IC 13

TITLE 13. ENVIRONMENT

IC 13-1

ARTICLE 1. REPEALED

(Repealed by P.L.1-1996, SEC.99.)

IC 13-2

ARTICLE 2. REPEALED

(Repealed by P.L.1-1995, SEC.91.)

IC 13-3

ARTICLE 3. REPEALED

(Repealed by P.L.1-1996, SEC.99.)

IC 13-4

ARTICLE 4. REPEALED

(Repealed by P.L.1-1995, SEC.91.)

IC 13-4.1

ARTICLE 4.1. REPEALED

(Repealed by P.L.1-1995, SEC.91.)

IC 13-5

ARTICLE 5. REPEALED

(Repealed by P.L.1-1996, SEC.99.)

IC 13-6

ARTICLE 6. REPEALED

(Repealed by P.L.1-1996, SEC.99.)

IC 13-7

ARTICLE 7. REPEALED

(Repealed by P.L.1-1996, SEC.99.)

IC 13-8

ARTICLE 8. REPEALED

(Repealed by P.L.1-1995, SEC.91.)

IC 13-9

ARTICLE 9. REPEALED

(Repealed by P.L.1-1996, SEC.99.)

IC 13-9.5

ARTICLE 9.5. REPEALED

(Repealed by P.L.1-1996, SEC.99.)

IC 13-10

ARTICLE 10. REPEALED

(Repealed by P.L.1-1996, SEC.99.)

IC 13-11

ARTICLE 11. DEFINITIONS

IC 13-11-1

Chapter 1. General Provisions

IC 13-11-1-1

Applicability of definitions in this article

Sec. 1. Except as otherwise provided, the definitions in this article apply throughout this title.

As added by P.L.1-1996, SEC.1.

IC 13-11-1-2

Applicability of definitions in IC 36-1-2

Sec. 2. The definitions in IC 36-1-2 apply to the following:

(1) IC 13-20-3.

(2) IC 13-20-22.

(3) IC 13-21.

As added by P.L.1-1996, SEC.1.

IC 13-11-1-3

Applicability of definitions to IC 13-29-1 and IC 13-29-2

Sec. 3. Except as otherwise provided, the definitions in this article do not apply to the following:

(1) IC 13-29-1.

(2) IC 13-29-2.

As added by P.L.1-1996, SEC.1.

IC 13-11-2
Chapter 2. Definitions

IC 13-11-2-0.1
Application of certain amendments to chapter
Sec. 0.1. The amendments made to section 148(e) of this chapter by P.L.212-1999, SECTION 3 shall not be construed to affect any litigation filed before January 1, 1999.
As added by P.L.220-2011, SEC.276.

IC 13-11-2-0.2
Application of certain amendments to prior law
Sec. 0.2. (a) The amendments made to IC 13-7-8.7-8(a) and IC 13-7-8.7-8(b) (before their repeal, now codified at sections 48 and 81, respectively, of this chapter) by P.L.25-1991 apply to an action for which a final determination of liability is made after June 30, 1991.
(b) The amendments made to IC 13-7-20-24 (before its repeal, now partly codified at sections 48 and 81 of this chapter) by P.L.25-1991 apply to an action for which a final determination of liability is made after June 30, 1991.
As added by P.L.220-2011, SEC.277.

IC 13-11-2-0.5
Repealed
(Repealed by P.L.57-2009, SEC.18.)

IC 13-11-2-0.7
"ABS sensor"
Sec. 0.7. "ABS sensor", for purposes of IC 13-20-17.7, refers to an anti-lock braking system G-force sensor.
As added by P.L.114-2008, SEC.4.

IC 13-11-2-1
"Active area"
Sec. 1. "Active area", for purposes of IC 13-20-10, means:
(1) the raw compostable matter storage area;
(2) the composting matter area;
(3) the compost curing area; or
(4) the compost storage area;
of a composting facility for vegetative matter.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-1.5
"Acute hazardous waste"
Sec. 1.5. "Acute hazardous waste", for purposes of IC 13-22-4-3.1, has the meaning set forth in 40 CFR Part 261.
As added by P.L.143-2000, SEC.1. Amended by P.L.1-2001, SEC.10.

IC 13-11-2-2

"Administrator"

Sec. 2. "Administrator" refers to the administrator of the United States Environmental Protection Agency.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-3

"Air contaminant"

Sec. 3. "Air contaminant", for purposes of air pollution control laws, means:

(1) dust;
(2) fumes;
(3) gas;
(4) mist;
(5) smoke;
(6) vapor; or
(7) any combination of the items described in subdivisions (1) through (6).

As added by P.L.1-1996, SEC.1.

IC 13-11-2-4

"Air contaminant source"

Sec. 4. (a) "Air contaminant source", for purposes of air pollution control laws, means all sources of emission of air contaminants, whether privately or publicly owned or operated.

(b) The term includes the following:

(1) All types of business, commercial and industrial plants, works, shops, stores, heating plants, powerplants, and power stations.
(2) Buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings.
(3) Automobiles, trucks, tractors, buses, and other motor vehicles.
(4) Garages.
(5) Vending and service locations and stations and railroad locomotives.
(6) Ships, boats, and other watercraft.
(7) Portable fuel-burning equipment.
(8) Incinerators of all types, indoor and outdoor.
(9) Refuse dumps and piles.
(10) All stack and other chimney outlets from any of the items described in subdivisions (1) through (9).

As added by P.L.1-1996, SEC.1.

IC 13-11-2-5

"Air pollution"

Sec. 5. "Air pollution", for purposes of air pollution control laws and environmental management laws, means the presence in or the threatened discharge into the atmosphere of one (1) or more

contaminants in sufficient quantities and of the characteristics and duration that:

(1) is injurious to or threatens to be injurious to human health, plant or animal life, or property; or

(2) interferes unreasonably with the enjoyment of life or property.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-6
"Air pollution control laws"

Sec. 6. "Air pollution control laws" refers to IC 13-17, except for the following:

(1) IC 13-17-3-15.
(2) IC 13-17-7.
(3) IC 13-17-8-10.
(4) IC 13-17-9.
(5) IC 13-17-10.
(6) IC 13-17-11.
(7) IC 13-17-13.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-7
"Alternative PCB technology"

Sec. 7. "Alternative PCB technology", for purposes of IC 13-17-10, means a technology for the treatment and disposal of PCB that presents:

(1) an actual; or

(2) a potential;

alternative to incineration.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-7.5
"Antique"

Sec. 7.5. "Antique", for purposes of IC 13-20-17.5, refers to a product manufactured before 1980.

As added by P.L.225-2001, SEC.1.

IC 13-11-2-8
"Applicant"

Sec. 8. (a) "Applicant", for purposes of IC 13-11-2-191 and IC 13-18-10, refers to a person (as defined in section 158(b) of this chapter) that submits an application to the department under IC 13-18-10-2.

(b) "Applicant", for purposes of IC 13-19-4, means an individual, a corporation, a limited liability company, a partnership, or a business association that:

(1) receives, for commercial purposes, solid or hazardous waste generated offsite for storage, treatment, processing, or disposal; and

(2) applies for the issuance, transfer, or major modification of a

permit described in IC 13-15-1-3 other than a postclosure permit or an emergency permit.

For purposes of this subsection, an application for the issuance of a permit does not include an application for renewal of a permit.

(c) "Applicant", for purposes of IC 13-20-2, means an individual, a corporation, a limited liability company, a partnership, or a business association that applies for an original permit for the construction or operation of a landfill.

(d) For purposes of subsection (b), "applicant" does not include an individual, a corporation, a limited liability company, a partnership, or a business association that:

(1) generates solid or hazardous waste; and

(2) stores, treats, processes, or disposes of the solid or hazardous waste at a site that is:

(A) owned by the individual, corporation, partnership, or business association; and

(B) limited to the storage, treatment, processing, or disposal of solid or hazardous waste generated by that individual, corporation, limited liability company, partnership, or business association.

As added by P.L.1-1996, SEC.1. Amended by P.L.154-2005, SEC.1; P.L.127-2009, SEC.1.

IC 13-11-2-9
"Application"

Sec. 9. "Application", for purposes of IC 13-15-4 and IC 13-15-12, means an application for a:

(1) permit; or

(2) determination related to a permit;

that is described in IC 13-15-4-1.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-10
"Asbestos"

Sec. 10. "Asbestos", for purposes of IC 13-17-6, means an asbestiform variety of the following:

(1) Chrysotile (serpentine).

(2) Crocidolite (riebeckite).

(3) Amosite (cummingtonite-grunerite).

(4) Anthophyllite.

(5) Tremolite.

(6) Actinolite.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-11
"Asbestos containing material"

Sec. 11. (a) "Asbestos containing material", for purposes of IC 13-17-6, means material that contains more than one percent (1%) asbestos by area and that:

(1) is friable; or

(2) has a reasonable probability of becoming friable in the course of ordinary or anticipated use of the building containing the material.

(b) The term does not include asbestos containing resilient floor covering materials, including:

(1) sheet vinyl flooring;

(2) resilient tile; and

(3) associated adhesives;

unless the materials are sanded, beadblasted, or mechanically pulverized so that visible asbestos emissions are discharged.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-12

"Asbestos contractor"

Sec. 12. "Asbestos contractor", for purposes of IC 13-17-6, means an individual, a partnership, a corporation, a sole proprietorship, an unincorporated association, a franchise, an enterprise, or any other entity that enters into one (1) or more contracts providing for the individual or entity to engage in the inspection, management, or abatement of asbestos containing material for compensation.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-13

"Asbestos project"

Sec. 13. "Asbestos project", for purposes of IC 13-17-6, means an activity involving the:

(1) abatement;

(2) removal;

(3) renovation;

(4) enclosure;

(5) repair; or

(6) encapsulation;

of asbestos containing material.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-14

"Assistance"

Sec. 14. "Assistance", for purposes of IC 13-14-10-3, means supplies, materials, services, and equipment to:

(1) prevent the discharge of any contaminant; or

(2) control, contain, isolate, neutralize, remove, store, or dispose of any contaminant already discharged into or on the air, land, or waters of Indiana.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-15

"Assistant commissioner"

Sec. 15. "Assistant commissioner", for purposes of IC 13-27, refers to the individual appointed by the commissioner under IC 13-27-2-2 to the highest position in the division of pollution

prevention.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-15.5
"ASTM"
Sec. 15.5. "ASTM" refers to the American Society for Testing and Materials.
As added by P.L.215-2003, SEC.3.

IC 13-11-2-16
"Authority"
Sec. 16. (a) "Authority", for purposes of IC 13-22-10, refers to the Indiana hazardous waste facility site approval authority.
(b) "Authority", for purposes of IC 13-18-13, IC 13-18-21, and IC 13-19-5, refers to the Indiana finance authority created under IC 4-4-11.
As added by P.L.1-1996, SEC.1. Amended by P.L.124-1996, SEC.3; P.L.59-1997, SEC.2; P.L.14-2001, SEC.1; P.L.235-2005, SEC.126.

IC 13-11-2-16.3
"Automotive salvage recycler"
Sec. 16.3. (a) "Automotive salvage recycler", for purposes of this chapter, means a business that:
(1) acquires damaged, inoperative, discarded, abandoned, or salvage motor vehicles, or their remains, as stock-in-trade;
(2) dismantles and processes the vehicles or remains for the reclamation and sale of reusable components and parts; and
(3) disposes of recyclable materials to a scrap metal processor or other appropriate facility.
(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.
As added by P.L.170-2006, SEC.2.

IC 13-11-2-16.5
"Automobile scrapyard"
Sec. 16.5. (a) "Automobile scrapyard", for purposes of this chapter, means a business organized for any of the following purposes:
(1) Processing scrap metal.
(2) Wrecking automobiles.
(3) Operating a junkyard.
(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.
As added by P.L.170-2006, SEC.3.

IC 13-11-2-16.6
"Biomass"
Sec. 16.6. "Biomass", for purposes of sections 16.7 and 16.8 of this chapter and IC 13-20-10.5, means biological material that is available on a renewable recurring basis and is used as a source of

renewable energy, including the following:

(1) Agricultural crops.

(2) Agricultural wastes and residues.

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

(A) Wood residue.

(B) Forest thinning.

(C) Mill residue wood.

(4) Animal wastes and byproducts, including manure.

(5) Aquatic plants.

(6) Algae.

(7) Byproducts of processing agricultural crops.

As added by P.L.189-2011, SEC.1.

IC 13-11-2-16.7
"Biomass anaerobic digestion facility"

Sec. 16.7. "Biomass anaerobic digestion facility", for purposes of IC 13-20-10.5:

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

(2) includes a methane recovery system.

As added by P.L.189-2011, SEC.2.

IC 13-11-2-16.8
"Biomass gasification facility"

Sec. 16.8. "Biomass gasification facility", for purposes of IC 13-20-10.5, means a facility that incorporates equipment to carry out a thermochemical process that, with little or no oxygen present, converts biomass into a synthesis gas.

As added by P.L.189-2011, SEC.3.

IC 13-11-2-17
"Board"

Sec. 17. (a) "Board", except as provided in subsections (b) through (d), refers to the environmental rules board established by IC 13-13-8-3.

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

(c) "Board", for purposes of IC 13-23-11, refers to the underground storage tank financial assurance board.

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

As added by P.L.1-1996, SEC.1. Amended by P.L.124-1997, SEC.1; P.L.1-2002, SEC.61; P.L.2-2005, SEC.52; P.L.159-2011, SEC.1; P.L.37-2012, SEC.1; P.L.133-2012, SEC.68; P.L.13-2013, SEC.46.

IC 13-11-2-18
Repealed

(Repealed by P.L.133-2012, SEC.69.)

IC 13-11-2-19
"Broker"

Sec. 19. "Broker", for purposes of IC 13-20-4 and IC 13-20-6, means a person who is in the business of making arrangements for the transportation of municipal waste that was generated by another person.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-19.3
"Brownfield"

Sec. 19.3. "Brownfield" means a parcel of real estate:

(1) that:

(A) is abandoned or inactive; or

(B) may not be operated at its appropriate use; and

(2) on which expansion, redevelopment, or reuse is complicated;

because of the presence or potential presence of a hazardous substance, a contaminant, petroleum, or a petroleum product that poses a risk to human health and the environment.

As added by P.L.59-1997, SEC.3. Amended by P.L.203-2003, SEC.1.

IC 13-11-2-19.5
"Budget agency"

Sec. 19.5. "Budget agency" refers to the budget agency created under IC 4-12-1-3.

As added by P.L.59-1997, SEC.4.

IC 13-11-2-20
"Business"

Sec. 20. "Business", for purposes of IC 13-27, means a person that carries on a business or commercial operation in Indiana.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-21
"Business organization"

Sec. 21. "Business organization", for purposes of IC 13-27, means an organization whose members include businesses.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-22
"Byproduct material"

Sec. 22. "Byproduct material", for purposes of IC 13-22-10, has the meaning set forth in section 11e. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)), as in effect on January 1, 1987.

As added by P.L.1-1996, SEC.1. Amended by P.L.124-1996, SEC.4.

IC 13-11-2-23
"Care"

Sec. 23. "Care", for purposes of IC 13-29-1, means the continued observation of a facility after closure for the purposes of detecting a

need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and including the correction of problems which are detected as a result of that observation.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-23.5
"Cathode ray tube"
Sec. 23.5. "Cathode ray tube", for purposes of this chapter, means a vacuum tube or picture tube designed to convert an electronic signal into a visual image.
As added by P.L.178-2009, SEC.3.

IC 13-11-2-24
"CERCLA"
Sec. 24. "CERCLA", for purposes of IC 13-25-4, refers to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9601 et seq.), as in effect on January 1, 1987.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-25
"Chemical munition"
Sec. 25. "Chemical munition", for purposes of IC 13-22-3-10, means any of the following:
(1) GA (Ethyl-N, N-dimethyl phosphoramidocyanidate).
(2) GB (Isopropyl methyl phosphonoflouridate).
(3) H, HD (Bis(2-chloroethyl) sulfide).
(4) HT (Sixty percent (60%) HD and forty percent (40%) T (Bis[2(2-chloroethyl-thio)ethyl]ester)).
(5) L (Dichloro(2-chlorovinyl)arsine).
(6) VX (O-ethyl-S-(2-diisopropylaminoethyl) methyl phosphonothiolate).
As added by P.L.1-1996, SEC.1.

IC 13-11-2-25.5
Repealed
(Repealed by P.L.57-2009, SEC.18.)

IC 13-11-2-25.7
"Claimant"
Sec. 25.7. "Claimant", as used in IC 13-23-8 and IC 13-23-9, refers to a person that submits a claim under IC 13-23-8-1.
As added by P.L.14-2001, SEC.2.

IC 13-11-2-25.8
"Class I wetland"; Class II wetland"; Class III wetland"
Sec. 25.8. (a) For purposes of IC 13-18:
(1) "Class I wetland" means an isolated wetland described by

one (1) or both of the following:

(A) At least fifty percent (50%) of the wetland has been disturbed or affected by human activity or development by one (1) or more of the following:

(i) Removal or replacement of the natural vegetation.

(ii) Modification of the natural hydrology.

(B) The wetland supports only minimal wildlife or aquatic habitat or hydrologic function because the wetland does not provide critical habitat for threatened or endangered species listed in accordance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and the wetland is characterized by at least one (1) of the following:

(i) The wetland is typified by low species diversity.

(ii) The wetland contains greater than fifty percent (50%) areal coverage of non-native invasive species of vegetation.

(iii) The wetland does not support significant wildlife or aquatic habitat.

(iv) The wetland does not possess significant hydrologic function;

(2) "Class II wetland" means:

(A) an isolated wetland that is not a Class I or Class III wetland; or

(B) a type of wetland listed in subdivision (3)(B) that would meet the definition of Class I wetland if the wetland were not a rare or ecologically important type; and

(3) "Class III wetland" means an isolated wetland:

(A) that is located in a setting undisturbed or minimally disturbed by human activity or development and that supports more than minimal wildlife or aquatic habitat or hydrologic function; or

(B) unless classified as a Class II wetland under subdivision (2)(B), that is of one (1) of the following rare and ecologically important types:

(i) Acid bog.

(ii) Acid seep.

(iii) Circumneutral bog.

(iv) Circumneutral seep.

(v) Cypress swamp.

(vi) Dune and swale.

(vii) Fen.

(viii) Forested fen.

(ix) Forested swamp.

(x) Marl beach.

(xi) Muck flat.

(xii) Panne.

(xiii) Sand flat.

(xiv) Sedge meadow.

(xv) Shrub swamp.

(xvi) Sinkhole pond.

(xvii) Sinkhole swamp.
(xviii) Wet floodplain forest.
(xix) Wet prairie.
(xx) Wet sand prairie.

(b) For purposes of this section, a wetland or setting is not considered disturbed or affected as a result of an action taken after January 1, 2004, for which a permit is required under IC 13-18-22 but has not been obtained.

As added by P.L.282-2003, SEC.21. Amended by P.L.52-2004, SEC.1.

IC 13-11-2-26
"Class 2 modification"

Sec. 26. "Class 2 modification", for purposes of IC 13-22-12, refers to the modification classification system described under 40 CFR 270.42.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-27
"Class 3 modification"

Sec. 27. "Class 3 modification", for purposes of IC 13-22-12, refers to the modification classification system described under 40 CFR 270.42.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-27.6
"Clean manufacturing"

Sec. 27.6. (a) "Clean manufacturing", for purposes of IC 13-12 and IC 13-27, means the employment by a manufacturer of a practice that:

(1) reduces the manufacturing use of toxic materials; or
(2) reduces the environmental and health hazards associated with an environmental waste without diluting or concentrating the waste before the:
(A) recycling;
(B) release;
(C) handling;
(D) storage;
(E) transport;
(F) treatment; or
(G) disposal;
of the waste.

(b) The term includes changes in production technology, materials, processes, operations, or procedures.

(c) The term does not include the following:

(1) A practice that is applied to an environmental waste after the waste:
(A) is generated or comes into existence; or
(B) exits a production unit or operation.
(2) Waste burning in:

(A) industrial furnaces;
(B) boilers;
(C) smelters; or
(D) cement kilns;
for purposes of energy recovery.
(3) Waste shifting.
(4) Offsite recycling.
(5) Onsite recycling, including the following:
(A) Inprocess recycling.
(B) Inline recycling.
(C) Out-of-process recycling.
(D) Closed loop recycling.
(E) Any other onsite recycling method.
(6) Any other method of end-of-pipe management of environmental wastes, including the following:
(A) Waste exchange.
(B) The incorporation or embedding of regulated environmental wastes into products or byproducts.
As added by P.L.124-1997, SEC.2. Amended by P.L.37-2012, SEC.2.

IC 13-11-2-28
Repealed
(Repealed by P.L.127-1997, SEC.2.)

IC 13-11-2-29
"Clean Water Act"
Sec. 29. "Clean Water Act", for purposes of this chapter, IC 13-18-13, IC 13-18-22, and IC 13-18-23, refers to:
(1) 33 U.S.C. 1251 et seq.; and
(2) regulations adopted under 33 U.S.C. 1251 et seq.
As added by P.L.1-1996, SEC.1. Amended by P.L.282-2003, SEC.22.

IC 13-11-2-30
"Cleaning"
Sec. 30. "Cleaning", for purposes of IC 13-18-12, means:
(1) removal of wastewater from sewage disposal systems; and
(2) other actions incidental to that removal.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-31
"Coal mine permit"
Sec. 31. "Coal mine permit", for purposes of IC 13-18-20, refers to a National Pollutant Discharge Elimination System (NPDES) permit that involves the area on or beneath land used or distributed in activity related to the extraction, removal, or recovery of coal from natural deposits of coal.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-31.1
"Collection"

Sec. 31.1. (a) "Collection", for purposes of IC 13-20.5, means the receipt of covered electronic devices from covered entities.

(b) The term includes all collection activities up to the time the covered electronic devices are delivered to a recycler.

As added by P.L.178-2009, SEC.4.

IC 13-11-2-31.2
"Collector"

Sec. 31.2. (a) "Collector", for purposes of this chapter and IC 13-20.5, means a public or private entity:

(1) that:

(A) receives covered electronic devices from covered entities; and

(B) arranges for the delivery of the covered electronic devices to a recycler; or

(2) that collects covered electronic devices directly from covered entities, including curbside collection.

(b) The term does not include:

(1) the United States Postal Service; or

(2) any other parcel service;

that accepts packages and delivers them to collectors or recyclers under a manufacturer's mailback program.

As added by P.L.178-2009, SEC.5.

IC 13-11-2-31.3
"Combined sewage"

Sec. 31.3. "Combined sewage", for purposes of sections 31.4 and 31.6 of this chapter and IC 13-18, refers to a combination of wastewater (including domestic, commercial, or industrial wastewater) and storm water transported in a combined sewer or combined sewer system.

As added by P.L.140-2000, SEC.1.

IC 13-11-2-31.4
"Combined sewer"

Sec. 31.4. "Combined sewer", for purposes of sections 31.3, 31.6, and 120.5 of this chapter, IC 13-14-9-14, and IC 13-18, means a sewer that is designed, constructed, and used to receive and transport combined sewage.

As added by P.L.140-2000, SEC.2. Amended by P.L.100-2006, SEC.3.

IC 13-11-2-31.5
"Combined sewer operational plan"

Sec. 31.5. "Combined sewer operational plan", for purposes of IC 13-18, means a plan that contains the minimum technology controls applicable to, and requirements for operation and maintenance of, a combined sewer system:

(1) before;

(2) during; and

(3) upon the completion of;
the implementation of a long term control plan.
As added by P.L.140-2000, SEC.3.

IC 13-11-2-31.6
"Combined sewer system"

Sec. 31.6. "Combined sewer system", for purposes of sections 31.3, 31.5, 43.5, and 120.5 of this chapter and IC 13-18, means a system of combined sewers that:

(1) is designed, constructed, and used to receive and transport combined sewage to a publicly owned wastewater treatment plant; and

(2) may contain one (1) or more overflow points that discharge combined sewage entering the publicly owned wastewater treatment plant when the hydraulic capacity of the system or part of the system is exceeded as a result of a wet weather event.

As added by P.L.140-2000, SEC.4. Amended by P.L.1-2006, SEC.197.

IC 13-11-2-32
"Commercial hazardous waste facility"

Sec. 32. "Commercial hazardous waste facility", for purposes of IC 13-22-10, means a plant, structure, or site at which hazardous waste, generated by:

(1) a person other than the owner or operator of the plant, structure, or site; or

(2) the owner or operator of the plant, structure, or site as a result of treatment or storage of wastes generated by persons other than the owner or operator;

is received for treatment, storage, or disposal.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-33
"Commercial low level radioactive waste facility"

Sec. 33. "Commercial low level radioactive waste facility", for purposes of IC 13-22-10, means a plant, structure, or site at which low level radioactive waste, generated by:

(1) a person other than the owner or operator of the plant, structure, or site; or

(2) the owner or operator of the plant, structure, or site as a result of treatment or storage of low level radioactive wastes generated by persons other than the owner or operator;

is received for treatment, storage, or disposal.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-34
"Commission"

Sec. 34. (a) "Commission", for purposes of IC 13-25-1 and IC 13-25-2, refers to the Indiana emergency response commission.

(b) "Commission", for purposes of IC 13-29-1, means the Midwest

Interstate Low-Level Radioactive Waste Commission.

(c) "Commission", for purposes of IC 13-29-2-2 through IC 13-29-2-7, refers to the Ohio River Valley Water Sanitation Commission.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-35
"Commissioner"

Sec. 35. (a) "Commissioner", except as provided in subsection (b), refers to the commissioner of the department of environmental management.

(b) "Commissioner", for purposes of IC 13-29-2-2 through IC 13-29-2-7, means a member of the Ohio River Valley Water Sanitation Commission.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-35.5
"Community water system"

Sec. 35.5. "Community water system", for purposes of IC 13-18-20.5, means a public water system:

(1) that:
  (A) serves at least fifteen (15) service connections used by year-round residents; or
  (B) regularly serves at least twenty-five (25) year-round residents; and
(2) in which:
  (A) all the service connections are located on the same parcel of real estate; or
  (B) all the components of the system are connected.

As added by P.L.224-2003, SEC.128. Amended by P.L.61-2007, SEC.1.

IC 13-11-2-36
"Compact"

Sec. 36. "Compact", for purposes of IC 13-29-2-2 through IC 13-29-2-7, refers to the Ohio River Valley Water Sanitation Compact.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-36.3
"Compensatory mitigation"

Sec. 36.3. "Compensatory mitigation", for purposes of IC 13-18-22, means the:

(1) restoration; or
(2) creation;

of wetlands to offset or compensate for a loss of wetlands resulting from an authorized wetland activity. Wetlands enlargement, enhancement, and preservation may be considered compensatory mitigation on a case-by-case basis, particularly for Class III wetlands.

As added by P.L.282-2003, SEC.23.

IC 13-11-2-36.5
Repealed
(Repealed by P.L.57-2009, SEC.18.)

IC 13-11-2-37
"Compost"
Sec. 37. "Compost", for purposes of IC 13-20-10, means the product:
(1) produced by the process of composting vegetative matter and other types of organic material; and
(2) that may be used:
(A) as a soil conditioner;
(B) as a cover material for a solid waste landfill; or
(C) for another use approved by the department.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-38
"Composting"
Sec. 38. (a) "Composting", for purposes of IC 13-20-9 and IC 13-20-10, means the biological treatment process by which microorganisms decompose the organic component of vegetative matter and other types of organic material.
(b) "Composting", for purposes of IC 13-21, means an aerobic degradation process by which plant and other organic wastes decompose under controlled conditions to produce a usable product.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-38.1
"Computer"
Sec. 38.1. (a) "Computer", for purposes of this chapter and IC 13-20.5, means an electronic, a magnetic, an optical, an electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions.
(b) The term does not include the following:
(1) An automated typewriter or typesetter.
(2) A portable handheld calculator or device, or other similar device.
As added by P.L.178-2009, SEC.6.

IC 13-11-2-38.2
"Computer monitor"
Sec. 38.2. (a) "Computer monitor", for purposes of this chapter and IC 13-20.5, means an electronic device that is:
(1) a cathode ray tube or flat panel display; and
(2) primarily intended to display information from a central processing unit or the Internet.
(b) The term includes a laptop computer.
As added by P.L.178-2009, SEC.7.

IC 13-11-2-38.3

"Concentrated animal feeding operation" or "CAFO"

Sec. 38.3. "Concentrated animal feeding operation" or "CAFO", for purposes of IC 13-18-10 and IC 13-18-20, has the meaning set forth in 40 CFR 122.23.

As added by P.L.24-2004, SEC.2.

IC 13-11-2-38.5

"Conditionally exempt small quantity generator waste"

Sec. 38.5. "Conditionally exempt small quantity generator waste", for purposes of IC 13-20-20 and IC 13-25-4, means waste generated by a conditionally exempt small quantity generator (as defined in 40 CFR 261.5).

As added by P.L.237-1999, SEC.1.

IC 13-11-2-39

"Confined feeding"

Sec. 39. (a) "Confined feeding", for purposes of IC 13-18-10, means the confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where:

(1) animals are confined, fed, and maintained for at least forty-five (45) days during any twelve (12) month period; and

(2) ground cover or vegetation is not sustained over at least fifty percent (50%) of the animal confinement area.

(b) The term does not include the following:

(1) A livestock market:

(A) where animals are assembled from at least two (2) sources to be publicly auctioned or privately sold on a commission basis; and

(B) that is under state or federal supervision.

(2) A livestock sale barn or auction market where animals are kept for not more than ten (10) days.

As added by P.L.1-1996, SEC.1. Amended by P.L.125-1997, SEC.1.

IC 13-11-2-40

"Confined feeding operation"

Sec. 40. "Confined feeding operation" means:

(1) any confined feeding of:

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

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

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

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

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

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

(A) water pollution control laws;

(B) any rules of the board; or

(C) IC 13-18-10.

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

As added by P.L.1-1996, SEC.1. Amended by P.L.125-1997, SEC.2;

P.L.81-2009, SEC.1; P.L.127-2009, SEC.2; P.L.189-2011, SEC.4; P.L.113-2014, SEC.44.

IC 13-11-2-40.8
"Construction"

Sec. 40.8. "Construction", for purposes of IC 13-18-10, means the fabrication, erection, or installation of a facility or manure control equipment at the location where the facility or manure control equipment is intended to be used. The term does not include the following:

(1) The dismantling of existing equipment and control devices.
(2) The ordering of equipment and control devices.
(3) Offsite fabrication.
(4) Site preparation.

As added by P.L.125-1997, SEC.3.

IC 13-11-2-41
"Construction\demolition waste"

Sec. 41. (a) "Construction\demolition waste", for purposes of IC 13-20-21, means:

(1) bricks;
(2) concrete;
(3) stone;
(4) glass;
(5) wallboard;
(6) lumber;
(7) roofing materials; and
(8) any other items;

affixed to a structure that is being constructed or demolished and being disposed of at a waste disposal facility.

(b) The term includes the following:

(1) Plumbing fixtures.
(2) Wiring.
(3) Nonasbestos insulation.
(4) Other items approved by the department.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-42
"Contaminant"

Sec. 42. "Contaminant", for purposes of environmental management laws, means any solid, semi-solid, liquid, or gaseous matter, or any odor, radioactive material, pollutant (as defined by the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as in effect on January 1, 1989), hazardous waste (as defined in the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), as in effect on January 1, 1989), any constituent of a hazardous waste, or any combination of the items described in this section, from whatever source, that:

(1) is injurious to human health, plant or animal life, or property;

(2) interferes unreasonably with the enjoyment of life or property; or
(3) otherwise violates:
(A) environmental management laws; or
(B) rules adopted under environmental management laws.
The term includes chemicals used in the illegal manufacture of a controlled substance (as defined in IC 35-48-1-9) or an immediate precursor (as defined in IC 35-48-1-17) of a controlled substance, and waste produced from the illegal manufacture of a controlled substance or an immediate precursor of the controlled substance.
As added by P.L.1-1996, SEC.1. Amended by P.L.2-1998, SEC.44; P.L.192-2005, SEC.5.

IC 13-11-2-43
"Contamination"
Sec. 43. "Contamination", for purposes of IC 13-18-17, refers to the presence in groundwater of at least one (1) contaminant in a quantity or concentration that:
(1) is injurious to human health, plant or animal life, or property;
(2) interferes unreasonably with the enjoyment of life or property; or
(3) otherwise violates:
(A) environmental management laws; or
(B) rules adopted under environmental management laws.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-43.5
"Control alternative"
Sec. 43.5. "Control alternative", for purposes of IC 13-18, means any of the following measures, or any combination of the following measures, for the control of wet weather flows in a combined sewer system:
(1) Source controls.
(2) Collection system controls.
(3) Storage technologies.
(4) Treatment technologies.
As added by P.L.140-2000, SEC.5.

IC 13-11-2-44
"Cost"
Sec. 44. "Cost", for purposes of IC 13-21 and as applied to a facility or any part of a facility, includes the following:
(1) The cost of construction, modification, decommissioning, disposal, or acquisition of the facility or any part of the facility.
(2) Financing charges.
(3) Interest before and during construction and for a reasonable period after the construction as determined by the board of directors.
(4) The cost of funding reserves to secure the payment of

principal and interest on bonds issued by the district.

(5) The cost of funding an operation and maintenance reserve fund.

(6) The cost of funding a major repair or replacement fund.

(7) Legal and underwriting expenses.

(8) Municipal bond insurance premiums.

(9) The cost of plans, specifications, surveys, and estimates of costs and revenues.

(10) Other expenses necessary or incidental to determining the feasibility or practicability of constructing the facility.

(11) Administrative expense.

(12) Other expenses necessary or incidental to the construction, modification, or acquisition of the facility, the financing of the construction, modification, or acquisition of the facility, and the placing of the facility in operation.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-45
"Cost of the works"

Sec. 45. "Cost of the works", for purposes of IC 13-26, includes the following:

(1) The cost of acquisition or construction of the works.

(2) The cost of all property, rights, easements, and franchises that are necessary or convenient.

(3) Interest upon bonds before and during construction or acquisition and for a period not exceeding twenty-four (24) months after completion of construction or acquisition of the improvements last mentioned.

(4) Engineering and legal expenses, expenses for estimates of cost and of revenues, and expenses for plans, specifications, and surveys.

(5) Other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expenses, and other expenses necessary or incident to the financing and construction or acquisition of the works, placing the works in operation, and the performance of the thing required or permitted by this chapter in connection with the works.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-46
Repealed

(Repealed by P.L.53-2014, SEC.114.)

IC 13-11-2-47
"County solid waste management district" or "county district"

Sec. 47. "County solid waste management district" or "county district", for purposes of IC 13-21, refers to a solid waste management district that consists of only one (1) county.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-47.5
"Covered electronic device"

Sec. 47.5. "Covered electronic device", for purposes of this chapter and IC 13-20.5, means a computer, peripheral, facsimile machine, DVD player, video cassette recorder, or video display device that is sold to a covered entity by means of retail, wholesale, or electronic commerce.

As added by P.L.178-2009, SEC.8.

IC 13-11-2-47.7
"Covered entity"

Sec. 47.7. "Covered entity", for purposes of this chapter and IC 13-20.5, means the following:

(1) A household.
(2) A public school.
(3) A small business.

As added by P.L.178-2009, SEC.9.

IC 13-11-2-48
"Creditor"

Sec. 48. "Creditor", for purposes of IC 13-25-4-8, means, with respect to a facility, a person who:

(1) has extended credit to an owner or operator of the facility;
(2) has an interest in the facility to secure an extension of credit; or
(3) has acquired title or a right to title to the facility:
    (A) upon default;
    (B) at foreclosure; or
    (C) in lieu of foreclosure as a result of an extension of credit secured by an interest in the facility, unless the extension of credit was solely for the purpose of avoiding environmental liability.

As added by P.L.1-1996, SEC.1. Amended by P.L.90-1998, SEC.1.

IC 13-11-2-49
"Damage"

Sec. 49. "Damage", for purposes of IC 13-24-2, means damage of any kind for which liability may exist under Indiana law:

(1) resulting from;
(2) arising out of; or
(3) related to;

the discharge or threatened discharge of oil.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-50
"Decommissioning"

Sec. 50. (a) "Decommissioning", for purposes of IC 13-23, means the removal or closure of an underground storage tank.

(b) "Decommissioning", for purposes of IC 13-29-1, means the measures taken at the end of a facility's operating life to assure the

continued protection of the public from any residual radioactivity or other potential hazards present at a facility.
As added by P.L.1-1996, SEC.1. Amended by P.L.67-1996, SEC.3.

IC 13-11-2-50.5
"Degradation"

Sec. 50.5. "Degradation", for purposes of IC 13-18-3, means, with respect to a National Pollutant Discharge Elimination System permit, the following:

(1) With respect to an outstanding national resource water, any new or increased discharge of a pollutant or a pollutant parameter, except for a short term, temporary increase.

(2) With respect to an outstanding state resource water, any new or increased discharge of a pollutant or pollutant parameter that results in a significant lowering of water quality for that pollutant or pollutant parameter, unless:

(A) the activity causing the increased discharge:

(i) results in an overall improvement in water quality in the outstanding state resource water; and

(ii) meets the applicable requirements of 327 IAC 2-1-2(1) and (2) and 327 IAC 2-1.5-4(a) and (b); or

(B) the person proposing the increased discharge undertakes or funds a water quality improvement project in accordance with IC 13-18-3-2(k) in the watershed of the outstanding state resource water that:

(i) results in an overall improvement in water quality in the outstanding state resource water; and

(ii) meets the applicable requirements of 327 IAC 2-1-2(1) and (2) and 327 IAC 2-1.5-4(a) and (b).

As added by P.L.140-2000, SEC.6. Amended by P.L.1-2001, SEC.11; P.L.78-2009, SEC.1.

IC 13-11-2-51
"Department"

Sec. 51. "Department" refers to the department of environmental management.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-52
"Department enforcement action"

Sec. 52. "Department enforcement action", for purposes of IC 13-14-6, means an action of the department commenced under IC 13-30-3-3.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-53
"Developer"

Sec. 53. "Developer", for purposes of IC 13-21, means a person that:

(1) proposes to enter into or has entered into a financing

agreement with the district for financing a facility; and

(2) proposes to enter into or has entered into a separate agreement with some other person for the use and operation of the financed facility.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-54
Repealed

(Repealed by P.L.37-2012, SEC.3.)

IC 13-11-2-55
"Discharge"

Sec. 55. "Discharge", for purposes of IC 13-24-2, means any emission or spill, other than natural seepage, that is intentional or unintentional. The term includes any of the following:

(1) Spilling.
(2) Leaking.
(3) Pumping.
(4) Pouring.
(5) Emitting.
(6) Emptying.
(7) Dumping.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-56
Repealed

(Repealed by P.L.113-2014, SEC.45.)

IC 13-11-2-57
"Disposal"

Sec. 57. (a) "Disposal", for purposes of environmental management laws, means the:

(1) discharge;
(2) deposit;
(3) injection;
(4) spilling;
(5) leaking; or
(6) placing;

of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.

(b) "Disposal", for purposes of IC 13-29-1, means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

(c) "Disposal", for purposes of IC 13-22-12-3.5, means all forms of disposal in or on the land, including underground injection.

As added by P.L.1-1996, SEC.1. Amended by P.L.220-2014, SEC.4.

IC 13-11-2-57.1

"Disposal fee"

Sec. 57.1. "Disposal fee", for purposes of IC 13-20-23, means a fee levied on the disposal of municipal waste in exchange for permission to construct or operate a landfill under a host agreement.
As added by P.L.133-1998, SEC.2.

IC 13-11-2-57.2
"Disposal facility"

Sec. 57.2. "Disposal facility", for purposes of IC 13-22-12-3.5, means a site where hazardous wastes are disposed of in or on the land, including a site associated with, within, or adjacent to facilities generating the waste.
As added by P.L.220-2014, SEC.5.

IC 13-11-2-58
"District"

Sec. 58. (a) "District", for purposes of IC 13-20-17.5, IC 13-20-20, IC 13-21, and IC 13-20-22, refers to:

(1) a county solid waste management district; or
(2) a joint solid waste management district;

established under IC 13-21-3-1 or IC 13-9.5-2-1 (before its repeal).

(b) "District", for purposes of IC 13-26, refers to a regional water, sewage, or solid waste district established under:

(1) IC 13-26;
(2) IC 13-3-2 (before its repeal on July 1, 1996); or
(3) IC 19-3-1.1 (before its repeal on April 1, 1980).

As added by P.L.1-1996, SEC.1. Amended by P.L.45-1997, SEC.3; P.L.225-2001, SEC.2.

IC 13-11-2-59
"District plan"

Sec. 59. "District plan", for purposes of IC 13-21, refers to a district solid waste management plan adopted or amended under IC 13-21-5 or IC 13-9.5-4 (before its repeal).
As added by P.L.1-1996, SEC.1.

IC 13-11-2-60
"Division"

Sec. 60. "Division", for purposes of IC 13-27, refers to the division of pollution prevention.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-61
"Dredged material"

Sec. 61. "Dredged material", for purposes of this chapter, means material that is dredged or excavated from an isolated wetland.
As added by P.L.52-2004, SEC.2. Amended by P.L.2-2005, SEC.53.

IC 13-11-2-61.3
"Dwelling"

Sec. 61.3. "Dwelling", for purposes of this chapter, means a building, a structure, or another enclosed space that is:

(1) permanent or temporary;

(2) movable or fixed; and

(3) an individual's home or place of lodging.

As added by P.L.178-2009, SEC.10.

IC 13-11-2-61.5
Repealed

(Repealed by P.L.57-2009, SEC.18.)

IC 13-11-2-62
"Eligible entity"

Sec. 62. "Eligible entity", for purposes of IC 13-26, means a county, city, town, township, conservancy district, or other municipal corporation.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-63
"Eligible state"

Sec. 63. "Eligible state", for purposes of IC 13-29-1, means a state qualified to be a party state to the Midwest Interstate Compact on Low-Level Radioactive Waste as provided in Article VIII of the compact.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-64
"Emergency"

Sec. 64. "Emergency", for purposes of IC 13-20-9-4, means the occurrence of widespread or severe damage or loss of property resulting from any natural or manmade cause, including fire, flood, earthquake, wind, storm, drought, or explosion.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-65
"Emergency action"

Sec. 65. "Emergency action", for purposes of IC 13-25-6, means any action taken at or near the scene of a hazardous materials emergency to prevent or minimize harm to:

(1) human health;

(2) property; or

(3) the environment;

from the uncontrolled release of a hazardous material.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-66
"Emergency response agency"

Sec. 66. "Emergency response agency", for purposes of IC 13-25-6, means:

(1) the state police;

(2) the environmental response branch of the department;
(3) a police department established under IC 36-8-2-2;
(4) a fire department established under IC 36-8-2-3;
(5) any agency of a governmental entity, or any combination of agencies of governmental entities, that provides:
(A) firefighting services;
(B) emergency rescue services; or
(C) emergency medical services; or
(6) any other agency of a governmental entity that provides manpower, equipment, or supplies at the scene of a hazardous materials emergency.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-66.5
Repealed

(Repealed by P.L.57-2009, SEC.18.)

