13.

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

1 (e) The rules adopted under subsection (d) may allow a landfill  
2 operator to meet the requirements of the rule by employing procedures  
3 designed to achieve the objectives of subsection (d) in lieu of a numeric  
4 standard.

5 SECTION 147. IC 13-20-14-6 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. The ~~solid waste~~  
7 ~~management~~ board shall adopt rules under IC 4-22-2 and ~~IC 13-14-8~~  
8 **IC 13-14-9** to implement this chapter.

9 SECTION 148. IC 13-20-14-9.5 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 9.5. (a) Except as  
11 provided in rules adopted under subsection (c), an operator of a transfer  
12 station shall remove whole waste tires present in solid waste that is  
13 being transferred from a vehicle or container to another vehicle or  
14 container at the transfer station.

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

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

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

24 SECTION 149. IC 13-20-15-1 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~solid waste~~  
26 ~~management board~~ **department** shall administer and implement this  
27 chapter to protect the public health, safety, and welfare from the toxic  
28 effects and environmental dangers of PCB. The board shall adopt the  
29 rules required by this chapter under IC 4-22-2 **and IC 13-14-9**.

30 SECTION 150. IC 13-22-2-2 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. The ~~solid waste~~  
32 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**  
33 to implement this chapter through IC 13-22-8, IC 13-22-11.5, and  
34 IC 13-22-13 through IC 13-22-14.

35 SECTION 151. IC 13-22-2-6 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. The board shall  
37 do the following:

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

42 SECTION 152. IC 13-22-2-7 IS AMENDED TO READ AS  
43 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The board shall  
44 adopt rules under IC 4-22-2 **and IC 13-14-9** setting standards for  
45 corrective action for all releases of hazardous waste or constituents  
46 from any solid waste management unit at a hazardous waste facility.

1 The standards must require that corrective action be taken beyond the  
 2 facility boundary where necessary to protect human health and the  
 3 environment, unless the owner or operator of the facility concerned  
 4 demonstrates to the satisfaction of the commissioner that, despite the  
 5 best efforts of the owner or operator, the owner or operator is unable to  
 6 obtain the necessary permission to undertake that action. The rules  
 7 adopted under this section apply to the following:

8 (1) All facilities operating under permits issued under IC 13-22-3  
 9 or IC 13-7-8.5 (before its repeal).

10 (2) All landfills, surface impoundments, and waste piles,  
 11 including any new units, replacements of existing units, and  
 12 lateral expansions of existing units, that receive hazardous waste  
 13 after July 26, 1982.

14 SECTION 153. IC 13-22-8-1 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) The ~~solid~~  
 16 ~~waste management~~ board shall adopt rules under IC 4-22-2 **and**  
 17 **IC 13-14-9** on standards of financial responsibility for the following:

18 (1) Closure.

19 (2) Postclosure monitoring at hazardous waste facilities.

20 (3) Any required corrective action at those facilities.

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

23 SECTION 154. IC 13-23-1-1 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) The  
 25 department shall establish and operate an underground storage tank  
 26 release detection, prevention, and correction program under this article  
 27 according to rules adopted by the ~~solid waste management~~ board.

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

30 (1) may be amended;

31 (2) must contain the specific duties of the department and the  
 32 contracting agency; and

33 (3) is available to the public for inspection.

34 SECTION 155. IC 13-25-4-7 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The ~~solid waste~~  
 36 ~~management~~ board shall adopt rules establishing criteria for  
 37 determining the commissioner's priorities in selecting hazardous  
 38 substance response sites. Until these rules have been adopted, the  
 39 commissioner shall give priority to those sites presenting a significant  
 40 threat to public health and environment.

41 SECTION 156. IC 13-27-8-3, AS ADDED BY P.L.100-2006,  
 42 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 43 JANUARY 1, 2013]: Sec. 3. (a) The following **boards** may adopt rules  
 44 to implement this chapter to the extent consistent with federal law:

45 (1) The ~~boards~~ **board**.

