



Reprinted
January 20, 2012

SENATE BILL No. 130

DIGEST OF SB 130 (Updated January 19, 2012 3:14 pm - DI 118)

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

Synopsis: Environmental board consolidation. Repeals certain statutes creating the following boards: (1) Air pollution control. (2) Water pollution control. (3) Solid waste management board (collectively, the repealed boards). Defines "board" to exclude the repealed boards. Establishes the environmental rules board (consolidated board). Requires that a member of the consolidated board representing a certain constituency possess knowledge, experience, or education that qualifies the individual to represent the constituency being represented. Requires the consolidated board to appoint a technical secretary. Allows the consolidated board to appoint: (1) legal counsel; and (2) members of advisory committees. Provides that a member of an advisory committee is not entitled to a salary, per diem, or reimbursement of expenses. Requires the consolidated board to use rulemaking procedures to adopt rules. Transfers to the consolidated board duties of the department of environmental management to adopt certain rules related to: (1) treatment plant or water distribution systems certification programs; and (2) the waste tire management fund. Transfers certain powers and duties of the repealed boards to the consolidated board.

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

Gard, Charbonneau, Tallian

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

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

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

SB 130—LS 6560/DI 118+



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Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

SENATE BILL No. 130

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

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

SB 130—LS 6560/DI 118+



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

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

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

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

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

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

27 (3) if applicable, a statement of:

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

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

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

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

SB 130—LS 6560/DI 118+



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

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

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

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

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

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

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

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

38 (2) electronically through electronic gateway access.

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

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1 by small businesses, to the director:
 2 (1) not later than ten (10) days after the date on which the rule is
 3 submitted to the publisher under section 35 of this chapter; and
 4 (2) before July 15 of each year during which the rule remains in
 5 effect.
 6 The coordinator and the director shall keep confidential any
 7 information concerning a small business to the extent that the
 8 information is exempt from public disclosure under IC 5-14-3-4.
 9 (k) Not later than November 1 of each year, the director shall:
 10 (1) compile the records received from all of the agency's
 11 coordinators under subsection (j);
 12 (2) prepare a report that sets forth:
 13 (A) the number of comments, complaints, and questions
 14 received by the agency from small businesses during the most
 15 recent state fiscal year, categorized by the subject matter of the
 16 rules involved;
 17 (B) the number of complaints or questions reported under
 18 clause (A) that were resolved to the satisfaction of the agency
 19 and the small businesses involved;
 20 (C) the total number of staff serving as coordinators under this
 21 section during the most recent state fiscal year;
 22 (D) the agency's costs in complying with this section during
 23 the most recent state fiscal year; and
 24 (E) the projected budget required by the agency to comply
 25 with this section during the current state fiscal year; and
 26 (3) deliver the report to the legislative council in an electronic
 27 format under IC 5-14-6 and to the small business ombudsman
 28 designated by IC 5-28-17-5.
 29 SECTION 3. IC 4-22-2-28.2, AS ADDED BY P.L.239-2005,
 30 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JANUARY 1, 2013]: Sec. 28.2. (a) This section applies to a violation
 32 described in subsection (c) that occurs after June 30, 2005. However,
 33 in the case of a violation of a rule adopted under IC 13-14-9 by the
 34 department of environmental management or ~~any of the boards board~~
 35 (as defined in ~~IC 13-11-2-18~~; **IC 13-13-8-1**), the procedures set forth
 36 in IC 13-30-4-3 and IC 13-30-7 apply instead of this section.
 37 (b) As used in this section, "small business" has the meaning set
 38 forth in section 28.1(d) of this chapter.
 39 (c) Except as provided in subsection (d), a small business that
 40 voluntarily provides notice to an agency of the small business's actual
 41 or potential violation of a rule adopted by the agency under this chapter
 42 is immune from civil or criminal liability resulting from an agency

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

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

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

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

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

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1 date stated by the Indiana finance authority in the rule.
 2 (m) A rule described in subsection (a)(5) or (a)(6) expires on the
 3 date the department is next required to issue a rule under the statute
 4 authorizing or requiring the rule.
 5 SECTION 5. IC 13-11-2-17, AS AMENDED BY P.L.159-2011,
 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JANUARY 1, 2013]: Sec. 17. (a) "Board", except as provided in
 8 subsections (b) through ~~(h)~~, **(d)**, refers to **the environmental rules**
 9 **board established by IC 13-13-8-3.**
 10 (1) the air pollution control board;
 11 (2) the water pollution control board; or
 12 (3) the solid waste management board.
 13 (b) "Board", for purposes of IC 13-17, refers to the air pollution
 14 control board.
 15 (c) "Board", for purposes of IC 13-18, refers to the water pollution
 16 control board.
 17 (d) "Board", for purposes of:
 18 (1) IC 13-19;
 19 (2) IC 13-20;
 20 (3) IC 13-22;
 21 (4) IC 13-23, except IC 13-23-11;
 22 (5) IC 13-24; and
 23 (6) IC 13-25;
 24 refers to the solid waste management board.
 25 (e) (b) "Board", for purposes of IC 13-21, refers to the board of
 26 directors of a solid waste management district.
 27 (f) (c) "Board", for purposes of IC 13-23-11, refers to the
 28 underground storage tank financial 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 6. 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 7. 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:

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

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

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

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

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

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

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

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

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

30 **Chapter 8. Environmental Rules Board**

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

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

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

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

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

41 **(b) All powers, duties, and liabilities are transferred from the**
 42 **entities abolished under subsection (a) to the environmental rules**

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1 board established by section 3 of this chapter effective January 1,
2 2013.

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

6 (d) Rules adopted by the entities abolished under subsection (a)
7 before January 1, 2013, shall be treated as though the rules were
8 adopted by the environmental rules board.

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

13 Sec. 3. The environmental rules board is established as an
14 independent board.

15 Sec. 4. (a) The board consists of the following fifteen (15)
16 members:

17 (1) The following ex officio members:

- 18 (A) The commissioner of the state department of health.
- 19 (B) The director of the department of natural resources.
- 20 (C) The lieutenant governor.
- 21 (D) The secretary of commerce or the secretary's designee.

22 (2) The following twelve (12) members, who shall be
23 appointed by the governor based on recommendations from
24 representative constituencies:

- 25 (A) One (1) representative of agriculture.
- 26 (B) One (1) representative of manufacturing.
- 27 (C) One (1) representative of environmental interests.
- 28 (D) One (1) representative of labor.
- 29 (E) One (1) representative of local government.
- 30 (F) One (1) representative of small business.
- 31 (G) One (1) health professional who holds a license to
32 practice in Indiana.
- 33 (H) One (1) representative of the solid waste management
34 industry.
- 35 (I) One (1) representative of a public utility that engages in
36 the production and transmission of electricity.
- 37 (J) Two (2) representatives of the general public, who
38 cannot qualify to sit on the board under any of the other
39 clauses in this subdivision.