IC 13-11-2-66.7
Repealed

(Repealed by P.L.57-2009, SEC.18.)

IC 13-11-2-66.9
"End of life vehicle"

Sec. 66.9. (a) "End of life vehicle", for purposes of IC 13-20-17.7, means a motor vehicle that is:
(1) sold; or
(2) otherwise conveyed;
to a motor vehicle recycler for the purpose of recycling.
(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

As added by P.L.170-2006, SEC.4.

IC 13-11-2-67
"Enforcement action"

Sec. 67. (a) "Enforcement action", for purposes of IC 13-20-13 and IC 13-20-14, means:
(1) a written notice of a violation or a commissioner's order issued under IC 13-30-3;
(2) a letter identifying a violation; or
(3) a court proceeding initiated by the:
(A) department;
(B) department of homeland security;
(C) state; or
(D) federal government;
under an environmental protection law or other law concerning public health, safety, or the environment.
(b) "Enforcement action", for purposes of IC 13-25-5, means:
(1) a written notice of violation issued under IC 13-30-3-3, IC 13-30-3-4, or IC 13-7-11-2 (before its repeal) that requires or involves the removal or remediation of petroleum or a

hazardous substance;

(2) another written notice that requires the removal or remediation of petroleum or a hazardous substance and that is:

(A) issued under:

(i) IC 4-21.5-3-6;

(ii) IC 4-21.5-3-8; or

(iii) IC 4-21.5-4; or

(B) substantially equivalent to a special notice letter issued under 42 U.S.C. 9622(e); or

(3) a similar notice issued by the federal government.

As added by P.L.1-1996, SEC.1. Amended by P.L.93-1998, SEC.1; P.L.1-2006, SEC.198.

IC 13-11-2-68

"Environmental audit"

Sec. 68. "Environmental audit", for purposes of IC 13-28-4, means a voluntary, an internal, and a comprehensive evaluation of:

(1) a facility or an activity at a facility regulated under:

(A) this title;

(B) a rule or standard adopted under this title;

(C) any determination, permit, or order made or issued by the commissioner under this title; or

(D) federal law; or

(2) management systems related to a facility or an activity;

that is designed to identify and prevent noncompliance with laws and improve compliance with laws, and that is conducted by an owner or operator of a facility or is an activity by an employee of the owner or operator or by an independent contractor.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-69

"Environmental audit report"

Sec. 69. "Environmental audit report", for purposes of IC 13-28-4, means a set of documents prepared as a result of an environmental audit and labeled "Environmental Audit Report; Privileged Document" that:

(1) includes:

(A) field notes;

(B) records of observations;

(C) findings;

(D) opinions;

(E) suggestions;

(F) conclusions;

(G) drafts;

(H) memoranda;

(I) drawings;

(J) photographs;

(K) computer generated or electronically recorded information;

(L) maps;

(M) charts;
(N) graphs; and
(O) surveys;
collected or developed for the primary purpose of preparing an environmental audit; and
(2) includes, when completed, the following three (3) components:
(A) An audit report prepared by the auditor that includes the following:
(i) The scope of the audit.
(ii) The information gained in the audit.
(iii) Conclusions and recommendations.
(iv) Exhibits and appendices.
(B) Memoranda and documents:
(i) analyzing a part of or all of the audit report; and
(ii) discussing implementation issues.
(C) An implementation plan that addresses the following:
(i) Correcting past noncompliance.
(ii) Improving current compliance.
(iii) Preventing future noncompliance.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-70
Repealed
(Repealed by P.L.113-2014, SEC.46.)

IC 13-11-2-70.3
"Environmental legal action"
Sec. 70.3. "Environmental legal action", for purposes of IC 13-30-9, means any legal action brought to recover reasonable costs associated with a removal or remedial action involving a hazardous substance or petroleum released into the surface or subsurface soil or groundwater that poses a risk to human health and the environment.
As added by P.L.59-1997, SEC.6.

IC 13-11-2-71
"Environmental management laws"
Sec. 71. "Environmental management laws" refers to the following:
(1) IC 13-12-2 and IC 13-12-3.
(2) IC 13-13.
(3) IC 13-14.
(4) IC 13-15.
(5) IC 13-16.
(6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.
(7) IC 13-18-10, IC 13-18-10.5, IC 13-18-12, IC 13-18-13-31, and IC 13-18-15 through IC 13-18-20.
(8) IC 13-19-1, IC 13-19-4, and IC 13-19-5-17.

(9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15, IC 13-20-17.7, IC 13-20-19 through IC 13-20-21, and IC 13-20-22-21.
(10) IC 13-22.
(11) IC 13-23.
(12) IC 13-24.
(13) IC 13-25-1 through IC 13-25-5.
(14) IC 13-27-8.
(15) IC 13-30, except IC 13-30-1.

As added by P.L.1-1996, SEC.1. Amended by P.L.1-2002, SEC.62; P.L.100-2006, SEC.4; P.L.170-2006, SEC.5; P.L.137-2007, SEC.5; P.L.127-2009, SEC.3; P.L.189-2011, SEC.5.

IC 13-11-2-71.2
"Environmental restrictive ordinance"

Sec. 71.2. "Environmental restrictive ordinance" means, with respect to land, any ordinance that:

(1) is adopted by a municipal corporation (as defined in IC 36-1-2-10); and
(2) seeks to control the use of groundwater in a manner and to a degree that protects human health and the environment against unacceptable exposure to a release of hazardous substances or petroleum, or both.

As added by P.L.78-2009, SEC.2. Amended by P.L.159-2011, SEC.2.

IC 13-11-2-72
"Environmental wastes"

Sec. 72. "Environmental wastes", for purposes of IC 13-27, means all environmental pollutants, wastes, discharges, and emissions, regardless of:

(1) whether or how they are regulated; and
(2) whether they are released to the general environment or the workplace environment.

As added by P.L.1-1996, SEC.1. Amended by P.L.124-1997, SEC.4; P.L.37-2012, SEC.4.

IC 13-11-2-72.5
Repealed

(Repealed by P.L.78-2009, SEC.28.)

IC 13-11-2-73
"Excess liability fund"

Sec. 73. "Excess liability fund", for purposes of IC 13-23, refers to the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

As added by P.L.1-1996, SEC.1. Amended by P.L.9-1996, SEC.3.

IC 13-11-2-74
"Executive"

Sec. 74. "Executive" means the:

(1) board of commissioners of a county that:
(A) does not have a consolidated city; and
(B) is not subject to IC 36-2-2.5;
(2) single county executive elected under IC 3-10-2-13, for a county that:
(A) does not have a consolidated city; and
(B) is subject to IC 36-2-2.5;
(3) mayor of the consolidated city, for a county having a consolidated city;
(4) mayor of a city; or
(5) president of the town council of a town.

As added by P.L.1-1996, SEC.1. Amended by P.L.77-2014, SEC.6.

IC 13-11-2-74.5
"Exempt isolated wetland"

Sec. 74.5. (a) "Exempt isolated wetland", for purposes of IC 13-18 and environmental management laws, means an isolated wetland that:
(1) is a voluntarily created wetland unless:
(A) the wetland is approved by the department for compensatory mitigation purposes in accordance with a permit issued under Section 404 of the Clean Water Act or IC 13-18-22;
(B) the wetland is reclassified as a state regulated wetland under IC 13-18-22-6(e); or
(C) the owner of the wetland declares, by a written instrument:
(i) recorded in the office of the recorder of the county or counties in which the wetland is located; and
(ii) filed with the department;
that the wetland is to be considered in all respects to be a state regulated wetland;
(2) exists as an incidental feature in or on:
(A) a residential lawn;
(B) a lawn or landscaped area of a commercial or governmental complex;
(C) agricultural land;
(D) a roadside ditch;
(E) an irrigation ditch; or
(F) a manmade drainage control structure;
(3) is a fringe wetland associated with a private pond;
(4) is, or is associated with, a manmade body of surface water of any size created by:
(A) excavating;
(B) diking; or
(C) excavating and diking;
dry land to collect and retain water for or incidental to agricultural, commercial, industrial, or aesthetic purposes;
(5) subject to subsection (c), is a Class I wetland with an area, as delineated, of one-half (1/2) acre or less;
(6) subject to subsection (d), is a Class II wetland with an area,

as delineated, of one-fourth (1/4) acre or less;

(7) is located on land:

(A) subject to regulation under United States Department of Agriculture wetland conservation programs, including Swampbuster and the Wetlands Reserve Program, because of voluntary enrollment in a federal farm program; and

(B) used for agricultural or other purposes allowed under the programs referred to in clause (A); or

(8) is constructed for reduction or control of pollution.

(b) For purposes of subsection (a)(2), an isolated wetland exists as an incidental feature:

(1) if:

(A) the owner or operator of the property or facility described in subsection (a)(2) does not intend the isolated wetland to be a wetland;

(B) the isolated wetland is not essential to the function or use of the property or facility; and

(C) the isolated wetland arises spontaneously as a result of damp soil conditions incidental to the function or use of the property or facility; and

(2) if the isolated wetland satisfies any other factors or criteria established in rules that are:

(A) adopted by the board; and

(B) not inconsistent with the factors and criteria described in subdivision (1).

(c) The total acreage of Class I wetlands on a tract to which the exemption described in subsection (a)(5) may apply is limited to the larger of:

(1) the acreage of the largest individual isolated wetland on the tract that qualifies for the exemption described in subsection (a)(5); and

(2) fifty percent (50%) of the cumulative acreage of all individual isolated wetlands on the tract that would qualify for the exemption described in subsection (a)(5) but for the limitation of this subsection.

(d) The total acreage of Class II wetlands on a tract to which the exemption described in subsection (a)(6) may apply is limited to the larger of:

(1) the acreage of the largest individual isolated wetland on the tract that qualifies for the exemption described in subsection (a)(6); and

(2) thirty-three and one-third percent (33 1/3%) of the cumulative acreage of all individual isolated wetlands on the tract that would qualify for the exemption described in subsection (a)(6) but for the limitation of this subsection.

(e) An isolated wetland described in subsection (a)(5) or (a)(6) does not include an isolated wetland on a tract that contains more than one (1) of the same class of wetland until the owner of the tract notifies the department that the owner has selected the isolated wetland to be an exempt isolated wetland under subsection (a)(5) or

(a)(6) consistent with the applicable limitations described in subsections (c) and (d).
As added by P.L.282-2003, SEC.24. Amended by P.L.52-2004, SEC.3; P.L.241-2005, SEC.3; P.L.113-2014, SEC.47.

IC 13-11-2-75
"Exposure assessment"

Sec. 75. "Exposure assessment", for purposes of IC 13-23, means an assessment to determine the extent of exposure, or potential for exposure, of individuals to any regulated substance from a release from an underground storage tank based on factors such as the following:

(1) The nature and extent of contamination and the existence of or potential for pathways of human exposure, including ground or surface water contamination, air emissions, and food chain contamination.

(2) The size of the community within the likely pathway of exposure.

(3) The comparison of expected human exposure levels to the short term and long term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for those contaminants.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-76
"Extremely hazardous substance"

Sec. 76. "Extremely hazardous substance", for purposes of IC 13-25-2, has the meaning set forth in 42 U.S.C. 11049.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-77
"Facility"

Sec. 77. (a) "Facility", for purposes of IC 13-15-1-3, means a structure or an area of land used for the disposal, treatment, storage, recovery, processing, or transferring of solid waste, hazardous waste, or atomic radiation. The term includes the following:

(1) A hazardous waste facility.

(2) An incinerator.

(3) A solid waste landfill.

(4) A transfer station.

(b) "Facility", for purposes of IC 13-17-7, means a single structure, piece of equipment, installation, or operation that:

(1) emits; or

(2) has the potential to emit;

a regulated air pollutant.

(c) "Facility", for purposes of IC 13-18-5, means a building, a structure, equipment, or other stationary item that is located on:

(1) a single site; or

(2) contiguous or adjacent sites that are owned by, operated by, or under common control of the same person.

(d) "Facility", for purposes of IC 13-21, means a facility, a plant, a works, a system, a building, a structure, an improvement, machinery, equipment, a fixture, or other real or personal property of any nature that is to be used, occupied, or employed for the collection, storage, separation, processing, recovery, treatment, marketing, transfer, or disposal of solid waste.

(e) "Facility", for purposes of IC 13-25-2, means all buildings, equipment, structures, and other stationary items that are:

(1) located on a single site or on contiguous or adjacent sites; and

(2) owned or operated by:

(A) the same person; or

(B) any person that controls, is controlled by, or is under common control with the same person.

For purposes of IC 13-25-2-6, the term includes motor vehicles, rolling stock, and aircraft.

(f) "Facility", for purposes of IC 13-25-4, has the meaning set forth in 42 U.S.C. 9601(9).

(g) "Facility", for purposes of IC 13-29-1, means a parcel of land or site, together with the structures, equipment, and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

As added by P.L.1-1996, SEC.1. Amended by P.L.221-2007, SEC.1.

IC 13-11-2-78
"Federal permit"

Sec. 78. "Federal permit", for purposes of IC 13-18-20, refers to a NPDES permit issued to a federally owned facility.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-79
"Federal Water Pollution Control Act"

Sec. 79. "Federal Water Pollution Control Act", for purposes of:

(1) IC 13-13-5 and IC 13-18-2-1; and

(2) environmental management laws;

refers to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended by the federal Water Quality Act of 1987, P.L.100-4.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-79.5
"Fertilizer material"

Sec. 79.5. "Fertilizer material", for purposes of IC 13-18-4-5, has the meaning set forth in IC 15-16-2-11.

As added by P.L.189-2011, SEC.6.

IC 13-11-2-80
"FESOP"

Sec. 80. "FESOP", for purposes of IC 13-17-7, means a federally enforceable state operating permit issued to a source that would

require a Title V operating permit but due to a federally enforceable operating restriction has potential emissions less than the amount that would require a Title V operating permit.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-81
"Fiduciary"

Sec. 81. (a) "Fiduciary", for purposes of IC 13-23-13:

(1) means a person acting for the benefit of another party as a bona fide:

(A) trustee;
(B) executor;
(C) administrator;
(D) custodian;
(E) guardian of estates or guardian ad litem;
(F) receiver;
(G) conservator;
(H) committee of estates of incapacitated persons;
(I) personal representative;
(J) trustee (including a successor to a trustee) under an indenture agreement, trust agreement, lease, or similar financing agreement for debt securities, certificates of interest or certificates of participation in debt securities, or other forms of indebtedness as to which the trustee is not, in the capacity of trustee, the lender; or
(K) representative in a capacity that is similar to the capacities referred to in clauses (A) through (J); and

(2) does not include:

(A) a person that is acting as a fiduciary with respect to a trust or other fiduciary estate that was organized for the primary purpose of, or is engaged in, actively carrying on a trade or business for profit, unless the trust or other fiduciary estate was created as part of, or to facilitate, at least one (1) estate plan or because of the incapacity of a natural person; or
(B) a person that acquires ownership or control of an underground storage tank with the objective purpose of avoiding liability of the person or another person.

(b) "Fiduciary", for purposes of IC 13-24-1:

(1) means a person acting for the benefit of another party as a bona fide:

(A) trustee;
(B) executor;
(C) administrator;
(D) custodian;
(E) guardian of estates or guardian ad litem;
(F) receiver;
(G) conservator;
(H) committee of estates of incapacitated persons;
(I) personal representative;

(J) trustee (including a successor to a trustee) under an indenture agreement, trust agreement, lease, or similar financing agreement for debt securities, certificates of interest or certificates of participation in debt securities, or other forms of indebtedness as to which the trustee is not, in the capacity of trustee, the lender; or

(K) representative in a capacity that is similar to the capacities referred to in clauses (A) through (J); and

(2) does not include:

(A) a person that is acting as a fiduciary with respect to a trust or other fiduciary estate that was organized for the primary purpose of, or is engaged in, actively carrying on a trade or business for profit, unless the trust or other fiduciary estate was created as part of, or to facilitate, at least one (1) estate plan or because of the incapacity of a natural person; or

(B) a person that acquires ownership or control of a petroleum facility with the purpose of avoiding liability of the person or of another person.

(c) "Fiduciary", for purposes of IC 13-25-4:

(1) means a person acting for the benefit of another party as a bona fide:

(A) trustee;

(B) executor;

(C) administrator;

(D) custodian;

(E) guardian of estates or guardian ad litem;

(F) receiver;

(G) conservator;

(H) committee of estates of incapacitated persons;

(I) personal representative;

(J) trustee (including a successor to a trustee) under an indenture agreement, trust agreement, lease, or similar financing agreement for debt securities, certificates of interest or certificates of participation in debt securities, or other forms of indebtedness as to which the trustee is not, in the capacity of trustee, the lender; or

(K) representative in a capacity that is similar to the capacities referred to in clauses (A) through (J); and

(2) does not include:

(A) a person that is acting as a fiduciary with respect to a trust or other fiduciary estate that was organized for the primary purpose of, or is engaged in, actively carrying on a trade or business for profit, unless the trust or other fiduciary estate was created as part of, or to facilitate, at least one (1) estate plan or because of the incapacity of a natural person; or

(B) a person that acquires ownership or control of a vessel or facility with the objective purpose of avoiding liability of the person or of another person.

As added by P.L.1-1996, SEC.1. Amended by P.L.90-1998, SEC.2.

IC 13-11-2-81.5
"Fiduciary capacity"

Sec. 81.5. (a) "Fiduciary capacity", for purposes of IC 13-23-13, means the capacity of a person in holding title to an underground storage tank pursuant to the exercise of the responsibilities of the person as a fiduciary.

(b) "Fiduciary capacity", for purposes of IC 13-24-1, means the capacity of a person in holding title to a petroleum facility pursuant to the exercise of the responsibilities of the person as a fiduciary.

(c) "Fiduciary capacity", for purposes of IC 13-25-4, means the capacity of a person in holding title to a vessel or facility pursuant to the exercise of the responsibilities of the person as a fiduciary.

As added by P.L.90-1998, SEC.3.

IC 13-11-2-82
"Final disposal facility"

Sec. 82. (a) "Final disposal facility", for purposes of IC 13-20-3, IC 13-20-5, IC 13-20-22, and IC 13-21, means any of the following:

(1) A landfill.
(2) An incinerator.
(3) A waste-to-energy facility.

(b) The term does not include a transfer station.

As added by P.L.1-1996, SEC.1. Amended by P.L.2-1998, SEC.45.

IC 13-11-2-83
"Financial assistance agreement"

Sec. 83. (a) "Financial assistance agreement", for purposes of IC 13-18-13, refers to an agreement between:

(1) the Indiana finance authority; and
(2) a participant under IC 13-18-13;

establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the participant under that chapter.

(b) "Financial assistance agreement", for purposes of IC 13-19-5, means an agreement between the authority and a political subdivision that:

(1) is approved by the budget agency; and
(2) establishes the terms and conditions of a loan or other financial assistance by the state to the political subdivision.

(c) "Financial assistance agreement", for purposes of IC 13-18-21, refers to an agreement between:

(1) the Indiana finance authority; and
(2) a participant under IC 13-18-21;

establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the participant under IC 13-18-21.

As added by P.L.1-1996, SEC.1. Amended by P.L.59-1997, SEC.7; P.L.126-1997, SEC.1; P.L.253-1997(ss), SEC.12; P.L.132-1999,

SEC.4; P.L.235-2005, SEC.127.

IC 13-11-2-84
"Financial assurance board"

Sec. 84. "Financial assurance board", for purposes of IC 13-23, refers to the underground petroleum storage tank financial assurance board.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-84.5
"Financial or administrative function"

Sec. 84.5. "Financial or administrative function", for purposes of sections 151.2, 151.3, and 151.4 of this chapter, IC 13-23-13-14, IC 13-24-1-10, and IC 13-25-4-8.2, includes a function such as that of:

(1) a credit manager;
(2) an accounts payable officer;
(3) an accounts receivable officer;
(4) a personnel manager;
(5) a comptroller; or
(6) a chief financial officer or a similar function.

As added by P.L.97-2004, SEC.58.

IC 13-11-2-85
"Financial agreement"

Sec. 85. "Financing agreement", for purposes of IC 13-21, includes an agreement between a district and a developer, between a developer and a user, or among a district, developer, and user concerning:

(1) payments to the district under the agreement; and
(2) any of the following:
  (A) The financing of facilities.
  (B) The title to facilities.
  (C) The possession of facilities.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-85.3
"Fiscal year"

Sec. 85.3. "Fiscal year", for purposes of IC 13-20-25, has the meaning set forth in IC 13-20-25-2.

As added by P.L.126-2014, SEC.1.

IC 13-11-2-85.5
Repealed

(Repealed by P.L.97-2004, SEC.133.)

IC 13-11-2-85.6
"Foreclosure"

Sec. 85.6. "Foreclosure", for purposes of sections 148(e)(2), 150(c), and 151(e) of this chapter, means the acquisition of a vessel

or facility for purposes of IC 13-25-4-8(c), an underground storage tank for purposes of IC 13-23-13, or a petroleum facility for purposes of IC 13-24-1 through any of the following:

(1) If the vessel or facility, underground storage tank, or petroleum facility was security for an extension of credit previously contracted:

(A) purchase at sale under a judgment or decree, power of sale, or nonjudicial foreclosure;

(B) a deed in lieu of foreclosure or a similar conveyance from a trustee; or

(C) repossession.

(2) Conveyance under an extension of credit previously contracted, including the termination of a lease agreement.

(3) Any other formal or informal manner by which the person acquires, for subsequent disposition, title to or possession of a vessel or facility, underground storage tank, or petroleum facility in order to protect the security interest of the person.

As added by P.L.159-2011, SEC.3.

IC 13-11-2-85.7
Repealed

(Repealed by P.L.1-2006, SEC.588.)

IC 13-11-2-86
"Fiscal body"

Sec. 86. "Fiscal body" means:

(1) the county council, for a county not having a consolidated city;

(2) the city-county council of a consolidated city and county;

(3) the common council of a city;

(4) the town council of a town;

(5) the township board of a township; or

(6) the board of directors of a conservancy district.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-87
"Fund"

Sec. 87. (a) "Fund", for purposes of IC 13-14-12, refers to the environmental management special fund.

(b) "Fund", for purposes of IC 13-15-10, refers to the waste facility operator trust fund.

(c) "Fund", for purposes of IC 13-15-11, refers to the environmental management permit operation fund.

(d) "Fund", for purposes of IC 13-17-6, refers to the asbestos trust fund.

(e) "Fund", for purposes of IC 13-17-8, refers to the Title V operating permit program trust fund.

(f) "Fund", for purposes of IC 13-18-8-5, refers to a sanitary fund.

(g) "Fund", for purposes of IC 13-18-13, refers to the wastewater revolving loan fund established by IC 13-18-13-2.

(h) "Fund", for purposes of IC 13-18-21, refers to the drinking water revolving loan fund established by IC 13-18-21-2. The term does not include the supplemental fund established by IC 13-18-21-22.

(i) "Fund", for purposes of IC 13-19-5, refers to the environmental remediation revolving loan fund established by IC 13-19-5-2.

(j) "Fund", for purposes of IC 13-20-4, refers to the municipal waste transportation fund.

(k) "Fund", for purposes of IC 13-20-13, refers to the waste tire management fund.

(l) "Fund", for purposes of IC 13-20-22, refers to the state solid waste management fund.

(m) "Fund", for purposes of IC 13-21-7, refers to the waste management district bond fund.

(n) "Fund", for purposes of IC 13-21-13-2, refers to a district solid waste management fund.

(o) "Fund", for purposes of IC 13-23-6, refers to the underground petroleum storage tank trust fund.

(p) "Fund", for purposes of IC 13-23-7, refers to the underground petroleum storage tank excess liability trust fund.

(q) "Fund", for purposes of IC 13-25-4, refers to the hazardous substances response trust fund.

(r) "Fund", for purposes of IC 13-25-5, refers to the voluntary remediation fund.

(s) "Fund", for purposes of IC 13-28-2, refers to the voluntary compliance fund.

As added by P.L.1-1996, SEC.1. Amended by P.L.123-1997, SEC.6; P.L.59-1997, SEC.8; P.L.126-1997, SEC.2; P.L.253-1997(ss), SEC.13; P.L.132-1999, SEC.5; P.L.14-2001, SEC.3; P.L.57-2009, SEC.1.

IC 13-11-2-88
"Garbage"

Sec. 88. "Garbage", for purposes of environmental management laws, means all putrescible animal solid, vegetable solid, and semisolid wastes resulting from the:

(1) processing;
(2) handling;
(3) preparation;
(4) cooking;
(5) serving; or
(6) consumption;

of food or food materials.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-89
"Generator"

Sec. 89. (a) "Generator", for purposes of IC 13-22-12, means a person that, during the preceding year, generated hazardous waste in quantities greater than:

(1) one thousand (1,000) kilograms of hazardous waste; or
(2) one (1) kilogram of acutely toxic waste in any month.

(b) "Generator", for purposes of IC 13-29-1, means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the United States Nuclear Regulatory Commission or a party state to produce or possess such waste. The term does not include a person who provides a service by arranging for the collection, transportation, treatment, storage, or disposal of wastes generated outside the region.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-90
"Governmental entity"

Sec. 90. "Governmental entity", for purposes of IC 13-18-3 and IC 13-25-6, means the state or a political subdivision.
As added by P.L.1-1996, SEC.1. Amended by P.L.78-2009, SEC.3.

IC 13-11-2-91
"Grantee"

Sec. 91. "Grantee", for purposes of IC 13-20-20, means a person that receives a grant under IC 13-20-20.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-92
"Groundwater monitoring well"

Sec. 92. "Groundwater monitoring well", for purposes of IC 13-20-21 and IC 13-22-12, means a device required by a permit condition or applicable rule to monitor the quality of groundwater during a twelve (12) month period.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-93
"Guarantor"

Sec. 93. (a) "Guarantor", for purposes of IC 13-22-8, means a person, other than the owner or operator of a hazardous waste facility, who provides evidence of financial responsibility for the owner or operator under IC 13-22-8.

(b) "Guarantor", for purposes of IC 13-23-4-6, means any person, other than the owner or operator of an underground storage tank, who provides evidence of financial responsibility for an owner or operator under:
(1) IC 13-23-4-1 or IC 13-23-4-2; and
(2) the rules adopted under IC 13-23-1-2(c)(6).
As added by P.L.1-1996, SEC.1.

IC 13-11-2-94
"Hazardous chemical"

Sec. 94. "Hazardous chemical", for purposes of IC 13-25-2, has

the meaning set forth in 42 U.S.C. 11021(e).
As added by P.L.1-1996, SEC.1.

IC 13-11-2-95
"Hazardous household product"

Sec. 95. "Hazardous household product", for purposes of IC 13-20-20, means a household product that:

(1) may cause serious injury or death when introduced into or upon the body of a living human because the product is:
(A) a poison;
(B) toxic;
(C) corrosive;
(D) an irritant;
(E) flammable; or
(F) radioactive; or
(2) generates pressure through:
(A) decomposition;
(B) heat; or
(C) other means;
during a customary or reasonably anticipated handling or use.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-96
"Hazardous material"

Sec. 96. (a) "Hazardous material", for purposes of IC 13-18-5, means any of the following:

(1) A hazardous chemical (as defined in 42 U.S.C. 11021(e), as in effect on January 1, 1990).
(2) A hazardous waste.
(3) A hazardous substance (as defined in 42 U.S.C. 9601(14), as in effect on January 1, 1990).
(4) A substance that is on the list of extremely hazardous substances published by the Administrator of the United States Environmental Protection Agency under 42 U.S.C. 11002(a)(2).
(5) A material that is identified by the board as potentially harmful to surface water or groundwater if accidentally released from a storage or handling facility.

(b) "Hazardous material", for purposes of IC 13-25-6, means a material or waste that has been determined to be hazardous or potentially hazardous to human health, to property, or to the environment by:

(1) the United States:
(A) Environmental Protection Agency;
(B) Nuclear Regulatory Commission;
(C) Department of Transportation; or
(D) Occupational Safety and Health Administration; or
(2) the board.

The term includes all of the hazardous materials identified in 49 CFR 172.101.
As added by P.L.1-1996, SEC.1. Amended by P.L.113-2014, SEC.48.

IC 13-11-2-97
"Hazardous materials emergency"

Sec. 97. "Hazardous materials emergency", for purposes of IC 13-25-6, means an occurrence that:

(1) involves the uncontrolled release or imminent uncontrolled release of a hazardous material into the environment; and

(2) creates the possibility of harm to:

(A) human health;

(B) property; or

(C) the environment.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-98
"Hazardous substance"

Sec. 98. "Hazardous substance", for purposes of:

(1) IC 13-19-5;

(2) IC 13-25-4; and

(3) IC 13-25-5;

has the meaning set forth in Section 101 of CERCLA (42 U.S.C. 9601). The term includes any substance that the board determines to be hazardous under environmental management laws.

As added by P.L.1-1996, SEC.1. Amended by P.L.59-1997, SEC.9; P.L.113-2014, SEC.49.

IC 13-11-2-99
"Hazardous waste"

Sec. 99. (a) "Hazardous waste", for purposes of section 96(a) of this chapter, IC 13-19, and environmental management laws, means a solid waste or combination of solid wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

(1) cause or significantly contribute to an increase in:

(A) mortality;

(B) serious irreversible illness; or

(C) incapacitating reversible illness; or

(2) pose a substantial present or potential hazard to:

(A) human health; or

(B) the environment;

when improperly treated, stored, transported, disposed of, or otherwise managed.

(b) "Hazardous waste", for purposes of IC 13-22-10, includes a waste determined to be a hazardous waste under IC 13-22-2-3(b).

(c) "Hazardous waste", for purposes of IC 13-22-11, has the meaning set forth in the federal Resource Conservation and Recovery Act (42 U.S.C. 6903(5)), as in effect January 1, 1989.

(d) "Hazardous waste", for purposes of IC 13-22-12-3.5, includes any waste that:

(1) meets the definition set forth in subsection (a);

(2) is determined to be hazardous under the criteria developed under IC 13-22-2-3(a); or

(3) is included on the list compiled and maintained by the board under IC 13-22-2-3(b).

As added by P.L.1-1996, SEC.1. Amended by P.L.220-2014, SEC.6.

IC 13-11-2-100
"Hazardous waste facility"

Sec. 100. "Hazardous waste facility", for purposes of environmental management laws, means a plant or site where hazardous waste is subjected to treatment, storage, or disposal.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-101
"Hazardous waste landfill"

Sec. 101. "Hazardous waste landfill", for purposes of IC 13-22-9, means a hazardous waste disposal facility at which hazardous waste is deposited on or beneath the surface of the ground as an intended place of final location.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-102
"High level radioactive waste"

Sec. 102. "High level radioactive waste", for purposes of IC 13-22-10, has the meaning set forth in Section 2 of the federal Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101), as in effect on January 1, 1987.

As added by P.L.1-1996, SEC.1. Amended by P.L.124-1996, SEC.5.

IC 13-11-2-102.6
"Host agreement"

Sec. 102.6. "Host agreement", for purposes of IC 13-20-23, means a valid and enforceable agreement entered into between a county and another person for the payment of a disposal fee in exchange for the county's permission to construct or operate a landfill.

As added by P.L.133-1998, SEC.3.

IC 13-11-2-103
"Host state"

Sec. 103. "Host state", for purposes of IC 13-29-1, means any state which is designated by the Midwest Interstate Low-Level Radioactive Waste Commission to host a regional facility.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-103.9
"Household"

Sec. 103.9. "Household", for purposes of section 47.7 of this chapter and IC 13-20.5, means the occupants of a dwelling located in Indiana who use a video display device at the dwelling primarily for personal use or home office use.

As added by P.L.178-2009, SEC.11.

IC 13-11-2-104
"Household hazardous waste"

Sec. 104. "Household hazardous waste", for purposes of IC 13-20-20 and IC 13-21, means hazardous waste generated by households.

As added by P.L.1-1996, SEC.1. Amended by P.L.237-1999, SEC.2.

IC 13-11-2-104.5
"Hulk crusher"

Sec. 104.5. (a) "Hulk crusher", for purposes of this chapter, means an enterprise that engages in the business of handling and flattening, compacting, or otherwise demolishing motor vehicles or their remains for economical delivery to a scrap metal processor or other appropriate facility.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

As added by P.L.170-2006, SEC.6.

IC 13-11-2-105
"Incidental concentration of PCB"

Sec. 105. "Incidental concentrations of PCB", for purposes of IC 13-20-15-3, means concentrations of PCB that are beyond the control of the person and that are not the result of the person:

(1) exposing the:
  (A) item;
  (B) product; or
  (C) material;
to concentrations of PCB;
(2) failing to take reasonable measures to rid the:
  (A) item;
  (B) product; or
  (C) material;
of concentrations of PCB; or
(3) failing to use a reasonable substitute for the:
  (A) item;
  (B) product; or
  (C) material;
for which the exemption is sought.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-106
"Incinerator"

Sec. 106. "Incinerator", for purposes of IC 13-21 and environmental management laws, means an engineered apparatus designed for the burning of solid waste under the effect of controls on the following:

(1) Temperature.
(2) Retention time.
(3) Air.
(4) Other combustion factors.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-107
"Includes"

Sec. 107. "Includes" means includes but is not limited to.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-108
"Industrial permit"

Sec. 108. "Industrial permit", for purposes of IC 13-14-8-11.6 and IC 13-18-20, refers to a National Pollutant Discharge Elimination System (NPDES) permit other than a permit issued to any of the following:

(1) a municipal facility;
(2) a state facility;
(3) a federal facility;
(4) a semipublic facility;
(5) a public water system facility; or
(6) a facility for storm water discharge.

As added by P.L.1-1996, SEC.1. Amended by P.L.72-1999, SEC.1; P.L.184-2002, SEC.2.

IC 13-11-2-109
"Industrial pretreatment permit"

Sec. 109. "Industrial pretreatment permit", for purposes of IC 13-18-20, refers to a permit issued by the state to an industry discharging to a publicly owned treatment works that:

(1) meets the criteria in 327 IAC 5-13-2(f); and
(2) has been approved by the commissioner in accordance with 327 IAC 5-13-4.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-109.5
Repealed

(Repealed by P.L.218-2001, SEC.11.)

IC 13-11-2-110
Repealed

(Repealed by P.L.37-2012, SEC.5.)

IC 13-11-2-111
"Intentionally introduced"

Sec. 111. "Intentionally introduced", for purposes of IC 13-20-17, means any time that mercury is present in a battery, unless the mercury is only incidentally present in other materials in the battery.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-112
"Interstate agency"

Sec. 112. "Interstate agency", for purposes of IC 13-18-2, means

an agency of at least two (2) states having powers or duties pertaining to the abatement of water pollution.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-112.5
"Isolated wetland"

Sec. 112.5. "Isolated wetland", for purposes of IC 13-18, is a wetland that is not subject to regulation under Section 404(a) of the Clean Water Act.
As added by P.L.282-2003, SEC.25.

IC 13-11-2-113
"Joint solid waste management district" or "joint district"

Sec. 113. "Joint solid waste management district" or "joint district", for purposes of IC 13-21, refers to a solid waste management district that consists of at least two (2) counties.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-113.5
"Knee of the curve"

Sec. 113.5. "Knee of the curve", for purposes of IC 13-18, means the point where the incremental change in the cost of the control alternative per change in performance of the control alternative changes most rapidly.
As added by P.L.140-2000, SEC.9.

IC 13-11-2-114
"Land application"

Sec. 114. "Land application", for purposes of IC 13-18-12, means the disposal of wastewater by burial or incorporation into the soil.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-114.2
"Land application operation"

Sec. 114.2. "Land application operation", for purposes of IC 13-19-3, means an operation in which sludge, waste products, or wastewater generated by industrial, municipal, or semipublic facilities are disposed of by application upon or incorporation into the soil. The term does not include the operation of a landfill or an open dump.
As added by P.L.30-1999, SEC.1.

IC 13-11-2-115
"Land disposal"

Sec. 115. "Land disposal", for purposes of IC 13-22-12, includes the following:

(1) Interim status and permitted hazardous waste landfills.

(2) Interim status and permitted hazardous waste surface impoundments.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-115.5
Repealed
(Repealed by P.L.113-2014, SEC.50.)

IC 13-11-2-116
"Landfill"
Sec. 116. (a) "Landfill", for purposes of IC 13-20-2, IC 13-20-24, and IC 13-20.5, means a solid waste disposal facility at which solid waste is deposited on or beneath the surface of the ground as an intended place of final location.

(b) "Landfill", for purposes of section 114.2 of this chapter and IC 13-20-11, means a facility operated under a permit issued under IC 13-15-3 or IC 13-7-10 (before its repeal) at which solid waste is disposed of by placement on or under the surface of the ground.

(c) "Landfill", for purposes of section 82 of this chapter and IC 13-21, means a solid waste disposal facility at which solid waste is deposited on or in the ground as an intended place of final location. The term does not include the following:

(1) A site that is devoted solely to receiving one (1) or more of the following:
(A) Fill dirt.
(B) Vegetative matter subject to disposal as a result of:
(i) landscaping;
(ii) yard maintenance;
(iii) land clearing; or
(iv) any combination of activities referred to in this clause.

(2) A facility receiving waste that is regulated under the following:
(A) IC 13-22-1 through IC 13-22-8.
(B) IC 13-22-13 through IC 13-22-14.

As added by P.L.1-1996, SEC.1. Amended by P.L.2-1998, SEC.46; P.L.133-1998, SEC.4; P.L.30-1999, SEC.2; P.L.14-2000, SEC.34; P.L.97-2004, SEC.60; P.L.131-2006, SEC.2; P.L.178-2009, SEC.12.

IC 13-11-2-117
Repealed
(Repealed by P.L.97-2004, SEC.133.)

IC 13-11-2-118
"Lead acid battery"
Sec. 118. "Lead acid battery", for purposes of IC 13-20-16, means a battery that:

(1) contains lead and sulfuric acid; and
(2) has a nominal voltage of at least six (6) volts.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-118.3
Repealed
(Repealed by P.L.57-2009, SEC.18.)

IC 13-11-2-118.5
Repealed
(Repealed by P.L.57-2009, SEC.18.)

IC 13-11-2-119
"Lender"
Sec. 119. (a) "Lender", for purposes of IC 13-23-13, means any of the following:
(1) An insured depository institution (as defined in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)).
(2) An insured credit union (as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).
(3) A bank or association chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).
(4) A leasing or trust company that is an affiliate of an insured depository institution.
(5) A person (including a successor or assignee of the person) that:
(A) makes a bona fide extension of credit to; or
(B) takes or acquires a security interest from;
a nonaffiliated person.
(6) The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or an entity that buys or sells loans or interests in loans in a bona fide manner.
(7) A person that:
(A) insures or guarantees against a default in the repayment of an extension of credit; or
(B) acts as a surety with respect to an extension of credit;
to a nonaffiliated person.
(8) A person that provides title insurance and that acquires an underground storage tank as a result of assignment or conveyance in the course of underwriting claims and claims settlement.
(b) "Lender", for purposes of IC 13-24-1, means any of the following:
(1) An insured depository institution (as defined in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)).
(2) An insured credit union (as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).
(3) A bank or association chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).
(4) A leasing or trust company that is an affiliate of an insured depository institution.
(5) A person (including a successor or assignee of the person) that:
(A) makes a bona fide extension of credit to; or
(B) takes or acquires a security interest from;
a nonaffiliated person.
(6) The Federal National Mortgage Association, the Federal

Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or an entity that buys or sells loans or interests in loans in a bona fide manner.

(7) A person that:

(A) insures or guarantees against a default in the repayment of an extension of credit; or

(B) acts as a surety with respect to an extension of credit;

to a nonaffiliated person.

(8) A person that provides title insurance and that acquires a petroleum facility as a result of assignment or conveyance in the course of underwriting claims and claims settlement.

(c) "Lender", for purposes of IC 13-25-4, means any of the following:

(1) An insured depository institution (as defined in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)).

(2) An insured credit union (as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(3) A bank or association chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

(4) A leasing or trust company that is an affiliate of an insured depository institution.

(5) A person (including a successor or assignee of the person) that:

(A) makes a bona fide extension of credit to; or

(B) takes or acquires a security interest from;

a nonaffiliated person.

(6) The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or an entity that buys or sells loans or interests in loans in a bona fide manner.

(7) A person that:

(A) insures or guarantees against a default in the repayment of an extension of credit; or

(B) acts as a surety with respect to an extension of credit;

to a nonaffiliated person.

(8) A person that provides title insurance and that acquires a vessel or facility as a result of assignment or conveyance in the course of underwriting claims and claims settlement.

As added by P.L.1-1996, SEC.1. Amended by P.L.90-1998, SEC.5; P.L.113-2014, SEC.51.

IC 13-11-2-120
"Local emergency planning committee"

Sec. 120. "Local emergency planning committee", for purposes of IC 13-25-1, refers to a committee established under Title III of SARA for a local emergency planning district.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-120.5
"Long term control plan"

Sec. 120.5. "Long term control plan", for purposes of section 31.5 of this chapter, IC 13-14-9-14, and IC 13-18, means a plan that:

(1) is consistent with the federal Combined Sewer Overflow Control Policy (59 Fed. Reg. 18688);

(2) is developed in accordance with the recommendations set forth in Combined Sewer Overflows Guidance for Long-Term Control Plan (EPA 832B95002);

(3) describes changes and improvements to be made to a combined sewer system or to a publicly owned wastewater treatment plant for the purpose of meeting the requirements of the federal Clean Water Act and state law;

(4) is developed with public participation using a process that is designed to promote active involvement by the affected public, through opportunities to provide in the decision making to select long term control alternatives:

(A) information;

(B) opinions; and

(C) comments;

(5) is submitted to the department for approval; and

(6) does the following:

(A) Uses characterization, monitoring, and modeling of the combined sewer system to determine:

(i) the response of the combined sewer system to various precipitation events;

(ii) the characteristics of overflows from the combined sewer system; and

(iii) the water quality impacts that result from overflows from the combined sewer system.

(B) Considers the impact of combined sewer overflows on sensitive areas and gives highest priority to controlling overflows in those areas.

(C) Contains an evaluation of a reasonable range of control alternatives, taking into account expected and projected future growth.

(D) Contains cost and performance analyses of the control alternatives evaluated.

(E) Maximizes treatment of wet weather flows at a publicly owned treatment works (POTW) treatment plant.

(F) Contains a practicable implementation schedule for the selected control alternative.

(G) Contains a post-construction compliance monitoring program adequate to ascertain:

(i) the effectiveness of the selected control alternative; and

(ii) the extent to which water quality standards have been attained.

As added by P.L.140-2000, SEC.10. Amended by P.L.100-2006, SEC.5.