46 (2) The underground storage tank financial assurance board

- 1 established by IC 13-23-11-1.
- 2 (b) The rules adopted by ~~the entities~~ under subsection (a) may
- 3 establish the following:
- 4 (1) Eligibility requirements for participation in environmental
- 5 performance based programs.
- 6 (2) Compliance methods and schedules that:
- 7 (A) differ from compliance methods and schedules that apply
- 8 to nonparticipants in environmental performance based
- 9 programs under rules adopted by the boards;
- 10 (B) apply only to participants in environmental performance
- 11 based programs; and
- 12 (C) include any of the following:
- 13 (i) Changes to monitoring and reporting requirements and
- 14 schedules.
- 15 (ii) Streamlined submission requirements for permit
- 16 renewals.
- 17 (iii) Prioritized applications.
- 18 (iv) Authorization to make without prior governmental
- 19 approval certain operational changes that do not result in
- 20 additional environmental impact.
- 21 (3) Recognition incentives to encourage participation in
- 22 environmental performance based programs.
- 23 (4) Other incentives consistent with the policies of this title and
- 24 federal law to encourage participation in environmental
- 25 performance based programs.
- 26 (5) Requirements for participants in environmental performance
- 27 based programs to implement any of the following:
- 28 (A) Continuous improvement environmental systems.
- 29 (B) Pollution prevention and waste minimization programs
- 30 developed under IC 13-27-7.
- 31 SECTION 157. IC 13-28-1-3 IS AMENDED TO READ AS
- 32 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. ~~Each of the~~
- 33 ~~regulatory boards within the department~~ **The board** may adopt rules
- 34 under IC 4-22-2 **and IC 13-14-9** as required to implement the
- 35 compliance program described in this article.
- 36 SECTION 158. IC 13-29-1-13 IS AMENDED TO READ AS
- 37 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 13. The ~~solid~~
- 38 ~~waste management~~ board shall adopt under IC 4-22-2 **and IC 13-14-9**
- 39 the rules necessary to implement this chapter.
- 40 SECTION 159. IC 13-30-2-1 IS AMENDED TO READ AS
- 41 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. A person may
- 42 not do any of the following:
- 43 (1) Discharge, emit, cause, allow, or threaten to discharge, emit,
- 44 cause, or allow any contaminant or waste, including any noxious
- 45 odor, either alone or in combination with contaminants from other
- 46 sources, into:

- 1 (A) the environment; or
- 2 (B) any publicly owned treatment works;
- 3 in any form that causes or would cause pollution that violates or
- 4 would violate rules, standards, or discharge or emission
- 5 requirements adopted by the ~~appropriate~~ board under the
- 6 environmental management laws.
- 7 (2) Increase the quantity or strength of a discharge of
- 8 contaminants into the waters or construct or install a sewer or
- 9 sewage treatment facility or a new outlet for contaminants into the
- 10 waters of Indiana without prior approval of the department.
- 11 (3) Deposit any contaminants upon the land in a place and manner
- 12 that creates or would create a pollution hazard that violates or
- 13 would violate a rule adopted by ~~one (1) of the boards:~~ **board.**
- 14 (4) Deposit or cause or allow the deposit of any contaminants or
- 15 solid waste upon the land, except through the use of sanitary
- 16 landfills, incineration, composting, garbage grinding, or another
- 17 method acceptable to the ~~solid waste management~~ board.
- 18 (5) Dump or cause or allow the open dumping of garbage or of
- 19 any other solid waste in violation of rules adopted by the ~~solid~~
- 20 ~~waste management~~ board.
- 21 (6) Dispose of solid waste in, upon, or within the limits of or
- 22 adjacent to a public highway, state park, state nature preserve, or
- 23 recreation area or in or immediately adjacent to a lake or stream,
- 24 except:
- 25 (A) in proper containers provided for sanitary storage of the
- 26 solid waste; or
- 27 (B) as a part of a sanitary landfill operation or other land
- 28 disposal method approved by the department.
- 29 (7) Construct, install, operate, conduct, or modify, without prior
- 30 approval of the department, any equipment or facility of any type
- 31 that may:
- 32 (A) cause or contribute to pollution; or
- 33 (B) be designed to prevent pollution.
- 34 However, the commissioner or the ~~appropriate~~ board may approve
- 35 experimental uses of any equipment, facility, or pollution control
- 36 device that is considered necessary for the further development of
- 37 the state of the art of pollution control.
- 38 (8) Conduct any salvage operation or open dump by open burning
- 39 or burn, cause, or allow the burning of any solid waste in a
- 40 manner that violates either:
- 41 (A) the air pollution control laws; or
- 42 (B) the rules adopted by the ~~air pollution control~~ board.
- 43 (9) Commence construction of a proposed hazardous waste
- 44 facility without having first:
- 45 (A) filed an application for; and
- 46 (B) received;