40 (b) An individual appointed under subsection (a)(2) must
41 possess knowledge, experience, or education qualifying the
42 individual to represent the constituency the individual is being

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recommended to represent.

Sec. 5. An ex officio member of the board may designate in writing a technical representative to serve as a voting member of the board when the ex officio member is unable to attend a board meeting.

Sec. 6. Not more than six (6) of the appointed members of the board may be members of the same political party.

Sec. 7. (a) An appointed member of the board serves a term of four (4) years.

(b) The term of each member of the board continues until a successor is appointed and qualified.

(c) If a vacancy occurs in the appointed membership of the board, the governor shall appoint a member not later than ninety (90) days after the vacancy occurs for the remainder of the unexpired term created by the vacancy. The board shall suspend the exercise of the board's duties if the vacancy has not been filled not later than ninety (90) days after the vacancy occurs.

(d) The governor may remove an appointed member of the board for cause. Cause includes the repeated failure to attend meetings.

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

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

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

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

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

Sec. 9. Nine (9) members of the board, six (6) of whom must be appointed members of the board, constitute a quorum. A quorum must be present to transact business at a meeting of the board. Meetings of the board are subject to the public meeting requirements under IC 5-14-1.5.

Sec. 10. The governor shall annually select:

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

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

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1 vacancies, and compensation of appointed board members apply
2 to the legal counsel. The legal counsel is not a voting member of the
3 board.

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

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

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

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

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

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

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

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

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

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

41 SECTION 15. IC 13-14-1-12 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 12. The

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1 commissioner shall enforce rules consistent with the purposes of:

- 2 (1) air pollution control laws;
- 3 (2) water pollution control laws;
- 4 (3) IC 13-18-9;
- 5 (4) IC 13-18-10;
- 6 ~~(5) IC 13-19-2;~~
- 7 ~~(6) (5) IC 13-19-3;~~ and
- 8 ~~(7) (6) IC 36-9-30.~~

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

- 14 (1) Air pollution control laws.
- 15 (2) Water pollution control laws.
- 16 (3) Environmental management laws.
- 17 (4) IC 13-18-9.
- 18 (5) IC 13-18-10.
- 19 ~~(6) IC 13-19-2;~~
- 20 ~~(7) (6) IC 13-19-3.~~

21 ~~(8) (7) Any rule adopted by one (1) of the boards;~~ **board.**

22 SECTION 17. IC 13-14-2-3 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. The department
 24 may do the following:

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

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

- 36 (1) enforce any final order of the commissioner or ~~of one (1) of~~
 37 ~~the boards;~~ **board;**
- 38 (2) collect any penalties or fees;
- 39 (3) procure or secure compliance with this title or any other law
 40 that the department has the duty or power to enforce;
- 41 (4) procure compliance with any standard or rule ~~of one (1) of the~~
 42 ~~boards;~~ **board;**

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

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

- 27 (1) discharging; or
- 28 (2) proposing to discharge or emit;
- 29 contaminants that could affect environmental quality shall furnish to
- 30 the department the reasonable technical or monitoring program reports
- 31 that the ~~boards specify~~ **board specifies** by rule.

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

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

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

- 40 (1) governor may assign to ~~any of the boards~~ **board** the adoption
- 41 of rules in any area not provided for by law as of September 1,
- 42 1985; or

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

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

- 6 (1) adopt;
- 7 (2) repeal;
- 8 (3) rescind; or
- 9 (4) amend;

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

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

- 15 (1) adoption;
- 16 (2) repeal;
- 17 (3) rescission; or
- 18 (4) amendment;

19 of any rule or standard.

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

23 SECTION 24. IC 13-14-8-5 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) Any person
25 may present written proposals for the adoption, amendment, or repeal
26 of a rule by ~~one (1)~~ of the ~~boards~~ **board**. A proposal presented under
27 this section must be:

- 28 (1) supported by a statement of reasons; and
- 29 (2) accompanied by a petition signed by at least two hundred
30 (200) persons.

31 (b) If the board ~~with rulemaking authority in the subject area to~~
32 ~~which the rule pertains~~ finds that the proposal:

- 33 (1) is not plainly devoid of merit; and
- 34 (2) does not deal with a subject on which a hearing was held
35 within the previous six (6) months of the submission of the
36 proposal;

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

38 SECTION 25. IC 13-14-8-7 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. (a) Without
40 limiting the generality of the regulatory authority of the ~~boards~~ **board**
41 under this title, the ~~appropriate~~ board may adopt rules under IC 4-22-2
42 and IC 13-14-9 prescribing the following:

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- 1 (1) Standards or requirements for discharge or emission
- 2 specifying the maximum permissible short term and long term
- 3 concentrations of various contaminants of the air, water, or land.
- 4 (2) Procedures for the administration of a system of permits for:
- 5 (A) the discharge of any contaminants;
- 6 (B) the construction, installation, or modification of any:
- 7 (i) facility;
- 8 (ii) equipment; or
- 9 (iii) device;
- 10 that may be designed to control or prevent pollution; or
- 11 (C) the operation of any:
- 12 (i) facility;
- 13 (ii) equipment; or
- 14 (iii) device;
- 15 to control or to prevent pollution.
- 16 (3) Standards and conditions for the use of any fuel or vehicle
- 17 determined to constitute an air pollution hazard.
- 18 (4) Standards for the filling or sealing of abandoned:
- 19 (A) water wells;
- 20 (B) water holes; and
- 21 (C) drainage holes;
- 22 to protect ground water against contamination.
- 23 (5) Alert criteria and abatement standards for pollution episodes
- 24 or emergencies constituting an acute danger to health or to the
- 25 environment, including priority lists for terminating activities that
- 26 contribute to the hazard, whether or not the activities would meet
- 27 all discharge requirements of the board under normal conditions.
- 28 (6) Requirements and procedures for the inspection of any
- 29 equipment, facility, vehicle, vessel, or aircraft that may cause or
- 30 contribute to pollution.
- 31 (7) Requirements and standards for equipment and procedures
- 32 for:
- 33 (A) monitoring contaminant discharges at their sources;
- 34 (B) the collection of samples; and
- 35 (C) the collection, reporting, and retention, in accordance with
- 36 record retention schedules adopted under IC 5-15-5.1, of data
- 37 resulting from that monitoring.
- 38 (8) Standards or requirements to control:
- 39 (A) the discharge; or
- 40 (B) the pretreatment;
- 41 of contaminants introduced or discharged into publicly owned
- 42 treatment works.