IC 13-11-2-121
"Low level radioactive waste"

Sec. 121. (a) "Low level radioactive waste", for purposes of IC 13-22-10, means radioactive material that:

(1) is not:

(A) high level radioactive waste;

(B) spent nuclear fuel; or

(C) byproduct material; and

(2) is classified by the United States Nuclear Regulatory Commission, in accordance with law, as low level radioactive waste.

(b) "Low-level radioactive waste" or "waste", for purposes of IC 13-29-1, means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in Section 11e.(2) of the Atomic Energy Act of 1954.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-122
"Major modification"

Sec. 122. "Major modification", for purposes of IC 13-15-4, when applied to a solid waste permit, means any change in a permitted solid waste facility that would:

(1) increase the facility's permitted capacity to process or dispose of solid waste by the lesser of:

(A) more than ten percent (10%); or

(B) five hundred thousand (500,000) cubic yards; or

(2) change the permitted footprint of the landfill by more than one (1) acre.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-123
"Major permit"

Sec. 123. "Major permit", for purposes of IC 13-18-20, refers to a NPDES permit:

(1) as classified by the Region V Regional Administrator of the United States Environmental Protection Agency and the commissioner; and

(2) as set forth in the Major Dischargers List developed by the United States Environmental Protection Agency and the department in the "National Pollutant Discharge Elimination System Memorandum of Agreement Between the State of Indiana and EPA Region V" dated July 22, 1977.

As added by P.L.1-1966, SEC.1.

IC 13-11-2-124
"Management plan"

Sec. 124. "Management plan", for purposes of IC 13-29-1, means the plan adopted by the commission for the storage, transportation, treatment, and disposal of waste within the region.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-125
"Manifest"

Sec. 125. "Manifest", for purposes of environmental management laws except IC 13-20-4-7, means the form used for identifying the:

(1) quantity;
(2) composition; and
(3) origin, routing, and destination;

of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-126
"Manufacturer"

Sec. 126. (a) "Manufacturer", for purposes of IC 13-20-16, means a person who is engaged in the business of making lead acid batteries:

(1) in Indiana; or
(2) for sale in Indiana.

(b) "Manufacturer", for purposes of sections 179.9, 180.1, 195.7, and 245.4 of this chapter and IC 13-20.5, means a person that:

(1) manufactures video display devices to be sold under the person's own brand or a brand the person licenses as identified by the person's own brand label or the brand label the person licenses;
(2) sells video display devices manufactured by others under the person's own brand or a brand the person licenses as identified by the person's own brand label or the brand label the person licenses; or
(3) assumes the responsibilities and obligations of a manufacturer under IC 13-20.5.

As added by P.L.1-1996, SEC.1. Amended by P.L.124-1997, SEC.6; P.L.225-2001, SEC.3; P.L.178-2009, SEC.13; P.L.37-2012, SEC.6.

IC 13-11-2-126.5
"Manure"

Sec. 126.5. "Manure" means the following:

(1) Liquid or solid animal excreta.
(2) Waste liquid generated at a livestock or poultry production area, including the following:
    (A) Excess drinking water.
    (B) Cleanup water.
    (C) Contaminated livestock truck or trailer washwater.
    (D) Milking parlor wastewater.
    (E) Milk house washwater.
    (F) Egg washwater.
    (G) Silage leachate.
(3) Any precipitation or surface water that has come into contact with the following:
    (A) Liquid or solid animal excreta.
    (B) Used bedding.

(C) Litter.
(D) Liquid described in subdivision (4).
(4) Any other materials generated at a livestock or poultry production area commingled with the materials listed in subdivisions (1) through (3).
As added by P.L.189-2011, SEC.7.

IC 13-11-2-127
"Mass balance calculation"
Sec. 127. "Mass balance calculation", for purposes of IC 13-27, means a determination of the annual quantities of each toxic material that is:
(1) transported to;
(2) produced at;
(3) used at;
(4) accumulated or stored at;
(5) released from; or
(6) transported from;
a business or manufacturing facility as a waste or pollutant, as a commercial product or byproduct, in a commercial product or byproduct, or as a component of a commercial product or byproduct, based upon an analysis of each process or operation at the business or manufacturing facility.
As added by P.L.1-1996, SEC.1. Amended by P.L.124-1997, SEC.7; P.L.37-2012, SEC.7.

IC 13-11-2-128
"Material safety data sheet"
Sec. 128. "Material safety data sheet", for purposes of IC 13-20-17.5 and IC 13-25-2, has the meaning set forth in 42 U.S.C. 11049.
As added by P.L.1-1996, SEC.1. Amended by P.L.225-2001, SEC.4.

IC 13-11-2-128.3
"Mercury-added novelty"
Sec. 128.3. "Mercury-added novelty", for purposes of IC 13-20-17.5, means a mercury-added product intended mainly for personal or household enjoyment or adornment, including:
(1) items intended for use as practical jokes;
(2) figurines;
(3) adornments;
(4) toys;
(5) games;
(6) cards;
(7) ornaments;
(8) yard statues and figurines;
(9) candles;
(10) jewelry;
(11) holiday decorations; and
(12) footwear and other items of apparel.

As added by P.L.225-2001, SEC.5.

IC 13-11-2-128.5
"Mercury-added product"

Sec. 128.5. (a) "Mercury-added product", for purposes of this chapter and IC 13-20-17.5, means:

(1) a product that contains:

(A) elemental mercury;

(B) metallic mercury in an alloy;

(C) inorganic mercury salt; or

(D) organic mercury;

intentionally added by the manufacturer in order to provide a specific characteristic, appearance, or quality to the product or to perform a specific beneficial function for the product; or

(2) a product with a component that meets the criteria of subdivision (1).

(b) "Mercury-added product" does not include:

(1) a product in which mercury is a residue from the intentional use of mercury in the manufacturing process, if the mercury residue does not:

(A) provide a specific characteristic, appearance, or quality to the product; or

(B) perform a specific beneficial function for the product; or

(2) a mercury commodity.

As added by P.L.225-2001, SEC.6.

IC 13-11-2-128.6
"Mercury commodity"

Sec. 128.6. "Mercury commodity", for purposes of this chapter and IC 13-20-17.5, means a product that consists of only mercury and its container (such as a container of mercury that is opened and from which mercury is put into a mercury-added product) if the mercury is not performing a specific beneficial function for the product.

As added by P.L.225-2001, SEC.7.

IC 13-11-2-128.7
"Mercury fever thermometer"

Sec. 128.7. "Mercury fever thermometer", for purposes of IC 13-20-17.5, means a mercury-added product that:

(1) is a thermometer or another medical or scientific instrument; and

(2) is used for measuring body temperature.

As added by P.L.225-2001, SEC.8.

IC 13-11-2-128.8
"Mercury switch"

Sec. 128.8. (a) "Mercury switch", for purposes of IC 13-20-17.7, means a convenience light switch that:

(1) is located in the hood or trunk lid of a motor vehicle; and

(2) contains mercury.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.
As added by P.L.170-2006, SEC.7.

IC 13-11-2-129
"MGD"
Sec. 129. "MGD" refers to millions of gallons per day.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-129.6
"Military base"
Sec. 129.6. "Military base", for purposes of IC 13-15-3-1.3, means a United States or an Indiana government military installation that:
(1) has an area of at least sixty thousand (60,000) acres and is used for the design, construction, maintenance, and testing of electronic devices and ordnance;
(2) has an area of at least nine hundred (900) acres and serves as an urban training center for military units, civilian personnel, and first responders; or
(3) has an area of at least five thousand (5,000) acres and serves as a joint training center for active and reserve components of the armed forces of the United States.
As added by P.L.5-2005, SEC.2. Amended by P.L.180-2006, SEC.6.

IC 13-11-2-130
"Minor permit"
Sec. 130. "Minor permit", for purposes of IC 13-18-20, refers to a NPDES permit that is not a major permit.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-130.1 Version a
"Motor vehicle"
Note: This version of section effective until 1-1-2015. See also following version of this section, effective 1-1-2015.
Sec. 130.1. (a) "Motor vehicle", for purposes of this chapter, means a vehicle that is self-propelled on a highway in Indiana. The term does not include a farm tractor or a motorized bicycle.
(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.
As added by P.L.170-2006, SEC.8.

IC 13-11-2-130.1 Version b
"Motor vehicle"
Note: This version of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.
Sec. 130.1. (a) "Motor vehicle", for purposes of this chapter, means a vehicle that is self-propelled on a highway in Indiana. The term does not include a farm tractor or a motor driven cycle.
(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

As added by P.L.170-2006, SEC.8. Amended by P.L.221-2014, SEC.85.

IC 13-11-2-130.2
"Motor vehicle manufacturer"

Sec. 130.2. (a) "Motor vehicle manufacturer", for purposes of this chapter, means a person that is engaged in the business of manufacturing or assembling new motor vehicles for sale to any of the following:

(1) Dealers.
(2) Wholesale dealers.
(3) Distributors.
(4) The general public.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

As added by P.L.170-2006, SEC.9.

IC 13-11-2-130.3
"Motor vehicle recycler"

Sec. 130.3. (a) "Motor vehicle recycler", for purposes of IC 13-20-17.7, means any of the following:

(1) An automotive salvage recycler.
(2) An automobile scrapyard.
(3) A hulk crusher.
(4) A scrap metal processor.
(5) A vehicle disposal facility.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

As added by P.L.170-2006, SEC.10.

IC 13-11-2-130.5
"Periodic vehicle inspection program"

Sec. 130.5. "Periodic vehicle inspection program", for purposes of IC 13-17-5, means a program requiring a motor vehicle registered in a county to undergo a periodic test of emission characteristics and be repaired and retested if the motor vehicle fails the emissions test. The term includes entering into and managing contracts for inspection stations.

As added by P.L.282-2003, SEC.26.

IC 13-11-2-131
"Multimedia"

Sec. 131. "Multimedia", for purposes of IC 13-27, refers to:

(1) air;
(2) water;
(3) land; and
(4) workplace environmental;

media into which pollutants and wastes are emitted, released, discharged, or disposed.

As added by P.L.1-1996, SEC.1. Amended by P.L.124-1997, SEC.8;

P.L.37-2012, SEC.8.

IC 13-11-2-132
"Municipal permit"

Sec. 132. "Municipal permit", for purposes of IC 13-18-20, refers to a NPDES permit issued to any of the following:

(1) A publicly owned treatment works (as defined in 33 U.S.C. 1292(2)) that is not state owned.
(2) A conservancy district (as defined in IC 14-8-2-72(3)).
(3) A regional water, sewage, and solid waste district.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-133
"Municipal waste"

Sec. 133. (a) "Municipal waste", for purposes of:

(1) IC 13-20-4;
(2) IC 13-20-6;
(3) IC 13-20-21;
(4) IC 13-20-23;
(5) IC 13-20.5-10;
(6) IC 13-22-1 through IC 13-22-8; and
(7) IC 13-22-13 through IC 13-22-14;

means any garbage, refuse, industrial lunchroom or office waste, and other similar material resulting from the operation of residential, municipal, commercial, or institutional establishments and community activities.

(b) The term does not include the following:

(1) Hazardous waste regulated under:
(A) IC 13-22-1 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14; or
(B) the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), as in effect on January 1, 1990.
(2) Infectious waste (as defined in IC 16-41-16-4).
(3) Wastes that result from the combustion of coal and that are referred to in IC 13-19-3-3.
(4) Materials that are being transported to a facility for reprocessing or reuse.

(c) As used in subsection (b)(4), "reprocessing or reuse" does not include either of the following:

(1) Incineration.
(2) Placement in a landfill.

(d) "Municipal waste", for purposes of IC 13-20-25, has the meaning set forth in IC 13-20-25-3.

As added by P.L.1-1996, SEC.1. Amended by P.L.133-1998, SEC.5; P.L.138-2000, SEC.2; P.L.218-2001, SEC.1; P.L.178-2009, SEC.14; P.L.126-2014, SEC.2.

IC 13-11-2-134
Repealed

(Repealed by P.L.131-2006, SEC.14.)

IC 13-11-2-135
"Municipality"

Sec. 135. "Municipality" means a city or town.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-136
"National contingency plan"

Sec. 136. "National contingency plan", for purposes of IC 13-25-4, refers to the plan that:

(1) was established and is revised by the President of the United States; and

(2) includes the national hazardous substance response plan that is required under Section 105 of CERCLA (42 U.S.C. 9605) and published in 40 CFR 300.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-136.5
"National mercury switch recovery program"

Sec. 136.5. (a) "National mercury switch recovery program", for purposes of IC 13-20-17.7, means a national program:

(1) that accomplishes, as determined by the commissioner, the goals of IC 13-20-17.7; and

(2) in which the state participates.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

As added by P.L.170-2006, SEC.11.

IC 13-11-2-137
"Natural resources"

Sec. 137. "Natural resources", for purposes of IC 13-25-4, means:

(1) land;

(2) fish;

(3) wildlife;

(4) biota;

(5) air;

(6) water;

(7) ground water;

(8) drinking water supplies; and

(9) other similar resources;

belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by, the state.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-138
"Navigable waters"

Sec. 138. "Navigable waters", for purposes of IC 13-24-2, means waters of the United States (as defined in the federal Clean Water Act (33 U.S.C. 1362(7))).

As added by P.L.1-1996, SEC.1.

IC 13-11-2-139
"Net revenues"

Sec. 139. "Net revenues", for purposes of IC 13-21, means:

(1) the amount of revenues received by a county or joint solid waste management district from the operation and ownership of facilities; less

(2) the reasonable expenses of the:

(A) operation;

(B) repair; and

(C) maintenance;

of the facilities.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-140
"New tire"

Sec. 140. (a) "New tire", for purposes of IC 13-20-13 and IC 13-20-14, means a tire that has never been mounted on a wheel of a vehicle.

(b) For purposes of IC 13-20-13, the term does not include a retreaded tire.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-141
"Noncontact cooling water"

Sec. 141. "Noncontact cooling water", for purposes of IC 13-18-20, means cooling water:

(1) that is discharged to waters of Indiana;

(2) that is used for the sole purpose of removing unwanted heat from a process, generally through a heat exchanger; and

(3) that does not otherwise come into contact with a production process or any raw material or manufactured product.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-142
"Nonoperational storage tank"

Sec. 142. "Nonoperational storage tank", for purposes of IC 13-23, means an underground storage tank:

(1) in which regulated substances are not deposited; or

(2) from which regulated substances are not dispensed;

after November 8, 1984.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-142.3
"Nonprofit corporation"

Sec. 142.3. "Nonprofit corporation", for purposes of this chapter and IC 13-25-4-8, refers to a nonprofit corporation:

(1) that is exempt from income taxation under 26 U.S.C. 501;

(2) for which the primary purpose, as identified in the corporation's articles of incorporation, is to assist and support a political subdivision in a matter of public concern; and

(3) that has no member affiliated with any other person that is potentially liable for response costs at a facility through any of the following:

(A) A direct or an indirect familial relationship.

(B) A contractual, corporate, or financial relationship other than a contractual, corporate, or financial relationship that is created:

(i) by the instruments by which title to the facility is conveyed or financed; or

(ii) by a contract for the sale of goods or services.

(C) The result of a reorganization of a business entity that was potentially liable for response costs at the facility.

As added by P.L.221-2007, SEC.2.

IC 13-11-2-142.6
"Nonpublic school"

Sec. 142.6. "Nonpublic school", for purposes of IC 13-20-17.5, has the meaning set forth in IC 20-18-2-12.

As added by P.L.225-2001, SEC.9. Amended by P.L.1-2005, SEC.141.

IC 13-11-2-142.7
"Nontransient noncommunity water system"

Sec. 142.7. "Nontransient noncommunity water system", for purposes of IC 13-18-17 and IC 13-18-20.5, means a public water system that is not a community water system that regularly serves the same twenty-five (25) or more persons at least six (6) months per year.

As added by P.L.224-2003, SEC.129. Amended by P.L.61-2007, SEC.2.

IC 13-11-2-143
"Office"

Sec. 143. (a) "Office", for purposes of IC 13-22-11, refers to the division of pollution prevention and technical assistance established by IC 13-27-2-1.

(b) "Office", for purposes of IC 13-28, refers to the office of voluntary compliance.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-144
"Oil"

Sec. 144. (a) "Oil", for purposes of IC 13-24-2, means oil of any kind or in any form.

(b) The term includes the following:

(1) Petroleum.

(2) Fuel oil.

(3) Sludge.

(4) Oil refuse.

(5) Oil mixed with wastes other than dredged spoil.

(c) The term does not include petroleum, including crude oil or any fraction of crude oil, that is:

(1) specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of Section 101(14) of; and

(2) subject to;

the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601), as in effect January 1, 1995.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-144.7

"Onsite residential sewage discharging disposal system"

Sec. 144.7. For purposes of IC 13-18-12, "onsite residential sewage discharging disposal system" means a sewage disposal system that:

(1) is located on a site with and serves a one (1) or two (2) family residence; and

(2) discharges effluent offsite.

As added by P.L.172-2002, SEC.2.

IC 13-11-2-144.8

"Onsite sewage system"

Sec. 144.8. "Onsite sewage system", for purposes of IC 13-18-17, means all equipment and devices necessary for proper:

(1) onsite:

(A) conduction;

(B) collection;

(C) storage; and

(D) treatment; and

(2) absorption in soil;

of sewage from a residence or a commercial facility.

As added by P.L.24-2004, SEC.5.

IC 13-11-2-145

"Open burning"

Sec. 145. "Open burning", for purposes of environmental management laws, means the combustion of any matter in the open or in an open dump.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-146

"Open dump"

Sec. 146. "Open dump", for purposes of environmental management laws, means the consolidation of solid waste from one (1) or more sources or the disposal of solid waste at a single disposal site that:

(1) does not fulfill the requirements of a sanitary landfill or other land disposal method as prescribed by law or regulations; and

(2) is established and maintained:

(A) without cover; and

(B) without regard to the possibilities of contamination of surface or subsurface water resources.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-147
"Open dumping"

Sec. 147. "Open dumping", for purposes of environmental management laws, means the act of disposing of solid waste at an open dump.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-147.5
"Operational function"

Sec. 147.5. "Operational function", for purposes of sections 151.2, 151.3, and 151.4 of this chapter, IC 13-23-13-14, IC 13-24-1-10, and IC 13-25-4-8.2, includes a function such as that of:

(1) a facility manager;
(2) a plant manager;
(3) an operations manager;
(4) a chief operating officer; or
(5) a chief executive officer.

As added by P.L.90-1998, SEC.6.

IC 13-11-2-148
"Operator"

Sec. 148. (a) "Operator", for purposes of IC 13-18-10, means the person in direct or responsible charge or control of one (1) or more confined feeding operations.

(b) "Operator", for purposes of IC 13-18-11 and environmental management laws, means the person in direct or responsible charge and supervising the operation of:

(1) a water treatment plant;
(2) a wastewater treatment plant; or
(3) a water distribution system.

(c) "Operator", for purposes of IC 13-20-6, means a corporation, a limited liability company, a partnership, a business association, a unit, or an individual who is a sole proprietor that is one (1) of the following:

(1) A broker.
(2) A person who manages the activities of a transfer station that receives municipal waste.
(3) A transporter.

(d) "Operator", for purposes of IC 13-23, except as provided in subsections (e), (g), and (h), means a person:

(1) in control of; or
(2) having responsibility for;

the daily operation of an underground storage tank.

(e) "Operator", for purposes of IC 13-23-13, does not include the following:

(1) A person who:

(A) does not participate in the management of an underground storage tank;
(B) is otherwise not engaged in the:
(i) production;
(ii) refining; and
(iii) marketing;
of regulated substances; and
(C) holds evidence of ownership, primarily to protect the owner's security interest in the tank.
(2) A person that is a lender that did not participate in management of an underground storage tank before foreclosure, notwithstanding that the person:
(A) forecloses on the vessel or facility; and
(B) after foreclosure, sells, re-leases (in the case of a lease finance transaction), or liquidates the underground storage tank, maintains business activities, winds up operations, undertakes a response action under Section 107(d)(1) of CERCLA (42 U.S.C. 9607(d)(1)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan with respect to the underground storage tank, or takes any other measure to preserve, protect, or prepare the underground storage tank prior to sale or disposition;
if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the underground storage tank at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.
(3) A person who:
(A) does not own or lease, directly or indirectly, the facility or business at which the underground storage tank is located;
(B) does not participate in the management of the facility or business described in clause (A); and
(C) is engaged only in:
(i) filling;
(ii) gauging; or
(iii) filling and gauging;
the product level in the course of delivering fuel to an underground storage tank.
(4) A political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that:
(A) acquires ownership or control of an underground storage tank on a brownfield because of:
(i) bankruptcy;
(ii) foreclosure;
(iii) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;
(iv) abandonment;
(v) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered

under IC 32-24-1-5;

(vi) receivership;

(vii) transfer from another political subdivision or unit of federal or state government;

(viii) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(ix) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired an interest in the property because of the political subdivision's or unit's function as sovereign; or

(x) any other means to conduct remedial actions on a brownfield; and

(B) is engaged only in activities in conjunction with:

(i) investigation or remediation of hazardous substances, petroleum, and other pollutants associated with a brownfield, including complying with land use restrictions and institutional controls; or

(ii) monitoring or closure of an underground storage tank;

unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the political subdivision or unit of federal or state government.

(f) For purposes of subsection (e)(4)(B), reckless, willful, or wanton misconduct constitutes gross negligence.

(g) "Operator" does not include a person that after June 30, 2009, meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank, the exemption criteria under Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for purposes of the determination of liability for a release of a hazardous substance.

(h) "Operator" does not include a person that meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank, the exemption criteria under Section 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the determination of liability for a release of a hazardous substance, except that the person acquires ownership of the facility after June 30, 2009.

As added by P.L.1-1996, SEC.1. Amended by P.L.90-1998, SEC.7; P.L.212-1999, SEC.3; P.L.221-2007, SEC.3; P.L.78-2009, SEC.4; P.L.159-2011, SEC.4; P.L.6-2012, SEC.100.

IC 13-11-2-149

"Outfall"

Sec. 149. "Outfall", for purposes of IC 13-18-4-8, means the point of discharge from a point source.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-149.5
"Outstanding national resource water"

Sec. 149.5. "Outstanding national resource water", for purposes of section 50.5 of this chapter and IC 13-18-3, means a water designated as such by the general assembly after recommendations by the environmental rules board and the interim study committee on environmental affairs (established by IC 2-5-1.3-4) under IC 13-18-3-2(n) and IC 13-18-3-2(o). The designation must describe the quality of the outstanding national resource water to serve as the benchmark of the water quality that shall be maintained and protected. Waters that may be considered for designation as outstanding national resource waters include water bodies that are recognized as:

(1) important because of protection through official action, such as:
  (A) federal or state law;
  (B) presidential or secretarial action;
  (C) international treaty; or
  (D) interstate compact;
(2) having exceptional recreational significance;
(3) having exceptional ecological significance;
(4) having other special environmental, recreational, or ecological attributes; or
(5) waters with respect to which designation as an outstanding national resource water is reasonably necessary for protection of other water bodies designated as outstanding national resource waters.

As added by P.L.140-2000, SEC.11. Amended by P.L.1-2001, SEC.13; P.L.78-2009, SEC.5; P.L.53-2014, SEC.115.

IC 13-11-2-149.6
"Outstanding state resource water"

Sec. 149.6. "Outstanding state resource water", for purposes of section 50.5 of this chapter and IC 13-18-3, means any water designated as such by the board regardless of when the designation occurred or occurs. Waters that may be considered for designation as outstanding state resource waters include water bodies that have unique or special ecological, recreational, or aesthetic significance.

As added by P.L.140-2000, SEC.12. Amended by P.L.1-2001, SEC.14; P.L.113-2014, SEC.52.

IC 13-11-2-150
"Owner"

Sec. 150. (a) "Owner", for purposes of IC 13-23 (except as provided in subsections (b), (c), (d), (e), (f) and (g)) means:

(1) for an underground storage tank that:
  (A) was:
    (i) in use on November 8, 1984; or
    (ii) brought into use after November 8, 1984;
  for the storage, use, or dispensing of regulated substances, a

person who owns the underground storage tank or the real property that is the underground storage tank site, or both; or

(B) was:

(i) in use before November 8, 1984; but

(ii) no longer in use on November 8, 1984;

a person who owned the tank immediately before the discontinuation of the tank's use; or

(2) a person who conveyed ownership or control of the underground storage tank to a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;

(D) abandonment;

(E) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(F) receivership;

(G) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(H) other circumstances in which a political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

(I) any other means to conduct remedial actions on a brownfield;

if the person was a person described in subdivision (1) immediately before the person conveyed ownership or control of the underground storage tank.

(b) "Owner", for purposes of IC 13-23-13, does not include a person who:

(1) does not participate in the management of an underground storage tank;

(2) is otherwise not engaged in the:

(A) production;

(B) refining; and

(C) marketing;

of regulated substances; and

(3) holds indicia of ownership primarily to protect the owner's security interest in the tank.

(c) "Owner", for purposes of IC 13-23, does not include a person that is a lender that did not participate in management of an underground storage tank before foreclosure, notwithstanding that the person:

(1) forecloses on the underground storage tank; and

(2) after foreclosure, sells, re-leases (in the case of a lease finance transaction), or liquidates the underground storage tank, maintains business activities, winds up operations, undertakes a response action under Section 107(d)(1) of CERCLA (42 U.S.C. 9607(d)(1)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan with respect to the underground storage tank, or takes any other measure to preserve, protect, or prepare the underground storage tank prior to sale or disposition;

if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the underground storage tank at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.

(d) "Owner", for purposes of IC 13-23, does not include a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that acquired ownership or control of an underground storage tank because of:

(1) bankruptcy;

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

(7) transfer from another political subdivision or unit of federal or state government;

(8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

(10) any other means to conduct remedial actions on a brownfield;

unless the political subdivision or unit of federal or state government causes or contributes to the release or threatened release of a regulated substance, in which case the political subdivision or unit of federal or state government is subject to IC 13-23 in the same manner and to the same extent as a nongovernmental entity under IC 13-23.

(e) "Owner", for purposes of IC 13-23, does not include a nonprofit corporation that acquired ownership or control of an underground storage tank to assist and support a political subdivision's revitalization and reuse of a brownfield for noncommercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to

the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-23 in the same manner and to the same extent as any other nongovernmental entity under IC 13-23.

(f) "Owner" does not include a person that after June 30, 2009, meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank, the exemption criteria under Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for purposes of the determination of liability for a release of a hazardous substance.

(g) "Owner" does not include a person that meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank, the exemption criteria under Section 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the determination of liability for a release of a hazardous substance, except that the person acquires ownership of the facility after June 30, 2009.

As added by P.L.1-1996, SEC.1. Amended by P.L.208-2005, SEC.10; P.L.221-2007, SEC.4; P.L.78-2009, SEC.6; P.L.159-2011, SEC.5.

IC 13-11-2-151

"Owner or operator"

Sec. 151. (a) "Owner or operator", for purposes of IC 13-24-1, means the following:

(1) For a petroleum facility, a person who owns or operates the facility.

(2) For a petroleum facility where title or control has been conveyed because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;

(D) abandonment;

(E) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(F) receivership;

(G) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(H) other circumstances in which a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government involuntarily acquired title or control because of the political subdivision's or unit's function as sovereign; or

(I) any other means to conduct remedial actions on a brownfield;

to a political subdivision or unit of federal or state government, a person who owned, operated, or otherwise controlled the

petroleum facility immediately before title or control was conveyed.

(b) Subject to subsection (c), the term does not include a political subdivision or unit of federal or state government that acquired ownership or control of the facility through:

(1) bankruptcy;

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

(7) transfer from another political subdivision or unit of federal or state government;

(8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

(10) any other means to conduct remedial actions on a brownfield.

(c) The term includes a political subdivision or unit of federal or state government that causes or contributes to the release or threatened release of a regulated substance, in which case the political subdivision or unit of federal or state government is subject to IC 13-24-1:

(1) in the same manner; and

(2) to the same extent;

as a nongovernmental entity under IC 13-24-1.

(d) The term does not include a person who:

(1) does not participate in the management of a petroleum facility;

(2) is otherwise not engaged in the:

(A) production;

(B) refining; and

(C) marketing;

of petroleum; and

(3) holds evidence of ownership in a petroleum facility, primarily to protect the owner's security interest in the petroleum facility.

(e) The term does not include a person that is a lender that did not participate in management of a petroleum facility before foreclosure, notwithstanding that the person:

(1) forecloses on the petroleum facility; and

(2) after foreclosure, sells, re-leases (in the case of a lease

finance transaction), or liquidates the petroleum facility, maintains business activities, winds up operations, undertakes a response action under Section 107(d)(1) of CERCLA (42 U.S.C. 9607(d)(1)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan with respect to the petroleum facility, or takes any other measure to preserve, protect, or prepare the petroleum facility prior to sale or disposition;

if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the petroleum facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.

(f) The term does not include a nonprofit corporation that acquired ownership or control of a facility to assist and support a political subdivision's revitalization and reuse of a brownfield for noncommercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-24-1 in the same manner and to the same extent as any other nongovernmental entity under IC 13-24-1.

(g) The term does not include a person that after June 30, 2009, meets, for purposes of the determination under IC 13-24-1 of liability for a release of petroleum, the exemption criteria under Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for purposes of the determination of liability for a release of a hazardous substance.

(h) The term does not include a person that meets, for purposes of the determination under IC 13-24-1 of liability for a release of petroleum, the exemption criteria under Section 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the determination of liability for a release of a hazardous substance, except that the person acquires ownership of the facility after June 30, 2009.

As added by P.L.1-1996, SEC.1. Amended by P.L.90-1998, SEC.8; P.L.208-2005, SEC.11; P.L.221-2007, SEC.5; P.L.78-2009, SEC.7; P.L.159-2011, SEC.6.

IC 13-11-2-151.1
"Participant"

Sec. 151.1. "Participant" means the following:

(1) For purposes of IC 13-18-13:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of participant permitted by law to enter contractual arrangements for a purpose eligible for assistance under the Clean Water Act.

(2) For purposes of the drinking water revolving loan program under IC 13-18-21:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of

participant permitted by law to enter contractual arrangements for a purpose eligible for assistance under the Safe Drinking Water Act.

(3) For purposes of the supplemental drinking water and wastewater assistance program under IC 13-18-21-21 through IC 13-18-21-29:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of participant permitted by law to enter contractual arrangements for a purpose eligible for assistance under IC 13-18-21-21 through IC 13-18-21-29.

As added by P.L.132-1999, SEC.6. Amended by P.L.235-2005, SEC.128.

IC 13-11-2-151.2
"Participate in management" for purposes of IC 13-23-13

Sec. 151.2. (a) "Participate in management", for purposes of IC 13-23-13, means actually participating in the management or operational affairs of an underground storage tank.

(b) The term does not include the following:

(1) Merely having the capacity to influence, or the unexercised right to control, underground storage operations.

(2) Performing an act or failing to perform an act before the time at which a security interest is created in an underground storage tank.

(3) Holding a security interest or abandoning a security interest.

(4) Including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, a warranty, or another term or condition that relates to environmental compliance.

(5) Monitoring or enforcing the terms and conditions of the extension of credit or security interest.

(6) Monitoring or undertaking at least one (1) inspection of an underground storage tank.

(7) Requiring a response action or other lawful means of addressing the release or threatened release of a hazardous substance in connection with the underground storage tank prior to, during, or on the expiration of the term of the extension of credit.

(8) Providing financial advice or other advice or counseling in an effort to mitigate, prevent, or cure default or decrease in the value of an underground storage tank.

(9) Restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance.

(10) Exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement.

(11) Conducting a response action under Section 107(d) of CERCLA (42 U.S.C. 9607(d)) or under the direction of an

on-scene coordinator appointed under the National Contingency Plan, unless the person conducting the response action assumes or manifests responsibility:

(A) for the overall management of the underground storage tank, encompassing day to day decision making with respect to environmental compliance; or

(B) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the underground storage tank other than the function of environmental compliance.

(c) As used in this section, "extension of credit" includes a lease finance transaction:

(1) in which the lessor does not initially select the leased underground storage tank and does not during the lease term control the daily operations or maintenance of the underground storage tank; or

(2) that conforms with regulations issued by:

(A) the appropriate federal banking agency or the appropriate state bank supervisor (as those terms are defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813); or

(B) the National Credit Union Administration Board.

As added by P.L.90-1998, SEC.9.

IC 13-11-2-151.3

"Participate in management" for purposes of IC 13-24-1

Sec. 151.3. (a) "Participate in management", for purposes of IC 13-24-1, means actually participating in the management or operational affairs of a petroleum facility.

(b) The term does not include the following:

(1) Merely having the capacity to influence, or the unexercised right to control, petroleum facility operations.

(2) Performing an act or failing to perform an act before the time at which a security interest is created in a petroleum facility.

(3) Holding a security interest or abandoning a security interest.

(4) Including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, a warranty, or another term or condition that relates to environmental compliance.

(5) Monitoring or enforcing the terms and conditions of the extension of credit or security interest.

(6) Monitoring or undertaking at least one (1) inspection of a petroleum facility.

(7) Requiring a response action or other lawful means of addressing the release or threatened release of petroleum in connection with the petroleum facility prior to, during, or on the expiration of the term of the extension of credit.

(8) Providing financial advice or other advice or counseling in an effort to mitigate, prevent, or cure default or decrease in the value of a petroleum facility.

(9) Restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance.

(10) Exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement.

(11) Conducting a response action under Section 107(d) of CERCLA (42 U.S.C. 9607(d)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, unless the person conducting the response action assumes or manifests responsibility:

(A) for the overall management of the petroleum facility, encompassing day to day decision making with respect to environmental compliance; or

(B) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the petroleum facility other than the function of environmental compliance.

(c) As used in this section, "extension of credit" includes a lease finance transaction:

(1) in which the lessor does not initially select the leased petroleum facility and does not during the lease term control the daily operations or maintenance of the petroleum facility; or

(2) that conforms with regulations issued by:

(A) the appropriate federal banking agency or the appropriate state bank supervisor (as those terms are defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813); or

(B) the National Credit Union Administration Board.

As added by P.L.90-1998, SEC.10.

IC 13-11-2-151.4

"Participate in management" for purposes of IC 13-25-4

Sec. 151.4. (a) "Participate in management", for purposes of IC 13-25-4, means actually participating in the management or operational affairs of a vessel or facility.

(b) The term does not include the following:

(1) Merely having the capacity to influence, or the unexercised right to control, vessel or facility operations.

(2) Performing an act or failing to perform an act before the time at which a security interest is created in a vessel or facility.

(3) Holding a security interest or abandoning a security interest.

(4) Including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, a warranty, or another term or condition that relates to environmental compliance.

(5) Monitoring or enforcing the terms and conditions of the extension of credit or security interest.

(6) Monitoring or undertaking at least one (1) inspection of a vessel or facility.

(7) Requiring a response action or other lawful means of

addressing the release or threatened release of a hazardous substance in connection with the vessel or facility before, during, or on the expiration of the term of the extension of credit.

(8) Providing financial advice or other advice or counseling in an effort to mitigate, prevent, or cure default or decrease in the value of a vessel or facility.

(9) Restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance.

(10) Exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement.

(11) Conducting a response action under Section 107(d) of CERCLA (42 U.S.C. 9607(d)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, unless the person conducting the response action assumes or manifests responsibility:

(A) for the overall management of the vessel or facility, encompassing day to day decision making with respect to environmental compliance; or

(B) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the vessel or facility other than the function of environmental compliance.

(c) As used in this section, "extension of credit" includes a lease finance transaction:

(1) in which the lessor does not initially select the leased vessel or facility and does not during the lease term control the daily operations or maintenance of the vessel or facility; or

(2) that conforms with regulations issued by:

(A) the appropriate federal banking agency or the appropriate state bank supervisor (as those terms are defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813); or

(B) the National Credit Union Administration Board.

As added by P.L.90-1998, SEC.11.

IC 13-11-2-151.6
"Panel"

Sec. 151.6. "Panel", for purposes of IC 13-13-7.1, refers to the compliance advisory panel established by IC 13-13-7.1-1.

As added by P.L.12-2005, SEC.2. Amended by P.L.53-2014, SEC.116.

IC 13-11-2-152
Repealed

(Repealed by P.L.113-2014, SEC.53.)

IC 13-11-2-153
"Party"

Sec. 153. "Party", for purposes of IC 13-25-4-23, means a person that:

(1) is potentially a responsible person; and

(2) enters into an agreement with the commissioner under IC 13-25-4-23 or IC 13-7-8.7-11 (before its repeal).

As added by P.L.1-1996, SEC.1.

IC 13-11-2-154
"Party state"

Sec. 154. "Party state", for purposes of IC 13-29-1, means any eligible state which enacts the compact into law.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-154.5
"Passenger tire equivalent"

Sec. 154.5. "Passenger tire equivalent", for purposes of this chapter and IC 13-20-13, has the meaning set forth in IC 13-20-13-1.

As added by P.L.37-2012, SEC.9.

IC 13-11-2-155
"PCB"

Sec. 155. (a) "PCB", for purposes of:

(1) IC 13-17-10;

(2) IC 13-20-15; and

(3) IC 13-22;

means the class of organic compounds known as polychlorinated biphenyls or terphenyls.

(b) The term includes any of several compounds produced by replacing at least two (2) hydrogen atoms on the biphenyl or terphenyl molecule with chlorine.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-156
"Pending"

Sec. 156. "Pending", for purposes of IC 13-17-7, means not completed as of January 1, 1994.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-156.5
"Peripheral"

Sec. 156.5. "Peripheral", for purposes of this chapter, means a keyboard, a printer, or any other device that:

(1) is sold exclusively for external use with a computer; and

(2) provides input or output into or from a computer.

As added by P.L.178-2009, SEC.15.

IC 13-11-2-157
"Permit"

Sec. 157. (a) "Permit", for purposes of IC 13-15-4, means:

(1) a permit;

(2) a license;
(3) a registration;
(4) a certificate; or
(5) other type of authorization required before construction or operation;

that may be issued by the commissioner under pollution control laws or environmental management laws.

(b) As used in IC 13-15-4-11 through IC 13-15-4-17, the term includes:

(1) a permit; or
(2) a determination related to a permit;

that is described in IC 13-15-4-1.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-158 Version a
"Person"

Note: This version of section amended by P.L.126-2014, SEC.3. See also following version of this section amended by P.L.113-2014, SEC.54.

Sec. 158. (a) "Person", for purposes of:

(1) IC 13-21;
(2) air pollution control laws;
(3) water pollution control laws; and
(4) environmental management laws, except as provided in subsections (c), (d), and (e);

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

(b) "Person", for purposes of:

(1) IC 13-18-10;
(2) IC 13-18-10.5;
(3) IC 13-20-10.5; and
(4) IC 13-20-17;

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

(c) "Person", for purposes of:

(1) IC 13-20-13;
(2) IC 13-20-14;
(3) IC 13-20-16; and
(4) IC 13-25-6;

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

(d) "Person", for purposes of IC 13-20-25, means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a solid waste management district

established under IC 13-21.

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

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

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

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

As added by P.L.1-1996, SEC.1. Amended by P.L.123-1997, SEC.9; P.L.225-2001, SEC.10; P.L.137-2007, SEC.6; P.L.189-2011, SEC.8; P.L.114-2012, SEC.34; P.L.126-2014, SEC.3.

IC 13-11-2-158 Version b
"Person"

Note: This version of section amended by P.L.113-2014, SEC.54. See also preceding version of this section amended by P.L.126-2014, SEC.3.

Sec. 158. (a) "Person", for purposes of:

(1) IC 13-21;
(2) air pollution control laws;
(3) water pollution control laws; and
(4) environmental management laws, except as provided in subsections (c), (d), and (e);

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

(b) "Person", for purposes of:

(1) IC 13-18-10;
(2) IC 13-18-10.5;
(3) IC 13-20-10.5; and
(4) IC 13-20-17;

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

(c) "Person", for purposes of:

(1) IC 13-20-13;
(2) IC 13-20-14;
(3) IC 13-20-16; and
(4) IC 13-25-6;

means an individual, a corporation, a limited liability company, a

partnership, or an unincorporated association.

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

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

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

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

As added by P.L.1-1996, SEC.1. Amended by P.L.123-1997, SEC.9; P.L.225-2001, SEC.10; P.L.137-2007, SEC.6; P.L.189-2011, SEC.8; P.L.114-2012, SEC.34; P.L.113-2014, SEC.54.

IC 13-11-2-159
"Pesticide"

Sec. 159. "Pesticide", for purposes of IC 13-25-6, includes a substance or a combination of substances commercially produced for use as:

(1) an insecticide;
(2) a rodenticide; or
(3) a nematodicide.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-160
"Petroleum"

Sec. 160. "Petroleum", for purposes of:

(1) IC 13-23;
(2) IC 13-24-1; and
(3) IC 13-25-5;

includes petroleum and crude oil or any part of petroleum or crude oil that is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit (60°F) and fourteen and seven-tenths (14.7) pounds per square inch absolute).

As added by P.L.1-1996, SEC.1. Amended by P.L.97-2004, SEC.61.

IC 13-11-2-161
"Petroleum facility"

Sec. 161. (a) "Petroleum facility", for purposes of IC 13-24-1, means any of the following:

(1) A building.
(2) A structure.
(3) An installation.
(4) A piece of equipment.
(5) A pipe, including a pipe that runs into a sewer or publicly owned treatment facility.

(6) A well.
(7) A pit.
(8) A pond.
(9) A lagoon.
(10) An impoundment.
(11) A ditch.
(12) A landfill.
(13) A storage container.
(14) A motor vehicle.
(15) Rolling stock.
(16) Aircraft.
(17) A site or an area on which petroleum has been:
(A) deposited;
(B) stored;
(C) disposed of;
(D) placed; or
(E) located.
(b) The term does not include the following:
(1) A consumer product in consumer use.
(2) An underground storage tank.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-162
"Petroleum marketer"
Sec. 162. "Petroleum marketer", for purposes of IC 13-23-4-3, means a person that is engaged in the business of selling petroleum products at retail.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-163
"Petroleum trust fund"
Sec. 163. "Petroleum trust fund", for purposes of IC 13-23, refers to the underground petroleum storage tank trust fund established by IC 13-23-6-1.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-164
"Political subdivision"
Sec. 164. (a) "Political subdivision", for purposes of IC 13-18-13, means:
(1) a political subdivision (as defined in IC 36-1-2);
(2) a regional water, sewage, or solid waste district organized under:
(A) IC 13-26; or
(B) IC 13-3-2 (before its repeal July 1, 1996); or
(3) a local public improvement bond bank organized under IC 5-1.4.
(b) "Political subdivision", for purposes of IC 13-18-21, means:
(1) a political subdivision (as defined in IC 36-1-2);
(2) a regional water, sewage, or solid waste district organized

under:
(A) IC 13-26; or
(B) IC 13-3-2 (before its repeal July 1, 1996);
(3) a local public improvement bond bank organized under IC 5-1.4;
(4) a qualified entity described in IC 5-1.5-1-8(4) that is a public water utility described in IC 8-1-2-125; or
(5) a conservancy district established for the purpose set forth in IC 14-33-1-1(a)(4).