- 1 a permit from the department.
- 2 (10) Commence or engage in the operation of a hazardous waste
- 3 facility without having first obtained a permit from the
- 4 department.
- 5 (11) Deliver any hazardous waste to a hazardous waste facility
- 6 that:
- 7 (A) is not approved; or
- 8 (B) does not hold a permit from the department.
- 9 (12) Cause or allow the transportation of a hazardous waste
- 10 without a manifest if a manifest is required by law.
- 11 (13) Violate any:
- 12 (A) condition;
- 13 (B) limitation; or
- 14 (C) stipulation;
- 15 placed upon a certificate of environmental compatibility by the
- 16 hazardous waste facility site approval authority or any other
- 17 provision of IC 13-22-10.
- 18 (14) Apply or allow the application of used oil to any ground
- 19 surface, except for purposes of treatment in accordance with a
- 20 permit issued by the department under any of the following:
- 21 (A) IC 13-15, except IC 13-15-9.
- 22 (B) IC 13-17-11.
- 23 (C) IC 13-18-18.
- 24 (D) IC 13-20-1.
- 25 (15) Commence construction of a solid waste incinerator without
- 26 first obtaining a permit from the department under IC 13-20-8.
- 27 (16) Commence operation of a solid waste incinerator without
- 28 first obtaining the approval of the department under IC 13-20-8.
- 29 SECTION 160. IC 13-30-3-11 IS AMENDED TO READ AS
- 30 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 11. An order of
- 31 the commissioner under this chapter may do any of the following:
- 32 (1) Include a direction to cease and desist from violations of the
- 33 following:
- 34 (A) Environmental management laws.
- 35 (B) Air pollution control laws.
- 36 (C) Water pollution control laws.
- 37 (D) A rule adopted by ~~one (†) of the boards:~~ **board.**
- 38 **(E) A rule adopted by the underground storage tank**
- 39 **financial assurance board created by IC 13-23-11-1.**
- 40 (2) Impose monetary penalties in accordance with the following:
- 41 (A) Environmental management laws.
- 42 (B) Air pollution control laws.
- 43 (C) Water pollution control laws.
- 44 (3) Mandate corrective action, including corrective action to be
- 45 taken beyond the boundaries of the area owned or controlled by
- 46 the person to whom the order is directed, to alleviate the violation.

1 (4) Revoke a permit or condition or modify the terms of a permit.  
2 SECTION 161. IC 13-30-4-1 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) Subject to  
4 IC 13-14-6 and except as provided in IC 13-23-14-2 and  
5 IC 13-23-14-3, a person who violates:

- 6 (1) any provision of:  
7 (A) environmental management laws;  
8 (B) air pollution control laws;  
9 (C) water pollution control laws;  
10 (D) IC 13-18-14-1; ~~or~~  
11 (E) a rule or standard adopted by ~~one (1) of the boards;~~ **board;**  
12 or  
13 **(F) a rule or standard adopted by the underground storage**  
14 **tank financial assurance board created by IC 13-23-11-1;**  
15 **or**

- 16 (2) any determination, permit, or order made or issued by the  
17 commissioner under:  
18 (A) environmental management laws or IC 13-7 (before its  
19 repeal);  
20 (B) air pollution control laws or IC 13-1-1 (before its repeal);  
21 or  
22 (C) water pollution control laws or IC 13-1-3 (before its  
23 repeal);

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

- 26 (b) The department may:  
27 (1) recover the civil penalty described in subsection (a) in a civil  
28 action commenced in any court with jurisdiction; and  
29 (2) request in the action that the person be enjoined from  
30 continuing the violation.

31 SECTION 162. IC 13-30-7-7 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The ~~boards~~  
33 **following** shall adopt rules under IC 4-22-2 **and IC 13-14-9** to  
34 administer this chapter:

- 35 **(1) The board.**  
36 **(2) The underground storage tank financial assurance board**  
37 **created by IC 13-23-11-1."**

38 Page 46, between lines 3 and 4, begin a new paragraph and insert:  
39 "SECTION 163. IC 16-18-2-372 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 372. "Water  
41 board", for purposes of IC 16-41, refers to the ~~water pollution control~~  
42 ~~board established by IC 13-18-1-1.~~ **IC 13-13-8-3.**

43 SECTION 164. IC 16-20-5-1 IS AMENDED TO READ AS  
44 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) If a multiple  
45 county sewer, water, wastewater, or similar district has been  
46 established under IC 13-26 or IC 13-3-2 (before its repeal), the affected

1 counties may by concurrent resolution of each county executive  
2 establish an area board of health for the sole purposes of administering  
3 and enforcing, consistent with environmental management laws (as  
4 defined in IC 13-11-2-71), all state and local environmental statutes,  
5 rules, and ordinances relative to the maintenance of a high quality  
6 environmental level in the district.

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

12 Renumber all SECTIONS consecutively.  
(Reference is to EHB 1002 as printed February 17, 2012.)

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Senator GARD