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1 (b) If the ~~solid waste management board or air pollution control~~
 2 board is required to adopt new rules or amend existing rules to
 3 implement an amendment to the federal Resource Conservation and
 4 Recovery Act or an amendment to or addition of a National Emission
 5 Standard for Hazardous Air Pollutants under the federal Clean Air Act,
 6 the board shall adopt the new rules or amend the existing rules not
 7 more than nine (9) months after the date the federal law becomes
 8 effective. This subsection does not limit ~~a~~ **the** board's authority to
 9 amend at any time the rules adopted under this subsection.

10 SECTION 26. IC 13-14-9-1, AS AMENDED BY P.L.204-2007,
 11 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JANUARY 1, 2013]: Sec. 1. (a) Except as provided in sections 8 and
 13 14 of this chapter, this chapter applies to the following:

14 (1) ~~A~~ **The** board.

15 (2) The underground storage tank financial assurance board
 16 established by IC 13-23-11-1.

17 (b) In addition to the requirements of IC 4-22-2 and IC 13-14-8, ~~a~~
 18 **the** board may not adopt a rule except in accordance with this chapter.

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

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

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

28 (2) an approved use attainability analysis that supports the use of
 29 a CSO wet weather limited use subcategory established under
 30 IC 13-18-3-2.5.

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

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

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

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

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



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

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

6 (2) Written responses of the department to written comments
7 received during the comment period referred to in subsection
8 (d)(2).

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

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

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

16 (2) adopt the proposed rule with amendments;

17 (3) reject the proposed rule; or

18 (4) determine to reconsider the proposed rule at a subsequent
19 board meeting.

20 (g) If the board adopts the proposed rule with amendments under
21 subsection (f)(2), the amendments must meet the logical outgrowth
22 requirements of section 10 of this chapter, except that the board, in
23 determining whether the amendments are a logical outgrowth of
24 comments provided to the board, and in considering whether the
25 language of comments provided to the board fairly apprised interested
26 persons of the specific subjects and issues contained in the
27 amendments, shall consider the comments provided to the board at the
28 public hearing referred to in subsection (d)(3).

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

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

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

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- 1 (1) the state; and
 2 (2) the submitter of the information.
- 3 SECTION 30. IC 13-14-12-2 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. The money on
 5 deposit in the environmental management special fund shall be used
 6 exclusively for the purposes of the department and the ~~boards~~ **board**.
 7 The revenues accruing to the fund are appropriated to the department
 8 for purposes of this title. However, expenditures for projects authorized
 9 by the department or ~~a the~~ board must be approved by the governor and
 10 the budget agency.
- 11 SECTION 31. IC 13-14-12-4 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. (a) The auditor
 13 of state shall issue a report on the fund not later than ten (10) working
 14 days following the last day of each four (4) month period.
- 15 (b) The report must:
 16 (1) include the beginning and ending balance, disbursements, and
 17 receipts, including accrued interest or other investment earnings
 18 of the fund;
 19 (2) comply with accounting standards under IC 4-13-2-7(a)(1);
 20 and
 21 (3) be available to the public.
- 22 (c) The auditor of state shall forward copies of the report to the
 23 following:
 24 (1) The commissioner.
 25 (2) The standing committees of the house of representatives and
 26 the senate concerned with the environment.
 27 (3) The ~~air pollution control~~ board.
 28 (~~4~~) ~~The water pollution control board~~.
 29 (~~5~~) ~~The solid waste management board~~.
- 30 SECTION 32. IC 13-15-1-1 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~air~~
 32 ~~pollution control~~ board shall establish requirements for the issuance of
 33 permits to control air pollution, noise, and atomic radiation, including
 34 the following:
 35 (1) Permits to control or limit the emission of any contaminants
 36 into the atmosphere.
 37 (2) Permits for the construction, installation, or modification of
 38 facilities, equipment, or devices to control or limit any discharge,
 39 emission, or disposal of contaminants into the air.
 40 (3) Permits for the operation of facilities, equipment, or devices
 41 to control or limit the discharge, emission, or disposal of any
 42 contaminants into the environment.

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

6 (1) Permits to control or limit the discharge of any contaminants
 7 into state waters or into a publicly owned treatment works.

8 (2) Permits for the construction, installation, or modification of
 9 facilities, equipment, or devices to control or limit any discharge,
 10 emission, or disposal of contaminants into the waters of Indiana
 11 or into a publicly owned treatment works.

12 (3) Permits for the operation of facilities, equipment, or devices
 13 to control or limit the discharge, emission, or disposal of any
 14 contaminants into the waters of Indiana or into a publicly owned
 15 treatment works.

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

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

25 (1) Permits to control or limit the disposal of any contaminants
 26 onto or into the land.

27 (2) Permits for the construction, installation, or modification of
 28 facilities, equipment, or devices:

29 (A) to control or limit any discharge, emission, or disposal of
 30 contaminants into the land; or

31 (B) for the storage, treatment, processing, transferring, or
 32 disposal of solid waste or hazardous waste.

33 (3) Permits for the operation of facilities, equipment, or devices:

34 (A) to control or limit the discharge, emission, transfer, or
 35 disposal of any contaminants into the land; or

36 (B) for the storage, transportation, treatment, processing,
 37 transferring, or disposal of solid waste or hazardous waste.

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

42 (b) In rules for the issuance of permits, ~~each~~ **the** board may do the

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1 following:

2 (1) Prescribe standards for the discharge, emission, or disposal of

3 contaminants and the operation of any facility, equipment, or

4 device.

5 (2) Impose the conditions that are considered necessary to

6 accomplish the purposes of this title.

7 SECTION 36. IC 13-15-2-2 IS AMENDED TO READ AS

8 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. (a) The ~~boards~~

9 **board** may adopt rules under IC 4-22-2 and IC 13-14-9 to allow the

10 department to issue permits that do the following:

11 (1) Provide incentives to owners and operators of facilities to

12 assess the pollution emitted by the facilities into all environmental

13 media.

14 (2) Provide incentives to owners and operators of facilities to

15 implement the most innovative and effective pollution control or

16 pollution prevention strategies while maintaining enforceable

17 performance goals.

18 (3) Provide incentives to owners and operators of facilities to

19 reduce pollution levels at the facilities below the levels required

20 by law.

21 (4) Consolidate environmental requirements into one (1) permit

22 that would otherwise be included in more than one (1) permit.

23 (5) Reduce the time and money spent by owners and operators of

24 facilities and the department on administrative tasks that do not

25 benefit the environment.