(c) "Political subdivision", for purposes of IC 13-19-5, has the meaning set forth in IC 36-1-2-13 and includes a redevelopment district under IC 36-7-14 or IC 36-7-15.1.

As added by P.L.1-1996, SEC.1. Amended by P.L.59-1997, SEC.10; P.L.126-1997, SEC.3; P.L.253-1997(ss), SEC.14.

IC 13-11-2-165
"Pollution control laws"

Sec. 165. "Pollution control laws" refers to the following:
(1) IC 13-12-4 and IC 13-12-5.
(2) IC 13-17, except for the following:
(A) IC 13-17-3-15.
(B) IC 13-17-7.
(C) IC 13-17-8-10.
(D) IC 13-17-10.
(E) IC 13-17-11.
(F) IC 13-17-13.
(3) IC 13-18, except for the following:
(A) IC 13-18-12 and IC 13-18-13.
(B) IC 13-18-15 through IC 13-18-20.
(4) IC 13-19-3.
(5) IC 13-20-16 and IC 13-20-17.

As added by P.L.1-1996, SEC.1. Amended by P.L.133-2012, SEC.70.

IC 13-11-2-166
"Pollution prevention"

Sec. 166. “Pollution prevention", for purposes of this title, means pollution prevention as defined by the United States Environmental Protection Agency under:
(1) the federal Pollution Prevention Act (42 U.S.C. 13101 et seq.); and
(2) the United States Environmental Protection Agency pollution prevention policy statement (June 15, 1993), as amended.

As added by P.L.1-1996, SEC.1. Amended by P.L.124-1997, SEC.9; P.L.2-1998, SEC.47.

IC 13-11-2-166.5
Repealed

(Repealed by P.L.52-2004, SEC.12.)

IC 13-11-2-167
"Portable sanitary unit"

Sec. 167. "Portable sanitary unit", for purposes of this chapter, includes the following:

(1) Portable toilets.
(2) Mobile restrooms.
(3) Similar devices or equipment of a portable nature containing sanitary facilities for temporary or short term use.

As added by P.L.1-1996, SEC.1. Amended by P.L.159-2011, SEC.7.

IC 13-11-2-168
"Potential emissions"

Sec. 168. "Potential emissions", for purposes of IC 13-17-7, means emissions calculated:

(1) before:
  (A) the installation of air pollution control equipment; and
  (B) the application of any applicable state or federal:
    (i) rule;
    (ii) regulation; or
    (iii) statute;
  that establishes emission limitations or standards; and
(2) after consideration of any physical or operational limitation on the capacity of a facility or source.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-169
"Ppm"

Sec. 169. "Ppm" means parts per million.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-170
"Prior environmental law"

Sec. 170. "Prior environmental law", for purposes of IC 13-12-1, refers to the statutes that are repealed or amended in the recodification act of the 1996 regular session of the general assembly as the statutes existed before the effective date of the applicable or corresponding provision of the recodification act of the 1996 regular session of the general assembly.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-171
"Processing"

Sec. 171. "Processing", for purposes of IC 13-21, means an operation for the purpose of modifying the characteristics or properties of solid waste to facilitate any of the following:

(1) The transportation of solid waste.
(2) The disposal of solid waste.
(3) The recovery of solid waste for reuse or sale.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-172
"Program"

Sec. 172. (a) "Program", for purposes of IC 13-18-13, refers to the wastewater revolving loan program established by IC 13-18-13-1.

(b) "Program", for purposes of IC 13-18-21, refers to the drinking water revolving loan program established by IC 13-18-21-1. The term does not include the supplemental program.

(c) "Program", for purposes of IC 13-19-5, refers to the environmental remediation revolving loan program established by IC 13-19-5-1.

(d) "Program", for purposes of IC 13-23, refers to an underground storage tank release:

(1) detection;
(2) prevention; and
(3) correction;

program created in accordance with the requirements of IC 13-23 or IC 13-7-20 (before its repeal).

As added by P.L.1-1996, SEC.1. Amended by P.L.59-1997, SEC.11; P.L.126-1997, SEC.4; P.L.253-1997(ss), SEC.15; P.L.132-1999, SEC.7.

IC 13-11-2-172.1
"Program year"

Sec. 172.1. "Program year", for purposes of IC 13-20.5, has the meaning set forth in IC 13-20.5-1-1.

As added by P.L.178-2009, SEC.16. Amended by P.L.37-2012, SEC.10.

IC 13-11-2-173
"Project"

Sec. 173. "Project", for purposes of IC 13-20-20, refers to a household hazardous waste collection and disposal project.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-174
Repealed

(Repealed by P.L.113-2014, SEC.55.)

IC 13-11-2-175
"Property owner"

Sec. 175. "Property owner", for purposes of IC 13-14-5 and IC 13-30-7, means:

(1) the person who owns the property or operates a regulated activity on the property; or
(2) an agent of the person who owns the property or operates a regulated activity on the property.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-176
"Public notice"

Sec. 176. "Public notice", for purposes of IC 13-21, means the following:

(1) For a county or a county solid waste management district, a notice published by the district board of directors in accordance with IC 5-3-1, following procedures applicable to a county.

(2) For a joint solid waste management district, a notice published by the board of directors in each county in the district in accordance with IC 5-3-1, following procedures applicable to a county.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-176.5
"Public school"

Sec. 176.5. (a) "Public school", for purposes of IC 13-20-17.5, has the meaning set forth in IC 20-18-2-15.

(b) "Public school", for purposes of section 47.7 of this chapter means:

(1) a public school (as defined in IC 20-18-2-15); and

(2) a charter school (as defined in IC 20-24-1-4).

As added by P.L.225-2001, SEC.11. Amended by P.L.1-2005, SEC.142; P.L.178-2009, SEC.17.

IC 13-11-2-177
Repealed

(Repealed by P.L.184-2002, SEC.29.)

IC 13-11-2-177.3
"Public water system"

Sec. 177.3. "Public water system", for purposes of this chapter, IC 13-18-11, IC 13-18-20.5, IC 13-18-21, and other environmental management laws, has the meaning set forth in 42 U.S.C. 300f.

As added by P.L.126-1997, SEC.5. Amended by P.L.132-1999, SEC.8; P.L.220-1999, SEC.1; P.L.14-2000, SEC.35; P.L.184-2002, SEC.3; P.L.224-2003, SEC.130.

IC 13-11-2-177.5
"Publicly owned treatment works"

Sec. 177.5. "Publicly owned treatment works", for purposes of IC 13-18-3, has the meaning set forth in 327 IAC 5-1.5-48.

As added by P.L.112-2000, SEC.1.

IC 13-11-2-178
"Railroad car"

Sec. 178. "Railroad car", for purposes of section 134 of this chapter, means a vehicle that can be used for the transportation of municipal waste on a railroad.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-179
"Recovery"

Sec. 179. "Recovery", for purposes of environmental management laws, means obtaining materials or energy for commercial or industrial use from solid waste or hazardous waste.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-179.5
"Recyclable material"
Sec. 179.5. "Recyclable material", for purposes of IC 13-20-25, has the meaning set forth in IC 13-20-25-4.
As added by P.L.126-2014, SEC.4.

IC 13-11-2-179.6
"Recyclable materials broker"
Sec. 179.6. "Recyclable materials broker", for purposes of IC 13-20-25, has the meaning set forth in IC 13-20-25-5.
As added by P.L.126-2014, SEC.5.

IC 13-11-2-179.7
"Recycle"
Sec. 179.7. "Recycle", for purposes of IC 13-20-25, has the meaning set forth in IC 13-20-25-6.
As added by P.L.126-2014, SEC.6.

IC 13-11-2-179.9
"Recycler"
Sec. 179.9. (a) "Recycler", for purposes of sections 31.1 and 31.2 of this chapter and IC 13-20.5, means an individual or public or private entity that accepts covered electronic devices from covered entities and collectors for the purpose of recycling. The term does not include a manufacturer that accepts products for refurbishment or repair.
(b) "Recycler", for purposes of IC 13-20-25, has the meaning set forth in IC 13-20-25-7.
As added by P.L.178-2009, SEC.18. Amended by P.L.126-2014, SEC.7.

IC 13-11-2-180
"Recycling"
Sec. 180. (a) "Recycling", for purposes of IC 13-20-17.5 and IC 13-21, means a process by which materials that would otherwise become solid waste are:
(1) collected;
(2) separated or processed; and
(3) converted into materials or products for reuse or sale.
(b) "Recycling", for purposes of section 179.9 of this chapter and IC 13-20.5, means the process of collecting and preparing video display devices or covered electronic devices for use in manufacturing processes or for recovery of useable materials followed by delivery of the materials for use. The term does not include the following:

(1) Destruction of recyclable materials by incineration or another process.
(2) Land disposal of recyclable materials.
(3) Reuse, repair, or any other process through which video display devices or covered electronic devices are returned to use for covered entities in their original form.

As added by P.L.1-1996, SEC.1. Amended by P.L.225-2001, SEC.12; P.L.178-2009, SEC.19.

IC 13-11-2-180.1
"Recycling credits"

Sec. 180.1. "Recycling credits", for purposes of IC 13-20.5, means the product of:

(1) the remainder for a manufacturer's program year of:
(A) the amount of covered electronic devices the manufacturer recycled, or for which the manufacturer arranged for recycling; minus
(B) the amount the manufacturer is required to recycle or arrange for recycling determined under IC 13-20.5-4-1; multiplied by
(2) twenty-five percent (25%).

As added by P.L.178-2009, SEC.20.

IC 13-11-2-181
"Region"

Sec. 181. "Region", for purposes of IC 13-29-1, means the area of the party states.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-182
"Regional facility"

Sec. 182. "Regional facility", for purposes of IC 13-29-1, means a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the Commission.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-183
"Regulated substance"

Sec. 183. "Regulated substance", for purposes of this chapter and IC 13-23, includes the following:

(1) Any substance defined in section 98 of this chapter as a hazardous substance, but excluding any substance regulated as a hazardous waste under:
(A) Subtitle C of the federal Solid Waste Disposal Act, as amended (42 U.S.C. 6921 through 6939(a)); or
(B) IC 13-22-2-3.
(2) Petroleum.
(3) Any other substance designated by rules adopted by the board under IC 13-23-1-2.

As added by P.L.1-1996, SEC.1. Amended by P.L.221-2007, SEC.6; P.L.113-2014, SEC.56.

IC 13-11-2-184
"Release"

Sec. 184. (a) "Release", for purposes of IC 13-23, means any:

(1) spilling;
(2) leaking;
(3) emitting;
(4) discharging;
(5) escaping;
(6) leaching; or
(7) disposing;

from an underground storage tank into ground water, surface water, subsurface soils, or surface soils.

(b) "Release", for purposes of IC 13-24-1, means:

(1) a spill;
(2) a leak;
(3) an emission;
(4) a discharge;
(5) an escape;
(6) a leaching; or
(7) a disposing;

of petroleum into ground water, surface water, subsurface soils, or surface soils. The term does not include the release of petroleum into land used by a scrap metal processor (as defined in IC 9-13-2-162) or farmer, unless the commissioner determines that the release of the petroleum is adverse to human health.

(c) "Release", for purposes of IC 13-25-2, means any:

(1) spilling;
(2) leaking;
(3) pumping;
(4) pouring;
(5) emitting;
(6) emptying;
(7) discharging;
(8) injecting;
(9) escaping;
(10) leaching;
(11) dumping; or
(12) disposing;

into the environment of any hazardous chemical, extremely hazardous substance, or toxic chemical. The term includes the abandonment or discarding of barrels, containers, and other closed receptacles.

(d) "Release", for purposes of IC 13-25-4, means any:

(1) spilling;
(2) leaking;
(3) pumping;
(4) pouring;

(5) emitting;
(6) emptying;
(7) discharging;
(8) injecting;
(9) escaping;
(10) leaching;
(11) dumping; or
(12) disposing;

into the environment. The term includes the abandonment or discarding of barrels, containers, or other closed receptacles containing any hazardous substance.

(e) "Release", for purposes of IC 13-25-5, means any:

(1) spilling;
(2) leaking;
(3) pumping;
(4) pouring;
(5) emitting;
(6) emptying;
(7) discharging;
(8) injecting;
(9) escaping;
(10) leaching;
(11) dumping; or
(12) disposing;

into the environment. The term includes the abandonment or discarding of barrels, containers, or other closed receptacles containing any hazardous substance or petroleum.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-185
"Remedial action"

Sec. 185. (a) "Remedial action", for purposes of IC 13-25-4, means actions consistent with a permanent remedy taken instead of or in addition to removal actions if a release or threatened release of a hazardous substance into the environment occurs to prevent or minimize the release of hazardous substances so that the hazardous substances do not migrate to cause substantial danger to present or future public health or welfare or the environment.

(b) The term includes actions necessary to:

(1) monitor;
(2) assess; or
(3) evaluate;

the continuing effectiveness of other response actions.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-186
"Remediation"

Sec. 186. "Remediation", for purposes of IC 13-19-5 and IC 13-25-5, means any of the following:

(1) Actions necessary to:

(A) prevent;
(B) minimize; or
(C) mitigate;
damages to the public health or welfare or to the environment that may otherwise result from a release or threat of a release.
(2) Actions consistent with a permanent remedy taken instead of or in addition to removal actions if a release or threatened release of a hazardous substance or petroleum into the environment occurs to eliminate the release of hazardous substances or petroleum so that the hazardous substances or petroleum do not migrate to cause substantial danger to present or future public health or welfare or the environment.
(3) The cleanup or removal of released hazardous substances or petroleum from the environment.

As added by P.L.1-1996, SEC.1. Amended by P.L.59-1997, SEC.12.

IC 13-11-2-187
"Removal"

Sec. 187. "Removal", for purposes of IC 13-25-4, means any of the following:
(1) The cleanup or removal of released hazardous substances from the environment.
(2) Actions necessary to be taken if the threat of release of hazardous substances into the environment occurs.
(3) Actions necessary to monitor, assess, and evaluate:
(A) the release or threat of release of hazardous substances; or
(B) the continuing effectiveness of other response actions.
(4) The disposal of removed material.
(5) Actions necessary to prevent, minimize, or mitigate damage to:
(A) the public health or welfare; or
(B) the environment;
that may otherwise result from a release or threat of release.
(6) The extension of a municipal water or sewer service to a residence or an industry to:
(A) prevent;
(B) minimize; or
(C) mitigate;
damage to public health that may result from a release or threat of release.

As added by P.L.1-1996, SEC.1. Amended by P.L.124-1996, SEC.6.

IC 13-11-2-188
"Removal costs"

Sec. 188. "Removal costs", for purposes of IC 13-24-2, includes all of the following:
(1) Costs to:
(A) prevent;
(B) minimize; or

(C) mitigate;
oil pollution from an oil discharge.
(2) Other costs necessary to:
(A) minimize; or
(B) mitigate;
damage to public health or welfare related to an oil discharge.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-189
"Response"
Sec. 189. (a) "Response", for purposes of IC 13-25-4, means removal and remedial action.
(b) The term includes enforcement activities related to removal and remedial action.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-190
"Response assistance"
Sec. 190. "Response assistance", for purposes of IC 13-24-2, means services, care, assistance, or advice provided:
(1) consistent with the National Contingency Plan prepared and published under Section 311(d) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321(d)); or
(2) at the direction of the commissioner or the federal on-scene coordinator;
in response to a discharge or a threatened discharge of oil into or on the navigable waters of Indiana.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-191
"Responsible party"
Sec. 191. (a) "Responsible party", for purposes of IC 13-18-10, means any of the following:
(1) An applicant.
(2) An officer, a corporation director, or a senior management official of any of the following that is an applicant:
(A) A corporation.
(B) A partnership.
(C) A limited liability company.
(D) A business association.
(b) "Responsible party", for purposes of IC 13-19-4, means:
(1) an officer, a corporation director, or a senior management official of a corporation, partnership, limited liability company, or business association that is an applicant; or
(2) an individual, a corporation, a limited liability company, a partnership, or a business association that owns, directly or indirectly, at least a twenty percent (20%) interest in the applicant.
(c) "Responsible party", for purposes of IC 13-20-6, means:
(1) an officer, a corporation director, or a senior management

official of a corporation, partnership, limited liability company, or business association that is an operator; or

(2) an individual, a corporation, a limited liability company, a partnership, or a business association that owns, directly or indirectly, at least a twenty percent (20%) interest in the operator.

(d) "Responsible party", for purposes of IC 13-24-2, has the meaning set forth in Section 1001 of the federal Oil Pollution Act of 1990 (33 U.S.C. 2701).

(e) "Responsible party", for purposes of IC 13-25-6, means a person:

(1) who:

(A) owns hazardous material that is involved in a hazardous materials emergency; or

(B) owns a container or owns or operates a vehicle that contains hazardous material that is involved in a hazardous materials emergency; and

(2) who:

(A) causes; or

(B) substantially contributes to the cause of;

the hazardous materials emergency.

As added by P.L.1-1996, SEC.1. Amended by P.L.127-2009, SEC.4.

IC 13-11-2-192
"Responsible person"

Sec. 192. (a) "Responsible person", for purposes of IC 13-24-1, means a person who has caused a release at a petroleum facility.

(b) "Responsible person", for purposes of IC 13-25-4, means a person that is:

(1) liable to:

(A) the United States government;

(B) the state; or

(C) any other person;

under Section 107 of CERCLA (42 U.S.C. 9607); or

(2) liable to the state under IC 13-25-4-8.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-193
"Restricted waste"

Sec. 193. "Restricted waste", for purposes of IC 13-20-21, means waste disposed of at a restricted waste site (as defined in 329 IAC 10-2.5-1(b)(57)).

As added by P.L.1-1996, SEC.1. Amended by P.L.218-2001, SEC.2.

IC 13-11-2-193.5
"Restrictive covenant"

Sec. 193.5. "Restrictive covenant" means, with respect to land, any deed restriction, restrictive covenant, environmental covenant, environmental notice, or other restriction or obligation that:

(1) is executed before July 1, 2009, and:

(A) limits the use of the land or the activities that may be performed on or at the land or requires the maintenance of any engineering control on the land designed to protect human health or the environment;
(B) by its terms is intended to run with the land and be binding on successors;
(C) is recorded with the county recorder's office in the county in which the land is located; and
(D) explains how it can be modified or terminated; or
(2) is executed after June 30, 2009, and:
(A) limits the use of the land or the activities that may be performed on or at the land or requires the maintenance of any engineering control on the land designed to protect human health or the environment;
(B) by its terms is intended to run with the land and be binding on successors;
(C) is recorded with the county recorder's office in the county in which the land is located;
(D) explains how it can be modified or terminated;
(E) grants the department access to the land;
(F) requires notice to a transferee of:
(i) the land; or
(ii) an interest in the land;
of the existence of the restrictive covenant; and
(G) identifies the means by which the environmental files at the department that apply to the land can be located.
As added by P.L.61-2001, SEC.2. Amended by P.L.18-2008, SEC.1; P.L.78-2009, SEC.8.

IC 13-11-2-194
"Retailer"
Sec. 194. (a) "Retailer", for purposes of IC 13-20-14, means a person engaged in the business of selling new tires at retail in Indiana.
(b) "Retailer", for purposes of IC 13-20-16, means a person engaged in the business of selling lead acid batteries at retail in Indiana.
(c) "Retailer", for purposes of section 195.7 of this chapter and IC 13-20.5, means a person that sells, rents, or leases, through sales outlets, catalogs, or the Internet, a video display device to a covered entity and not for resale in any form.
As added by P.L.1-1996, SEC.1. Amended by P.L.178-2009, SEC.21.

IC 13-11-2-195
"Revenues"
Sec. 195. (a) "Revenues", for purposes of IC 13-21, means the amounts received by a county or joint solid waste management district from the operation or ownership of facilities.
(b) The term does not include amounts derived from the levy of taxes or from fees under IC 13-21-13.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-195.5
"Safe Drinking Water Act"

Sec. 195.5. "Safe Drinking Water Act", for purposes of this chapter and IC 13-18-21, refers to:

(1) 42 U.S.C. 300f et seq.; and

(2) regulations adopted under 42 U.S.C. 300f et seq.

As added by P.L.235-2005, SEC.129.

IC 13-11-2-195.7
"Sale" or "sell"

Sec. 195.7. (a) "Sale" or "sell", for purposes of sections 126(b) and 194(c) of this chapter and IC 13-20.5, means a transfer for consideration of title or of the right to use by a:

(1) lease or sales contract, including transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means either inside or outside Indiana; and

(2) person that conducts the transaction and controls the delivery of a video display device to a consumer in Indiana.

(b) The term does not include a manufacturer's or distributor's wholesale transaction with a distributor or retailer.

As added by P.L.178-2009, SEC.22. Amended by P.L.37-2012, SEC.11.

IC 13-11-2-196
"SARA"

Sec. 196. "SARA", for purposes of IC 13-25-1, refers to Title III of the Superfund Amendments and Reauthorization Act of 1986 (P.L.99-499).

As added by P.L.1-1996, SEC.1.

IC 13-11-2-196.2
"Satellite manure storage facility"

Sec. 196.2. (a) "Satellite manure storage structure", for purposes of IC 13-18-10.5, means any of the items listed in subsection (b) that:

(1) are not located at a livestock or poultry production area; and

(2) are designed for use in whole or in part for the storage of:

(A) at least one million (1,000,000) gallons of manure; or

(B) at least five thousand (5,000) cubic yards of manure.

(b) The items referred to in subsection (a) are as follows:

(1) A building.

(2) A lagoon.

(3) A pad.

(4) A pit.

(5) A pond.

(6) A tank.

As added by P.L.189-2011, SEC.9.

IC 13-11-2-196.5

"Scrap metal processor"

Sec. 196.5. (a) "Scrap metal processor", for purposes of this chapter, means a private, commercial, or governmental enterprise:

(1) that has facilities for processing iron, steel, or nonferrous scrap; and

(2) whose principal product is scrap iron, scrap steel, or nonferrous scrap for sale for remelting purposes.

(b) The term does not include a steel mill.

(c) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

As added by P.L.170-2006, SEC.12.

IC 13-11-2-197

"Secondary containment structure"

Sec. 197. "Secondary containment structure", for purposes of IC 13-18-5, means a structure or a part of a structure that prevents or impedes a hazardous material that is released accidentally from entering surface water or groundwater.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-197.5

"Secondary material"

Sec. 197.5. "Secondary material", for purposes of IC 13-22-11.5, means a solid, liquid, or contained gaseous form of a byproduct, spent material, sludge, discarded commercial chemical product, or scrap metal that may be incorporated into a manufacturing or an industrial process, except reclamation, to make a product.

As added by P.L.45-1997, SEC.4. Amended by P.L.128-1997, SEC.1.

IC 13-11-2-197.7

"Security interest"

Sec. 197.7. "Security interest", for purposes of sections 119, 148, 151.2, 151.3, and 151.4 of this chapter, IC 13-23-13-14, IC 13-24-1-10, and IC 13-25-4-8.2, includes:

(1) a right under a:

(A) mortgage;

(B) deed of trust;

(C) assignment;

(D) judgment lien;

(E) pledge;

(F) security agreement;

(G) factoring agreement; or

(H) lease; and

(2) any other right accruing to a person to secure:

(A) the repayment of money;

(B) the performance of a duty; or

(C) any other obligation;

by a nonaffiliated person.

As added by P.L.90-1998, SEC.12.

IC 13-11-2-198
"Self-insurance"

Sec. 198. "Self insurance", for purposes of IC 13-22-9, means the practice of meeting expenses when those expenses are incurred with financial resources that:

(1) were previously set aside for the purpose of meeting those expenses; or

(2) are not committed to another purpose;

rather than through a trust fund, a surety bond, a letter of credit, or an insurance policy.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-199
"Semipublic permit"

Sec. 199. "Semipublic permit", for purposes of IC 13-18-20, refers to a NPDES permit issued to a privately owned treatment works (as defined in 33 U.S.C. 1292(2)).

As added by P.L.1-1996, SEC.1.

IC 13-11-2-199.2
"Septage"

Sec. 199.2. "Septage", for purposes of this chapter and IC 13-18-12, means the following:

(1) The following from sewage disposal systems:

(A) Human excreta.

(B) Water.

(C) Scum.

(D) Sludge.

(E) Sewage.

(F) Incidental or accidental seepage.

(2) Retained contents of sewage holding tanks and portable sanitary units.

(3) Grease, fats, and retained wastes from grease traps or interceptors.

(4) Human wastes carried in liquid from ordinary living processes.

As added by P.L.159-2011, SEC.8.

IC 13-11-2-199.3
"Septage management"

Sec. 199.3. "Septage management", for purposes of IC 13-18-12, includes the following:

(1) The cleaning of sewage disposal systems.

(2) The transportation, storage, treatment, or disposal of septage.

As added by P.L.159-2011, SEC.9.

IC 13-11-2-199.5
"Septic tank soil absorption system"

Sec. 199.5. "Septic tank soil absorption system", for purposes of this chapter, IC 13-18-12, and IC 13-26-5-2.5, means pipes laid in a

system of trenches or elevated beds, into which the effluent from the septic tank is discharged for soil absorption, or similar structures.
As added by P.L.193-2001, SEC.1. Amended by P.L.172-2002, SEC.3; P.L.292-2013, SEC.2.

IC 13-11-2-200
"Sewage"

Sec. 200. "Sewage", for purposes of environmental management laws, means all refuse, human excreta, garbage, waste or waste products, or any combination of these substances that:

(1) is potentially capable of contaminating the environment; and

(2) may be collected and carried off in a pipe, ditch, or channel.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-201
"Sewage disposal system"

Sec. 201. "Sewage disposal system", for purposes of this chapter, IC 13-18-12, and IC 13-20-17.5, means septic tanks, septic tank soil absorption systems, septage holding tanks, seepage pits, cesspools, privies, composting toilets, interceptors or grease traps, portable sanitary units, and other equipment, facilities, or devices used to:

(1) store;

(2) treat;

(3) make inoffensive; or

(4) dispose of;

human excrement or liquid carrying wastes of a domestic nature.
As added by P.L.1-1996, SEC.1. Amended by P.L.159-2011, SEC.10; P.L.292-2013, SEC.3.

IC 13-11-2-202
"Sewage works"

Sec. 202. "Sewage works", for purposes of environmental management laws, means, individually or collectively, those constructions or devices used for any of the following:

(1) Collecting, pumping, treating, and disposing of sewage.

(2) The recovery of byproducts from sewage.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-202.8
"Single stream recyclable materials"

Sec. 202.8. "Single stream recyclable materials", for purposes of IC 13-20-25, has the meaning set forth in IC 13-20-25-8.
As added by P.L.126-2014, SEC.8.

IC 13-11-2-203
"Site"

Sec. 203. (a) "Site", for purposes of IC 13-25-5, means a parcel of real property for which an application has been submitted under IC 13-25-5-2.

(b) "Site", for purposes of IC 13-29-1, means the geographic

location of a facility.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-203.5
"Small business"

Sec. 203.5. (a) Except as provided in subsection (b), "small business", for purposes of section 47.7 of this chapter, means a business that satisfies all the following:

(1) The business is independently owned and operated.
(2) The principal office of the business is located in Indiana.
(3) The business satisfies either of the following:
(A) The business has not more than:
(i) one hundred (100) employees; and
(ii) average annual gross receipts of ten million dollars ($10,000,000).
(B) If the business is a manufacturing business, the business does not have more than one hundred (100) employees.

(b) "Small business" does not include a business subject to electronic waste regulation under 329 IAC 16.
As added by P.L.178-2009, SEC.23. Amended by P.L.1-2010, SEC.60.

IC 13-11-2-204
"Small business petroleum marketer"

Sec. 204. "Small business petroleum marketer", for purposes of IC 13-23-4-3, means a petroleum marketer that owns or operates not more than twelve (12) underground storage tanks.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-204.2
"Small business stationary source"

Sec. 204.2. "Small business stationary source", for the purposes of IC 13-13-7.1, has the meaning set forth in 42 U.S.C. 7661f.
As added by P.L.53-2014, SEC.117.

IC 13-11-2-205
"Solid waste"

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

(1) solid or dissolved material in:
(A) domestic sewage; or
(B) irrigation return flows or industrial discharges;
that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act Amendments (33

U.S.C. 1342);

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

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

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

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

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

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

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

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

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

As added by P.L.1-1996, SEC.1. Amended by P.L.2-1997, SEC.39; P.L.189-2011, SEC.10; P.L.113-2014, SEC.57.

IC 13-11-2-206

"Solid waste disposal facility"

Sec. 206. "Solid waste disposal facility", for purposes of IC 13-19-3-8.2, IC 13-19-4, IC 13-20-4, and IC 13-20-6, means a facility at which solid waste is:

(1) deposited on or beneath the surface of the ground as an intended place of final location; or

(2) incinerated.

As added by P.L.1-1996, SEC.1. Amended by P.L.218-2001, SEC.3; P.L.1-2002, SEC.64; P.L.154-2005, SEC.2.

IC 13-11-2-207

"Solid waste hauler"

Sec. 207. "Solid waste hauler" or "hauler", for purposes of IC 13-21, means a person who operates a vehicle in which solid waste is transported to:

(1) a transfer station for further transport to a final disposal facility; or

(2) a final disposal facility.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-208

"Solid waste landfill"

Sec. 208. "Solid waste landfill", for purposes of IC 13-20-9, IC 13-20-21, and IC 13-22-9, means a solid waste disposal facility at which solid waste is deposited on or beneath the surface of the ground as an intended place of final location.

As added by P.L.1-1996, SEC.1. Amended by P.L.138-2000, SEC.3; P.L.218-2001, SEC.4; P.L.159-2011, SEC.11.

IC 13-11-2-209
"Solid waste management"

Sec. 209. "Solid waste management", for purposes of IC 13-21 and environmental management laws, means the systematic administration of activities that provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-210
Repealed

(Repealed by P.L.154-2005, SEC.17.)

IC 13-11-2-211
"Solid waste management unit"

Sec. 211. "Solid waste management unit", for purposes of environmental management laws, means a discernible unit at a hazardous waste facility from which hazardous waste or constituents of hazardous waste might migrate, irrespective of whether the unit was intended for the management of solid or hazardous wastes. The term includes containers, tanks, surface impoundments, waste piles, land treatment units, landfills, incinerators, and underground injection wells.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-212
"Solid waste processing facility"

Sec. 212. (a) "Solid waste processing facility", for purposes of IC 13-19-3-8.2, IC 13-19-4, IC 13-20-1, IC 13-20-4, and IC 13-20-6, means a facility at which at least one (1) of the following is located:

(1) A solid waste incinerator.
(2) A transfer station.
(3) A solid waste baler.
(4) A solid waste shredder.
(5) A resource recovery system.
(6) A composting facility.
(7) A garbage grinding system.
(8) A medical or an infectious waste treatment facility.
(9) A solid waste solidification facility that is not located on an operating, permitted landfill.
(10) A facility that uses plasma arc or another source of heat to treat solid waste.

(b) The term does not include a facility or operation that generates solid waste.

As added by P.L.1-1996, SEC.1. Amended by P.L.218-2001, SEC.5; P.L.1-2002, SEC.65; P.L.154-2005, SEC.3.

IC 13-11-2-213
"Source"

Sec. 213. "Source", for purposes of IC 13-17-3 and IC 13-17-7, means an aggregation of one (1) or more facilities that are:

(1) located on:
(A) one (1) piece of property; or
(B) contiguous or adjacent properties; and
(2) owned, operated, or controlled by the same person.

As added by P.L.1-1996, SEC.1. Amended by P.L.166-2002, SEC.1.

IC 13-11-2-214
"Source reduction"

Sec. 214. "Source reduction", for purposes of IC 13-17-7 and IC 13-21, means a reduction in the amount of solid waste generated that is achieved through actions affecting the source of the solid waste.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-215
Repealed

(Repealed by P.L.138-2000, SEC.11.)

IC 13-11-2-215.1
Repealed

(Repealed by P.L.138-2000, SEC.11.)

IC 13-11-2-216
"Spent nuclear fuel"

Sec. 216. "Spent nuclear fuel", for purposes of IC 13-22-10, has the meaning set forth in Section 2 of the federal Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101), as in effect on January 1, 1987.

As added by P.L.1-1996, SEC.1. Amended by P.L.124-1996, SEC.7.

IC 13-11-2-217
Repealed

(Repealed by P.L.127-1997, SEC.2.)

IC 13-11-2-218
Repealed

(Repealed by P.L.127-1997, SEC.2.)

IC 13-11-2-219
"State"

Sec. 219. "State", for purposes of IC 13-29-1, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or any other territorial possession of the United States.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-220
"State permit"

Sec. 220. "State permit", for purposes of IC 13-18-20, refers to a NPDES permit issued to a state owned facility.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-221
"State plan"

Sec. 221. "State plan", for purposes of IC 13-21, refers to the state solid waste management plan adopted under IC 13-21-1-1.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-221.5
"State regulated wetland"

Sec. 221.5. "State regulated wetland", for purposes of IC 13-18, means an isolated wetland located in Indiana that is not an exempt isolated wetland.
As added by P.L.282-2003, SEC.28.

IC 13-11-2-222
"Stone quarry permit"

Sec. 222. "Stone quarry permit", for purposes of IC 13-18-20, refers to a NPDES permit that involves the area on or beneath land used or distributed in activity related to the extraction, removal, or recovery of:

(1) sand;
(2) gravel;
(3) dimension stone; or
(4) crushed stone;

from natural deposits.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-223
"Storage"

Sec. 223. (a) "Storage", for purposes of environmental management laws and when used in connection with hazardous waste, means the containment of hazardous waste, either on a temporary basis or for a period of years, in a manner that does not constitute disposal of the hazardous waste.

(b) "Storage", for purposes of IC 13-22-10, means:

(1) the containment of hazardous waste requiring a permit under rules adopted under IC 13-22-2-4; or
(2) the containment of low level radioactive waste, either on a temporary basis or for a period of years, in a manner that does not constitute disposal of the low level radioactive waste.

(c) "Storage", for purposes of IC 13-22-12, includes:

(1) interim status; and
(2) permitted;

hazardous waste storage.

(d) "Storage", for purposes of IC 13-29-1, means the temporary

holding of waste for treatment or disposal.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-223.5
"Storm water management program"

Sec. 223.5. "Storm water management program", for purposes of IC 13-18-21, means a program that is consistent with the requirements in:

(1) 40 CFR 122.26(d)(2)(iv) for a proposed management program; or

(2) 40 CFR 122.34 for a storm water management program.

As added by P.L.55-2001, SEC.1.

IC 13-11-2-224
"Stormwater permit"

Sec. 224. "Stormwater permit", for purposes of IC 13-18-20, refers to a permit issued to a facility regulated under 327 IAC 15-5 or 327 IAC 15-6.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-225
"Substance"

Sec. 225. "Substance", for purposes of IC 13-25-2, refers to a substance on the list described in 42 U.S.C. 11002(a)(2).
As added by P.L.1-1996, SEC.1.

IC 13-11-2-226
"Supplemental fund"

Sec. 226. "Supplemental fund", for purposes of IC 13-18-13 and IC 13-18-21, refers to the supplemental drinking water and wastewater assistance fund established by IC 13-18-21-22.
As added by P.L.1-1996, SEC.1. Amended by P.L.126-1997, SEC.6; P.L.132-1999, SEC.9.

IC 13-11-2-227
"Supplemental program"

Sec. 227. "Supplemental program", for purposes of IC 13-18-13 and IC 13-18-21, refers to the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21.
As added by P.L.1-1996, SEC.1. Amended by P.L.126-1997, SEC.7; P.L.132-1999, SEC.10.

IC 13-11-2-228
"Tank"

Sec. 228. "Tank", for purposes of IC 13-18-12, means any container that is placed on a vehicle to transport wastewater removed from a sewage disposal system.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-229

Repealed

(Repealed by P.L.14-2001, SEC.19.)

IC 13-11-2-229.5
Repealed

(Repealed by P.L.57-2009, SEC.18.)

IC 13-11-2-230
Repealed

(Repealed by P.L.131-2006, SEC.14.)

IC 13-11-2-230.1
"Television"

Sec. 230.1. "Television", for purposes of this chapter and IC 13-20.5, means an electronic device that is:

(1) a cathode ray tube or flat panel display; and

(2) primarily intended to receive:

(A) video programming via broadcast, cable, or satellite transmission; or

(B) video from surveillance or other similar cameras.

As added by P.L.178-2009, SEC.24.

IC 13-11-2-231
"Tire"

Sec. 231. (a) "Tire", for purposes of:

(1) IC 13-20-13, except as provided in subsection (b); and

(2) IC 13-20-14;

means a continuous solid or pneumatic rubber covering that is designed to encircle a wheel of a motor vehicle (as defined in IC 9-13-2-105(a)).

(b) "Tire", for purposes of IC 13-20-13-7, means a continuous solid or pneumatic rubber covering that is designed to encircle a wheel of a vehicle.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-232
"Title V operating permit"

Sec. 232. "Title V operating permit", for purposes of IC 13-17-7, means a permit required by 42 U.S.C. 7661a.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-232.8
"Ton"

Sec. 232.8. "Ton", for purposes of IC 13-22-12-3.5, means a short ton.

As added by P.L.220-2014, SEC.7.

IC 13-11-2-233
"Toxic material"

Sec. 233. "Toxic material", for purposes of IC 13-27, means any

of the following:

(1) A chemical substance in a gaseous, liquid, or solid state that meets the definition of hazardous substance in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601(14)).

(2) A mixture of substances described in subdivision (1).

(3) An element, a substance, a compound, or a mixture designated by the commissioner as a toxic or hazardous substance.

(4) A mixture of substances containing a substance described in subdivision (1).

As added by P.L.1-1996, SEC.1. Amended by P.L.124-1997, SEC.10; P.L.37-2012, SEC.12.

IC 13-11-2-233.5
"Tract"

Sec. 233.5. "Tract", for purposes of this chapter, means any area of land that is under common ownership and is contained within a continuous border.

As added by P.L.282-2003, SEC.29.

IC 13-11-2-234
Repealed

(Repealed by P.L.113-2014, SEC.58.)

IC 13-11-2-235
"Transfer station"

Sec. 235. (a) "Transfer station", for purposes of:

(1) IC 13-21; and

(2) environmental management laws, except as provided in subsection (c);

means a facility where solid waste is transferred from a vehicle or a container to another vehicle or container for transportation.

(b) The term does not include a facility:

(1) where the solid waste that is transferred has been generated by the facility or a recycling facility; or

(2) where:

(A) infectious waste (as defined in IC 16-41-16-4) is transferred directly between two (2) vehicles;

(B) infectious waste is packaged in compliance with 410 IAC 1-3-24; and

(C) packages of infectious waste are not opened at any time during the transfer.

(c) "Transfer station", for purposes of IC 13-22-9, means a facility for the:

(1) acceptance;

(2) holding; and

(3) loading;

of solid waste into a vehicle for movement to a facility for processing, recycling, or disposal. The term does not include

collection containers for solid waste.
As added by P.L.1-1996, SEC.1. Amended by P.L.128-1997, SEC.2.

IC 13-11-2-236
Repealed
(Repealed by P.L.113-2014, SEC.59.)

IC 13-11-2-237
Repealed
(Repealed by P.L.113-2014, SEC.60.)

IC 13-11-2-237.5
"Transient noncommunity water system"
Sec. 237.5. "Transient noncommunity water system", for purposes of IC 13-18-11 and IC 13-18-20.5, means a noncommunity water system that does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year.
As added by P.L.132-2000, SEC.1. Amended by P.L.1-2001, SEC.15; P.L.224-2003, SEC.131.

IC 13-11-2-238
"Transporter"
Sec. 238. "Transporter", for purposes of IC 13-20-4 and IC 13-20-6, means a person who is in the business of transporting municipal waste.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-239
"Treatment"
Sec. 239. (a) "Treatment", for purposes of environmental management laws, when used in connection with a waste that is determined to be hazardous waste under IC 13-22-2-3, means any method, technique, or process designed to change the physical, chemical, or biological character or composition of the waste so as to:
(1) neutralize the waste;
(2) make the waste:
(A) nonhazardous or less hazardous;
(B) safer to transport, store, or dispose of;
(C) amenable to recovery or storage; or
(D) reduced in volume; or
(3) recover energy or material resources from the waste.
(b) "Treatment", for purposes of IC 13-22-12, includes:
(1) interim status; and
(2) permitted;
hazardous waste treatment.
(c) "Treatment", for purposes of IC 13-29-1, means any method, technique, or process, including storage for radioactive decay, designed to change the physical, chemical, or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery,

convertible to another usable material, or reduced in volume.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-240
"Underground petroleum storage tank"

Sec. 240. "Underground petroleum storage tank", for purposes of IC 13-23, means an underground storage tank that is in operation after December 31, 1973.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-241
"Underground storage tank"

Sec. 241. (a) "Underground storage tank", for purposes of section 161 of this chapter and IC 13-23, means one (1) tank or a combination of tanks:

(1) that is used to contain an accumulation of regulated substances; and

(2) the volume of which, including the volume of the underground connected pipes described in subsection (b), is at least ten percent (10%) beneath the surface of the ground.

(b) If:

(1) a single tank; or

(2) a combination of tanks;

constitutes an underground storage tank under subsection (a), any underground pipes that are connected to the single tank or combination of tanks are also part of the underground storage tank.

(c) The term defined in subsection (a) includes a single tank:

(1) that meets the definition set forth in subsection (a); and

(2) in which there are separate compartments.

(d) The term does not include any of the following:

(1) A farm or residential tank with a capacity of not more than one thousand one hundred (1,100) gallons that is used for storing motor fuel for noncommercial purposes.

(2) A tank used for storing heating oil for consumptive use on the premises on which the tank is stored.

(3) A septic tank.

(4) A pipeline facility, including gathering lines, that:

(A) is regulated under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.);

(B) is regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 60101 et seq.); or

(C) is an intrastate pipeline facility regulated under state laws comparable to the laws identified in clauses (A) through (B).

(5) A surface impoundment, pit, pond, or lagoon.

(6) A stormwater or wastewater collection system.

(7) A flow-through process tank.

(8) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

(9) A storage tank situated in an underground area such as:

(A) a basement;

(B) a cellar;
(C) a mineworking;
(D) a drift;
(E) a shaft; or
(F) a tunnel;

if the storage tank is situated upon or above the surface of the floor.

(10) Any other tank exempted by a rule adopted by the board in accordance with regulations adopted by the Administrator of the United States Environmental Protection Agency.

(11) A pipe connected to a tank described in subdivisions (1) through (10).