26 (6) Provide owners and operators of facilities with as much

27 operational flexibility as can reasonably be provided while being

28 consistent with enforcement of permit requirements.

29 (b) The rules adopted under this section may provide for permits

30 that contain the following:

31 (1) Authorization of emission trading.

32 (2) Consolidated reporting mechanisms.

33 (3) Third party certifications.

34 (4) Multimedia regulation.

35 (5) Other conditions consistent with subsection (a).

36 (c) The rules adopted under this section must provide that a permit

37 issued under the rules adopted under this section meets the following

38 criteria:

39 (1) Activities conducted under the permit must result in greater

40 overall environmental protection than would otherwise be

41 achieved under applicable law.

42 (2) Upon issuance of a permit, all limits, conditions, and

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1 standards contained in the permit are enforceable under
 2 IC 13-30-3.
 3 (3) The permit applicant must give notice in accordance with
 4 IC 13-15-8, and the commissioner shall give notice to the public
 5 and provide an opportunity to comment on the proposed permit in
 6 accordance with IC 13-15-5.
 7 (d) The rules adopted under this section must allow the department
 8 to give priority to applications involving permits that are issued as
 9 described in this section based on:
 10 (1) the degree of environmental benefit that may be obtained
 11 under the permit;
 12 (2) the potential application of any innovative control
 13 technologies or regulatory procedures that may be made available
 14 to other permit applicants and permit holders; and
 15 (3) other criteria that the ~~boards~~ **board** may establish.
 16 (e) The rules adopted under this section must be consistent with
 17 federal law for federally authorized or delegated permit programs.
 18 SECTION 37. IC 13-15-3-5, AS AMENDED BY P.L.78-2009,
 19 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JANUARY 1, 2013]: Sec. 5. (a) Whenever a permit is required by any
 21 rule of ~~one (1) of the boards~~ **board** under IC 13-15-1 for the
 22 construction, installation, operation, or modification of any facility,
 23 equipment, or device, the permit may be issued only after the
 24 department staff has:
 25 (1) approved the plans and specifications; and
 26 (2) determined that the facility, equipment, or device meets the
 27 requirement of the rule.
 28 (b) Notwithstanding subsection (a) and subject to subsection (c), a
 29 person to whom a permit has been issued may not start the
 30 construction, installation, operation, or modification of a facility,
 31 equipment, or a device until the person has obtained any approval
 32 required by any:
 33 (1) county;
 34 (2) city; or
 35 (3) town;
 36 in which the facility, equipment, or device is located.
 37 (c) Subsection (b) applies only to an approval required in an
 38 applicable ordinance, rule, or regulation in effect at the time the person
 39 submits the permit application to the issuing state agency.
 40 SECTION 38. IC 13-15-3-6 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. (a) When a
 42 person holding a valid permit concerning an activity of a continuing

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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 39. 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 (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 40. 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.

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

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

9 (2) The changes do not exceed emissions:

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

11 (B) expressed as total emissions;

12 allowable under the permit.

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

18 SECTION 41. IC 13-15-9-2 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. (a) ~~Each~~ **The**
 20 board may adopt rules under IC 4-22-2 **and IC 13-14-9** establishing:

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

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

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

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

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

27 (3) ~~Rules adopted by the solid waste management board may~~
 28 ~~relate to~~ other environmental problems associated with nuclear
 29 facilities.

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

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

35 (1) a nuclear powered generating facility; or

36 (2) a nuclear fuel reprocessing plant;

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

41 SECTION 43. IC 13-15-9-4 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. (a) The

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1 commissioner, on behalf of ~~each~~ **the** board, may conduct a public
 2 hearing at a time and place to be determined by the department on the
 3 environmental effects of the proposed operation.

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

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

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

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

14 (1) appropriate procedures of monitoring any discharge; and

15 (2) a report of each discharge to the department.

16 SECTION 45. IC 13-15-10-1 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~solid waste~~
 18 ~~management~~ board shall adopt rules to establish a department operated
 19 training and certification program for the following:

20 (1) Operators of solid waste incinerators and waste to energy
 21 facilities.

22 (2) Operators of land disposal sites.

23 (3) Operators of facilities described under IC 13-15-1-3 whose
 24 operation could have an adverse impact on the environment if not
 25 operated properly.

26 SECTION 46. IC 13-15-10-3 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. (a) The waste
 28 facility operator trust fund is established. The ~~solid waste management~~
 29 board shall deposit fees collected under this chapter in the fund.

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

32 SECTION 47. IC 13-15-10-4 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. The ~~solid waste~~
 34 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**
 35 to implement this chapter. The rules must include the following:

36 (1) Requirements for certification that consider any training that
 37 is required by state rule or federal regulation.

38 (2) Mandatory testing and retraining.

39 (3) Recognition of training programs that the ~~solid waste~~
 40 ~~management~~ board approves to serve as a training program that
 41 this chapter requires. A recognized training program may be
 42 offered by an employer or by any other provider.

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1 (4) Recognition of an interim period for which existing facility
 2 operators must obtain certification.
 3 SECTION 48. IC 13-15-10-5 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) The ~~solid~~
 5 ~~waste management~~ board shall establish by rule and cause to be
 6 collected fees for the following:
 7 (1) Examination of applicants for certification.
 8 (2) Issuance, renewal, or transfer of a certificate.
 9 (3) Restoration of an expired certificate when that action is
 10 authorized by law.
 11 (4) Issuance of certificates by reciprocity or endorsement for
 12 out-of-state applicants.
 13 (5) Issuance of board or committee reciprocity or endorsements
 14 for resident practitioners who apply to another state for a
 15 certificate.
 16 (b) A fee may not be less than fifty dollars (\$50) unless the fee is
 17 collected under a rule adopted by the ~~solid waste management~~ board
 18 that sets a fee for miscellaneous expenses incurred by the department
 19 on behalf of the operators the ~~solid waste management~~ board regulates.
 20 The fees may not be less than are required to pay all of the costs, both
 21 direct and indirect, of the operation of the department under this
 22 chapter.
 23 (c) A fee may not be charged to an operator employed by a solid
 24 waste facility that is wholly owned and operated by a unit of local
 25 government.
 26 SECTION 49. IC 13-15-10-6 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. (a) For the
 28 payment of fees under this chapter, the ~~solid waste management~~ board
 29 shall accept cash, a draft, a money order, a cashier's check, and a
 30 certified or other personal check.
 31 (b) If:
 32 (1) the ~~solid waste management~~ board receives an uncertified
 33 personal check for the payment of a fee; and
 34 (2) the check does not clear the bank;
 35 the ~~solid waste management~~ board may void the license, registration,
 36 or certificate for which the check was received.
 37 (c) Unless designated by rule, a fee is not refundable or transferable.
 38 SECTION 50. IC 13-15-11-1 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The
 40 environmental management permit operation fund is established for the
 41 purpose of providing money for permitting and directly associated
 42 activities of the following programs of the department and ~~boards: the~~

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1 **board:**
 2 (1) National Pollutant Discharge Elimination System program.
 3 (2) Solid waste program.
 4 (3) Hazardous waste program.
 5 (4) Safe drinking water program.
 6 SECTION 51. IC 13-16-1-1 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. This chapter
 8 applies to fees established under this title by ~~any of the following:~~ **the**
 9 **board.**
 10 ~~(1) The air pollution control board.~~
 11 ~~(2) The water pollution control board.~~
 12 ~~(3) The solid waste management board.~~
 13 SECTION 52. IC 13-16-1-3 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. A fee
 15 established by ~~one (1) of the boards~~ **board** under this chapter for a type
 16 or class of permit may be based on the average of the costs specified in
 17 section 2 of this chapter for all permits of that type or class.
 18 SECTION 53. IC 13-16-1-4 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 4. The ~~boards~~
 20 **board** shall periodically review the fees established under this chapter.
 21 ~~A~~ **The** board may change the amount of a fee if the board determines,
 22 based upon the factors set forth in section 2 of this chapter, that the
 23 amount of the fee is not appropriate.
 24 SECTION 54. IC 13-17-1-1 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. It is the intent
 26 and purpose of air pollution control laws to maintain the purity of the
 27 air resource of Indiana, which shall be consistent with protection of the
 28 public health and welfare and the public enjoyment of the air resource,
 29 physical property and other resources, flora and fauna, maximum
 30 employment, and full industrial development of Indiana. The ~~air~~
 31 ~~pollution control~~ board and the department shall safeguard the air
 32 resource through the prevention, abatement, and control of air pollution
 33 by all practical and economically feasible methods.
 34 SECTION 55. IC 13-17-2 IS REPEALED [EFFECTIVE JANUARY
 35 1, 2013]. (Establishment of Air Pollution Control Board).
 36 SECTION 56. IC 13-17-3-6 IS REPEALED [EFFECTIVE
 37 JANUARY 1, 2013]. ~~Sec. 6: The board shall develop operating policies~~
 38 ~~governing the implementation of air pollution control laws by the~~
 39 ~~commissioner.~~
 40 SECTION 57. IC 13-17-3-11 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 11. The board
 42 may adopt rules under IC 4-22-2 **and IC 13-14-9** under discretionary

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1 authority granted to the state by:
 2 (1) the federal Clean Air Act (42 U.S.C. 7401 et seq.), as
 3 amended by the Clean Air Act Amendments of 1990
 4 (P.L.101-549); or
 5 (2) a regulation adopted under the federal Clean Air Act.

6 SECTION 58. IC 13-17-5-1 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~air~~
 8 ~~pollution control~~ board may adopt rules for the control of emissions
 9 from vehicles. However, the board must, before adopting the rules,
 10 forward to each member of the general assembly a copy of the
 11 proposed rules. The rules may prescribe requirements for the
 12 following:

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

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

16 SECTION 59. IC 13-17-8-3 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. The ~~air~~
 18 ~~pollution control~~ board shall adopt fees to be collected under the
 19 operating permit program. The annual aggregate amount of fees
 20 collected under the operating permit program from all sources subject
 21 to the operating permit program must be sufficient to cover only the
 22 direct and indirect reasonable costs of the following permit program
 23 activities:

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

26 (2) Reviewing and acting on the following:

27 (A) An application for an operating permit.

28 (B) An operating permit revision.

29 (C) An operating permit renewal.

30 (3) The general administrative cost of running the operating
 31 permit program.

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

35 (5) Emissions and ambient monitoring.

36 (6) Modeling analyses and demonstrations.

37 (7) Preparing inventories and tracking emissions.

38 (8) Developing and administering a small business stationary
 39 source technical and environmental compliance assistance
 40 program.

41 SECTION 60. IC 13-17-13-1 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~air~~

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1 ~~pollution control~~ board may adopt rules under IC 4-22-2 and
2 **IC 13-14-9** to establish categories of sources or facilities that may be
3 effectively restricted through specific requirements established by the
4 rules to emit less than the amount of air pollutants for which a Title V
5 air operating permit is required.

6 SECTION 61. IC 13-18-1 IS REPEALED [EFFECTIVE JANUARY
7 1, 2013]. (Establishment of Water Pollution Control Board).

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

- 12 (1) that is deleterious to:
 - 13 (A) the public health; or
 - 14 (B) the prosecution of any industry or lawful occupation; or
- 15 (2) by which:
 - 16 (A) any fish life or any beneficial animal or vegetable life may
 - 17 be destroyed; or
 - 18 (B) the growth or propagation of fish life or beneficial animal
 - 19 or vegetable life is prevented or injuriously affected.

20 SECTION 63. IC 13-18-3-3 IS REPEALED [EFFECTIVE
21 JANUARY 1, 2013]. ~~Sec. 3: The board shall develop operating policies~~
22 ~~governing the implementation of the water pollution control laws by~~
23 ~~the department.~~

24 SECTION 64. IC 13-18-3-12 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 12. The ~~water~~
26 ~~pollution control~~ board shall adopt rules providing that whenever a
27 person submits plans to a unit concerning the design or construction of:

- 28 (1) a sanitary sewer or public water main, if:
 - 29 (A) a professional engineer who is registered under IC 25-31
 - 30 prepared the plans;
 - 31 (B) the unit provided for review of the plans by a qualified
 - 32 engineer and subsequently approved the plans; and
 - 33 (C) all other requirements specified in rules adopted by the
 - 34 water pollution control board are met; or
- 35 (2) a sanitary sewer extension for and within a subdivision, if:
 - 36 (A) a qualified land surveyor who is registered under
 - 37 IC 25-21.5 prepared the plans;
 - 38 (B) the subdivision is being laid out or having been laid out by
 - 39 the land surveyor subject to IC 25-21.5-7;
 - 40 (C) the unit provided for review of the plans by a qualified
 - 41 engineer and subsequently approved the plans; and
 - 42 (D) all other requirements specified in rules adopted by the

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1 ~~water pollution control~~ board are met;
 2 the plans are not required to be submitted to any state agency for a
 3 permit, permission, or review, unless required by federal law.