As added by P.L.1-1996, SEC.1. Amended by P.L.6-2014, SEC.1; P.L.113-2014, SEC.61.

IC 13-11-2-242
"Unit"

Sec. 242. "Unit", for purposes of:

(1) section 148(c) of this chapter;
(2) IC 13-20-17.5;
(3) IC 13-20-20; and
(4) IC 13-23;

has the meaning set forth in IC 36-1-2-23.

As added by P.L.1-1996, SEC.1. Amended by P.L.225-2001, SEC.13.

IC 13-11-2-242.3
"Upset"

Sec. 242.3. "Upset", for purposes of IC 13-18-12-8, means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee, and does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

As added by P.L.112-2000, SEC.2.

IC 13-11-2-242.5
"Use attainability analysis"

Sec. 242.5. "Use attainability analysis", for purposes of IC 13-14-9-14 and IC 13-18, refers to a structured scientific assessment of the physical, chemical, biological, and economic factors affecting the attainment of a designated use as provided in 40 CFR 131.3(g).

As added by P.L.140-2000, SEC.13. Amended by P.L.100-2006, SEC.6.

IC 13-11-2-243
"Used oil"

Sec. 243. "Used oil", for purposes of IC 13-21-5-14 and

environmental management laws, means a petroleum based or synthetic oil that has been used. The term includes oil that has been used for the following purposes:

(1) Lubricant for engines, turbines, or gears.

(2) Hydraulic fluid, including transmission fluid.

(3) Metal working fluid, including cutting, grinding, machining, rolling, stamping, quenching, and coating oil.

(4) Insulating fluid or coolants.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-244
"User"

Sec. 244. "User", for purposes of IC 13-21 and environmental management laws, means a person that has entered into a financing agreement with:

(1) a county solid waste management district or joint solid waste management district; or

(2) a developer;

in contemplation of the user's use and operation of the facilities referred to in the agreement.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-244.5
"Utilize"

Sec. 244.5. "Utilize", for purposes of IC 13-22-11.5, means to legitimately incorporate a secondary material into an industrial or manufacturing process to make a usable product without intervening reclamation or recovery, and includes any necessary transportation directly between the generator and user or storage by the generator or user of the secondary material, but which must occur without speculative accumulation or in a manner that constitutes disposal.

As added by P.L.45-1997, SEC.5. Amended by P.L.128-1997, SEC.3.

IC 13-11-2-245
"Vehicle"

Sec. 245. (a) "Vehicle", for purposes of IC 13-17-5, refers to a vehicle required to be registered with the bureau of motor vehicles and required to have brakes. The term does not include the following:

(1) Mobile homes (house trailers).

(2) Trailers weighing not more than three thousand (3,000) pounds.

(3) Antique motor vehicles.

(4) Special machinery (as defined in IC 9-13-2-170.3).

(b) "Vehicle", for purposes of IC 13-18-12, means a device used to transport a tank.

(c) "Vehicle", for purposes of IC 13-20-4, refers to a municipal waste collection and transportation vehicle.

(d) "Vehicle", for purposes of IC 13-20-13-7, means a motor vehicle, a farm tractor (as defined in IC 9-13-2-56, an implement of agriculture (as defined in IC 9-13-2-77), a semitrailer (as defined in

IC 9-13-2-164(a) or IC 9-13-2-164(b)), and types of equipment, machinery, implements, or other devices used in transportation, manufacturing, agriculture, construction, or mining. The term does not include a lawn and garden tractor that is propelled by a motor of not more than twenty-five (25) horsepower.

(e) "Vehicle", for purposes of IC 13-20-14, has the meaning set forth in IC 9-13-2-196.

As added by P.L.1-1996, SEC.1. Amended by P.L.208-2005, SEC.12; P.L.210-2005, SEC.73; P.L.1-2006, SEC.199.

IC 13-11-2-245.2
"Vehicle disposal facility"

Sec. 245.2. (a) "Vehicle disposal facility", for purposes of this chapter, means a person, firm, limited liability company, corporation, or other legal entity that, in the course of business, engages in the acquisition and dismantling or demolition of motor vehicles, motorcycles, semitrailers, or recreational vehicles or their remains for the benefit of reusable components and parts or recyclable materials.

(b) The term includes the following enterprises:

(1) An automotive salvage recycler.

(2) A hulk crusher.

(c) The term does not include a scrap metal processor.

(d) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

As added by P.L.170-2006, SEC.13.

IC 13-11-2-245.4
"Video display device"

Sec. 245.4. (a) "Video display device", for purposes of this chapter and IC 13-20.5, means a television or computer monitor, including a laptop computer, that:

(1) contains a cathode ray tube or flat panel screen with a screen size that is greater than four (4) inches measured diagonally; and

(2) is marketed by a manufacturer for use by covered entities.

(b) The term does not include the following:

(1) A video display device that is part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

(2) A video display device, including a touch screen display, that is functionally or physically part of or connected to a system or equipment designed and intended for use in:

(A) an industrial;

(B) a commercial, including retail;

(C) a library checkout;

(D) a traffic control;

(E) a security, sensing, monitoring, or counterterrorism;

(F) a border control;

(G) a medical; or

(H) a governmental or research and development;

setting, including diagnostic, monitoring, or control equipment.

(3) A video display device that is contained within any of the following:

(A) Clothes washer or dryer.

(B) Refrigerator or refrigerator and freezer.

(C) Microwave oven or conventional oven or range.

(D) Dishwasher.

(E) Room air conditioner, dehumidifier, or air purifier.

(4) Either of the following that does not contain a video display area greater than nine (9) inches measured diagonally:

(A) A telephone.

(B) A device capable of using commercial mobile radio service (as defined in 47 CFR 20.3).

As added by P.L.178-2009, SEC.25.

IC 13-11-2-245.5
"Voluntarily created wetland"

Sec. 245.5. "Voluntarily created wetland", for purposes of this chapter, means an isolated wetland that:

(1) was restored or created in the absence of a governmental order, directive, or regulatory requirement concerning the restoration or creation of the wetland; and

(2) has not been applied for or used as compensatory mitigation or another regulatory purpose that would have the effect of subjecting the wetland to regulation as waters by:

(A) the department; or

(B) another governmental entity.

As added by P.L.282-2003, SEC.30.

IC 13-11-2-246
Repealed

(Repealed by P.L.37-2012, SEC.13.)

IC 13-11-2-247
"Waste management"

Sec. 247. "Waste management", for purposes of IC 13-29-1, means the storage, transportation, treatment, or disposal of waste.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-247.5
"Waste management services"

Sec. 247.5. "Waste management services", for purposes of IC 13-21, means:

(1) the collection, storage, separation, recovery, recycling, marketing, transfer, disposal, transportation, and processing of solid waste or recyclable materials, including the use of facilities incidental to these activities; and

(2) the operation of facilities described in subdivision (1).

As added by P.L.125-1996, SEC.4. Amended by P.L.45-1997, SEC.6.

IC 13-11-2-248
"Waste minimization"

Sec. 248. "Waste minimization", for purposes of environmental management laws, means a process that leads to:

(1) preventing the creation of waste; or

(2) a diminution in the volume of waste being generated.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-249
"Waste reduction"

Sec. 249. (a) "Waste reduction", for purposes of environmental management laws except as provided in subsection (b), means a process that leads to the prevention of the creation of waste.

(b) "Waste reduction", for purposes of IC 13-22-11, means the use of one (1) or more industrial practices that reduce, eliminate, or avoid the generation of hazardous waste to reduce risks to human health and to the environment. The term does not include the following:

(1) Recycling of a hazardous waste, except for recycling that is an integral part of the industrial operation that generated the hazardous waste.

(2) An act that concentrates a hazardous waste to reduce the volume of the hazardous waste.

(3) A dilution of a hazardous waste to reduce the hazardous characteristics of the hazardous waste.

(4) A treatment of a hazardous waste after the hazardous waste is generated, such as by incineration.

(5) Any other action involving a hazardous waste, unless the action is taken:

(A) as part of the industrial operation that generates the hazardous waste;

(B) at the place where the hazardous waste is generated; and

(C) at the time that the hazardous waste is generated.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-249.5
Repealed

(Repealed by P.L.37-2012, SEC.14.)

IC 13-11-2-250
"Waste tire"

Sec. 250. "Waste tire", for purposes of IC 13-20-13 and IC 13-20-14, means a tire that is not suitable for the tire's original purpose.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-250.5
"Waste tire processing operation"

Sec. 250.5. "Waste tire processing operation", for purposes of IC 13-20-13 and IC 13-20-14, means an operation that processes waste tires by cutting, shredding, or grinding. The term does not

include a retail operation that cuts or shreds waste tires generated by the retail operation.
As added by P.L.93-1998, SEC.2. Amended by P.L.37-2012, SEC.15.

IC 13-11-2-251
"Waste tire storage site"

Sec. 251. "Waste tire storage site", for purposes of IC 13-20-13 and IC 13-20-14, means:

(1) a site at which at least one thousand (1,000) passenger tire equivalents are accumulated outdoors or within a structure that is not completely enclosed; or

(2) a site at which at least two thousand (2,000) passenger tire equivalents are accumulated indoors within a completely enclosed structure.

As added by P.L.1-1996, SEC.1. Amended by P.L.93-1998, SEC.3; P.L.37-2012, SEC.16.

IC 13-11-2-252
"Waste tire transporter"

Sec. 252. "Waste tire transporter", for purposes of IC 13-20-14, means a person who engages in the business of:

(1) accepting waste tires; and

(2) transporting the waste tires to one (1) or more other locations.

As added by P.L.1-1996, SEC.1. Amended by P.L.37-2012, SEC.17.

IC 13-11-2-253
"Waste-to-energy facility"

Sec. 253. "Waste-to-energy facility", for purposes of IC 13-20 and IC 13-21, means a facility at which solid waste is converted into energy or another useful product by incineration.
As added by P.L.1-1996, SEC.1. Amended by P.L.138-2000, SEC.4.

IC 13-11-2-254
"Waste transfer activities"

Sec. 254. "Waste transfer activities", for purposes of IC 13-20-6, means the participation by:

(1) a broker or a transporter who is:
  (A) a resident of Indiana; or
  (B) not a resident of Indiana; or

(2) a transfer station that receives municipal waste located:
  (A) inside Indiana; or
  (B) outside Indiana;

in the collection or transportation of municipal waste for disposal or incineration in Indiana.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-255
"Waste treatment facilities"

Sec. 255. "Waste treatment facilities", for purposes of

IC 13-18-10, means the system of:

(1) treatment works;

(2) control facilities;

(3) equipment; and

(4) other facilities and appurtenances;

installed to treat, control, or dispose of runoff, waste, and manure.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-256

Repealed

(Repealed by P.L.159-2011, SEC.49.)

IC 13-11-2-257

Repealed

(Repealed by P.L.159-2011, SEC.49.)

IC 13-11-2-258

"Wastewater treatment plant"

Sec. 258. "Wastewater treatment plant", for purposes of IC 13-18-11, IC 13-20-17.5, and environmental management laws, means the system of treatment works, regulatory devices, equipment, and other facilities and appurtenances installed to treat sewage, industrial wastes, and other wastes delivered by a system of sewers and other related facilities, whether owned or operated by the state, a municipality, or a person, firm, or corporation. The term does not include septic tank disposal systems.

As added by P.L.1-1996, SEC.1. Amended by P.L.159-2011, SEC.12.

IC 13-11-2-259

"Water distribution system"

Sec. 259. "Water distribution system", for purposes of IC 13-18-11 and environmental management laws, means that part of the public water system in which water is conveyed from the water treatment plant to the premises of the consumer.

As added by P.L.1-1996, SEC.1. Amended by P.L.184-2002, SEC.4.

IC 13-11-2-260

"Water pollution"

Sec. 260. "Water pollution", for purposes of water pollution control laws and environmental management laws, means:

(1) actual or threatened alteration of the physical, thermal, chemical, biological, bacteriological, or radioactive properties of any waters; or

(2) the discharge or threatened discharge of any contaminant into any waters that does or can create a nuisance or make the waters harmful, detrimental, or injurious to any of the following:

(A) Public health, safety, or welfare.

(B) Domestic, commercial, industrial, agricultural, recreational, or other legitimate uses.

(C) Livestock, wild animals, birds, fish, or aquatic life.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-261
"Water pollution control laws"
Sec. 261. "Water pollution control laws" refers to IC 13-18, except for the following:
(1) IC 13-18-2.
(2) IC 13-18-9 through IC 13-18-20.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-262
"Water supply permit"
Sec. 262. "Water supply permit", for purposes of IC 13-18-20, refers to a NPDES permit issued to a facility collecting, treating, or distributing water from:
(1) wells;
(2) reservoirs;
(3) lakes;
(4) rivers;
(5) sources of supply;
(6) pumps;
(7) mains;
(8) pipes;
(9) facilities; or
(10) structures;
through which potable water is obtained, treated as required, and provided to water users.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-263
Repealed
(Repealed by P.L.184-2002, SEC.29.)

IC 13-11-2-264
"Water treatment plant"
Sec. 264. "Water treatment plant", for purposes of IC 13-18-11 and environmental management laws, means that part of the public water system that provides the water or in some way alters the physical, chemical, or bacteriological quality of the water.
As added by P.L.1-1996, SEC.1. Amended by P.L.184-2002, SEC.5.

IC 13-11-2-265
"Waters"
Sec. 265. (a) "Waters", for purposes of water pollution control laws and environmental management laws, means:
(1) the accumulations of water, surface and underground, natural and artificial, public and private; or
(2) a part of the accumulations of water;
that are wholly or partially within, flow through, or border upon

Indiana.

(b) The term "waters" does not include:

(1) an exempt isolated wetland;

(2) a private pond; or

(3) an off-stream pond, reservoir, wetland, or other facility built for reduction or control of pollution or cooling of water before discharge.

(c) The term includes all waters of the United States, as defined in Section 502(7) of the federal Clean Water Act (33 U.S.C. 1362(7)), that are located in Indiana.

As added by P.L.1-1996, SEC.1. Amended by P.L.183-2002, SEC.1; P.L.282-2003, SEC.31; P.L.52-2004, SEC.4.

IC 13-11-2-265.1
"Watershed"

Sec. 265.1. "Watershed", for purposes of IC 13-18-3, has the meaning set forth in IC 14-8-2-310.

As added by P.L.97-2004, SEC.62.

IC 13-11-2-265.3
"Wet weather event"

Sec. 265.3. "Wet weather event", for purposes of IC 13-18, means storm water runoff, snow melt runoff, or ice melt runoff entering a combined sewer system.

As added by P.L.140-2000, SEC.15.

IC 13-11-2-265.5
Repealed

(Repealed by P.L.97-2004, SEC.133.)

IC 13-11-2-265.6
"Wetland activity"

Sec. 265.6. "Wetland activity", for purposes of IC 13-18-22, means the discharge of:

(1) dredged; or

(2) fill;

material into an isolated wetland.

As added by P.L.282-2003, SEC.32.

IC 13-11-2-265.7
"Wetlands"

Sec. 265.7. "Wetlands", for purposes of IC 13-18, means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include:

(1) swamps;

(2) marshes;

(3) bogs; and

(4) similar areas.
As added by P.L.282-2003, SEC.33.

IC 13-11-2-265.8
"Wetlands delineation"
Sec. 265.8. "Wetlands delineation" or "delineation", for purposes of section 74.5 of this chapter, means a technical assessment:
(1) of whether a wetland exists on an area of land; and
(2) if so, of the type and quality of the wetland based on the presence or absence of wetlands characteristics, as determined consistently with the Wetlands Delineation Manual, Technical Report Y-87-1 of the United States Army Corps of Engineers.
As added by P.L.282-2003, SEC.34.

IC 13-11-2-266
"White goods"
Sec. 266. "White goods", for purposes of IC 13-21, means discarded:
(1) refrigerators;
(2) ranges;
(3) water heaters; and
(4) other similar domestic and commercial large appliances.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-267
"Wholesaler"
Sec. 267. (a) "Wholesaler", for purposes of IC 13-20-14, means a person engaged in the business of selling new tires at wholesale in Indiana.
(b) "Wholesaler", for purposes of IC 13-20-16, means a person engaged in the business of selling lead acid batteries at wholesale in Indiana.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-268
"Work receipt"
Sec. 268. "Work receipt", for purposes of IC 13-23, means a receipt that:
(1) is signed by a contractor certified under IC 13-23-3-3; and
(2) contains the following:
(A) The name and address of the contractor.
(B) An itemized list of the work performed by the contractor.
(C) The itemized cost of the work performed.
As added by P.L.1-1996, SEC.1.

IC 13-11-2-269
"Works"
Sec. 269. "Works", for purposes of IC 13-26, means the following:
(1) For a water project, the following:
(A) Wells.

(B) Reservoirs.
(C) Dams.
(D) Pumps.
(E) Transmission mains.
(F) Distribution mains, including local and service lines.
(G) Buildings and facilities for the purification and improvement of the quality of water.
(H) Fire hydrants.
(I) Meters.
(J) Storage facilities for the water.
(K) All other appurtenances or equipment:
(i) necessary;
(ii) useful; or
(iii) convenient;
in the operation of waterworks.

(2) For a sewage project, the following:
(A) Sewage treatment plants.
(B) Intercepting sewers.
(C) Main sewers.
(D) Submain sewers.
(E) Local sewers.
(F) Lateral sewers.
(G) Outfall sewers.
(H) Force mains.
(I) Pumping stations.
(J) Ejector stations.
(K) All other appurtenances or equipment necessary, useful, or convenient for the:
(i) collection and treatment;
(ii) purification; and
(iii) disposal;
of liquid and solid waste, sewage, night soil, and industrial waste.

(3) For a solid waste project, the following:
(A) An area or plant designed primarily for the collection and treatment of solid waste.
(B) An area or plant designed for the purpose of reducing the volume of solid waste that must finally be disposed of, including the following:
(i) Incinerators.
(ii) Pulverizers.
(iii) Compactors.
(iv) Shredding and baling plants.
(v) Transfer stations.
(vi) Compost plants.
(C) An area or plant that provides for:
(i) collection;
(ii) separation;
(iii) recycling; and
(iv) recovery;

of solid wastes.

(D) Sanitary landfills reviewed and approved by the department before purchase of land or equipment.

As added by P.L.1-1996, SEC.1.

IC 13-11-2-270

"Youth camp"

Sec. 270. "Youth camp", for purposes of IC 13-26-11-2, means an area or a tract of land established, operated, or maintained to provide more than seventy-two (72) continuous hours of outdoor group living experiences:

(1) away from established residences; and

(2) for educational, recreational, sectarian, or health purposes;

for at least ten (10) children who are less than eighteen (18) years of age and not accompanied by a parent or guardian.

As added by P.L.97-2012, SEC.3.

IC 13-12

ARTICLE 12. GENERAL PROVISIONS

IC 13-12-1

Chapter 1. Effect of Recodification by the Act of the 1996 Regular Session of the General Assembly

IC 13-12-1-1

Purpose

Sec. 1. The purpose of the recodification act of the 1996 regular session of the general assembly is to recodify prior environmental law in a style that is clear, concise, and easy to interpret and apply. Except to the extent that:

(1) the recodification act of the 1996 regular session of the general assembly is amended to reflect the changes made in a provision of another bill that adds to, amends, or repeals a provision in the recodification act of the 1996 regular session of the general assembly; or

(2) the minutes of meetings of the code revision commission during 1995 expressly indicate a different purpose;

the substantive operation and effect of the prior environmental law continue uninterrupted as if the recodification act of the 1996 regular session of the general assembly had not been enacted.

As added by P.L.1-1996, SEC.2.

IC 13-12-1-2

Applicability of sections

Sec. 2. Subject to section 1 of this chapter, sections 3 through 8 of this chapter shall be applied to the statutory construction of the recodification act of the 1996 regular session of the general assembly.

As added by P.L.1-1996, SEC.2.

IC 13-12-1-3

Applicability of article

Sec. 3. (a) The recodification act of the 1996 regular session of the general assembly does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;

(6) any tax levies made or authorized;

(7) any funds established;

(8) any patents issued;

(9) the validity, continuation, or termination of any contracts or leases executed;

(10) the validity, continuation, scope, termination, suspension, or revocation of:

(A) permits;

(B) licenses;
(C) certificates of registration;
(D) grants of authority; or
(E) limitations of authority; or

(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior environmental law;

before the effective date of the recodification act of the 1996 regular session of the general assembly (July 1, 1996). Those rights, liabilities, penalties, offenses, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, leases, permits, licenses, certificates of registration, grants of authority, or limitations of authority continue and shall be imposed and enforced under prior environmental law as if the recodification act of the 1996 regular session of the general assembly had not been enacted.

(b) The recodification act of the 1996 regular session of the general assembly does not:

(1) extend, or cause to expire, a permit, license, certificate of registration, or other grant or limitation of authority; or

(2) in any way affect the validity, scope, or status of a license, permit, certificate of registration, or other grant or limitation of authority;

issued under the prior environmental law.

(c) The recodification act of the 1996 regular session of the general assembly does not affect the revocation, limitation, or suspension of a permit, license, certificate of registration, or other grant or limitation of authority based in whole or in part on violations of the prior environmental law or the rules adopted under the prior environmental law.

As added by P.L.1-1996, SEC.2.

IC 13-12-1-4
Construction of statutes

Sec. 4. The recodification act of the 1996 regular session of the general assembly shall be construed as a recodification of prior environmental law. Except as provided in section 1(1) and 1(2) of this chapter, if the literal meaning of the recodification act of the 1996 regular session of the general assembly would result in a substantive change in the prior environmental law, the difference shall be construed as a typographical, spelling, or other clerical error that must be corrected by:

(1) inserting, deleting, or substituting words, punctuation, or other matters of style in the recodification act of the 1996 regular session of the general assembly; and

(2) using any other rule of statutory construction;

as necessary or appropriate to apply the recodification act of the 1996 regular session of the general assembly in a manner that does not result in a substantive change in the law. The principle of statutory construction that a court must apply the literal meaning of an act if the literal meaning of the act is unambiguous does not apply to the

recodification act of the 1996 regular session of the general assembly to the extent that the recodification act of the 1996 regular session of the general assembly is not substantively identical to the prior environmental law.
As added by P.L.1-1996, SEC.2.

IC 13-12-1-5
Repealed or replaced statutes and rules

Sec. 5. Subject to section 8 of this chapter, a reference in a statute or rule to a statute that is repealed and replaced in the same or a different form in the recodification act of the 1996 regular session of the general assembly shall be treated after the effective date of the new provision as a reference to the new provision.
As added by P.L.1-1996, SEC.2.

IC 13-12-1-6
Inclusion of prior statutes

Sec. 6. A citation reference in the recodification act of the 1996 regular session of the general assembly to another provision of the recodification act of the 1996 regular session of the general assembly shall be treated as including a reference to the provision of prior environmental law that is substantively equivalent to the provision of the recodification act of the 1996 regular session of the general assembly that is referred to by the citation reference.
As added by P.L.1-1996, SEC.2.

IC 13-12-1-7
Rules

Sec. 7. (a) As used in the recodification act of the 1996 regular session of the general assembly, a reference to rules adopted under any provision of this title or under any other provision of the recodification act of the 1996 regular session of the general assembly refers to either:

(1) rules adopted under the recodification act of the 1996 regular session of the general assembly; or

(2) rules adopted under the prior environmental law until those rules have been amended, repealed, or superseded.

(b) Rules adopted under the prior environmental law continue in effect after June 30, 1996, until the rules are amended, repealed, or suspended.
As added by P.L.1-1996, SEC.2.

IC 13-12-1-8
Inclusion or omission of prior statutes; aid to reader; effect on grants of authority

Sec. 8. (a) A reference in the recodification act of the 1996 regular session of the general assembly to a citation in the prior environmental law before its repeal is added in certain sections of the recodification act of the 1996 regular session of the general assembly only as an aid to the reader.

(b) The inclusion or omission in the recodification act of the 1996 regular session of the general assembly of a reference to a citation in the prior environmental law before its repeal does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;

(6) any tax levies made;

(7) any funds established;

(8) any patents issued;

(9) the validity, continuation, or termination of contracts or leases executed; or

(10) the validity, continuation, scope, termination, suspension, or revocation of:

(A) permits;

(B) licenses;

(C) certificates of registration;

(D) grants of authority; or

(E) limitations of authority;

before the effective date of the recodification act of the 1996 regular session of the general assembly (July 1, 1996). Those rights, liabilities, penalties, offenses, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, leases, licenses, permits, certificates of registration, and other grants of authority continue and shall be imposed and enforced under prior environmental law as if the recodification act of the 1996 regular session of the general assembly had not been enacted.

(c) The inclusion or omission in the recodification act of the 1996 regular session of the general assembly of a citation to a provision in the prior environmental law does not affect the use of a prior conviction, violation, or noncompliance under the prior environmental law as the basis for revocation of a license, permit, certificate of registration, or other grant of authority under the recodification act of the 1996 regular session of the general assembly, as necessary or appropriate to apply the recodification act of the 1996 regular session of the general assembly in a manner that does not result in a substantive change in the law.

As added by P.L.1-1996, SEC.2.

IC 13-12-2

Chapter 2. Statutory Construction

IC 13-12-2-1

Liberal construction

Sec. 1. Being necessary for the public health, safety, and welfare, this title shall be liberally construed to effectuate the purposes of this title.

As added by P.L.1-1996, SEC.2.

IC 13-12-2-2

Effect of amendment of IC 13-11-2-265(b) by P.L.183-2002

Sec. 2. The amendment of IC 13-11-2-265(b) by P.L.183-2002 applies retroactively to July 1, 1996. By its amendment of IC 13-11-2-265(b), the general assembly intends that there be no substantive difference in the law as amended by P.L.183-2002 and the law as it was constituted before the recodification of this title by enactment of P.L.1-1996.

As added by P.L.220-2011, SEC.278.

IC 13-12-3

Chapter 3. Environmental Policy

IC 13-12-3-1

Purpose

Sec. 1. The purpose of this title is:

(1) to provide for evolving policies for comprehensive environmental development and control on a statewide basis;

(2) to unify, coordinate, and implement programs to provide for the most beneficial use of the resources of Indiana; and

(3) to preserve, protect, and enhance the quality of the environment so that, to the extent possible, future generations will be ensured clean air, clean water, and a healthful environment.

As added by P.L.1-1996, SEC.2.

IC 13-12-3-2

Remediation and closure goals, objectives, and standards for certain remediation projects

Sec. 2. (a) The remediation and closure goals, objectives, and standards for all remediation projects conducted under IC 13-22, IC 13-23, IC 13-24, and IC 13-25-4 shall be consistent with the remediation objectives set forth in IC 13-25-5-8.5, regardless of whether the remediation project begins before July 1, 2009, or after June 30, 2009.

(b) The groundwater quality standards adopted under IC 13-18-17-5 shall allow, as appropriate, groundwater remediations to be consistent with the remediation objectives set forth in IC 13-25-5-8.5.

As added by P.L.224-1999, SEC.1. Amended by P.L.78-2009, SEC.9.

IC 13-12-4

Chapter 4. Environmental Impact Statements

IC 13-12-4-1

Purposes of chapter

Sec. 1. The purposes of this chapter are the following:

(1) To declare a state policy that will encourage productive and enjoyable harmony between humans and the environment.

(2) To promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of humans.

(3) To enrich the understanding of the ecological systems and natural resources important to Indiana.

As added by P.L.1-1996, SEC.2.

IC 13-12-4-2

Legislative findings

Sec. 2. The general assembly recognizes the following:

(1) The profound impact of human activity on the interrelations of all components of the natural environment, particularly the profound influences of the following:

(A) Population growth.

(B) High-density urbanization.

(C) Industrial expansion.

(D) Resource exploitation.

(E) New and expanding technological advances.

(2) The critical importance of restoring and maintaining environmental quality to the overall welfare and development of humans.

(3) That each person should enjoy a healthful environment.

(4) That each person has a responsibility to contribute to the preservation and enhancement of the environment.

As added by P.L.1-1996, SEC.2.

IC 13-12-4-3

Policy statement

Sec. 3. The general assembly declares that it is the continuing policy of the state, in cooperation with the federal and local governments and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to do the following:

(1) Foster and promote the general welfare.

(2) Create and maintain conditions under which humans and nature can exist in productive harmony.

(3) Fulfill the social, economic, and other requirements of present and future generations of Indiana citizens.

As added by P.L.1-1996, SEC.2.

IC 13-12-4-4

State responsibilities

Sec. 4. To carry out the policy set forth in this chapter, it is the continuing responsibility of the state to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate state plans, functions, programs, and resources to the end that the state may do the following:

(1) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations.

(2) Assure for all citizens of Indiana safe, healthful, productive, and esthetically and culturally pleasing surroundings.

(3) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences.

(4) Preserve important historic, cultural, and natural aspects of our national heritage and maintain, wherever possible, an environment that supports diversity and variety of individual choice.

(5) Achieve a balance between population and resource use that will permit high standards of living and a wise sharing of life's amenities.

(6) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

As added by P.L.1-1996, SEC.2.

IC 13-12-4-5
Directives

Sec. 5. To the fullest extent possible:

(1) the policies, rules, and statutes of the state shall be interpreted and administered in accordance with the policies set forth in this chapter; and

(2) all state agencies shall do the following:

(A) Use a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and decision making that may have an impact on the environment.

(B) Identify and develop methods and procedures that will ensure that unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations.

(C) Include in every recommendation or report on proposals for legislation and other major state actions significantly affecting the quality of the human environment a detailed statement by the responsible official on the following:

(i) The environmental impact of the proposed action.

(ii) Any adverse environmental effects that cannot be avoided should the proposal be implemented.

(iii) Alternatives to the proposed action.

(iv) The relationship between local short term uses of the environment and the maintenance and enhancement of long term productivity.

(v) Any irreversible and irretrievable commitments of

resources that would be involved if the proposed action should be implemented.

Before making a detailed statement, the responsible state official shall consult with and obtain the comments of each state agency that has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of the statement and the comments and views of the appropriate federal, state, and local agencies that are authorized to develop and enforce environmental standards shall be made available to the governor and to the public and must accompany the proposal through the agency review processes. The board shall by rule define the actions that constitute a major state action significantly affecting the quality of the human environment.

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

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

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

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

As added by P.L.1-1996, SEC.2. Amended by P.L.133-2012, SEC.71.

IC 13-12-4-6

Review of authority, rules, policies, and procedure by state agencies

Sec. 6. All state agencies shall review their:

(1) statutory authority;

(2) administrative rules; and

(3) current policies and procedures;

to determine whether there are any deficiencies or inconsistencies that prohibit full compliance with the purposes and provisions of this chapter.

As added by P.L.1-1996, SEC.2.

IC 13-12-4-7

Statutory obligations of state agencies unaffected

Sec. 7. Sections 5 and 6 of this chapter do not affect the specific statutory obligations of any state agency to do any of the following:

(1) Comply with criteria or standards of environmental quality.

(2) Coordinate or consult with any other federal or state agency.

(3) Act or refrain from acting contingent upon the recommendations or certification of any other federal or state

agency.
As added by P.L.1-1996, SEC.2.

IC 13-12-4-8
Impact statements not required for license

Sec. 8. This chapter may not be construed to require an environmental impact statement for the issuance of a license or permit by any state agency.
As added by P.L.1-1996, SEC.2.

IC 13-12-4-9
Supplementary effect of chapter

Sec. 9. Policies and goals set forth in this chapter supplement those policies and goals set forth in other authorizations of state agencies.
As added by P.L.1-1996, SEC.2.

IC 13-12-4-10
Federal environmental impact statements

Sec. 10. Any state agency that is required by the federal National Environmental Policy Act (P.L. 91-190) (42 U.S.C. 4321 et seq.) to file a federal environmental impact statement is not required to file a statement with the state government as provided under sections 5 and 6 of this chapter unless the action contemplated requires state legislation or state appropriations.
As added by P.L.1-1996, SEC.2.

IC 13-12-5

Chapter 5. State Environmental Protection Hierarchy

IC 13-12-5-1

Approaches to environmental protection

Sec. 1. The general assembly recognizes that there are two (2) approaches to environmental protection:

(1) clean manufacturing; or

(2) waste management, which is also known as pollution control.

As added by P.L.1-1996, SEC.2. Amended by P.L.124-1997, SEC.13.

IC 13-12-5-2

Clean manufacturing

Sec. 2. Clean manufacturing consists of economically feasible practices that reduce, avoid, or eliminate the unnecessary use of harmful industrial materials and the generation of industrial wastes, pollutants, emissions, and discharges at the point of production. Clean manufacturing practices are limited to the following:

(1) Product reformulation.

(2) Input substitution.

(3) Equipment redesign.

(4) Improved operations and procedures.

As added by P.L.1-1996, SEC.2. Amended by P.L.124-1997, SEC.14.

IC 13-12-5-3

Waste management or pollution control

Sec. 3. Waste management or pollution control consists of environmental protection practices employed after industrial wastes, pollutants, discharges, and emissions have been generated. Waste management or pollution control practices include the following:

(1) Waste storage and waste transportation.

(2) Waste treatment, including the following:

(A) Detoxification.

(B) Incineration.

(C) Biological treatment.

(3) Land disposal of wastes.

(4) Recycling.

(5) Burning waste as fuels.

(6) Dispersal of waste into air or water.

(7) Dewatering of waste.

As added by P.L.1-1996, SEC.2. Amended by P.L.124-1997, SEC.15.

IC 13-12-5-4

Preferred approach

Sec. 4. The general assembly recognizes the following:

(1) That clean manufacturing is:

(A) the most reliable and effective form of environmental protection; and

(B) the preferred approach to environmental protection.

(2) That wastes, pollutants, emissions, or discharges that have not been avoided or eliminated by means of clean manufacturing at the point of production should be managed or controlled in a manner that has the least adverse impact on human health and the environment.

As added by P.L.1-1996, SEC.2. Amended by P.L.124-1997, SEC.16.

IC 13-12-6

Chapter 6. Criminal Liability of Corporate Officers

IC 13-12-6-1

Criminal liability of corporate officers for environmental offenses

Sec. 1. A responsible corporate officer who knowingly, intentionally, or recklessly aids, induces, or causes another person to commit an offense under this title commits that offense, even if the other person:

(1) has not been prosecuted for the offense;

(2) has not been convicted of the offense; or

(3) has been acquitted of the offense.

As added by P.L.137-2007, SEC.7.

IC 13-13

ARTICLE 13. DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IC 13-13-1

Chapter 1. Establishment of Department

IC 13-13-1-1

Establishment

Sec. 1. The department of environmental management is established.

As added by P.L.1-1996, SEC.3.

IC 13-13-2

Chapter 2. Commissioner of Department

IC 13-13-2-1

Appointment; term; compensation; delegation of authority

Sec. 1. (a) The governor shall appoint an individual with appropriate training and experience as commissioner of the department. The commissioner:

(1) is the executive and chief administrative officer of the department; and

(2) may delegate authority to appropriate department staff.

(b) The commissioner:

(1) serves at the governor's pleasure; and

(2) is entitled to receive compensation in an amount set by the governor, subject to approval by the budget agency.

As added by P.L.1-1996, SEC.3.

IC 13-13-2-2

Appointments to other positions

Sec. 2. The commissioner shall appoint individuals to the other positions in the department.

As added by P.L.1-1996, SEC.3.

IC 13-13-2-3

Ad hoc group

Sec. 3. The commissioner may establish an ad hoc group to study and make recommendations regarding critical environmental issues. The ad hoc group may include the following:

(1) University representatives.

(2) Scientific research organizations.

(3) Public policy and research advisory organizations.

(4) Individuals from the private sector with experience in related disciplines.

As added by P.L.1-1996, SEC.3.

IC 13-13-3

Chapter 3. Offices and Divisions of Department

IC 13-13-3-1

Offices

Sec. 1. The department must include the following offices:

(1) An office dealing with environmental emergencies.

(2) An office for communications with the public.

(3) A hearings office, including the department's hearing officers.

(4) An office to conduct investigations.

As added by P.L.1-1996, SEC.3.

IC 13-13-3-2

Divisions

Sec. 2. The department must include the following divisions:

(1) An air pollution control division.

(2) A water pollution control division.

(3) A solid waste management division.

(4) An administrative services division.

(5) A division of pollution prevention.

As added by P.L.1-1996, SEC.3. Amended by P.L.114-2008, SEC.5.

IC 13-13-3-3

Creation of additional offices and divisions

Sec. 3. The commissioner may create other offices and divisions.

As added by P.L.1-1996, SEC.3.

IC 13-13-4
Repealed

(Repealed by P.L.6-2012, SEC.101.)

IC 13-13-5

Chapter 5. Designation of Department for Purposes of Federal Law

IC 13-13-5-1

Designation of department as agency

Sec. 1. Except as provided in IC 14-37, the department is designated as the following:

(1) The water pollution agency for Indiana for all purposes of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) in effect January 1, 1988, and the federal Safe Drinking Water Act (42 U.S.C. 300f through 300j) in effect January 1, 1988.

(2) The solid waste agency for Indiana for all purposes of the federal Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.) in effect January 1, 1988.

(3) The air pollution control agency for Indiana for all purposes of the federal Clean Air Act (42 U.S.C. 7401 et seq.), as amended by the federal Clean Air Act Amendments of 1990 (P.L.101-549).

(4) The state agency with responsibility concerning the Midwest Interstate Compact on Low-Level Radioactive Waste under IC 13-29-1.

(5) The state agency with responsibility concerning the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the federal Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9601 through 9675) as in effect on January 1, 1993, and concerning 40 CFR 300.505, Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan.

(6) The state agency with responsibility concerning the federal Defense Environmental Restoration Program (10 U.S.C. 2701 through 2708) as in effect on January 1, 1993.

As added by P.L.1-1996, SEC.3.

IC 13-13-5-2

Authority of department to secure benefits of federal acts for Indiana

Sec. 2. The department may take any action necessary to secure for Indiana the benefits of the statutes described in section 1 of this chapter.

As added by P.L.1-1996, SEC.3.

IC 13-13-6
Repealed

(Repealed by P.L.159-2011, SEC.49.)

IC 13-13-7
Repealed

(Repealed by P.L.53-2014, SEC.118.)

IC 13-13-7.1
Chapter 7.1. Compliance Advisory Panel

IC 13-13-7.1-1
Compliance advisory panel; established
Sec. 1. The compliance advisory panel is established.
As added by P.L.53-2014, SEC.119.

IC 13-13-7.1-2
Membership
Sec. 2. The panel consists of the following members:
(1) Two (2) members appointed by the president pro tempore of the senate who are members of the senate and who are owners of, or who have an interest in, a small business stationary source. Not more than one (1) of the members appointed under this subdivision may be members of the same political party.
(2) Two (2) members appointed by the speaker of the house of representatives who are members of the house of representatives and who are owners of, or who have an interest in, a small business stationary source. Not more than one (1) of the members appointed under this subdivision may be affiliated with the same political party.
(3) Two (2) members appointed by the governor to represent the public who are not members of the general assembly, owners of a small business stationary source, or representatives of owners of small business stationary sources. Not more than one (1) member appointed under this subdivision may be a solid waste management district director and not more than one (1) member appointed under this subdivision may be affiliated with the same political party.
(4) The commissioner or the commissioner's designee.
As added by P.L.53-2014, SEC.119.

IC 13-13-7.1-3
Term of membership
Sec. 3. The term of a member appointed to the panel is two (2) years. However, an appointing authority may replace a member at any time during the member's term. Notwithstanding this section, the initial members of the panel are the members serving on the advisory compliance panel established by IC 13-13-7-2 (before its repeal) on March 15, 2014. The terms of the initial legislative members of the panel appointed under IC 13-13-7-3(b)(1) (before its repeal) and IC 13-13-7-3(b)(2) (before its repeal) expire on the earlier of the following:
(1) The date the two (2) year appointment would have expired under IC 13-13-7-4 (before its repeal).
(2) December 31, 2014.
If subdivision (1) applies, a legislative member appointed under section 2(1) or 2(2) of this chapter before January 1, 2015, to succeed the initial legislative member expires December 31, 2014.

As added by P.L.53-2014, SEC.119.

IC 13-13-7.1-4
Vacancies

Sec. 4. If a vacancy occurs on the panel, the appointing authority for the vacating member shall appoint an individual to fill the unexpired term of the vacating member. A member appointed to fill a vacancy must meet the same qualifications specified under section 2 of this chapter for the vacating member.
As added by P.L.53-2014, SEC.119.

IC 13-13-7.1-5
Agency appointee; nonvoting member

Sec. 5. The individual serving on the panel under section 2(4) of this chapter is a nonvoting member.
As added by P.L.53-2014, SEC.119.

IC 13-13-7.1-6
Chair

Sec. 6. The chairman of the legislative council shall appoint the chair of the panel from the members appointed under section 2(1) or 2(2) of this chapter. The chair of the panel serves at the pleasure of the chairman of the legislative council.
As added by P.L.53-2014, SEC.119.

IC 13-13-7.1-7
Nonstate employees; reimbursement of expenses; per diem

Sec. 7. Each member of the panel who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member also is entitled to reimbursement for traveling expenses as 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.
As added by P.L.53-2014, SEC.119.

IC 13-13-7.1-8
State employees; reimbursement of expenses

Sec. 8. Each member of the panel who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as 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.
As added by P.L.53-2014, SEC.119.

IC 13-13-7.1-9
Legislative members; per diem; reimbursement of expenses

Sec. 9. Each member of the panel who is a member of the general

assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this section shall be paid from appropriations made to the legislative council or the legislative services agency.
As added by P.L.53-2014, SEC.119.

IC 13-13-7.1-10
Number of votes necessary to take action

Sec. 10. The affirmative votes of a majority of the voting members appointed to the panel are required for the panel to take action on any measure, including final reports.
As added by P.L.53-2014, SEC.119.

IC 13-13-7.1-11
Duties

Sec. 11. The panel shall carry out the duties required of a compliance advisory panel under Section 507 of the federal Clean Air Act (42 U.S.C. 7661f).
As added by P.L.53-2014, SEC.119.

IC 13-13-7.1-12
Staff support

Sec. 12. The department shall provide administrative and technical support to the panel as provided in IC 13-28-3-2, including duties related to the development and dissemination of reports and advisory opinions.
As added by P.L.53-2014, SEC.119.

IC 13-13-7.1-13
Source of payment of expenses

Sec. 13. Except as provided in section 9 of this chapter, the expenses of the panel shall be paid from appropriations to the department.
As added by P.L.53-2014, SEC.119.

IC 13-13-7.1-14
Report

Sec. 14. The panel shall submit an annual report to the legislative council in an electronic format under IC 5-14-6.
As added by P.L.53-2014, SEC.119.

IC 13-13-8

Chapter 8. Environmental Rules Board

IC 13-13-8-1

"Board"

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

As added by P.L.133-2012, SEC.72.