4 SECTION 65. IC 13-18-11-1.5 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1.5. The
 6 ~~department~~ **board** shall adopt regulations to implement certification
 7 programs for operators of water treatment plants or water distribution
 8 systems. The certification program for the operators shall be classified
 9 in accordance with the complexity, size, and source of the water for the
 10 treatment system and the complexity and size for the distribution
 11 system.

12 SECTION 66. IC 13-18-12-1, AS AMENDED BY P.L.159-2011,
 13 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JANUARY 1, 2013]: Sec. 1. The ~~water pollution control~~ board and the
 15 department shall regulate persons who provide septage management
 16 services.

17 SECTION 67. IC 13-18-12-2.5, AS ADDED BY P.L.223-2011,
 18 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JANUARY 1, 2013]: Sec. 2.5. (a) The department and the ~~boards~~
 20 **board** may allow a person to use industrial waste products in a land
 21 application operation or as ingredients in a soil amendment or soil
 22 substitute to be land applied if:

- 23 (1) the industrial waste products are not hazardous wastes;
 24 (2) the industrial waste products:
 25 (A) have a beneficial use (as defined in 327 IAC 6.1-2-6); or
 26 (B) otherwise provide a benefit to the process of creating the
 27 soil amendments or soil substitute or to the final soil
 28 amendment, soil substitute, or material to be land applied,
 29 such as bulking;
 30 (3) the finished soil amendment, soil substitute, or material to be
 31 land applied satisfies the applicable criteria in 327 IAC 6.1;
 32 (4) the finished soil amendment, soil substitute, or material to be
 33 land applied has a beneficial use;
 34 (5) the requirements of subsection (b) are satisfied; and
 35 (6) the person pays a permit fee in an amount determined by the
 36 department that does not exceed the costs incurred by the
 37 department to issue the permit.

38 (b) The department:

- 39 (1) may allow the use of industrial waste products:
 40 (A) in a land application operation; or
 41 (B) as ingredients in a soil amendment or soil substitute to be
 42 land applied;



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1 on the same basis as other materials under the rules concerning
2 land application and marketing and distribution permits;

3 (2) may not:

4 (A) discriminate against the use of industrial waste products
5 on the basis that the industrial waste products lack biological
6 carbon;

7 (B) impose requirements beyond applicable criteria in 327
8 IAC 6.1, unless additional requirements are necessary for the
9 protection of human health and the environment;

10 (C) require that the finished soil amendment, soil substitute, or
11 material to be land applied must be of a particular economic
12 value; or

13 (D) for any pollutant that has a pollutant limit or concentration
14 in 327 IAC 6.1, require that an industrial waste product or the
15 finished soil amendment, soil substitute, or material to be land
16 applied satisfies:

17 (i) the department's risk integrated system of closures
18 nonrule policy document; or

19 (ii) any other standards other than criteria in 327 IAC 6.1;

20 **and**

21 (3) for any pollutant present in the industrial waste products that
22 does not have a pollutant limit or concentration in 327 IAC 6.1,
23 shall consider the benefits of the finished soil amendment, soil
24 substitute, or material to be land applied as compared to the
25 measurable risks to human health and the environment based on
26 the anticipated use of the finished soil amendment, soil substitute,
27 or material to be land applied; and

28 (4) shall require an application for a permit for the land
29 application of industrial waste products to include
30 characterization of individual industrial waste products at the
31 point of waste generation before mixing the waste streams.

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

35 SECTION 68. IC 13-19-2 IS REPEALED [EFFECTIVE JANUARY
36 1, 2013]. (Establishment of Solid Waste Management Board).

37 SECTION 69. IC 13-19-3-1 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~solid waste~~
39 ~~management~~ board shall do the following:

40 (1) Except as provided in sections 3 through 4 of this chapter,
41 adopt rules under IC 4-22-2 **and IC 13-14-9** to regulate solid and
42 hazardous waste and atomic radiation in Indiana, including rules

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- 1 necessary to the implementation of the federal Resource
 2 Conservation and Recovery Act (42 U.S.C. 6901 et seq.), as
 3 amended.
 4 (2) Develop operating policy concerning the activities of the
 5 department.
 6 (3) Carry out other duties imposed by law.
- 7 SECTION 70. IC 13-19-3-7 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The department
 9 and the ~~boards~~ **board** shall allow a person to use foundry sand that
 10 meets Type III criteria under 329 IAC 10-9 for the following activities
 11 in accordance with guidance without requiring the person to obtain any
 12 permits from the department:
- 13 (1) As a daily cover for litter and vermin control at a landfill in
 14 accordance with any applicable permits issued for the landfill.
 15 (2) As a protective cover for a landfill leachate system in
 16 accordance with any applicable permits issued for the landfill.
 17 (3) For use as capped embankments for ground and sight barriers
 18 under ten thousand (10,000) cubic yards or embankments for
 19 airports, bridges, or overpasses.
 20 (4) For use:
 21 (A) in a land application operation; or
 22 (B) as a soil amendment;
 23 if the application or amendment does not include the operation of
 24 a landfill.
 25 (5) As a structural fill base capped by clay, asphalt, or concrete
 26 for the following:
 27 (A) Roads.
 28 (B) Road shoulders.
 29 (C) Parking lots.
 30 (D) Floor slabs.
 31 (E) Utility trenches.
 32 (F) Bridge abutments.
 33 (G) Tanks and vaults.
 34 (H) Construction or architectural fill.
 35 (I) Other similar uses.
 36 (6) As a raw material constituent incorporated into another
 37 product, including the following:
 38 (A) Flowable fill.
 39 (B) Concrete.
 40 (C) Asphalt.
 41 (D) Brick.
 42 (E) Block.

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

12 SECTION 71. IC 13-19-4-10 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 10. The board
 14 may adopt rules under IC 4-22-2 **and IC 13-14-9** to administer this
 15 chapter.

16 SECTION 72. IC 13-20-1-5 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. The ~~solid waste~~
 18 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**
 19 to implement this chapter.

20 SECTION 73. IC 13-20-2-7 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The ~~solid waste~~
 22 ~~management~~ board may adopt rules under IC 4-22-2 **and IC 13-14-9**
 23 to administer this chapter.

24 SECTION 74. IC 13-20-3-5 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. The board shall
 26 adopt rules under IC 4-22-2 **and IC 13-14-9** to implement this chapter.

27 SECTION 75. IC 13-20-6-7 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. (a) The
 29 department shall establish a uniform transfer station inspection
 30 program to protect the health of the residents of Indiana and the
 31 environment of Indiana:

32 (1) for transfer stations located:

- 33 (A) inside Indiana; and
- 34 (B) outside Indiana;

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

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

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

42 (1) the department; or

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1 (2) a contractor hired by the department;
 2 for conducting the inspection of the transfer station.
 3 SECTION 76. IC 13-20-8-1 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~solid waste~~
 5 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**
 6 to regulate the construction and operation of incinerators under
 7 IC 13-14-8. The rules must incorporate by reference pertinent rules
 8 adopted by the ~~air pollution control~~ board **concerning air pollution**
 9 **control.**
 10 SECTION 77. IC 13-20-8-5 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 5. (a) The
 12 department, in accordance with IC 13-15, shall operate a permit
 13 program for all incinerators subject to regulation under the rules of the
 14 ~~air pollution control board and the solid waste management~~ board.
 15 (b) The department shall issue permits for an incinerator that is in
 16 compliance with construction and operating rules adopted by the ~~solid~~
 17 ~~waste management board and the air pollution control~~ board.
 18 (c) The department shall grant operating authority under a permit
 19 issued by the department only after the owner of the incinerator has:
 20 (1) complied with all construction and pre-operational standards
 21 established by pertinent rules; and
 22 (2) submitted the results of a pre-operational emissions test that
 23 demonstrate that the incinerator's performance complies with all
 24 pertinent rules.
 25 (d) The pre-operational emissions test required by this section shall
 26 be conducted under the supervision of the department. In addition, the
 27 report of the results of the pre-operational emissions test must contain
 28 a certification that the test was performed in compliance with the
 29 following:
 30 (1) All pertinent rules.
 31 (2) The pre-operational emissions test plan submitted with the
 32 permit application.
 33 SECTION 78. IC 13-20-9-3 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. The ~~solid waste~~
 35 ~~management~~ board may adopt rules under IC 4-22-2 **and IC 13-14-9**
 36 to implement this chapter.
 37 SECTION 79. IC 13-20-10-3 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. To register a
 39 composting facility for vegetative matter with the department, a person
 40 must submit an application to the department that contains the
 41 following:
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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 80. 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 81. 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 82. 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

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1 IC 13-20-22 and IC 13-21-13.
 2 (d) The ~~solid waste management~~ board shall adopt rules that allow
 3 for the incidental disposal of small amounts of whole waste tires at
 4 solid waste landfills.
 5 (e) The rules adopted under subsection (d) may allow a landfill
 6 operator to meet the requirements of the rule by employing procedures
 7 designed to achieve the objectives of subsection (d) in lieu of a numeric
 8 standard.
 9 SECTION 83. IC 13-20-14-6 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. The ~~solid waste~~
 11 ~~management~~ board shall adopt rules under IC 4-22-2 and ~~IC 13-14-8~~
 12 **IC 13-14-9** to implement this chapter.
 13 SECTION 84. IC 13-20-14-9.5 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 9.5. (a) Except as
 15 provided in rules adopted under subsection (c), an operator of a transfer
 16 station shall remove whole waste tires present in solid waste that is
 17 being transferred from a vehicle or container to another vehicle or
 18 container at the transfer station.
 19 (b) Whole waste tires removed by an operator of a transfer station
 20 under subsection (a) shall be disposed of as provided in this chapter.
 21 (c) The ~~solid waste management~~ board shall adopt rules that allow
 22 for the incidental transfer of small amounts of whole waste tires under
 23 subsection (a).
 24 (d) The rules adopted under subsection (c) may allow a transfer
 25 station operator to meet the requirements of the rule by employing
 26 procedures designed to achieve the objectives of subsection (c) in lieu
 27 of a numeric standard.
 28 SECTION 85. IC 13-20-15-1 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. The ~~solid waste~~
 30 ~~management board~~ **department** shall administer and implement this
 31 chapter to protect the public health, safety, and welfare from the toxic
 32 effects and environmental dangers of PCB. The board shall adopt the
 33 rules required by this chapter under IC 4-22-2 **and IC 13-14-9**.
 34 SECTION 86. IC 13-22-2-2 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. The ~~solid waste~~
 36 ~~management~~ board shall adopt rules under IC 4-22-2 **and IC 13-14-9**
 37 to implement this chapter through IC 13-22-8, IC 13-22-11.5, and
 38 IC 13-22-13 through IC 13-22-14.
 39 SECTION 87. IC 13-22-2-6 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 6. The board shall
 41 do the following:
 42 (1) Adopt rules under IC 4-22-2 **and IC 13-14-9** setting standards

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1 for closure and postclosure monitoring and maintenance plans.

2 (2) Include in the rules a requirement for prior notice of closure
3 and a time limit for completion of closure.

4 SECTION 88. IC 13-22-2-7 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The board shall
6 adopt rules under IC 4-22-2 **and IC 13-14-9** setting standards for
7 corrective action for all releases of hazardous waste or constituents
8 from any solid waste management unit at a hazardous waste facility.
9 The standards must require that corrective action be taken beyond the
10 facility boundary where necessary to protect human health and the
11 environment, unless the owner or operator of the facility concerned
12 demonstrates to the satisfaction of the commissioner that, despite the
13 best efforts of the owner or operator, the owner or operator is unable to
14 obtain the necessary permission to undertake that action. The rules
15 adopted under this section apply to the following:

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

18 (2) All landfills, surface impoundments, and waste piles,
19 including any new units, replacements of existing units, and
20 lateral expansions of existing units, that receive hazardous waste
21 after July 26, 1982.

22 SECTION 89. IC 13-22-8-1 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) The ~~solid~~
24 ~~waste management~~ board shall adopt rules under IC 4-22-2 **and**
25 **IC 13-14-9** on standards of financial responsibility for the following:

26 (1) Closure.

27 (2) Postclosure monitoring at hazardous waste facilities.

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

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

31 SECTION 90. IC 13-23-1-1 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) The
33 department shall establish and operate an underground storage tank
34 release detection, prevention, and correction program under this article
35 according to rules adopted by the ~~solid waste management~~ board.

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

38 (1) may be amended;

39 (2) must contain the specific duties of the department and the
40 contracting agency; and

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

42 SECTION 91. IC 13-25-4-7 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The ~~solid waste~~
 2 ~~management~~ board shall adopt rules establishing criteria for
 3 determining the commissioner's priorities in selecting hazardous
 4 substance response sites. Until these rules have been adopted, the
 5 commissioner shall give priority to those sites presenting a significant
 6 threat to public health and environment.

7 SECTION 92. IC 13-27-8-3, AS ADDED BY P.L.100-2006,
 8 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JANUARY 1, 2013]: Sec. 3. (a) The following **boards** may adopt rules
 10 to implement this chapter to the extent consistent with federal law.

11 (1) The ~~boards~~: **board**.

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

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

16 (1) Eligibility requirements for participation in environmental
 17 performance based programs.