IC 13-13-8-2

Abolishes boards

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) A member of an entity abolished under subsection (a) may

serve until December 31, 2012. The initial members of the environmental rules board shall be appointed under section 4 of this chapter not later than December 31, 2012.
As added by P.L.133-2012, SEC.72.

IC 13-13-8-3
Board established

Sec. 3. The environmental rules board is established as an independent board.
As added by P.L.133-2012, SEC.72.

IC 13-13-8-4
Membership

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

(1) The following ex officio members:

(A) The commissioner. The commissioner, or the commissioner's designee, serves as a nonvoting member of the board.

(B) The commissioner of the state department of health.

(C) The director of the department of natural resources.

(D) The lieutenant governor.

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

(2) The following eleven (11) members, who shall be appointed by the governor based on recommendations from representative constituencies:

(A) One (1) representative of agriculture.

(B) One (1) representative of manufacturing.

(C) One (1) representative of environmental interests.

(D) One (1) representative of labor.

(E) One (1) representative of local government.

(F) One (1) representative of small business.

(G) One (1) health professional who holds a license to practice in Indiana.

(H) One (1) representative of the solid waste management industry.

(I) One (1) representative of a public utility that engages in the production and transmission of electricity.

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

(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.
As added by P.L.133-2012, SEC.72.

IC 13-13-8-5
Technical representatives for ex officio members

Sec. 5. Except as provided in section 4(a)(1)(A) of this chapter, 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.
As added by P.L.133-2012, SEC.72.

IC 13-13-8-6
Political party limitations

Sec. 6. Not more than six (6) of the appointed members of the board may be members of the same political party.
As added by P.L.133-2012, SEC.72.

IC 13-13-8-7
Terms

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 within 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.
As added by P.L.133-2012, SEC.72.

IC 13-13-8-8
Compensation

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.
As added by P.L.133-2012, SEC.72.

IC 13-13-8-9
Quorum

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

under IC 5-14-1.5.
As added by P.L.133-2012, SEC.72.

IC 13-13-8-10
Chairperson and vice chairperson

Sec. 10. The governor shall annually select:

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

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

As added by P.L.133-2012, SEC.72.

IC 13-13-8-11
Disclosure of conflicts of interest

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

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

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

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

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

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

As added by P.L.133-2012, SEC.72.

IC 13-13-8-12
Technical secretary

Sec. 12. (a) The board shall 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 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.

As added by P.L.133-2012, SEC.72.

IC 13-13-8-13
Legal counsel

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.

As added by P.L.133-2012, SEC.72.

IC 13-13-8-14
Advisory committees

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.

As added by P.L.133-2012, SEC.72.

IC 13-13-8-15
Rules

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

As added by P.L.133-2012, SEC.72.

IC 13-14

ARTICLE 14. POWERS AND DUTIES OF DEPARTMENT OF ENVIRONMENTAL MANAGEMENT AND BOARDS

IC 13-14-1

Chapter 1. Duties of Department

IC 13-14-1-1

Repealed

(Repealed by P.L.37-2012, SEC.18.)

IC 13-14-1-2

Program of continuing surveillance and inspection

Sec. 2. The department shall conduct a program of continuing surveillance and inspection of the following:

(1) Solid waste management sites.

(2) Actual or threatened sources of environmental pollution by contamination, radiation, odor, or noise.

As added by P.L.1-1996, SEC.4.

IC 13-14-1-3

Assurance of accomplishment of programs established

Sec. 3. The department shall assure accomplishment of the comprehensive, long term programs established by the board.

As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.73.

IC 13-14-1-4

Compliance with standards and rules

Sec. 4. The department shall procure compliance with standards and rules adopted by the board.

As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.74.

IC 13-14-1-5

Public awareness and participation

Sec. 5. The department shall develop and implement a program of public awareness and participation to assure maximum citizen involvement in the evolution and continuation of the environmental programs of the state.

As added by P.L.1-1996, SEC.4.

IC 13-14-1-6

Solid waste recycling and source reduction; educational programs

Sec. 6. (a) The department shall, in cooperation with other state agencies, establish programs to educate:

(1) students;

(2) consumers; and

(3) businesses;

about the benefits of solid waste recycling and source reduction.

(b) To implement the programs established under subsection (a),

the department shall, subject to section 11.5 of this chapter, develop guidance documents and technical assistance programs.
As added by P.L.1-1996, SEC.4. Amended by P.L.261-1999, SEC.1.

IC 13-14-1-7
Proposed budget; preparation
Sec. 7. The commissioner shall prepare the proposed budget of the department and the board.
As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.75.

IC 13-14-1-8
Financing structure; proposal
Sec. 8. The commissioner may propose financing a structure to the board.
As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.76.

IC 13-14-1-9
Permits, licenses, orders, and variances; issuance
Sec. 9. (a) The commissioner shall issue permits, licenses, orders, and variances as authorized by:
(1) this title;
(2) other statutes; and
(3) rules of the board.
(b) If the commissioner is notified by the department of state revenue that a person is on the most recent tax warrant list, the commissioner may not issue a permit or license to the applicant until:
(1) the applicant provides a statement to the commissioner from the department of state revenue indicating that the applicant's tax warrant has been satisfied; or
(2) the commissioner receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).
As added by P.L.1-1996, SEC.4. Amended by P.L.172-2011, SEC.113; P.L.133-2012, SEC.77.

IC 13-14-1-10
Programs and facilities; assistance to local units
Sec. 10. The department shall encourage and assist units of local government in developing programs and facilities for the following:
(1) Air, water, radiation, odor, and noise pollution control.
(2) Wastewater treatment.
(3) Water resource development.
(4) Solid waste management.
As added by P.L.1-1996, SEC.4.

IC 13-14-1-11
Operating policies
Sec. 11. The department shall follow the operating policies established in rules adopted by the boards.
As added by P.L.1-1996, SEC.4.

IC 13-14-1-11.5

Use by department of policy or statement; presentation to appropriate board; public dissemination

Sec. 11.5. (a) If the department proposes to utilize a policy or statement that:

(1) interprets, supplements, or implements a statute or rule;

(2) has not been adopted in compliance with IC 4-22-2;

(3) is not intended by the department to have the effect of law; and

(4) is not related solely to internal department organization;

the proposed policy or statement may not be put into effect until the requirements of subsection (b) have been met.

(b) The department shall present the proposed policy or statement under subsection (a) to the appropriate board. At least forty-five (45) days before the presentation, the department shall make available to the public, including posting on the department's web site:

(1) the proposed policy or statement;

(2) information on the availability for public inspection of all materials relied upon by the department in the development of the proposed policy or statement, including, if applicable:

(A) health criteria;

(B) analytical methods;

(C) treatment technology;

(D) economic impact data;

(E) environmental assessment data; and

(F) other background data;

(3) the date, time, and location of the presentation under this subsection to the appropriate board; and

(4) information regarding the opportunity for a person to comment to the department and the appropriate board on the proposed policy or statement before or at the time of the presentation under this subsection.

The department shall provide to the appropriate board at the time of the presentation under this subsection a copy of all comments made by a person under subdivision (4). The proposed policy or statement may not be put into effect until thirty (30) days after the policy or statement is presented to the appropriate board.

(c) If the department utilizes a policy or statement described in subsection (a), the department shall distribute:

(1) two (2) copies of the policy or statement to the publisher of the Indiana Register for publication in the Indiana Register; and

(2) the copies required under IC 4-23-7.1-26 to the Indiana library and historical department.

(d) The department shall:

(1) maintain a current list of all department policies and statements described in subsection (a) that the department may use in the department's external affairs; and

(2) update the list at least one (1) time each month.

(e) The department shall include the following information on the list described in subsection (d) for each policy or statement:

(1) The title of the policy or statement.
(2) The identification number of the policy or statement.
(3) The date the policy or statement was originally adopted.
(4) The date the policy or statement was last revised.
(5) A reference to all other policies or statements described in subsection (a) that are repealed or amended by the policy or statement.
(6) A brief description of the subject matter of the policy or statement.

(f) At least one (1) time every three (3) months, the department shall distribute two (2) copies of the list maintained and updated under subsection (d) to the following:
(1) The publisher of the Indiana Register.
(2) The Indiana library and historical department.

As added by P.L.127-1996, SEC.1. Amended by P.L.261-1999, SEC.2; P.L.240-2003, SEC.3.

IC 13-14-1-12
Enforcement of rules

Sec. 12. The commissioner shall enforce rules consistent with the purposes of:
(1) air pollution control laws;
(2) water pollution control laws;
(3) IC 13-18-9;
(4) IC 13-18-10;
(5) IC 13-19-3; and
(6) IC 36-9-30.

As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.78.

IC 13-14-1-13
Monitoring and reporting requirements

Sec. 13. The commissioner shall establish and administer monitoring and reporting requirements as necessary to carry out the duties and to exercise the powers provided in the following:
(1) Air pollution control laws.
(2) Water pollution control laws.
(3) Environmental management laws.

As added by P.L.1-1996, SEC.4.

IC 13-14-1-14
Information clearinghouses; public education programs; other actions

Sec. 14. The department shall do the following:
(1) Develop and maintain an information clearinghouse on the following subjects:
(A) Source separation.
(B) Recycling.
(C) Composting.
(D) Solid waste minimization.
(E) Solid waste reduction.

(F) Hazardous waste minimization.
(G) Hazardous waste reduction.

(2) Assist in the development and implementation of public education programs on:
(A) source separation;
(B) recycling;
(C) composting;
(D) solid waste reduction;
(E) solid waste minimization;
(F) hazardous waste minimization;
(G) hazardous waste reduction; and
(H) other alternatives to final disposal in landfills.

(3) Take action in any other matter involving:
(A) solid waste minimization;
(B) solid waste reduction;
(C) hazardous waste minimization; or
(D) hazardous waste reduction;

as directed by the commissioner.

As added by P.L.1-1996, SEC.4.

IC 13-14-1-15

Certified inspectors and cleaners; list; notification to department of decontamination of methamphetamine site; adoption of rules

Sec. 15. (a) The department shall maintain a list of persons certified to inspect and clean property that is polluted by a contaminant. The list may specifically note persons with particular expertise or experience in the inspection or cleanup of property contaminated by chemicals used in the illegal manufacture of a controlled substance (as defined in IC 35-48-1-9) or by waste produced from the illegal manufacture of a controlled substance.

(b) The department may specify by rule that a person who meets certain qualifications prescribed by the department is a person certified to inspect and clean property that is polluted by a contaminant.

(c) The department shall specify by rule that any person:
(1) certified under this section to inspect and clean contaminated property; and
(2) who has decontaminated property polluted by the manufacture of methamphetamine or by waste from the manufacture of methamphetamine;

shall notify the department when the person has decontaminated a property polluted by the manufacture of methamphetamine or by waste from the manufacture of methamphetamine.

(d) The department shall adopt rules under IC 4-22-2:
(1) to implement this section; and
(2) concerning the inspection and remediation of contaminated property.

As added by P.L.192-2005, SEC.6. Amended by P.L.180-2014, SEC.4.

IC 13-14-1-16

Board abolished; transfer of powers

Sec. 16. The clean manufacturing technology board established by IC 13-27.5 (repealed) is abolished. All powers, duties, assets, and liabilities of the clean manufacturing technology board are transferred to the department.

As added by P.L.37-2012, SEC.19.

IC 13-14-2

Chapter 2. Powers of Department

IC 13-14-2-1

Orders and determinations by commissioner

Sec. 1. (a) This section applies to any:

(1) determination made by the commissioner;

(2) order issued by the commissioner; and

(3) notice issued by the department;

under this title.

(b) The commissioner may issue orders and make determinations.

(c) An order issued under this section may address multiple sites for the purpose of arranging for site investigations and the establishment of priority of sites.

(d) Notice of a determination made or an order issued by the commissioner must be given under IC 4-21.5-3-1, unless a person provides a written request to the department for a different method of notice that is reasonably available to the department.

(e) The department:

(1) shall make a good faith effort to provide notice of an order or a determination according to subsection (d); and

(2) bears the burden of persuasion that the notice has been provided.

(f) Failure to receive notice does not invalidate an order or a determination, unless the person required to receive notice of an order or a determination is substantially prejudiced by the lack of notice. The burden of persuasion as to substantial prejudice is on the person claiming the lack of notice.

As added by P.L.1-1996, SEC.4. Amended by P.L.263-2013, SEC.1.

IC 13-14-2-2

Entry upon private or public property for inspection by agent

Sec. 2. The department may have a designated agent, upon presentation of proper credentials, enter upon private or public property to inspect for and investigate possible violations of any of the following:

(1) Air pollution control laws.

(2) Water pollution control laws.

(3) Environmental management laws.

(4) IC 13-18-9.

(5) IC 13-18-10.

(6) IC 13-19-3.

(7) Any rule adopted by the board.

As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.79.

IC 13-14-2-3

Department to represent state in all matters pertaining to environmental protection

Sec. 3. The department may do the following:

(1) Represent the state in all matters pertaining to plans,

procedures, or negotiations for interstate compacts or other governmental arrangements for environmental protection.

(2) Conduct, convoke, attend, or participate in official or unofficial conferences or hearings within or outside Indiana concerning any matter within the scope of the power and duties of the board or the department.

As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.80.

IC 13-14-2-4

Acceptance of gifts or other funds

Sec. 4. The department may accept and receive, on behalf of the state, any gifts or other money made available to the state from any source for purposes of:

(1) this title; or

(2) other environmental protection activities, surveys, or programs.

As added by P.L.1-1996, SEC.4.

IC 13-14-2-5

Contract for legal, professional, and other services

Sec. 5. The commissioner may employ or contract for the legal, professional, and other personnel and assistance that is necessary for the efficient performance of duties imposed by this title.

As added by P.L.1-1996, SEC.4.

IC 13-14-2-6

Court actions by commissioner

Sec. 6. Except as provided in IC 13-14-6, the commissioner may proceed in court, by appropriate action, to:

(1) enforce any final order of the commissioner or the board;

(2) collect any penalties or fees;

(3) procure or secure compliance with this title or any other law that the department has the duty or power to enforce;

(4) procure compliance with any standard or rule of the board;

(5) enforce a restrictive covenant (as defined in IC 13-11-2-193.5) in accordance with the terms of the covenant if the covenant is:

(A) executed before July 1, 2009;

(B) approved by the commissioner; and

(C) created in connection with any:

(i) remediation;

(ii) closure;

(iii) cleanup;

(iv) corrective action; or

(v) determination exercising enforcement discretion or of no further action being required;

approved by the department under this title; or

(6) enforce a restrictive covenant (as defined in IC 13-11-2-193.5) in accordance with the terms of the covenant if the covenant is:

(A) executed after June 30, 2009; and
(B) created in connection with any of the following approved by the department under this title:
(i) A remediation.
(ii) A closure.
(iii) A cleanup.
(iv) A corrective action.
(v) A determination exercising enforcement discretion or of no further action being required.

As added by P.L.1-1996, SEC.4. Amended by P.L.61-2001, SEC.1; P.L.78-2009, SEC.10; P.L.133-2012, SEC.81.

IC 13-14-2-7
Orders to secure compliance; civil penalties

Sec. 7. Except as provided in IC 13-14-6, the commissioner may issue orders to:
(1) secure compliance with:
(A) this title; or
(B) any applicable rule of a board; and
(2) assess civil penalties.

As added by P.L.1-1996, SEC.4.

IC 13-14-2-8
Certain restrictive covenants not subject to department approval; department review and action on certain activities and land use restrictions

Sec. 8. (a) Subject to subsection (b), a restrictive covenant executed after June 30, 2009, is not subject to approval by the department.
(b) The department shall:
(1) review; and
(2) approve, disapprove, or partially approve and partially disapprove;

activities and land use restrictions described in IC 13-11-2-193.5(2) that are proposed as part of a remediation, closure, cleanup, corrective action, or determination exercising enforcement discretion or of no further action being required to be included in a restrictive covenant.

As added by P.L.78-2009, SEC.11. Amended by P.L.1-2010, SEC.61.

IC 13-14-2-9
Modification of restrictive covenants; recovery of expenses incurred

Sec. 9. (a) This section applies to a restrictive covenant created in connection with a remediation project conducted under:
(1) IC 13-23;
(2) IC 13-24;
(3) IC 13-25-4; or
(4) IC 13-25-5.
(b) If:

(1) a change of conditions or an advancement in science or technology permits a modification of the conditions and restrictions imposed by a restrictive covenant; and

(2) the modification of the conditions and restrictions imposed by the restrictive covenant would not increase the potential hazards to human health or the environment;

the commissioner may, under subsection (c), authorize the filing in the office of the county recorder of a supplemental recording recognizing the modification of the conditions and restrictions of the restrictive covenant to reflect the change in conditions or advancement in science or technology.

(c) The commissioner may authorize the filing of a supplemental recording under subsection (b) if the owner of the real property that is subject to the restrictive covenant submits to the department:

(1) a written request for the modification of the covenant;

(2) a copy of the proposed modification of the restrictive covenant; and

(3) information indicating why the covenant should be modified.

The information submitted under subdivision (3) must be sufficient to enable the department to determine whether the proposed modification of the restrictive covenant will increase the potential hazards to human health or the environment. The commissioner may request additional information from the owner of the real property if necessary to the making of a determination under this subsection.

(d) The board shall adopt rules under IC 4-22-2 and IC 13-14-9 providing for the recovery of administrative and personnel expenses incurred by the state in evaluating proposed modifications of restrictive covenants under this section.

As added by P.L.220-2014, SEC.8.

IC 13-14-3

Chapter 3. Plans for Local Facilities and Standards

IC 13-14-3-1

Local governmental units; developing environmental facilities

Sec. 1. The department shall encourage and advise local governmental units referred to in IC 13-11-2-158 in developing facilities or establishing standards for the following:

(1) Air, water, odor, and noise pollution control.

(2) Water or wastewater treatment.

(3) Water resource development.

(4) Solid waste disposal.

As added by P.L.1-1996, SEC.4.

IC 13-14-3-2

Local governmental units; minimum standards

Sec. 2. Each facility or standard of a local governmental unit must meet the minimum state requirements or standards established by the appropriate board.

As added by P.L.1-1996, SEC.4.

IC 13-14-3-3

Local governmental units; hearings; orders

Sec. 3. (a) If the commissioner finds that the local governmental units have not developed plans that provide for adequate:

(1) water supply;

(2) air, water, or wastewater treatment; or

(3) solid waste disposal facilities;

the department may hold a public hearing.

(b) If the facts support the conclusion, the department may order the affected local governmental units to proceed to form regional water, sewage, air, or solid waste districts that are necessary under IC 13-26.

As added by P.L.1-1996, SEC.4.

IC 13-14-4

Chapter 4. Notice to Department of Plans and Programs Affecting the Environment

IC 13-14-4-1

State agencies; reports

Sec. 1. (a) Each agency, department, and institution of the state shall report to the department any plans or activities that affect or may affect the environment of Indiana.

(b) The department shall:

(1) review the reports described in subsection (a); and

(2) coordinate the programs of the various agencies and make recommendations concerning the plans and activities of each agency, department, or institution that affects the environment.

As added by P.L.1-1996, SEC.4.

IC 13-14-4-2

Federal loans and grants

Sec. 2. (a) Each:

(1) unit of local government referred to in IC 13-11-2-158;

(2) state agency; or

(3) interstate agency;

that makes an application for loans or grants under the federal statutes that relates to any program that affects or would affect the environment of Indiana shall notify the department in writing of the application before making the application.

(b) The department may, if the department is a party, participate in all proceedings for the grant.

As added by P.L.1-1996, SEC.4.

IC 13-14-4-3

Technical or monitoring program reports

Sec. 3. (a) Each person:

(1) discharging; or

(2) proposing to discharge or emit;

contaminants that could affect environmental quality shall furnish to the department the reasonable technical or monitoring program reports that the board specifies by rule.

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

As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.82.

IC 13-14-5
Chapter 5. Inspections

IC 13-14-5-1
Applicability of chapter

Sec. 1. This chapter applies to inspections conducted under IC 13-14-2-2 after July 1, 1993.
As added by P.L.1-1996, SEC.4.

IC 13-14-5-2
Notice and oral report to property owners

Sec. 2. Except as provided in section 3 of this chapter, the designated agent of the department conducting the inspection must provide the property owner with the following:

(1) Before completing an inspection of property under IC 13-14-2-2, an oral report of the inspection that includes any specific matters discovered during the inspection that the designated agent of the department believes may be a violation of a law or of a permit issued by the department.

(2) Not later than forty-five (45) calendar days after the inspection, a written summary of the oral report given under subdivision (1).

As added by P.L.1-1996, SEC.4.

IC 13-14-5-3
Written summary instead of oral report

Sec. 3. If the designated agent of the department completes the inspection at a time when the property owner is not available to receive an oral report under section 2 of this chapter, the designated agent shall send a written summary of the inspection in accordance with IC 13-14-2-1 to the property owner not later than forty-five (45) calendar days following the inspection.
As added by P.L.1-1996, SEC.4. Amended by P.L.263-2013, SEC.2.

IC 13-14-5-4
Permitted omissions from oral reports and written summaries

Sec. 4. A designated agent of the department is not required to include in an oral report or in a written summary:

(1) a matter that is not evident to the designated agent at the time of the designated agent's inspection; or

(2) any fact that indicates or evidences an intentional, a knowing, or a reckless violation of:

(A) this title;

(B) a rule or standard adopted by a board; or

(C) any determination, permit, or order made or issued by the commissioner under this title or any other law.

As added by P.L.1-1996, SEC.4.

IC 13-14-5-5
Rules

Sec. 5. The board shall adopt rules under IC 4-22-2 and IC 13-14-9 to administer this chapter and IC 13-30-7.
As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.83.

IC 13-14-5-6
Information presented by property owner

Sec. 6. (a) The property owner may provide information in response to any of the following:

(1) An oral report provided under section 2 of this chapter.

(2) A written summary provided under section 2 or 3 of this chapter.

(3) Questions raised during the inspection visit.

(b) The department shall review and consider any information presented by the property owner under subsection (a). The department shall append any written information provided under subsection (a) to the inspection report and include the written information in the public file.
As added by P.L.30-1999, SEC.4.

IC 13-14-6
Chapter 6. Limitations of Action; Administrative Proceedings

IC 13-14-6-1
Applicability of chapter

Sec. 1. Except as provided in IC 13-23-1-4, this chapter applies to a department enforcement action, regardless of the application of IC 4-21.5 to the enforcement action.

As added by P.L.1-1996, SEC.4. Amended by P.L.38-2012, SEC.1.

IC 13-14-6-2
Limitation of actions

Sec. 2. A department enforcement action must commence by issuing a notice of violation under IC 13-30-3-3 not more than three (3) years after the date the department discovers:

(1) the event; or

(2) the last of a series of events;

that serves as the basis of the department's authority to conduct the enforcement action.

As added by P.L.1-1996, SEC.4.

IC 13-14-6-3
Void actions

Sec. 3. A department enforcement action commenced after the time set forth in section 2 of this chapter is void.

As added by P.L.1-1996, SEC.4.

IC 13-14-7

Chapter 7. Assignment of Rulemaking Authority

IC 13-14-7-1

Assignment of rulemaking authority to boards

Sec. 1. The:

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

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

As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.84.

IC 13-14-8
Chapter 8. Rules and Standards

IC 13-14-8-0.3
Application of rule that does not comply with IC 13-20-7-1

Sec. 0.3. A rule that:

(1) was adopted by the solid waste management board (established by IC 13-19-2, before its repeal) before May 13, 1999; and

(2) does not comply with IC 13-20-7-1 (as amended by P.L.224-1999 and before its repeal);

applies only to special waste that is disposed of at a solid waste landfill that does not meet Subtitle D design standards of the federal Resource Conservation and Recovery Act as provided in 40 CFR Part 258.

As added by P.L.220-2011, SEC.279. Amended by P.L.113-2014, SEC.62.

IC 13-14-8-1
Adoption or modification of rules and standards

Sec. 1. (a) The board may:

(1) adopt;
(2) repeal;
(3) rescind; or
(4) amend;

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

(b) The board may adopt an emergency rule under IC 4-22-2-37.1 to comply with a deadline required by or other date provided by federal law if:

(1) the variance procedures are included in the rule; and

(2) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

An emergency rule adopted under this subsection may be extended for two (2) extension periods by adopting another rule under IC 4-22-2-37.1. IC 4-22-2-37.1(g)(3) does not apply to an emergency rule adopted under this subsection.

As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.85; P.L.140-2013, SEC.13.

IC 13-14-8-2
Proposal for adoption or modification of rules and standards

Sec. 2. (a) The department may propose to the board the:

(1) adoption;
(2) repeal;
(3) rescission; or
(4) amendment;

of any rule or standard.

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

effective.
As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.86.

IC 13-14-8-3
Scope

Sec. 3. A rule or standard adopted by a board may:

(1) make different provisions as required by varying circumstances and conditions for different contaminant sources and for different geographical areas;

(2) be made applicable to sources outside Indiana that:

(A) are causing;

(B) are contributing to; or

(C) could cause or contribute to;

environmental pollution in Indiana; and

(3) make provision for abatement standards and procedures:

(A) concerning occurrences, emergencies, or pollution; or

(B) on other short term conditions constituting an acute danger to health or to the environment.

As added by P.L.1-1996, SEC.4.

IC 13-14-8-4
Considerations in adoption

Sec. 4. In adopting rules and establishing standards, a board shall take into account the following:

(1) All existing physical conditions and the character of the area affected.

(2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.

(3) Zoning classifications.

(4) The nature of the existing air quality or existing water quality, as appropriate.

(5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.

(6) Economic reasonableness of measuring or reducing any particular type of pollution.

(7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:

(A) human, plant, animal, or aquatic life; or

(B) the reasonable enjoyment of life and property.

As added by P.L.1-1996, SEC.4.

IC 13-14-8-5
Proposals for rule

Sec. 5. (a) Any person may present written proposals for the adoption, amendment, or repeal of a rule by the board. A proposal presented under this section must be:

(1) supported by a statement of reasons; and

(2) accompanied by a petition signed by at least two hundred (200) persons.

(b) If the board finds that the proposal:

(1) is not plainly devoid of merit; and

(2) does not deal with a subject on which a hearing was held within the previous six (6) months of the submission of the proposal;

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

As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.87.

IC 13-14-8-6

Hearings

Sec. 6. (a) Each hearing on a proposed rule must be open to the public, and a reasonable opportunity to be heard with respect to the subject of a hearing shall be afforded to any person.

(b) All testimony taken at a hearing shall be recorded. The transcript of the hearing and any written submissions to the board at the hearing shall be open to public inspection, and copies of the transcript and written submissions shall be made available to any person upon payment of the cost of reproducing the original.

(c) A person who:

(1) is heard or represented at a hearing; or

(2) requests notice;

shall be given written notice of the action of the board with respect to the subject of the hearing.

As added by P.L.1-1996, SEC.4.

IC 13-14-8-7

Duties of board

Sec. 7. (a) Without limiting the generality of the regulatory authority of the board under this title, the board may adopt rules under IC 4-22-2 and IC 13-14-9 prescribing the following:

(1) Standards or requirements for discharge or emission specifying the maximum permissible short term and long term concentrations of various contaminants of the air, water, or land.

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

(A) the discharge of any contaminants;

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

(i) facility;

(ii) equipment; or

(iii) device;

that may be designed to control or prevent pollution; or

(C) the operation of any:

(i) facility;

(ii) equipment; or

(iii) device;

to control or to prevent pollution.

(3) Standards and conditions for the use of any fuel or vehicle determined to constitute an air pollution hazard.

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

(A) water wells;

(B) water holes; and

(C) drainage holes;

to protect ground water against contamination.

(5) Alert criteria and abatement standards for pollution episodes or emergencies constituting an acute danger to health or to the environment, including priority lists for terminating activities that contribute to the hazard, whether or not the activities would meet all discharge requirements of the board under normal conditions.

(6) Requirements and procedures for the inspection of any equipment, facility, vehicle, vessel, or aircraft that may cause or contribute to pollution.

(7) Requirements and standards for equipment and procedures for:

(A) monitoring contaminant discharges at their sources;

(B) the collection of samples; and

(C) the collection, reporting, and retention, in accordance with record retention schedules adopted under IC 5-15-5.1, of data resulting from that monitoring.

(8) Standards or requirements to control:

(A) the discharge; or

(B) the pretreatment;

of contaminants introduced or discharged into publicly owned treatment works.

(b) If the board is required to adopt new rules or amend existing rules to implement an amendment to the federal Resource Conservation and Recovery Act or an amendment to or addition of a National Emission Standard for Hazardous Air Pollutants under the federal Clean Air Act, the board shall adopt the new rules or amend the existing rules not more than nine (9) months after the date the federal law becomes effective. This subsection does not limit the board's authority to amend at any time the rules adopted under this subsection.

As added by P.L.1-1996, SEC.4. Amended by P.L.123-1996, SEC.10; P.L.133-2012, SEC.88.

IC 13-14-8-8

Variance from rules

Sec. 8. (a) Except as provided in section 9 of this chapter, if a person who is affected by a rule adopted by a board believes that the imposition of the rule would impose an undue hardship or burden upon the person, the person may apply to the commissioner for a variance from the rule.

(b) The commissioner may hold a public hearing on an application submitted under subsection (a).

(c) If the commissioner determines that immediate compliance with the rule would impose an undue hardship or burden upon the applicant, the commissioner, except as provided in section 9 of this chapter, may grant a variance from the rule for any period not exceeding one (1) year.

(d) Upon the request of an applicant, the commissioner may renew

an expired variance if the commissioner determines that compliance with the rule would continue to impose an undue hardship or burden upon the applicant. Except as provided in section 9 of this chapter, each renewal may be granted for a period not exceeding one (1) year.
As added by P.L.1-1996, SEC.4. Amended by P.L.231-2003, SEC.1.

IC 13-14-8-9
Criteria for variance from water quality standards; pollutant minimization plan; duration of variance; renewal

Sec. 9. (a) A variance from a water quality standard that is at least in part the basis of a National Pollutant Discharge Elimination System (NPDES) permit issued under this title must meet the conditions specified in:

(1) 40 CFR Part 132, Appendix F, Procedure 2.C; and
(2) rules adopted by the board.

(b) A variance application must contain a pollutant minimization plan specific to the pollutant for which the variance is requested. With respect to a variance relating to an NPDES permit for a combined sewer overflow discharge, this subsection is satisfied if the NPDES permit holder has prepared a long term control plan and is implementing the nine (9) minimum controls pursuant to:

(1) 33 U.S.C. 1342(q); and
(2) 59 FR 18688.

(c) Subject to subsection (d), a variance described in subsection (a) may be granted for a period not to exceed the term of the NPDES permit affected by the variance.

(d) If an NPDES permit remains in effect beyond its stated term under IC 13-15-3-6, a variance described in subsection (a) remains in effect for as long as the NPDES permit requirements affected by the variance are in effect.

(e) A variance described in subsection (a) may be renewed each time the NPDES permit affected by the variance is renewed if the conditions of subsections (a) and (b) continue to be met.
As added by P.L.1-1996, SEC.4. Amended by P.L.231-2003, SEC.2; P.L.54-2005, SEC.1.

IC 13-14-8-10
Undue hardship; criteria

Sec. 10. A board may adopt rules under IC 4-22-2 to specify the following with respect to any of the board's rules:

(1) Criteria to define what constitutes an undue hardship or burden, as used in section 8 of this chapter, for the purposes of that rule.
(2) Procedures for making determinations on applications for variances from that rule.

As added by P.L.1-1996, SEC.4.

IC 13-14-8-11
Appeals

Sec. 11. (a) A person affected by a decision of the commissioner

under sections 8 and 9 of this chapter may, within fifteen (15) days after receipt of notice of the decision, appeal the decision to the office of environmental adjudication. All proceedings under this section to appeal the commissioner's decision are governed by IC 4-21.5.

(b) The commissioner's decision to grant a variance does not take effect until available administrative remedies are exhausted.

As added by P.L.1-1996, SEC.4. Amended by P.L.25-1997, SEC.4.

IC 13-14-8-11.5

Site-specific limitation for NPDES permit; application process and criteria

Sec. 11.5. (a) The department shall prepare and publish in the Indiana Register guidance on the application process and criteria for obtaining a site-specific limitation for a National Pollutant Discharge Elimination System (NPDES) permit. Criteria to be considered must include wet weather events, water effects ratio, and other site-specific considerations as determined by the department. Water effects ratio shall be the ratio of the aquatic toxicity of a parameter in the water of the receiving stream compared to the aquatic toxicity of the parameter in the laboratory water used to determine the standard.

(b) Beginning January 1, 1997, the department shall review any application and make a preliminary determination for a site-specific limitation not later than one hundred eighty (180) days after receipt of the application. The department may request additional information necessary to make the preliminary determination consistent with the guidance published under subsection (a). The one hundred eighty (180) day period does not include any days between the date the department requests additional information and the date the additional information is received by the department.

(c) The final determination on a site-specific limitation will be part of the NPDES permit decision under 327 IAC 5.

(d) If the agency does not issue a preliminary determination within the one hundred eighty (180) days provided for in subsection (b), the applicant may require that the department hire a qualified outside consultant to prepare the preliminary determination as expeditiously as possible.

(e) The department and the applicant may agree to extend the one hundred eighty (180) day period provided for in subsection (b).

As added by P.L.123-1996, SEC.3.

IC 13-14-8-11.6

Permits for modification or construction of water pollution facility

Sec. 11.6. (a) A discharger is not required to obtain a state permit for the modification or construction of a water pollution treatment or control facility if the discharger has an effective:

(1) National Pollutant Discharge Elimination System (NPDES) industrial permit for direct discharges to surface water; or

(2) industrial waste pretreatment permit not issued by the department for discharges to a publicly owned treatment works.

(b) If a modification is for the treatment or control of any new

influent pollutant or increased levels of any existing pollutant, within thirty (30) days after commencement of operation, the discharger shall file with the department a notice of installation for the additional pollutant control equipment and a design summary of any modifications.

(c) The board shall adopt a general permit rule for the approval of sanitary collection system plans, lift station plans, and force main plans.

As added by P.L.72-1999, SEC.2. Amended by P.L.113-2014, SEC.63.

IC 13-14-9

Chapter 9. Rulemaking Procedures

IC 13-14-9-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 3 and 4 of this chapter by P.L.100-2006 apply only to proposed rules for which the department of environmental management provides notice under section 3 of this chapter, as amended by P.L.100-2006, after June 30, 2006.

As added by P.L.220-2011, SEC.280.

IC 13-14-9-1

Applicability of chapter

Sec. 1. (a) Except as provided in sections 8 and 14 of this chapter, this chapter applies to the following:

(1) The board.

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

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

As added by P.L.1-1996, SEC.4. Amended by P.L.100-2006, SEC.7; P.L.204-2007, SEC.11; P.L.133-2012, SEC.89.

IC 13-14-9-2

Public comment periods

Sec. 2. Except as provided in sections 4.5, 7, 8, and 14 of this chapter, a board may not adopt a rule under this chapter until the board has conducted at least two (2) public comment periods, each of which must be at least thirty (30) days in length.

As added by P.L.1-1996, SEC.4. Amended by P.L.130-1997, SEC.1; P.L.159-2011, SEC.14.

IC 13-14-9-3

First public comment period; notice

Revisor's Note: P.L.240-2003, SEC.4 (which was effective 7-1-2003 until 4-25-2005) was printed in the 2003 Supplement but was incorrectly omitted from the printing of the 2004 Edition of the Indiana Code.

Sec. 3. (a) Except as provided in subsection (b), the department shall provide notice in the Indiana Register of the first public comment period required by section 2 of this chapter. A notice provided under this section must do the following:

(1) Identify the authority under which the proposed rule is to be adopted.

(2) Describe the subject matter and the basic purpose of the proposed rule. The description required by this subdivision must:

(A) list all alternatives being considered by the department at the time of the notice;

(B) state whether each alternative listed under clause (A) creates:

(i) a restriction or requirement more stringent than a restriction or requirement imposed under federal law; or

(ii) a restriction or requirement in a subject area in which federal law does not impose restrictions or requirements;

(C) state the extent to which each alternative listed under clause (A) differs from federal law;

(D) include any information known to the department about the potential fiscal impact of each alternative under clause (A) that creates:

(i) a restriction or requirement more stringent than a restriction or requirement imposed under federal law; or

(ii) a restriction or requirement in a subject area in which federal law does not impose restrictions or requirements; and

(E) set forth the basis for each alternative listed under clause (A).

(3) Describe the relevant statutory or regulatory requirements or restrictions relating to the subject matter of the proposed rule that exist before the adoption of the proposed rule.

(4) Request the submission of alternative ways to achieve the purpose of the proposed rule.

(5) Request the submission of comments, including suggestions of specific language for the proposed rule.

(6) Include a detailed statement of the issue to be addressed by adoption of the proposed rule.

(b) This section does not apply to rules adopted under IC 13-18-22-2, IC 13-18-22-3, or IC 13-18-22-4.

(c) The notice required under subsection (a) shall be published electronically in the Indiana Register under procedures established by the publisher.

As added by P.L.1-1996, SEC.4. Amended by P.L.130-1997, SEC.2; P.L.240-2003, SEC.4; P.L.282-2003, SEC.35; P.L.2-2005, SEC.54; P.L.215-2005, SEC.16; P.L.1-2006, SEC.200; P.L.100-2006, SEC.8.

IC 13-14-9-4

Second public comment period; notice

Sec. 4. (a) The department shall provide notice in the Indiana Register of the second public comment period required by section 2 of this chapter. A notice provided under this section must do the following:

(1) Contain the full text of the proposed rule, to the extent required under IC 4-22-2-24(c).

(2) Contain a summary of the response of the department to written comments submitted under section 3 of this chapter during the first public comment period.

(3) Request the submission of comments, including suggestions of specific amendments to the language contained in the proposed rule.

(4) Contain the full text of the commissioner's written findings under section 7 of this chapter, if applicable.

(5) Identify each element of the proposed rule that imposes a restriction or requirement on persons to whom the proposed rule applies that:

(A) is more stringent than a restriction or requirement imposed under federal law; or

(B) applies in a subject area in which federal law does not impose a restriction or requirement.

(6) With respect to each element identified under subdivision (5), identify:

(A) the environmental circumstance or hazard that dictates the imposition of the proposed restriction or requirement to protect human health and the environment;

(B) examples in which federal law is inadequate to provide the protection referred to in clause (A); and

(C) the:

(i) estimated fiscal impact; and

(ii) expected benefits;

based on the extent to which the proposed rule is more stringent than the restrictions or requirements of federal law, or on the creation of restrictions or requirements in a subject area in which federal law does not impose restrictions or requirements.

(7) For any element of the proposed rule that imposes a restriction or requirement that is more stringent than a restriction or requirement imposed under federal law or that applies in a subject area in which federal law does not impose restrictions or requirements, describe the availability for public inspection of all materials relied upon by the department in the development of the proposed rule, including, if applicable:

(A) health criteria;

(B) analytical methods;

(C) treatment technology;

(D) economic impact data;

(E) environmental assessment data;

(F) analyses of methods to effectively implement the proposed rule; and

(G) other background data.

(b) The notice required under subsection (a) shall be published electronically in the Indiana Register under procedures established by the publisher.

As added by P.L.1-1996, SEC.4. Amended by P.L.240-2003, SEC.5; P.L.215-2005, SEC.17; P.L.100-2006, SEC.9.

IC 13-14-9-4.2

Department required to provide the office of management and budget fiscal impact statement to board

Sec. 4.2. Not less than fourteen (14) days before the date of preliminary adoption of a proposed rule by a board, the department

shall make available to the board the fiscal impact statement prepared by the office of management and budget with respect to the proposed rule under IC 4-22-2-28(e).
As added by P.L.240-2003, SEC.6. Amended by P.L.226-2005, SEC.2; P.L.123-2006, SEC.28.

IC 13-14-9-4.5
Third public comment period; notice

Sec. 4.5. (a) Except for a rule:

(1) that has been preliminarily adopted by a board in a form that is:

(A) identical to; or

(B) not substantively different from;

the proposed rule published in a second notice under section 4 of this chapter; or

(2) for which the commissioner has made a determination and prepared written findings under section 7 or 8 of this chapter;

a board may not adopt a rule under this chapter until the board has conducted a third public comment period that is at least twenty-one (21) days in length.

(b) The department shall publish notice of a third public comment period with the:

(1) text;

(2) summary; and

(3) fiscal analysis;

that are required to be published in the Indiana Register under section 5(a)(2) of this chapter.

(c) The notice of a third public comment period that must be published in the Indiana Register under subsection (b) must request the submission of comments, including suggestions of specific amendments, that concern only the portion of the preliminarily adopted rule that is substantively different from the language contained in the proposed rule published in a second notice under section 4 of this chapter.
As added by P.L.130-1997, SEC.3. Amended by P.L.240-2003, SEC.7.

IC 13-14-9-5
Adoption; prerequisites

Sec. 5. (a) A board may not adopt a rule until all of the following occur:

(1) The board holds a board meeting on the proposed rule.

(2) The department, after approval of the proposed rule by the board under subsection (c), publishes the following in the Indiana Register as provided in IC 4-22-2-24(c):

(A) The full text of the proposed rule, including any amendments arising from the comments received before or during the meeting held under subdivision (1).

(B) A summary of the response of the department to all comments received at the meeting held under subdivision

(1).

(C) For a proposed rule with an estimated economic impact on regulated entities that is greater than five hundred thousand dollars ($500,000), a copy of the office of management and budget fiscal analysis required under IC 4-22-2-28.

(3) The board, after publication of the notice under subdivision (2), holds another board meeting on the proposed rule.

(4) If a third public comment period is required under section 4.5 of this chapter, the department publishes notice of the third public comment period in the Indiana Register.

(b) Board meetings held under subsection (a)(1) and (a)(3) shall be conducted in accordance with IC 4-22-2-26(b) through IC 4-22-2-26(d).

(c) At a board meeting held under subsection (a)(1), the board shall determine whether the proposed rule will:

(1) proceed to publication under subsection (a)(2);

(2) be subject to additional comments under section 3 or 4 of this chapter, considering any written finding made by the commissioner under section 7 or 8 of this chapter; or

(3) be reconsidered at a subsequent board meeting in accordance with IC 4-22-2-26(d).

As added by P.L.1-1996, SEC.4. Amended by P.L.130-1997, SEC.4; P.L.2-1998, SEC.48; P.L.224-1999, SEC.2; P.L.123-2006, SEC.29.

IC 13-14-9-6

Board meetings; written materials

Sec. 6. In addition to the requirements of section 8 of this chapter, the department shall include the following in the written materials to be considered at the board meetings held under section 5(a)(1) and 5(a)(3) of this chapter:

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

(2) The written responses of the department to all comments received:

(A) during the immediately preceding comment period for a board meeting held under section 5(a)(1) of this chapter;

(B) during the immediately preceding board meeting under section 5(a)(1) of this chapter for a board meeting held under section 5(a)(3) of this chapter if a third public comment period is not required under section 4.5 of this chapter; or

(C) during:

(i) a third public comment period that address the portion of the preliminarily adopted rule that is substantively different from the language contained in the proposed rule published in a second notice under section 4 of this chapter; and

(ii) the immediately preceding board meeting held under section 5(a)(1) of this chapter;

for a board meeting held under section 5(a)(3) of this chapter

if a third public comment period is required under section 4.5 of this chapter.