18 (2) Compliance methods and schedules that:

19 (A) differ from compliance methods and schedules that apply
 20 to nonparticipants in environmental performance based
 21 programs under rules adopted by the boards;

22 (B) apply only to participants in environmental performance
 23 based programs; and

24 (C) include any of the following:

25 (i) Changes to monitoring and reporting requirements and
 26 schedules.

27 (ii) Streamlined submission requirements for permit
 28 renewals.

29 (iii) Prioritized applications.

30 (iv) Authorization to make without prior governmental
 31 approval certain operational changes that do not result in
 32 additional environmental impact.

33 (3) Recognition incentives to encourage participation in
 34 environmental performance based programs.

35 (4) Other incentives consistent with the policies of this title and
 36 federal law to encourage participation in environmental
 37 performance based programs.

38 (5) Requirements for participants in environmental performance
 39 based programs to implement any of the following:

40 (A) Continuous improvement environmental systems.

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

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1 SECTION 93. IC 13-28-1-3 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 3. ~~Each of the~~
 3 ~~regulatory boards within the department~~ **The board** may adopt rules
 4 under IC 4-22-2 **and IC 13-14-9** as required to implement the
 5 compliance program described in this article.

6 SECTION 94. IC 13-29-1-13 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 13. The ~~solid~~
 8 ~~waste management~~ board shall adopt under IC 4-22-2 **and IC 13-14-9**
 9 the rules necessary to implement this chapter.

10 SECTION 95. IC 13-30-2-1 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. A person may
 12 not do any of the following:

13 (1) Discharge, emit, cause, allow, or threaten to discharge, emit,
 14 cause, or allow any contaminant or waste, including any noxious
 15 odor, either alone or in combination with contaminants from other
 16 sources, into:

17 (A) the environment; or

18 (B) any publicly owned treatment works;

19 in any form that causes or would cause pollution that violates or
 20 would violate rules, standards, or discharge or emission
 21 requirements adopted by the ~~appropriate~~ board under the
 22 environmental management laws.

23 (2) Increase the quantity or strength of a discharge of
 24 contaminants into the waters or construct or install a sewer or
 25 sewage treatment facility or a new outlet for contaminants into the
 26 waters of Indiana without prior approval of the department.

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

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

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

37 (6) Dispose of solid waste in, upon, or within the limits of or
 38 adjacent to a public highway, state park, state nature preserve, or
 39 recreation area or in or immediately adjacent to a lake or stream,
 40 except:

41 (A) in proper containers provided for sanitary storage of the
 42 solid waste; or

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

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- 1 (C) IC 13-18-18.
- 2 (D) IC 13-20-1.
- 3 (15) Commence construction of a solid waste incinerator without
- 4 first obtaining a permit from the department under IC 13-20-8.
- 5 (16) Commence operation of a solid waste incinerator without
- 6 first obtaining the approval of the department under IC 13-20-8.
- 7 SECTION 96. IC 13-30-3-11 IS AMENDED TO READ AS
- 8 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 11. An order of
- 9 the commissioner under this chapter may do any of the following:
- 10 (1) Include a direction to cease and desist from violations of the
- 11 following:
- 12 (A) Environmental management laws.
- 13 (B) Air pollution control laws.
- 14 (C) Water pollution control laws.
- 15 (D) A rule adopted by ~~one (1) of the boards;~~ **board.**
- 16 (2) Impose monetary penalties in accordance with the following:
- 17 (A) Environmental management laws.
- 18 (B) Air pollution control laws.
- 19 (C) Water pollution control laws.
- 20 (3) Mandate corrective action, including corrective action to be
- 21 taken beyond the boundaries of the area owned or controlled by
- 22 the person to whom the order is directed, to alleviate the violation.
- 23 (4) Revoke a permit or condition or modify the terms of a permit.
- 24 SECTION 97. IC 13-30-4-1 IS AMENDED TO READ AS
- 25 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) Subject to
- 26 IC 13-14-6 and except as provided in IC 13-23-14-2 and
- 27 IC 13-23-14-3, a person who violates:
- 28 (1) any provision of:
- 29 (A) environmental management laws;
- 30 (B) air pollution control laws;
- 31 (C) water pollution control laws;
- 32 (D) IC 13-18-14-1; or
- 33 (E) a rule or standard adopted by ~~one (1) of the boards;~~ **board;**
- 34 or
- 35 (2) any determination, permit, or order made or issued by the
- 36 commissioner under:
- 37 (A) environmental management laws or IC 13-7 (before its
- 38 repeal);
- 39 (B) air pollution control laws or IC 13-1-1 (before its repeal);
- 40 or
- 41 (C) water pollution control laws or IC 13-1-3 (before its
- 42 repeal);

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1 is liable for a civil penalty not to exceed twenty-five thousand dollars
2 (\$25,000) per day of any violation.

3 (b) The department may:
4 (1) recover the civil penalty described in subsection (a) in a civil
5 action commenced in any court with jurisdiction; and
6 (2) request in the action that the person be enjoined from
7 continuing the violation.

8 SECTION 98. IC 13-30-7-7 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 7. The ~~boards~~
10 **board** shall adopt rules under IC 4-22-2 **and IC 13-14-9** to administer
11 this chapter.

12 SECTION 99. IC 16-18-2-372 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 372. "Water
14 board", for purposes of IC 16-41, refers to the ~~water pollution control~~
15 board established by ~~IC 13-18-1-1~~ **IC 13-13-8-3**.

16 SECTION 100. IC 16-20-5-1 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) If a multiple
18 county sewer, water, wastewater, or similar district has been
19 established under IC 13-26 or IC 13-3-2 (before its repeal), the affected
20 counties may by concurrent resolution of each county executive
21 establish an area board of health for the sole purposes of administering
22 and enforcing, consistent with environmental management laws (as
23 defined in IC 13-11-2-71), all state and local environmental statutes,
24 rules, and ordinances relative to the maintenance of a high quality
25 environmental level in the district.

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

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COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 130, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

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

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

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

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

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

Page 11, reset in roman lines 25 through 26.

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

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

Page 11, delete lines 36 through 39.

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

Page 13, delete line 42.

Page 14, delete line 1.

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

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

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

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

Page 14, delete lines 22 through 23.

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

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

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

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

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

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

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



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

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

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

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

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

(b) The legal counsel shall do the following:

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

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

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

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

Page 19, line 32, strike "appropriate".

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

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

Page 21, line 24, delete "board."

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

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



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

and when so amended that said bill do pass.

(Reference is to SB 130 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 7, Nays 1.

SENATE MOTION

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

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

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

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