(3) The full text of the office of management and budget fiscal analysis if a fiscal analysis is required under IC 4-22-2-28.

As added by P.L.1-1996, SEC.4. Amended by P.L.130-1997, SEC.5; P.L.224-1999, SEC.3; P.L.123-2006, SEC.30.

IC 13-14-9-7

Waiver of first public comment period

Sec. 7. (a) Unless a board determines under section 5(c)(2) of this chapter that a proposed rule should be subject to additional comments, section 3 of this chapter does not apply to a rulemaking action if the commissioner determines that the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under section 3 of this chapter would provide no substantial benefit to:

(1) the environment; or

(2) persons to be regulated or otherwise affected by the proposed rule.

(b) If the commissioner makes a determination under subsection (a), the commissioner shall prepare written findings under this section. The full text of the commissioner's written findings shall be included in the public notice provided under section 4 of this chapter.

As added by P.L.1-1996, SEC.4.

IC 13-14-9-8

Special rulemaking process for certain rules; findings; notice; hearing; rule based on nullified federal law or regulation

Sec. 8. (a) Except as provided in subsection (g), unless a board determines that a proposed rule should be subject to additional comments or makes a determination described in subsection (f), sections 2 through 7 and sections 9 through 14 of this chapter do not apply to a rulemaking action if the commissioner determines that:

(1) the proposed rule constitutes:

(A) an adoption or incorporation by reference of a federal law, regulation, or rule that:

(i) is or will be applicable to Indiana; and

(ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;

(B) a technical amendment with no substantive effect on an existing Indiana rule; or

(C) an amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and

(2) the proposed rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in section 7(a)(2) of this chapter from the following:

(A) Exposing the proposed rule to diverse public comment under section 3 or 4 of this chapter.

(B) Affording interested or affected parties the opportunity to be heard under section 3 or 4 of this chapter.

(C) Affording interested or affected parties the opportunity to develop evidence in the record collected under sections 3 and 4 of this chapter.

(b) If the commissioner makes a determination under subsection (a), the commissioner shall prepare written findings under this section. The full text of the commissioner's written findings shall be included in:

(1) the notice of adoption of the proposed rule; and

(2) the written materials to be considered by the board at the public hearing held under this section.

(c) The notice of adoption of a proposed rule under this section must:

(1) be published in the Indiana Register; and

(2) include the following:

(A) Draft rule language that includes the language described in subsection (a)(1).

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

(C) A notice of public hearing before the appropriate board.

(d) The department shall include the following in the written materials to be considered by the board at the public hearing referred to in subsection (c):

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

(2) Written responses of the department to written comments received during the comment period referred to in subsection (c).

(3) The commissioner's findings under subsection (b).

(e) At the public hearing referred to in subsection (c), the board may:

(1) adopt the proposed rule;

(2) adopt the proposed rule with amendments;

(3) reject the proposed rule;

(4) determine that additional public comment is necessary; or

(5) determine to reconsider the proposed rule at a subsequent board meeting.

(f) If the board determines under subsection (e) that additional public comment is necessary, the department shall publish a second notice in accordance with section 4 of this chapter and complete the rulemaking in accordance with this chapter.

(g) If the board adopts the proposed rule with amendments under subsection (e)(2), the amendments must meet the logical outgrowth requirements of section 10 of this chapter, except that the board, in determining whether the amendments are a logical outgrowth of comments provided to the board, and in considering whether the language of comments provided to the board fairly apprised interested persons of the specific subjects and issues contained in the amendments, shall consider the comments provided to the board at the public hearing referred to in subsection (c)(2)(C).

(h) This subsection applies to that part of a rule adopted under this section that directly corresponds to and is based on a federal law, rule, or regulation that is stayed or repealed, invalidated, vacated, or otherwise nullified by a legislative, an administrative, or a judicial action described in subdivision (1), (2), or (3). If:

(1) a proposed rule is adopted by a board under subsection (e)(1) based on a determination by the commissioner under subsection (a)(1)(A) and the federal law, rule, or regulation on which the adopted rule is based is later repealed or otherwise nullified by legislative or administrative action, then that part of the adopted rule that corresponds to the repealed or nullified federal law, rule, or regulation is void as of the effective date of the legislative or administrative action repealing or otherwise nullifying the federal law, rule, or regulation;

(2) a board adopts a proposed rule under subsection (e)(1) that is based on a determination by the commissioner under subsection (a)(1)(A) and the federal law, rule, or regulation on which the adopted rule is based is later invalidated, vacated, or otherwise nullified by a judicial decree, order, or judgment of a state or federal court whose decisions concerning such matters have force and effect in Indiana:

(A) then that part of the rule that corresponds to the invalidated, vacated, or otherwise nullified federal law, rule, or regulation shall not be enforced by the commissioner or any other person during the time in which an appeal of the judicial decree, order, or judgment can be commenced or is pending; and

(B) either:

(i) that part of the adopted rule that corresponds to the invalidated, vacated, or otherwise nullified federal law, rule, or regulation is void as of the date that the judicial decree, order, or judgment becomes final and unappealable; or

(ii) enforcement of the adopted rule is restored if the judicial decree, order, or judgment is reversed, vacated, or otherwise nullified on appeal; and

(3) the federal law, regulation, or rule that is the basis of a rule that is adopted under subsection (e)(1) and based on a determination by the commissioner under subsection (a)(1)(A) is stayed by an administrative or a judicial order pending an administrative or a judicial action regarding the validity of the federal law, rule, or regulation, the commissioner may suspend the enforcement of that part of the adopted rule that corresponds to the stayed federal law, rule, or regulation while the stay is in force.

As added by P.L.1-1996, SEC.4. Amended by P.L.204-2007, SEC.12; P.L.79-2011, SEC.1; P.L.159-2011, SEC.15; P.L.6-2012, SEC.103.

IC 13-14-9-9
Action upon proposed rules

Sec. 9. After complying with sections 2 through 8 of this chapter, the board may, at the board meeting held under section 5(a)(3) of this chapter:

(1) adopt a rule that is identical to the proposed rule published under section 5(a)(2) of this chapter;

(2) adopt the proposed rule with amendments that meet the criteria set forth in section 10 of this chapter;

(3) recommend amendments to the proposed rule that do not meet the criteria set forth in section 10 of this chapter;

(4) reject the proposed rule; or

(5) reconsider the proposed rule at a subsequent board meeting in accordance with IC 4-22-2-26(d).

As added by P.L.1-1996, SEC.4.

IC 13-14-9-10
Amended proposals; logical outgrowth

Sec. 10. (a) A board may amend a proposed rule at a board meeting held under section 5(a)(3) of this chapter and adopt the amended rule under section 9(2) of this chapter if the amendments are a logical outgrowth of:

(1) the proposed rule as published under section 5(a)(2) of this chapter; and

(2) any comments provided to the board at the meeting held under section 5(a)(3) of this chapter.

(b) In determining, for the purposes of this section, whether an amendment is a logical outgrowth of the proposed rule and any comments, the board shall consider:

(1) whether the language of:

(A) the proposed rule as published under section 5(a)(2) of this chapter; and

(B) any comments provided to the board at the meeting held under section 5(a)(3) of this chapter;

fairly apprised interested persons of the specific subjects and issues contained in the amendment; and

(2) whether the interested parties were allowed an adequate opportunity to be heard by the board.

As added by P.L.1-1996, SEC.4.

IC 13-14-9-11
Amended proposals; notice

Sec. 11. If the board recommends amendments to a proposed rule under section 9(3) of this chapter, the full text of the proposed rule and accompanying amendments shall be published in accordance with section 5(a)(2) of this chapter. After that publication, the board shall hold another board meeting on the proposed rule under section 5(a)(3) of this chapter.

As added by P.L.1-1996, SEC.4.

IC 13-14-9-12
Rejection; grounds

Sec. 12. The board may reject a proposed rule under section 9(4) of this chapter if one (1) of the following conditions exists:

(1) The following occurs or has occurred:

(A) under section 8 of this chapter, sections 3 and 4 of this chapter did not apply to the proposed rule; and

(B) either:

(i) the board determines that necessary amendments to the proposed rule will affect persons that reasonably require an opportunity to comment under section 4 of this chapter, considering the criteria set forth in section 8(a)(2) of this chapter; or

(ii) the board determines that due to the fundamental or inherent structure or content of the proposed rule, the only reasonably anticipated method of developing a rule acceptable to the board is to require the department to redraft the rule and to obtain the public comments under section 4 of this chapter.

(2) The following occurs or has occurred:

(A) the proposed rule was subject to sections 3 and 4 of this chapter; and

(B) either:

(i) the board makes a determination set forth in subdivision (1)(B)(i) or (1)(B)(ii); or

(ii) the board determines that, due to a procedural or other defect in the implementation of the requirements under sections 3 and 4 of this chapter, an interested or affected party will be unfairly and substantially prejudiced if the public comment period under section 4 of this chapter is not again afforded and that no reasonable alternative method to obtain public comments is available to the interested or affected party other than the public comment period under section 4 of this chapter.

As added by P.L.1-1996, SEC.4. Amended by P.L.204-2007, SEC.13.

IC 13-14-9-13

Rejection; public comment

Sec. 13. If a board rejects a proposed rule under section 12 of this chapter, the proposed rule is subject to section 4 of this chapter whether or not the proposed rule has previously been the subject of the comment period required by section 4 of this chapter.

As added by P.L.1-1996, SEC.4.

IC 13-14-9-14

Procedures for board to establish water quality standards for combined sewer community; notice of rulemaking; hearing; EPA approval

Sec. 14. (a) Except as provided in subsection (g), sections 1 through 13 of this chapter do not apply to a rule adopted under this section.

(b) The board may use the procedures in this section to adopt a

rule to establish new water quality standards for a community served by a combined sewer that has:

(1) an approved long term control plan; and

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

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

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

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

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

(3) A notice of public hearing before the board.

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

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

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

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

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

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

(2) adopt the proposed rule with amendments;

(3) reject the proposed rule; or

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

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

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

As added by P.L.100-2006, SEC.10. Amended by P.L.159-2011, SEC.16; P.L.133-2012, SEC.90.

IC 13-14-9.5

Chapter 9.5. Expiration and Readoption of Administrative Rules

IC 13-14-9.5-1

Exceptions

Sec. 1. This chapter does not apply to a rule that incorporates a federal regulation by reference or adopts under a federal mandate a federal regulation in its entirety without substantive additions.

As added by P.L.17-1996, SEC.9.

IC 13-14-9.5-1.1

Rules that do not expire; public hearings

Sec. 1.1. (a) This section applies to the following:

(1) A rule that is required to receive or maintain:

(A) delegation;

(B) primacy; or

(C) approval;

for state implementation or operation of a program established under federal law.

(2) A rule that is required to begin or continue receiving federal funding for the implementation or operation of a program.

(b) A rule described in subsection (a) does not expire under this chapter.

(c) In the seventh year after the effective date of a rule or an amendment to a rule described in subsection (a), the department shall publish a notice in the Indiana Register. The notice may contain a list of several rules that have been effective for seven (7) years. A separate notice must be published for each board with rulemaking authority. A notice under this subsection must provide for the following:

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

(2) A request for comments on specific rules that should be reviewed through the regular rulemaking process under IC 13-14-9.

(3) A notice of public hearing before the appropriate board.

(4) The information required to be identified or described under IC 13-14-9-4(5) through IC 13-14-9-4(7) in the same manner that would apply if the proposed renewal of the expired rule were a proposal to adopt a new rule.

(d) The department shall:

(1) prepare responses to all comments received during the comment period; and

(2) provide all comments and responses to the board during the public board hearing;

described in subsection (c).

(e) The board, after considering the written comments and responses, as well as testimony at the public hearing described in subsection (c), shall direct the department on whether additional rulemaking actions must be initiated to address concerns raised to the

board.

(f) For the rules described in subsection (a) that are effective on or before July 1, 2001, the notice described in subsection (c) shall be published in the Indiana Register before December 31, 2008.

As added by P.L.146-2001, SEC.3. Amended by P.L.240-2003, SEC.8.

IC 13-14-9.5-2

Dates for expiration

Sec. 2. (a) Except as provided in subsection (b) or section 1.1 of this chapter, an administrative rule adopted under IC 13-14-9 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. The expiration date of a rule under this section is extended each time that a rule amending an unexpired rule takes effect. The rule, as amended, expires on January 1 of the seventh year after the year in which the amendment takes effect.

(b) An administrative rule that:

(1) was adopted under a provision of IC 13 that has been repealed by a recodification of IC 13;

(2) is in force on December 31, 1995; and

(3) is not amended by a rule that takes effect after December 31, 1995, and before January 1, 2002;

expires not later than January 1, 2002.

(c) The determination of whether an administrative rule expires under this chapter shall be applied at the level of an Indiana Administrative Code section.

As added by P.L.17-1996, SEC.9. Amended by P.L.146-2001, SEC.4; P.L.215-2005, SEC.18.

IC 13-14-9.5-3

Procedures for readoption

Sec. 3. (a) The department or a board that has rulemaking authority under this title may adopt a rule under IC 13-14-9 in anticipation of a rule's expiration under this chapter.

(b) Except as provided in section 5 of this chapter, the department or a board that has rulemaking authority under this title may not use emergency rule procedures to readopt a rule that is subject to expiration under this chapter.

As added by P.L.17-1996, SEC.9.

IC 13-14-9.5-4

Readoption of rules; request for readoption of particular rule

Sec. 4. (a) Except as provided in subsection (b), with respect to the rules subject to expiration under this chapter, the department or a board that has rulemaking authority under this title:

(1) may readopt one (1) or more of the rules under one (1) rule that lists all rules that are readopted by their titles and subtitles only; and

(2) shall publish a notice in the Indiana Register identifying:

(A) the rules, if any, that will be readopted; and
(B) the rules, if any, that will not be readopted.

A rule that has expired but is readopted under this subsection may not be removed from the Indiana Administrative Code.

(b) If a person submits to the department or a board that has rulemaking authority under this title a written request stating a basis for the request during the first comment period that a particular rule be readopted separately from the readoption rule described in subsection (a), the department or board must:

(1) consider readoption of that rule separately from the readoption rule described in subsection (a); and
(2) follow the procedure for adoption of administrative rules under IC 13-14-9 with respect to the rule.

(c) If the department or board does not receive a written request under subsection (b) regarding a rule within the first comment period, the agency may:

(1) submit the readoption rule for filing with the publisher under IC 4-22-2-35 and publish notice in the Indiana Register that the agency has readopted the rule; or
(2) for one (1) or more of the rules proposed to be readopted as part of the readoption rule described in subsection (a), elect the procedure for readoption under IC 13-14-9.

(d) If a person submits to the department or a board that has rulemaking authority under this title a written request stating a basis for the request during the first comment period that a particular rule that the department or board does not intend to readopt as part of the readoption rule described in subsection (a) be readopted, the department or board must:

(1) consider readoption of that rule separately from the readoption rule described in subsection (a); and
(2) follow the procedure for adoption of administrative rules under IC 13-14-9 with respect to the rule.

As added by P.L.17-1996, SEC.9. Amended by P.L.123-2006, SEC.31; P.L.114-2008, SEC.7.

IC 13-14-9.5-5
Power of governor to postpone expiration date

Sec. 5. If a rule is not readopted and the governor finds that the failure to readopt the rule causes an emergency to exist, the governor may, by executive order issued before the rule's expiration date, postpone the expiration date of the rule until a date that is one (1) year after the date specified in section 2 of this chapter.

As added by P.L.17-1996, SEC.9.

IC 13-14-9.5-6
Removal of expired rules

Sec. 6. Except as provided in section 4(a) of this chapter, the publisher shall remove all rules that have expired under this chapter from the Indiana Administrative Code.

As added by P.L.17-1996, SEC.9.

IC 13-14-10

Chapter 10. General Emergency Procedures

IC 13-14-10-1

Emergency order; notice; compliance

Sec. 1. (a) Whenever the commissioner concludes, in consultation with the commissioner of the state department of health, that contamination of air, water, or land in any area has reached the point where the contamination constitutes a clear and present danger to the health and safety of persons in any area, the commissioner's determination shall be immediately communicated to the governor. The commissioner, in concert with the commissioner of the state department of health, shall request the governor to declare that an emergency exists.

(b) The governor may:

(1) proclaim the existence of an emergency; and

(2) order all persons causing or contributing to the causing of the contamination to reduce or discontinue immediately the emission or discharge of contaminants.

(c) Notice of an emergency order must be in writing wherever practicable. However, if the governor considers that written notice is not practicable, the governor may give notice in the manner determined by the governor.

(d) A person against whom an emergency order of the governor has been issued shall, upon receiving notice of the order, immediately comply with the provisions of the order.

(e) The governor may enforce an order by any appropriate action.

(f) The procedures for emergency orders provided for in this section are governed by IC 4-21.5-4.

As added by P.L.1-1996, SEC.4.

IC 13-14-10-2

Suit on behalf of state to restrain person contributing to pollution

Sec. 2. (a) Upon receipt of evidence that a pollution source or combination of sources, including an industrial user of a publicly owned treatment plant, is presenting an imminent and substantial endangerment to:

(1) the health of persons; or

(2) the welfare of persons whose livelihood is endangered;

the commissioner shall bring suit under subsection (b).

(b) Upon the receipt of evidence under subsection (a), the commissioner shall bring suit on behalf of the state in the appropriate court to:

(1) immediately restrain any person causing or contributing to the alleged pollution to stop the discharge or introduction of contaminants causing or contributing to the pollution; or

(2) take other necessary action.

(c) The duty of the commissioner to bring suit under subsection (a) is:

(1) in addition to the authority contained in section 1 of this

chapter; and

(2) notwithstanding any other provision of this title.

As added by P.L.1-1996, SEC.4.

IC 13-14-10-3

Emergency assistance

Sec. 3. (a) The commissioner may order and provide assistance to abate or remedy an emergency, on private or public property, caused by the discharge or impending discharge of any contaminant into or on the air, land, or waters of Indiana that poses an imminent and substantial danger to public health or the environment whenever:

(1) the assistance must be immediate to be efficacious; and

(2) any person responsible for abatement or remedying the emergency:

(A) cannot be determined or located; or

(B) has refused or failed to take prompt and effective action to abate or remedy the emergency.

(b) For the purpose of this section, the commissioner may request the direct purchase of supplies, materials, services, and equipment for immediate use under IC 5-22-10-4.

(c) In addition to any civil or criminal penalties under the environmental management laws the department may recover the cost of assistance provided under this section from any person responsible for the emergency by commencing a civil action in any court of competent jurisdiction. Officials who collect money under this subsection shall remit the money to the treasurer of state. The money shall be deposited in the environmental management special fund created by IC 13-14-12.

(d) The department may accept on behalf of the state any reimbursement for assistance provided under this section from the federal government. The reimbursements shall be remitted to the treasurer of state for deposit in the environmental management special fund created by IC 13-14-12.

(e) Notwithstanding any other provisions of this title, the authority granted under this section:

(1) is in addition to; and

(2) may be exercised independently of;

any other authority contained in this chapter.

As added by P.L.1-1996, SEC.4. Amended by P.L.49-1997, SEC.47.

IC 13-14-11

Chapter 11. Records of the Department and Boards

IC 13-14-11-1

Record of actions taken; confidential information

Sec. 1. (a) The commissioner shall maintain a record of the actions taken under this title. Subject to subsection (b), these:

(1) records, issued permits, permit applications, and related documentation filed with the department; and

(2) records, reports, and other information obtained under the recording, reporting, monitoring, sampling, information, entry, inspection, investigation, and copying requirements of this title;

shall be made available for public inspection and copying in the department offices during regular business hours under IC 5-14-3.

(b) Upon showing satisfactory to the commissioner by any person that all or any part of the records, reports, permits, permit applications, documentation, or information other than effluent or emission data, would, if made public, divulge methods or processes entitled to protection as trade secrets of the person, the commissioner shall consider, treat, and protect all or part of the trade secret records, reports, or information as confidential.

As added by P.L.1-1996, SEC.4.

IC 13-14-11-2

Waiver of fees

Sec. 2. The department and boards may reduce or waive fees otherwise required by IC 5-14-3-8 for the copying of public records if the department or board having authority over the records determines that the fee reduction or waiver is in the public interest.

As added by P.L.1-1996, SEC.4.

IC 13-14-11-3

Records permissively excepted from disclosure

Sec. 3. (a) A person required by the department or a board to submit a record that in the person's opinion constitutes a record that is:

(1) confidential under IC 5-14-3-4(a); or

(2) permissively excepted under IC 5-14-3-4(b);

may so certify and request that the record be made available only for the use of the department or the boards.

(b) The department shall consider a request made under subsection (a). If the department finds that the record is excepted from disclosure under IC 5-14-3-4(a), the request shall be granted. If the department finds that the record is permissively excepted from disclosure under IC 5-14-3-4(b), the request may be granted.

(c) It is the duty of:

(1) the person providing the record to ask that any or all of the record be declared excepted from disclosure under IC 5-14-3-4; and

(2) the commissioner to decide whether the record will be made

public, subject to review as provided in IC 4-21.5-5.
As added by P.L.1-1996, SEC.4.

IC 13-14-11-4
Storage and security of files

Sec. 4. The department shall, subject to the approval of the board, develop written procedures for the separate storage and security of files containing records excepted from disclosure requirements under IC 5-14-3-4.
As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.91.

IC 13-14-11-5
Confidentiality agreements

Sec. 5. The board shall adopt rules requiring the execution of a confidentiality agreement with persons employed, contracted, or subcontracted by the department that is enforceable by:

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

As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.92.

IC 13-14-11-6
Disclosure to other officers, employees, or authorized representatives

Sec. 6. All records, reports, or information accorded confidential treatment under this chapter may be disclosed or transmitted to other officers, employees, or authorized representatives of the state or of the United States:

(1) concerned with carrying out or implementing this title; or
(2) when relevant in any proceeding related to enforcement.

As added by P.L.1-1996, SEC.4.

IC 13-14-12

Chapter 12. Environmental Management Special Fund

IC 13-14-12-1

Sources of money for the fund; commissioner may redirect penalty revenue

Sec. 1. (a) The officials collecting the following shall remit the money to the treasurer of state:

(1) Money collected under the following:

(A) IC 13-30-4-1.

(B) IC 13-30-4-2.

(C) IC 13-30-5-1.

(2) Fees collected under IC 13-16-1-2 through IC 13-16-1-5.

(b) Except as provided in subsection (c), the treasurer of state shall credit the money to the environmental management special fund.

(c) With respect to the money collected under subsection (a)(1)(A) and (a)(1)(B):

(1) the commissioner may direct the treasurer of state to credit all or a part of the money to the solid waste management fund established by IC 13-20-22-2; and

(2) the treasurer of state shall:

(A) credit money as directed by the commissioner under subdivision (1); and

(B) credit to the environmental management special fund only money that is not credited under subdivision (1).

As added by P.L.1-1996, SEC.4. Amended by P.L.143-2000, SEC.2; P.L.170-2006, SEC.14.

IC 13-14-12-2

Use of money

Sec. 2. The money on deposit in the environmental management special fund shall be used exclusively for the purposes of the department and the board. The revenues accruing to the fund are appropriated to the department for purposes of this title. However, expenditures for projects authorized by the department or the board must be approved by the governor and the budget agency.

As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.93.

IC 13-14-12-3

Emergencies

Sec. 3. The budget agency shall, with the governor's approval, set aside a certain amount of the fund to be expended for emergency purposes under IC 13-14-10-3 by the commissioner without additional approval from the budget agency or the governor.

As added by P.L.1-1996, SEC.4.

IC 13-14-12-4

Auditor's report

Sec. 4. (a) The auditor of state shall issue a report on the fund not later than ten (10) working days following the last day of each four

(4) month period.

(b) The report must:

(1) include the beginning and ending balance, disbursements, and receipts, including accrued interest or other investment earnings of the fund;

(2) comply with accounting standards under IC 4-13-2-7(a)(1); and

(3) be available to the public.

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

(1) The commissioner.

(2) The standing committees of the house of representatives and the senate concerned with the environment.

(3) The board.

As added by P.L.1-1996, SEC.4. Amended by P.L.133-2012, SEC.94.

IC 13-14-13

Chapter 13. Electronic Applications and Reports

IC 13-14-13-1

Applicability

Sec. 1. This chapter applies to the use of an electronic submission for any of the following:

(1) Satisfaction of a state or federal requirement for reporting to the department.

(2) Satisfaction of the requirements for an application to the department.

(3) Submission to the department of any other substitute for a paper document.

As added by P.L.114-2008, SEC.8.

IC 13-14-13-2

Requirements for electronic submissions to the department

Sec. 2. The department may accept the electronic submission of information only if the submission meets the following:

(1) Requirements of cross-media electronic reporting under 40 CFR 3.

(2) Procedures established by the department to accept electronic information.

As added by P.L.114-2008, SEC.8. Amended by P.L.159-2011, SEC.17.

IC 13-14-13-3

Electronic submissions not required

Sec. 3. The department may not require a person to make electronic submissions under this chapter.

As added by P.L.114-2008, SEC.8.

IC 13-14-13-4

Department adoption of procedures for electronic signatures on electronic documents

Sec. 4. (a) The department may adopt procedures that are consistent with federal law for compliance with this chapter to allow an applicant to submit an electronic document bearing the valid electronic signature of a signatory if that signatory would otherwise be required to sign the paper document for which the electronic document substitutes.

(b) The procedures adopted under subsection (a) may provide for electronic signature standards that are consistent with 40 CFR 3.

As added by P.L.114-2008, SEC.8. Amended by P.L.159-2011, SEC.18.

IC 13-14-13-5

Electronic signature requirements; repudiation of electronic signature not permitted

Sec. 5. Information submitted in an acceptable electronic

document under a procedure adopted under section 4 of this chapter must have a signature uniquely assigned. The receiving system for the document must be able to attribute the signature to a specific individual. If an electronic document is submitted under an assigned signature, the signatory may not repudiate responsibility for the signature.
As added by P.L.114-2008, SEC.8.

IC 13-14-13-6
Civil, criminal, and other penalties

Sec. 6. A person is subject to applicable state or federal civil, criminal, or other penalties and remedies for failure to comply with a reporting requirement if the person submits an electronic document that:

(1) is in place of a paper document under this chapter; and
(2) fails to comply with the following:
(A) Requirements of cross-media electronic reporting under 40 CFR 3.
(B) Procedures established by the department to accept electronic information.

As added by P.L.114-2008, SEC.8. Amended by P.L.159-2011, SEC.19.

IC 13-14-13-7
Criminal penalties applicable to information provided in both electronic and other forms

Sec. 7. A person submitting information using an assigned signature is liable under IC 13-30-10 for the information provided and subject to penalties under that chapter, regardless of whether the information submitted is in electronic form or other form.
As added by P.L.114-2008, SEC.8.

IC 13-15

ARTICLE 15. PERMITS GENERALLY

IC 13-15-1

Chapter 1. Types of Permits

IC 13-15-1-1

Air pollution, noise, and atomic radiation

Sec. 1. The board shall establish requirements for the issuance of permits to control air pollution, noise, and atomic radiation, including the following:

(1) Permits to control or limit the emission of any contaminants into the atmosphere.

(2) Permits for the construction, installation, or modification of facilities, equipment, or devices to control or limit any discharge, emission, or disposal of contaminants into the air.

(3) Permits for the operation of facilities, equipment, or devices to control or limit the discharge, emission, or disposal of any contaminants into the environment.

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.95.

IC 13-15-1-2

Water pollution and atomic radiation

Sec. 2. The board shall establish requirements for the issuance of permits to control water pollution and atomic radiation, including the following:

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

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

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

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

As added by P.L.1-1996, SEC.5. Amended by P.L.123-1996, SEC.11; P.L.133-2012, SEC.96.

IC 13-15-1-3

Solid waste, hazardous waste, and atomic radiation

Sec. 3. The board shall establish requirements for the issuance of permits to control solid waste, hazardous waste, and atomic radiation, including the following:

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

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

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

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

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

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

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

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.97.

IC 13-15-2

Chapter 2. Rules for Issuance of Permits

IC 13-15-2-1

Duty of board to adopt rules

Sec. 1. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-9 to establish requirements and procedures for the issuance of permits.

(b) In rules for the issuance of permits, the board may do the following:

(1) Prescribe standards for the discharge, emission, or disposal of contaminants and the operation of any facility, equipment, or device.

(2) Impose the conditions that are considered necessary to accomplish the purposes of this title.

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.98.

IC 13-15-2-2

Allowable uses; content; criteria; priority applications; consistency with federal law

Sec. 2. (a) The board may adopt rules under IC 4-22-2 and IC 13-14-9 to allow the department to issue permits that do the following:

(1) Provide incentives to owners and operators of facilities to assess the pollution emitted by the facilities into all environmental media.

(2) Provide incentives to owners and operators of facilities to implement the most innovative and effective pollution control or pollution prevention strategies while maintaining enforceable performance goals.

(3) Provide incentives to owners and operators of facilities to reduce pollution levels at the facilities below the levels required by law.

(4) Consolidate environmental requirements into one (1) permit that would otherwise be included in more than one (1) permit.

(5) Reduce the time and money spent by owners and operators of facilities and the department on administrative tasks that do not benefit the environment.

(6) Provide owners and operators of facilities with as much operational flexibility as can reasonably be provided while being consistent with enforcement of permit requirements.

(b) The rules adopted under this section may provide for permits that contain the following:

(1) Authorization of emission trading.

(2) Consolidated reporting mechanisms.

(3) Third party certifications.

(4) Multimedia regulation.

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

(c) The rules adopted under this section must provide that a permit issued under the rules adopted under this section meets the following

criteria:

(1) Activities conducted under the permit must result in greater overall environmental protection than would otherwise be achieved under applicable law.

(2) Upon issuance of a permit, all limits, conditions, and standards contained in the permit are enforceable under IC 13-30-3.

(3) The permit applicant must give notice in accordance with IC 13-15-8, and the commissioner shall give notice to the public and provide an opportunity to comment on the proposed permit in accordance with IC 13-15-5.

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

(1) the degree of environmental benefit that may be obtained under the permit;

(2) the potential application of any innovative control technologies or regulatory procedures that may be made available to other permit applicants and permit holders; and

(3) other criteria that the board may establish.

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

As added by P.L.128-1996, SEC.2. Amended by P.L.133-2012, SEC.99.

IC 13-15-3

Chapter 3. Procedure for Issuance of Permits

IC 13-15-3-1

Notice of permit applications received

Sec. 1. (a) Whenever the department receives a permit application, the department shall send notice that the permit application has been received by the department to the following:

(1) The county executive of a county that is affected by the permit application.

(2) The executive of a city that is affected by the permit application.

(3) The executive of a town council of a town that is affected by the permit application.

(b) The department may require a person who submits a permit application to the department to provide information on the application necessary for the department to implement subsection (a).

As added by P.L.1-1996, SEC.5.

IC 13-15-3-1.3

Military base permits

Sec. 1.3. The department shall give priority to permit applications that concern:

(1) military bases; and

(2) the destruction, reclamation, recycling, reprocessing, or demilitarization of ordnance and other explosive materials.

As added by P.L.5-2005, SEC.3.

IC 13-15-3-2

Length of time permit may be issued; renewal

Sec. 2. (a) A permit issued under:

(1) this article (except IC 13-15-9);

(2) IC 13-17-11;

(3) IC 13-18-18; or

(4) IC 13-20-1;

may be issued for any period determined by the department to be appropriate but not to exceed five (5) years.

(b) Except as provided in federal law, a valid permit that has been issued under this chapter that concerns an activity of a continuing nature may be renewed for a period of not more than ten (10) years as determined by the department. The board shall adopt rules implementing this subsection.

(c) The commissioner may delegate authority to issue or deny permits to a designated staff member.

As added by P.L.1-1996, SEC.5. Amended by P.L.123-1996, SEC.12; P.L.128-1996, SEC.1.

IC 13-15-3-3

Hearings

Sec. 3. (a) A public hearing shall be held on the question of:

(1) the issuance of an original or renewal permit for a hazardous waste disposal facility under IC 13-22-3; or

(2) the issuance of an original permit for a solid waste disposal facility or a solid waste incinerator regulated under IC 13-20-8;

as provided in subsection (b).

(b) A public hearing shall be held under subsection (a) upon:

(1) the request of the applicant;

(2) the filing of a petition requesting a public hearing that is signed by one hundred (100) adult individuals who:

(A) reside in the county where the proposed or existing facility is or is to be located; or

(B) own real property within one (1) mile of the site of the proposed or existing facility; or

(3) the motion of the commissioner.

(c) The public hearing authorized by this section does not constitute an agency action under IC 4-21.5.

As added by P.L.1-1996, SEC.5.

IC 13-15-3-4

Location of hearings

Sec. 4. If the petition under section 3(b)(2) of this chapter requests that the public hearing be conducted at a location within a county affected by a proposed permit, the department shall conduct the public hearing at that location.

As added by P.L.1-1996, SEC.5.

IC 13-15-3-5

Department may issue certain permits only after staff action; local approval

Sec. 5. (a) Whenever a permit is required by any rule of the board under IC 13-15-1 for the construction, installation, operation, or modification of any facility, equipment, or device, the permit may be issued only after the department staff has:

(1) approved the plans and specifications; and

(2) determined that the facility, equipment, or device meets the requirement of the rule.

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

(1) county;

(2) city; or

(3) town;

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

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

As added by P.L.1-1996, SEC.5. Amended by P.L.78-2009, SEC.12; P.L.133-2012, SEC.100.

IC 13-15-3-6

Activity of continuing nature; expiration of existing permit; renewal of hazardous waste disposal facility permit

Sec. 6. (a) When a person holding a valid permit concerning an activity of a continuing nature has made a timely and sufficient application for a renewal or a new permit in accordance with rules of the board, the existing permit does not expire until a final determination on the application has been made by the department. However, the commissioner may seek injunctive relief with regard to the continuing activity of the permit applicant while the permit application is pending if the continuing activity of the permit applicant constitutes a threat to the public health, safety, or welfare.

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

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.101.

IC 13-15-4

Chapter 4. Schedules for Determinations on Permits

IC 13-15-4-1

Deadlines for acting on applications; renewals

Sec. 1. (a) Except as provided in sections 2, 3, and 6 of this chapter, the commissioner shall approve or deny an application filed with the department after July 1, 1995, within the following number of days:

(1) Three hundred sixty-five (365) days for an application concerning the following:

(A) A new hazardous waste or solid waste landfill.

(B) A new hazardous waste or solid waste incinerator.

(C) A major modification of a solid waste landfill.

(D) A major modification of a solid waste incinerator.

(E) A new hazardous waste treatment or storage facility.

(F) A new Part B permit issued under 40 CFR 270 et seq. for an existing hazardous waste treatment or storage facility.

(G) A Class 3 modification under 40 CFR 270.42 to a hazardous waste landfill.

(H) A new solid waste processing facility other than a transfer station.

(2) Except as provided in IC 13-18-3-2.1, two hundred seventy (270) days for an application concerning the following:

(A) A Class 3 modification under 40 CFR 270.42 of a hazardous waste treatment or storage facility.

(B) A major new National Pollutant Discharge Elimination System permit.

(C) A major modification to a solid waste processing facility other than a transfer station.

(3) Except as provided in IC 13-18-3-2.1, one hundred eighty (180) days for an application concerning the following:

(A) A new transfer station or a major modification to a transfer station.

(B) A minor new National Pollutant Discharge Elimination System individual permit.

(C) A permit concerning the land application of a material.

(D) A permit for marketing and distribution of a biosolid or an industrial waste product.

(4) Except as provided in IC 13-18-3-2.1, one hundred fifty (150) days for an application concerning a minor new National Pollutant Discharge Elimination System general permit.

(5) One hundred twenty (120) days for an application concerning a Class 2 modification under 40 CFR 270.42 to a hazardous waste facility.

(6) Ninety (90) days for an application concerning the following:

(A) A minor modification to a permit for the following:

(i) A solid waste landfill.

(ii) A solid waste processing facility.

(iii) An incinerator.

(B) A wastewater facility or water facility construction permit.

(7) The amount of time provided for in rules adopted by the board for an application concerning the following:

(A) An air pollution construction permit that is subject to 326 IAC 2-2 and 326 IAC 2-3.

(B) An air pollution facility construction permit (other than as defined in 326 IAC 2-2).

(C) Registration of an air pollution facility.

(8) Sixty (60) days for an application concerning the following:

(A) A Class 1 modification under 40 CFR 270.42 requiring prior written approval, to a hazardous waste:

(i) landfill;

(ii) incinerator;

(iii) treatment facility; or

(iv) storage facility.

(B) Any other permit not specifically described in this section for which the application fee exceeds forty-nine dollars ($49) and for which a time frame has not been established under section 3 of this chapter.

(b) When a person holding a valid permit concerning an activity of a continuing nature has made a timely and sufficient application for a renewal permit under the rules of one (1) of the boards, the commissioner shall approve or deny the application on or before the expiration date stated in the permit for which renewal is sought.

As added by P.L.1-1996, SEC.5. Amended by P.L.224-1999, SEC.4; P.L.138-2000, SEC.5; P.L.240-2003, SEC.9; P.L.78-2009, SEC.13; P.L.159-2011, SEC.20; P.L.223-2011, SEC.1; P.L.113-2014, SEC.64.

IC 13-15-4-2

Public hearing; period for ruling on applications

Sec. 2. (a) This section does not apply to permit applications described in section 1(a)(1) or 1(a)(2) of this chapter.

(b) If the department determines that a public hearing should be held under:

(1) IC 13-15-3-3; or

(2) any other applicable rule or law;

the commissioner has thirty (30) days in addition to the number of days provided for in section 1 of this chapter in which to approve or deny the application.

As added by P.L.1-1996, SEC.5. Amended by P.L.1-2007, SEC.127.

IC 13-15-4-3

Period for ruling on applications; changes

Sec. 3. (a) A board may adopt a rule under IC 4-22-2 that changes a period described under section 1 of this chapter within which the commissioner must approve or deny an application:

(1) if:

(A) the general assembly enacts a statute;
(B) a board adopts a rule; or
(C) the federal government enacts a statute or adopts a regulation;

that imposes a new requirement concerning a class of applications that makes it infeasible for the commissioner to approve or deny the application within the period;

(2) if:
(A) the general assembly enacts a statute;
(B) a board adopts a rule; or
(C) the federal government enacts a statute or adopts a regulation;

that establishes a new permit program for which a period is not described under section 1 of this chapter; or

(3) if some other significant factor concerning a class of applications makes it infeasible for the commissioner to approve or deny the application within the period.

(b) A board may adopt a rule described in subsection (a) as an emergency rule under IC 4-22-2-37.1, if:

(1) the variance procedures are included in the rule; and
(2) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

If a board adopts an emergency rule under this subsection, the period described in section 1 of this chapter is suspended during the emergency rulemaking process. An emergency rule adopted under this subsection may be extended for two (2) extension periods by adopting another emergency rule under IC 4-22-2-37.1. IC 4-22-2-37.1(g)(3) does not apply to an emergency rule adopted under this subsection.

As added by P.L.1-1996, SEC.5. Amended by P.L.140-2013, SEC.14.

IC 13-15-4-4
Review of permit renewal

Sec. 4. An application for a permit renewal that includes a modification shall be reviewed within the period applicable to the modification.

As added by P.L.1-1996, SEC.5.

IC 13-15-4-5
Effect on hazardous waste permit modification rules

Sec. 5. Sections 1 through 4 and section 6 of this chapter do not alter the procedures and time frames set forth in the hazardous waste permit modification rules adopted by the department, except to the extent that sections 1 through 4 and 6 of this chapter establish specific calendar day time frames where no time frame exists under the rules.

As added by P.L.1-1996, SEC.5.

IC 13-15-4-6
Interim permits

Sec. 6. (a) Notwithstanding the periods specified in sections 1 through 4 of this chapter and this section, a person proposing to construct, modify, or operate any equipment, facility, or pollution control device that is demonstrated to achieve pollution control or pollution prevention in excess of applicable federal, state, or local requirements may apply to the commissioner for an interim permit to construct, modify, or operate the equipment, facility, or pollution control device.

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

(c) This section does not relieve a person from complying with:

(1) the permit requirements provided under this title; and

(2) rules adopted under this title;

to the extent that this title and the rules are not inconsistent with this section.

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.102.

IC 13-15-4-7

Calculation of periods

Sec. 7. (a) For purposes of calculating a period under sections 1 through 6 of this chapter, the period:

(1) begins on the earlier of the date:

(A) an application and any required fee is received and stamped received by the department; or

(B) marked by the department on a certified mail return receipt accompanying an application and any required fee; and

(2) ends on the date a decision is issued to approve or deny the application under IC 4-21.5-3-4 or IC 4-21.5-3-5.

(b) If an applicant pays an application fee with a check that is not covered with sufficient funds, a period described under sections 1 through 6 of this chapter is suspended until the applicant pays the permit application fee.

As added by P.L.1-1996, SEC.5.

IC 13-15-4-8

Extension of periods

Sec. 8. (a) The commissioner and an applicant may agree in writing to extend any time allowed under sections 1 through 6 of this chapter for a decision to be made on an application.

(b) The commissioner and an applicant may agree in writing to have a consultant review an application submitted to the department:

(1) to expedite the process of reviewing the application; and

(2) at the applicant's expense.

As added by P.L.1-1996, SEC.5.

IC 13-15-4-9

Denial of applications

Sec. 9. The commissioner may deny a permit application because the application is incomplete if:

(1) the department, not later than thirty-five (35) working days after receiving the application, identifies each part of the application that is incomplete; and

(2) the applicant has failed to submit or make a good faith effort to submit the requested information not later than sixty (60) days after receiving a written request from the department.

As added by P.L.1-1996, SEC.5.

IC 13-15-4-10

Suspension of processing of applications

Sec. 10. The commissioner may suspend the processing of an application, and the period described under sections 1 through 6 of this chapter is suspended, if one (1) of the following occurs:

(1) The department determines that the application is incomplete and has mailed a notice of deficiency to the applicant that specifies the parts of the application that:

(A) do not contain adequate information for the department to process the application; or

(B) are not consistent with applicable law.

The period described under sections 1 through 6 of this chapter shall be suspended during the first two (2) notices of deficiency sent to an applicant under this subdivision. If more than two (2) notices of deficiency are issued on an application, the period may not be suspended unless the applicant agrees in writing to defer processing of the application pending the applicant's response to the notice of deficiency. A notice of deficiency may include a request for the applicant to conduct tests or sampling to provide information necessary for the department to process the application. If an applicant's response does not contain complete information to satisfy all deficiencies described in a notice of deficiency, the department shall notify the applicant not later than thirty (30) working days after receiving the response. The commissioner shall resume processing the application, and the period described under sections 1 through 6 of this chapter resumes on the earlier of the date the department receives and stamps as received the applicant's complete information or the date marked by the department on a certified mail return receipt accompanying the applicant's complete information.

(2) The commissioner receives a written request from an applicant to:

(A) withdraw; or

(B) defer processing of;

the application for the purposes of resolving an issue related to a permit or to provide additional information concerning the application.

(3) The department is required by federal law or by an

agreement with the United States Environmental Protection Agency for a federal permit program to transmit a copy of the proposed permit to the administrator of the United States Environmental Protection Agency for review and possible objections before the permit may be issued. The period described under sections 1 through 6 of this chapter shall be suspended from the time the department submits the proposed permit to the administrator for review until:

(A) the department receives the administrator's concurrence or objection to the issuance of the proposed permit; or

(B) the period established in federal law by which the administrator is required to make objections expires without the administrator having filed an objection.

(4) A board initiates emergency rulemaking under section 3(b) of this chapter to revise the period described under sections 1 through 6 of this chapter.

As added by P.L.1-1996, SEC.5. Amended by P.L.235-2005, SEC.130; P.L.140-2013, SEC.15.

IC 13-15-4-11

Applicant's alternatives when operating pending permit application or pending commissioner's ruling on application

Sec. 11. (a) If an applicant is operating pursuant to a continuation of an existing permit pending determination of an application for a new or renewed permit under IC 13-15-3-6, the applicant may proceed under this section after notifying the commissioner in writing of its intent to do so.

(b) If the commissioner does not issue or deny a permit within the time specified under sections 1 through 6 of this chapter, the applicant may proceed under this section. After reaching an agreement with the commissioner or after consulting with the commissioner for thirty (30) days and failing to reach an agreement, the applicant may choose to proceed under one (1) of the following alternatives:

(1) The:

(A) applicant may, except as provided in section 12.1 of this chapter, request and receive a refund of a permit application fee paid by the applicant; and

(B) commissioner shall do the following:

(i) Continue to review the application.

(ii) Approve or deny the application as soon as practicable.

(iii) Except as provided in section 12.1 of this chapter, refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(2) The:

(A) applicant may:

(i) except as provided in section 12.1 of this chapter, request and receive a refund of a permit application fee paid by the applicant; and

(ii) submit to the department a draft permit and any required supporting technical justification for the permit; and

(B) commissioner shall do the following:

(i) Review the draft permit.

(ii) Approve, with or without revision, or deny the draft permit in accordance with section 16 of this chapter.

(iii) Except as provided in section 12.1 of this chapter, refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(3) The:

(A) applicant may hire an outside consultant to prepare a draft permit and any required supporting technical justification for the permit; and

(B) commissioner shall:

(i) review the draft permit; and

(ii) approve, with or without revision, or deny the draft permit in accordance with section 16 of this chapter.

As added by P.L.1-1996, SEC.5. Amended by P.L.184-2002, SEC.6; P.L.240-2003, SEC.10.

IC 13-15-4-12
Repealed

(Repealed by P.L.184-2002, SEC.30.)

IC 13-15-4-12.1
Applicant not entitled to refund of application fee for permit renewal

Sec. 12.1. An applicant may not receive a refund of a permit application fee if the permit application concerned the renewal of a permit.

As added by P.L.240-2003, SEC.11.

IC 13-15-4-13
Repealed

(Repealed by P.L.184-2002, SEC.30.)

IC 13-15-4-14
Effect of commencement of construction or operation of equipment or facility

Sec. 14. Except for applicants proceeding under section 11(a) of this chapter, an applicant may not proceed under any of the options described in section 11(b) of this chapter if construction or operation of the equipment or facility described in the permit application has already begun, unless construction or operation before obtaining the permit is authorized by a board rule or state statute.

As added by P.L.1-1996, SEC.5. Amended by P.L.184-2002, SEC.7.

IC 13-15-4-15

Consultants

Sec. 15. (a) If an applicant chooses to proceed under section 11(b)(3) of this chapter, the department and the applicant shall jointly:

(1) select a consultant that has the appropriate background to review the applicant's application; and

(2) authorize the consultant to begin work;

not later than fifteen (15) working days after the department receives notice that the applicant has chosen to proceed under section 11(b)(3) of this chapter.

(b) The commissioner may:

(1) consult with the applicant regarding the advisability of proceeding under this section; and

(2) document the communications.

As added by P.L.1-1996, SEC.5. Amended by P.L.184-2002, SEC.8.

IC 13-15-4-16

Draft permits

Sec. 16. (a) If an applicant chooses to proceed under section 11(b)(2) or 11(b)(3) of this chapter, the applicant or a consultant shall prepare and submit to the commissioner the draft permit and any required supporting technical justification for the permit not later than thirty-five (35) working days after:

(1) the applicant has notified the commissioner that the applicant has chosen to proceed under section 11(b)(2) of this chapter; or

(2) the department and the applicant have authorized a consultant to begin work under section 11(b)(3) of this chapter.

(b) Subject to subsection (c), the commissioner shall:

(1) approve, with or without revision; or

(2) deny;

the draft permit not later than twenty-five (25) working days after receiving the draft permit.

(c) If notice of opportunity for public comment or public hearing is required under applicable law before a permit decision can be issued, the commissioner shall comply with all public participation requirements and:

(1) approve, with or without revision; or

(2) deny;

the draft permit not later than fifty-five (55) working days after receipt of the draft permit.

(d) If the commissioner denies the draft permit, the commissioner shall specify the reasons for the denial.

(e) If an applicant has elected to have a draft permit prepared under section 11(b)(3) of this chapter and:

(1) the consultant fails to submit a draft permit and supporting technical justification to the commissioner; or

(2) the commissioner fails to approve or deny the draft permit;

within the applicable time specified under subsection (a), (b), or (c), the department shall refund the applicant's permit application fee not

later than twenty-five (25) working days after expiration of the applicable period.

(f) The commissioner and the applicant may mutually agree to extend the deadlines in this section.

As added by P.L.1-1996, SEC.5. Amended by P.L.184-2002, SEC.9.

IC 13-15-4-17

Notice of applicant's alternatives before expiration of period

Sec. 17. (a) Any time before a period specified under sections 1 through 6 of this chapter has expired, the commissioner may do the following:

(1) Notify an applicant that the commissioner does not believe that the commissioner will be able to approve or deny a permit application filed with the department before the time specified in sections 1 through 6 of this chapter expires.

(2) Offer to the applicant and allow the applicant to accept one (1) of the following options:

(A) The applicant may submit to the department a draft permit and any legally required supporting technical justification within a period agreed to by the applicant and the commissioner.

(B) The department may hire a qualified consultant at the applicant's cost to:

(i) complete the review of the application; and

(ii) prepare a draft permit and any legally required supporting technical justification.

(b) If the applicant submits a draft permit and supporting documentation on time under subsection (a)(2)(A) or elects to fund the hiring of a consultant under subsection (a)(2)(B), the commissioner shall issue or deny the permit within the period specified under sections 1 through 6 of this chapter. If the commissioner does not make a decision within the period specified:

(1) the department shall refund to the applicant:

(A) the permit application fee paid by the applicant; and

(B) any consultant's fees paid by the applicant;

(2) if a consultant has been hired by the department and has not submitted a draft permit to the department, the consultant shall submit the draft permit and any required supporting technical justification to the department not later than fifteen (15) working days after the expiration of the period specified in sections 1 through 6 of this chapter; and

(3) the commissioner shall approve, with or without revision, or deny the draft permit submitted by the applicant or a consultant within the period specified under section 16(b) or 16(c) of this chapter.

As added by P.L.1-1996, SEC.5.

IC 13-15-4-18

Remedies not exclusive

Sec. 18. The remedies provided in this chapter are not the

exclusive remedies available to a permit applicant. A permit applicant's election of a remedy under this chapter does not preclude the permit applicant from seeking other remedies available at law or in equity.
As added by P.L.1-1996, SEC.5.

IC 13-15-4-19
Report

Sec. 19. Before July 15 of each year, the commissioner shall provide to the interim study committee on environmental affairs established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6 a list, current through July 1 of the year, of National Pollutant Discharge Elimination System (NPDES) permits that have been administratively extended that includes for each permit:

(1) the number of months that the permit has been administratively extended;

(2) the number of months that the department has extended a period under section 8 of this chapter or suspended processing of a permit application under section 10 of this chapter;

(3) the type of permit according to the types identified in IC 13-18-20-2 through IC 13-18-20-11; and

(4) the dates when public notice of a draft permit was given.

As added by P.L.184-2002, SEC.10. Amended by P.L.53-2014, SEC.120.

IC 13-15-5

Chapter 5. Comments on Permit Issuance or Denial

IC 13-15-5-1

Notice requesting comments; period for comments; hearings

Sec. 1. (a) In response to an application for an original permit or a renewal permit, the commissioner:

(1) shall, if required by IC 13-15-3-3 or other law; or

(2) may, if not required by law;

publish a notice requesting comments concerning the question of issuance or denial of the permit.

(b) If the application is for an operating permit under 42 U.S.C. 7661 through 7661f, the commissioner shall give notice to all states that are:

(1) contiguous to Indiana; or

(2) located not more than fifty (50) miles from a source that is a subject of the permit application.

(c) A comment period of at least thirty (30) days must follow publication of a notice under this section. During the comment period, interested persons may:

(1) submit written comments to the commissioner concerning the issuance or denial of the permit; and

(2) request a public hearing concerning the issuance or denial of the permit.

(d) The commissioner, in response to a written request, may hold a public hearing in the geographical area affected by the proposed permit on the question whether to issue or deny the permit.

As added by P.L.1-1996, SEC.5.

IC 13-15-5-2

Written objection by the Environmental Protection Agency

Sec. 2. The commissioner may not issue a permit under the operating permit program under 42 U.S.C. 7661 through 7661f if the United States Environmental Protection Agency makes a written objection within the time allowed under applicable federal law.

As added by P.L.1-1996, SEC.5.

IC 13-15-5-3

Issuance or denial of permit; notice of action

Sec. 3. (a) Except as provided in section 2 of this chapter:

(1) after the comment period; or

(2) if a public hearing is held, after the public hearing;

the commissioner shall issue the permit or deny the permit application.

(b) Unless the commissioner states otherwise in writing, the commissioner's action under this section is effective immediately.

(c) Notice of the commissioner's action shall be served upon the following:

(1) The permit applicant.

(2) Each person who submitted written comments under section

1 of this chapter.

(3) Each person who requests notice of the permit determination.

(4) The Administrator of the United States Environmental Protection Agency if service is required under the applicable federal law.

(d) If the commissioner's action is likely to have a significant impact upon persons who are not readily identifiable, the commissioner may publish notice of the action on the permit application in a newspaper of general circulation in the county affected by the proposed permit.

As added by P.L.1-1996, SEC.5.

IC 13-15-6

Chapter 6. Appeal of Agency Determination to Issue or Deny Permit

IC 13-15-6-1

Objections; request for adjudicatory hearing

Sec. 1. (a) Not later than fifteen (15) days after being served the notice provided by the commissioner under IC 13-15-5-3:

(1) the permit applicant; or

(2) any other person aggrieved by the commissioner's action;

may appeal the commissioner's action to the office of environmental adjudication and request that an environmental law judge hold an adjudicatory hearing concerning the action under IC 4-21.5-3 and IC 4-21.5-7.

(b) Notwithstanding subsection (a) and IC 4-21.5-3-7(a)(3), a person may file an appeal of the commissioner's action in issuing an initial permit under the operating permit program under 42 U.S.C. 7661 through 7661f not later than thirty (30) days after the date the person received the notice provided under IC 13-15-5-3, for a permit issued after April 30, 1999.

As added by P.L.1-1996, SEC.5. Amended by P.L.25-1997, SEC.5; P.L.90-1998, SEC.13; P.L.224-1999, SEC.5.

IC 13-15-6-2

Contents of request

Sec. 2. A written request for an adjudicatory hearing under section 1 of this chapter must do the following:

(1) State the name and address of the person making the request.

(2) Identify the interest of the person making the request.

(3) Identify any persons represented by the person making the request.

(4) State with particularity the reasons for the request.

(5) State with particularity the issues proposed for consideration at the hearing.

(6) Identify the permit terms and conditions that, in the judgment of the person making the request, would be appropriate in the case in question to satisfy the requirements of the law governing permits of the type granted or denied by the commissioner's action.

As added by P.L.1-1996, SEC.5.

IC 13-15-6-3

Hearings

Sec. 3. (a) Not later than thirty (30) days after being served a request for an adjudicatory hearing, an environmental law judge under IC 4-21.5-7 shall, if the environmental law judge determines that:

(1) the request was properly submitted; and

(2) the request establishes a jurisdictional basis for a hearing;

assign the matter for a hearing.

(b) Upon assigning the matter for a hearing, an environmental law judge may stay the force and effect of the following:

(1) A contested permit provision.

(2) A permit term or condition the environmental law judge considers inseverable from a contested permit provision.

(c) After a final hearing under this section, a final order of an environmental law judge on a permit application is subject to review under IC 4-21.5-5.

As added by P.L.1-1996, SEC.5. Amended by P.L.25-1997, SEC.6; P.L.90-1998, SEC.14.

IC 13-15-6-4

Final agency action

Sec. 4. (a) This section applies to an application for a permit or for the renewal of a permit under the operating permit program under 42 U.S.C. 7661 through 7661f.

(b) Failure of the commissioner to act on an application in accordance with the times provided in Section 503 of the federal Clean Air Act Amendments of 1990 (42 U.S.C. 7661b) or Title IV of the federal Clean Air Act Amendments of 1990 (42 U.S.C. 7651 to 7651o) shall be treated as a final agency action solely for the purposes of obtaining judicial review in state court of an action brought by:

(1) any person that participated in the public comment process; or

(2) any person entitled to judicial review of the final agency action under IC 4-21.5-5;

to require that an action be taken by the commissioner on the permit application without additional delay.

As added by P.L.1-1996, SEC.5.

IC 13-15-6-5

Judicial review

Sec. 5. (a) This section applies to an application for a permit or for the renewal of a permit under the operating permit program under 42 U.S.C. 7661 through 7661f.

(b) Notwithstanding IC 4-21.5-5-5, a person may file a petition for judicial review of final agency action on an application for a permit, a permit renewal, or a permit revision more than thirty (30) days after the person is served notice of the final agency action if the following conditions exist:

(1) The petition is based on new grounds that arise more than thirty (30) days after the person is served the notice.

(2) The petition is filed not more than thirty (30) days after the new grounds arise.

(3) The new grounds:

(A) are based on new information that was not available during the review period; and

(B) could not by due diligence have been discovered and produced within the time required for the proceedings under

this section.

As added by P.L.1-1996, SEC.5. Amended by P.L.90-1998, SEC.15.

IC 13-15-6-6

Applicability of judicial review to revision or modification of permit

Sec. 6. The board may adopt rules under IC 4-22-2 to provide that the opportunity for judicial review allowed under section 4 or 5 of this chapter applies to the revision or modification of a permit or license under the operating permit program under 42 U.S.C. 7661 through 7661f.

As added by P.L.1-1996, SEC.5. Amended by P.L.113-2014, SEC.65.

IC 13-15-6-7

Computation of time

Sec. 7. (a) In computing a period of time under this chapter, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the computed period is to be included unless it is a:

(1) Saturday;

(2) Sunday;

(3) legal holiday under a state statute; or

(4) day that the office in which the act is to be done is closed during regular business hours.

(b) A period runs until the end of the next day after a day described in subsections (a)(1) through (a)(4).

(c) A period of time under this chapter that commences when a person is served with a paper commences with respect to a particular person on the earlier of the date that:

(1) the person is personally served with the notice; or

(2) a notice for the person is deposited in the United States mail.

(d) If a notice is served through the United States mail, three (3) days must be added to a period that commences upon service of that notice.

As added by P.L.90-1998, SEC.16.

IC 13-15-7

Chapter 7. Revocation or Modification of Permits; Appeal of Revocation or Modification

IC 13-15-7-1

Criteria for revocation or modification of permit

Sec. 1. Except as provided in sections 2 and 4 of this chapter, the commissioner or a designated staff member may revoke or modify a permit granted by the department under environmental management laws or IC 13-7 (before its repeal) for any of the following causes:

(1) Violation of any condition of the permit.

(2) Failure to disclose all of the relevant facts.

(3) Any misrepresentation made in obtaining the permit.

(4) Changes in circumstances relating to the permit that require either a temporary or permanent reduction in the discharge of contaminants.

(5) Any other change, situation, or activity relating to the use of a permit that, in the judgment of the department, is not consistent with the following:

(A) The purposes of this title.

(B) Rules adopted by the board or one (1) of the former boards abolished by IC 13-13-8-2.

As added by P.L.1-1996, SEC.5. Amended by P.L.224-1999, SEC.6; P.L.14-2000, SEC.36; P.L.113-2014, SEC.66.

IC 13-15-7-2

Criteria for revision of operating permit

Sec. 2. The commissioner shall reopen and revise a permit issued under the operating permit program of 42 U.S.C. 7661 through 7661f before the expiration of the permit when any of the following conditions exist:

(1) Additional federal requirements become applicable to a source whose permit allows at least three (3) more years of continued operation. However, a permit does not have to be revised if the additional requirements will not become effective until after the date the permit expires. A permit revision to address additional requirements must be completed by the commissioner not more than eighteen (18) months after the adoption of the additional requirements.

(2) Additional requirements become applicable to the permitted source under the acid rain program. Upon approval by the United States Environmental Protection Agency, an excess offset emissions plan is considered to be incorporated into the permit.

(3) The commissioner or the United States Environmental Protection Agency determines that:

(A) the permit contains a material mistake; or

(B) inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

(4) The commissioner or the Administrator of the United States Environmental Protection Agency determines that the permit must be revised or revoked to assure compliance with the applicable federal requirements (as defined in 40 CFR 70.2).

As added by P.L.1-1996, SEC.5.

IC 13-15-7-3

Objections and appeal

Sec. 3. A person aggrieved by the revocation or modification of a permit may appeal the revocation or modification to the office of environmental adjudication for an administrative review under IC 4-21.5-3. Pending the decision resulting from the hearing under IC 4-21.5-3 concerning the permit revocation or modification, the permit remains in force. However, the commissioner may seek injunctive relief with regard to the activity described in the permit while the decision resulting from the hearing is pending.

As added by P.L.1-1996, SEC.5. Amended by P.L.25-1997, SEC.7.

IC 13-15-7-4

Changes not requiring permit revision

Sec. 4. (a) This section applies to a facility that:

(1) has been issued an operating permit by the board; or

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

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

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

(2) The changes do not exceed emissions:

(A) expressed as a rate of emissions; or

(B) expressed as total emissions;

allowable under the permit.

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

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.103.

IC 13-15-8

Chapter 8. Notice by Applicants for Permits for Undeveloped Land and Property Without a Permit

IC 13-15-8-1

Applicability of chapter

Sec. 1. (a) This chapter applies to an application for a permit issued under IC 13-15-1 upon property:

(1) that is undeveloped; or

(2) for which a valid existing permit has not been issued.

(b) This chapter does not apply to an application for a permit issued under IC 13-15-1 if the permit is for the construction, installation, or modification of any of the following:

(1) A combined sewer.

(2) A sanitary sewer.

(3) A storm sewer.

(4) A public water system.

(5) A water main extension.

As added by P.L.1-1996, SEC.5. Amended by P.L.184-2002, SEC.11.

IC 13-15-8-2

Period for notice

Sec. 2. Not more than ten (10) working days after submitting an application for a permit issued under IC 13-15-1 or IC 13-7-10.1-1 (before its repeal), the person that submitted the application for the permit shall make a reasonable effort to provide notice:

(1) to all owners of land that adjoins the land that is the subject of the permit application; or

(2) if the owner of land that adjoins the land that is the subject of the permit application does not occupy the land, to all occupants of the land;

that the person has submitted the application for the permit.

As added by P.L.1-1996, SEC.5.

IC 13-15-8-3

Contents of notice

Sec. 3. The notice provided by a person under section 2 of this chapter must:

(1) be in writing;

(2) include the date on which the application for the permit was submitted to the department; and

(3) include a brief description of the subject of the application.

As added by P.L.1-1996, SEC.5.

IC 13-15-8-4

Costs

Sec. 4. A person that submits an application for a permit under IC 13-15-1 shall pay the costs of complying with this chapter.

As added by P.L.1-1996, SEC.5.

IC 13-15-9

Chapter 9. Nuclear Facility Permits

IC 13-15-9-1

Construction of facility without permit prohibited

Sec. 1. A person may not:

(1) construct or operate a nuclear powered generating facility or nuclear fuel reprocessing plant; or

(2) increase the capacity of such an existing facility;

without a permit from the department.

As added by P.L.1-1996, SEC.5.

IC 13-15-9-2

Rules

Sec. 2. (a) The board may adopt rules under IC 4-22-2 and IC 13-14-9 establishing:

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

(2) requirements for the operation of nuclear facilities.

(b) Rules adopted by the board may relate to:

(1) air pollution from nuclear facilities;

(2) water pollution from nuclear facilities; or

(3) other environmental problems associated with nuclear facilities.

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.104.

IC 13-15-9-3

Environmental feasibility report

Sec. 3. A person proposing to construct:

(1) a nuclear powered generating facility; or

(2) a nuclear fuel reprocessing plant;

shall file with the board an environmental feasibility report, on a form prescribed by the board, concurrently with the filing of the preliminary safety analysis required to be filed with the United States Atomic Energy Commission.

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.105.

IC 13-15-9-4

Public hearing

Sec. 4. (a) The commissioner, on behalf of the board, may conduct a public hearing at a time and place to be determined by the department on the environmental effects of the proposed operation.

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

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.106.

IC 13-15-9-5

Rules and standards to protect against radiation

Sec. 5. (a) The board shall adopt rules and standards under section 2 of this chapter to protect the citizens of Indiana from the hazards of radiation.

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

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

(1) appropriate procedures of monitoring any discharge; and

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

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.107.

IC 13-15-10

Chapter 10. Solid Waste Permit Certification Requirements and Programs; Waste Facility Operator Trust Fund

IC 13-15-10-1

Training and certification program

Sec. 1. The board shall adopt rules to establish a department operated training and certification program for the following:

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

(2) Operators of land disposal sites.

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

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.108.

IC 13-15-10-2

Necessity for certification

Sec. 2. A person may not obtain or renew a permit for a facility listed in section 1 of this chapter unless the facility is operated by an individual who is certified under this chapter.

As added by P.L.1-1996, SEC.5.

IC 13-15-10-3

Establishment of trust fund; expenses

Sec. 3. (a) The waste facility operator trust fund is established. The board shall deposit fees collected under this chapter in the fund.

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

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.109.

IC 13-15-10-4

Rules

Sec. 4. The board shall adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter. The rules must include the following:

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

(2) Mandatory testing and retraining.

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

(4) Recognition of an interim period for which existing facility operators must obtain certification.

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.110.

IC 13-15-10-5
Fees

Sec. 5. (a) The board shall establish by rule and cause to be collected fees for the following:

(1) Examination of applicants for certification.

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

(3) Restoration of an expired certificate when that action is authorized by law.

(4) Issuance of certificates by reciprocity or endorsement for out-of-state applicants.

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

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

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

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.111.

IC 13-15-10-6
Method of payment of fees; refunds

Sec. 6. (a) For the payment of fees under this chapter, the board shall accept cash, a draft, a money order, a cashier's check, and a certified or other personal check.

(b) If:

(1) the board receives an uncertified personal check for the payment of a fee; and

(2) the check does not clear the bank;

the board may void the license, registration, or certificate for which the check was received.

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

As added by P.L.1-1996, SEC.5. Amended by P.L.133-2012, SEC.112.

IC 13-15-11

Chapter 11. Environmental Management Permit Operation Fund

IC 13-15-11-1

Environmental management permit operation fund

Sec. 1. The environmental management permit operation fund is established for the purpose of providing money for permitting and directly associated activities of the following programs of the department and the board:

(1) National Pollutant Discharge Elimination System program.
(2) Solid waste program.
(3) Hazardous waste program.
(4) Safe drinking water program.

As added by P.L.1-1996, SEC.5. Amended by P.L.224-2003, SEC.132; P.L.133-2012, SEC.113.

IC 13-15-11-2

Administration of fund

Sec. 2. (a) The department shall administer the fund.

(b) Expenses of administering the fund shall be paid from money in the fund.

As added by P.L.1-1996, SEC.5.

IC 13-15-11-3

Source of money for fund

Sec. 3. The fund consists of fees and delinquent charges collected under the following:

(1) IC 13-18-20.
(2) IC 13-18-20.5.
(3) IC 13-20-21.
(4) IC 13-22-12.

As added by P.L.1-1996, SEC.5. Amended by P.L.224-2003, SEC.133.

IC 13-15-11-4

Investment of fund

Sec. 4. (a) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(b) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.1-1996, SEC.5.

IC 13-15-11-5

Auditor's report

Sec. 5. (a) The auditor of state shall make a report on the fund every four (4) months. The report:

(1) shall be issued not later than ten (10) working days following the last day of each four (4) month period;

(2) must include the beginning and ending balance, disbursements, and receipts;

(3) must comply with accounting standards under IC 4-13-2-7(a)(1); and

(4) must be available to the public.

(b) The auditor of state shall forward copies of the report to the following:

(1) The commissioner.

(2) The standing committees of the house of representatives and the senate concerned with the environment.

(3) The budget committee.

(4) The interim study committee on environmental affairs established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6.

As added by P.L.1-1996, SEC.5. Amended by P.L.53-2014, SEC.121.

IC 13-15-11-6
Report; fund distribution

Sec. 6. Before September 1 of each even-numbered year, the department shall report to the interim study committee on environmental affairs established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6:

(1) the department's proposed distribution of funds among the programs referred to in section 1 of this chapter for the current state fiscal year;

(2) the department's rationale for the proposed distribution;

(3) any difference between:

(A) the proposed distribution; and

(B) the distribution made by the department in the immediately preceding state fiscal year; and

(4) the results of an independent audit of the correlation between:

(A) the distribution made by the department with respect to; and

(B) the department's actual expenses related to;

each program referred to in section 1 of this chapter in the immediately preceding state fiscal year.

As added by P.L.184-2002, SEC.12. Amended by P.L.53-2014, SEC.122.

IC 13-15-12

Chapter 12. Annual Evaluation of Permit Process

IC 13-15-12-1

Annual reports

Sec. 1. Every twelve (12) months, the commissioner shall submit to the following a report that contains an evaluation of the actions taken by the department to improve the department's process of issuing permits:

(1) The governor.

(2) The general assembly. The report must be in an electronic format under IC 5-14-6.

(3) The board.

As added by P.L.1-1996, SEC.5. Amended by P.L.28-2004, SEC.115; P.L.113-2014, SEC.67.

IC 13-15-12-2

Contents of reports

Sec. 2. The report described under section 1 of this chapter must contain the following information concerning the department:

(1) A description of the reduction or increase in the backlog of permit applications in each department permit program during the preceding twelve (12) month period.

(2) The amount of:

(A) permit fees collected; and

(B) expenditures made from fee revenue;

during the preceding twelve (12) month period.

(3) A discussion of possible increases or decreases in the operating costs of each department permit and inspection program.

(4) A discussion of the measures that have been taken by the department to improve the operating efficiency of the permit and inspection programs.

(5) The number of notices issued by the department under IC 13-15-4-10.

(6) A discussion of the department's operational goals for the next twelve (12) months.

(7) A permit status report that includes the following information:

(A) The facility name and type of each permit application pending on January 1 of the previous year and the date each application was filed with the department.

(B) The action taken on each application by December 31 of the previous year.

(C) The facility name and type of each permit application pending on December 31 of the previous year and the date each was filed with the department.

As added by P.L.1-1996, SEC.5.

IC 13-16

ARTICLE 16. FEES GENERALLY

IC 13-16-1

Chapter 1. General Provisions Regarding Establishment of Fees

IC 13-16-1-1

Applicability of chapter

Sec. 1. This chapter applies to fees established under this title by the board.

As added by P.L.1-1996, SEC.6. Amended by P.L.133-2012, SEC.114.

IC 13-16-1-2

Board duties; factors to consider in establishing or revising fees

Sec. 2. To establish fees or change the amount of a fee, the board shall:

(1) follow the procedure required for the adoption of rules; and

(2) take into account:

(A) the cost of the issuance of a permit or license;

(B) the cost of the performance of services in connection with the supervision, review, and other necessary activities related to the area involved;

(C) the cost of the surveillance of the activity or property covered by the license or permit; and

(D) fees charged for equivalent permits or licenses in other states.

As added by P.L.1-1996, SEC.6. Amended by P.L.113-2014, SEC.68.

IC 13-16-1-3

Basis for fees

Sec. 3. A fee established by the board under this chapter for a type or class of permit may be based on the average of the costs specified in section 2 of this chapter for all permits of that type or class.

As added by P.L.1-1996, SEC.6. Amended by P.L.133-2012, SEC.115.

IC 13-16-1-4

Review and revision of fees

Sec. 4. The board shall periodically review the fees established under this chapter. The board may change the amount of a fee if the board determines, based upon the factors set forth in section 2 of this chapter, that the amount of the fee is not appropriate.

As added by P.L.1-1996, SEC.6. Amended by P.L.133-2012, SEC.116.

IC 13-16-1-5

Environmental management special fund

Sec. 5. A fee established under this chapter shall be deposited in

the environmental management special fund under IC 13-14-12 when the fee is collected.
As added by P.L.1-1996, SEC.6.

IC 13-16-1-6
Prohibitions

Sec. 6. Notwithstanding sections 1 through 5 of this chapter or any other law, the board or the department may not do any of the following:

(1) Except as provided in section 7 of this chapter, change a fee established by:
(A) IC 13-18-20;
(B) IC 13-20-21; or
(C) IC 13-22-12.

(2) Establish an additional fee that was not in effect on January 1, 1994, concerning the following:
(A) National Pollutant Discharge Elimination System programs.
(B) Solid waste programs.
(C) Hazardous waste programs.

(3) Require payment of a fee for material used as alternate daily cover pursuant to a permit issued by the department under 329 IAC 10-20-13.

As added by P.L.1-1996, SEC.6. Amended by P.L.45-1997, SEC.7; P.L.224-1999, SEC.7; P.L.113-2014, SEC.69.

IC 13-16-1-7
Adjustments to environmental management permit operation fund

Sec. 7. (a) Before billing a person under IC 13-18-20, IC 13-20-21, or IC 13-22-12, the commissioner shall review the money in the environmental management permit operation fund established under IC 13-15-11 and make the following adjustments:

(1) If the balance of the fund collected under IC 13-18-20, once obligated expenditures are subtracted from the balance, exceeds two million five hundred thousand dollars ($2,500,000) as of July 1 each year, the commissioner shall adjust the annual fee schedule to bill an amount, in the aggregate, equivalent to the fee schedule amount, less the excess over two million five hundred thousand dollars ($2,500,000). Adjustments to the individual bills must be proportional to the applicable fee divided by the total amount required by all the applicable fees. Adjustments to the annual fees apply only to the next assessment year and then revert to the amounts established under IC 13-18-20.

(2) If the balance of the fund collected under IC 13-20-21, once obligated expenditures are subtracted from the balance, exceeds two million five hundred thousand dollars ($2,500,000) as of July 1 each year, the commissioner shall adjust the annual fee schedule to bill an amount, in the aggregate, equivalent to the fee schedule amount, less the excess over two million five

hundred thousand dollars ($2,500,000). Adjustments to the individual bills must be proportional to the applicable fee divided by the total amount required by all the applicable fees. Adjustments to the annual fees apply only to the next assessment year and then revert to the amounts established under IC 13-20-21.

(3) If the balance of the fund collected under IC 13-22-12, once obligated expenditures are subtracted from the balance, exceeds two million five hundred thousand dollars ($2,500,000) as of July 1 each year, the commissioner shall adjust the annual fee schedule to bill an amount, in the aggregate, equivalent to the fee schedule amount, less the excess over two million five hundred thousand dollars ($2,500,000). Adjustments to the individual bills must be proportional to the applicable fee divided by the total amount required by all the applicable fees. Adjustments to the annual fees apply only to the next assessment year and then revert to the amounts established under IC 13-22-12.

(b) The appropriate board may adopt rules under IC 4-22-2 and IC 13-14-9 to adjust the amount of the fund balance at which the commissioner is required to adjust individual bills under subsection (a)(1), (a)(2), or (a)(3). However, the amount of the fund balance established by rule under this subsection may not exceed two million five hundred thousand dollars ($2,500,000).

As added by P.L.224-1999, SEC.8.

IC 13-16-2

Chapter 2. Installment Payments

IC 13-16-2-1

Fee payment schedules

Sec. 1. (a) The department shall establish fee payment schedules that allow a person that is required to pay an annual fee established under:

(1) this title; or

(2) rules adopted under this title;

to pay the fee in equal installments over a twelve (12) month period that begins on the date the fee is assessed.

(b) The department shall allow a person to pay an annual fee according to a fee payment schedule established under this section if the person determines that a single payment of the entire fee is an undue hardship on the person.

(c) A fee payment schedule established under this section may not require a person to pay more than one (1) installment in any three (3) month period during the twelve (12) month period.

(d) The department is not required to assess installments separately.

As added by P.L.2-1997, SEC.40.

IC 13-17

ARTICLE 17. AIR POLLUTION CONTROL

IC 13-17-1

Chapter 1. Intent and Purpose of Air Pollution Control Laws

IC 13-17-1-1

Purpose; air resource purity

Sec. 1. It is the intent and purpose of air pollution control laws to maintain the purity of the air resource of Indiana, which shall be consistent with protection of the public health and welfare and the public enjoyment of the air resource, physical property and other resources, flora and fauna, maximum employment, and full industrial development of Indiana. The board and the department shall safeguard the air resource through the prevention, abatement, and control of air pollution by all practical and economically feasible methods.

As added by P.L.1-1996, SEC.7. Amended by P.L.133-2012, SEC.117.

IC 13-17-1-2

Local air quality control programs

Sec. 2. Local and air quality basin control programs are to be supported to the extent practicable as essential instruments for the securing and maintenance of appropriate levels of air quality.

As added by P.L.1-1996, SEC.7.

IC 13-17-1-3

Criteria for air quality control programs

Sec. 3. Accomplishing the intent and purpose of air pollution control laws can be done most effectively by focusing on goals to be achieved by a maximum of cooperation among all parties concerned, and the rules established under this article should be clearly premised upon scientific knowledge of causes as well as of effects.

As added by P.L.1-1996, SEC.7.

IC 13-17-2
Repealed

(Repealed by P.L.133-2012, SEC.118.)

IC 13-17-3

Chapter 3. Powers and Duties Concerning Air Pollution Control

IC 13-17-3-1

Assistance to local governments

Sec. 1. The department shall provide assistance on air pollution matters to towns, cities, and counties.

As added by P.L.1-1996, SEC.7.

IC 13-17-3-2

Inspections

Sec. 2. The commissioner may conduct inspections under air pollution control laws in accordance with IC 13-14-2.

As added by P.L.1-1996, SEC.7.

IC 13-17-3-3

Enforcement

Sec. 3. Air pollution control laws may be enforced under IC 13-14-2-6 or IC 13-30-3.

As added by P.L.1-1996, SEC.7.

IC 13-17-3-4

Adoption or amendment of rules

Sec. 4. (a) The board shall adopt rules under IC 4-22-2 that are:

(1) consistent with the general intent and purposes declared in IC 13-17-1 and section 1 of this chapter; and

(2) necessary to the implementation of the federal Clean Air Act (42 U.S.C. 7401 et seq.), as amended by the Clean Air Act Amendments of 1990 (P.L.101-549).

(b) Notwithstanding IC 13-15-5, the board may adopt rules under IC 4-22-2 and IC 13-14-9 that allow the commissioner's actions on permits and permit modifications to become effective immediately, regardless of whether a thirty (30) day comment period is held on the permits or permit modifications. The board may adopt rules under this subsection only after considering the:

(1) environmental significance of;

(2) federal requirements for federally delegated or approved programs concerning; and

(3) need for opportunity for public participation on;

the permits or permit modifications.

(c) The board may adopt rules to require sources to report hazardous air pollutant emissions if the reporting is necessary to demonstrate compliance with emissions and other performance standards established under 42 U.S.C. 7412 or 42 U.S.C. 7429. The board may amend 326 IAC 2-6 to allow the department to request hazardous air pollutant emissions data from individual sources for the purpose of site specific studies of hazardous air pollutant:

(1) emissions; and

(2) impacts.

(d) The board may amend 326 IAC 2-6 or adopt new rules to establish a general requirement for sources to report hazardous air pollutant emissions (as defined by 42 U.S.C. 7412(b)).
As added by P.L.1-1996, SEC.7. Amended by P.L.90-1998, SEC.18; P.L.166-2002, SEC.2; P.L.159-2011, SEC.21; P.L.13-2013, SEC.47; P.L.79-2014, SEC.4.

IC 13-17-3-4.5
Repealed
(Repealed by P.L.159-2011, SEC.49.)

IC 13-17-3-5
Violations
Sec. 5. Violations of air pollution control laws are subject to the penalties imposed by the following:
(1) IC 13-30-4.
(2) IC 13-30-5.
(3) IC 13-30-8.
In addition, a violation of air pollution control laws may lead to criminal prosecution under IC 13-30-10.
As added by P.L.1-1996, SEC.7. Amended by P.L.137-2007, SEC.8.

IC 13-17-3-6
Repealed
(Repealed by P.L.133-2012, SEC.119.)

IC 13-17-3-7
Orders; review by environmental law judge
Sec. 7. (a) The commissioner may enter into agreed orders as provided in IC 13-30-3-6.
(b) An environmental law judge under IC 4-21.5-7 shall review orders and determinations of the commissioner.
As added by P.L.1-1996, SEC.7.

IC 13-17-3-8
Additional duties
Sec. 8. The board shall carry out other duties imposed by law.
As added by P.L.1-1996, SEC.7.

IC 13-17-3-9
Powers of commissioner to assist affected or interested groups
Sec. 9. (a) The commissioner shall assist and cooperate with other groups interested in and affected by air pollution.
(b) The commissioner may do the following:
(1) Advise, consult, and cooperate with:
(A) other state agencies;
(B) towns, cities, and counties;
(C) industries;
(D) other states;
(E) the federal government; and

(F) affected groups;

in the prevention and control of new and existing air contamination sources within Indiana.

(2) Encourage and conduct studies, investigations, and research relating to the following:

(A) Air pollution.

(B) The causes, effects, prevention, control, and abatement of air pollution.

(3) Collect and disseminate information relating to the following:

(A) Air pollution.

(B) The prevention and control of air pollution.

(4) Encourage voluntary cooperation by persons, towns, cities, and counties or other affected groups in restoring and preserving a reasonable degree of purity of air within Indiana.

(5) Encourage authorized air pollution agencies of towns, cities, and counties to handle air pollution problems within their respective jurisdictions to the greatest extent possible.

(6) Upon request, provide technical assistance to towns, cities, or counties requesting technical assistance for the furtherance of air pollution control.

(7) Represent the state in all matters pertaining to plans, procedures, or negotiations for interstate compacts in relation to the control of air pollution.

(8) Accept and administer grants or other money or gifts for the purpose of carrying out any of the functions of air pollution control laws.

As added by P.L.1-1996, SEC.7.

IC 13-17-3-10

Funds

Sec. 10. The commissioner may budget and receive appropriated money for expenditures to carry out air pollution control laws.

As added by P.L.1-1996, SEC.7.

IC 13-17-3-11

Power to adopt rules under state discretionary authority

Sec. 11. The board may adopt rules under IC 4-22-2 and IC 13-14-9 under discretionary authority granted to the state by:

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

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

As added by P.L.1-1996, SEC.7. Amended by P.L.133-2012, SEC.120.

IC 13-17-3-12

Effect of express grant of authority on additional activities

Sec. 12. Unless otherwise indicated, any express grant of authority provided to the board under this title may not be interpreted to

prohibit the board from adopting rules that extend the grant of authority to cover additional activities in accordance with section 4 of this chapter or IC 13-14-8.
As added by P.L.1-1996, SEC.7.

IC 13-17-3-13
Issuance of permit to a solid waste incinerator

Sec. 13. The commissioner may not issue any permit to a solid waste incinerator required by the federal Clean Air Act (42 U.S.C. 7401 et seq.), as amended by the Clean Air Act Amendments of 1990 (P.L. 101-549), if the commissioner is also responsible in whole or in part for the design, construction, or operation of the unit.
As added by P.L.1-1996, SEC.7.

IC 13-17-3-14
Duty to adopt rules classifying areas and setting air quality standards

Sec. 14. The board shall adopt rules under IC 4-22-2 that do the following:

(1) Classify regions into attainment areas and nonattainment areas for regulated air pollutants based upon scientific study of geographical, topographical, and meteorological data.

(2) Set standards for ambient air quality for each region to effectuate the purposes of air pollution control laws.

As added by P.L.1-1996, SEC.7.

IC 13-17-3-15
Rules and standards limiting noise emission

Sec. 15. (a) The board may adopt rules and standards prescribing limitations on noise emission. In adopting rules under this section, the board may prescribe that a person may not emit or cause to be emitted any noise that:

(1) unreasonably interferes with any lawful business or activity; or

(2) is injurious to the health or well-being of any person.

(b) The board may adopt rules concerning the following:

(1) Equipment and procedures for monitoring noise.

(2) The collection and retention of data resulting from the monitoring.

(3) The reporting of data to the board.

As added by P.L.1-1996, SEC.7.

IC 13-17-4

Chapter 4. Air Pollution Emergencies

IC 13-17-4-1

Public policy

Sec. 1. The discharge into the outdoor atmosphere of air contaminants that would cause air pollution and create a public nuisance is contrary to the public policy of the state and this article.

As added by P.L.1-1996, SEC.7.

IC 13-17-4-2

Emergency risk

Sec. 2. (a) Air pollution may at certain times and places so seriously affect the public health and so threaten the population as to warrant emergency powers to prevent or minimize disasters of unforeseen proportions. If the commissioner determines, in consultation with the commissioner of the state department of health, that air pollution in an area constitutes an unreasonable and emergency risk to the health and safety of those in the area, that determination shall be immediately communicated to the governor.

(b) The governor may, by proclamation, do the following:

(1) Declare that an emergency exists.

(2) Order all persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants.

As added by P.L.1-1996, SEC.7.

IC 13-17-4-3

Injunction

Sec. 3. (a) Not more than twenty-four (24) hours after issuance of a proclamation under section 2 of this chapter, the attorney general, at the request of the governor, shall initiate injunctive proceedings in the appropriate court against each person causing or contributing to the air pollution to:

(1) stop the emission of contaminants causing the pollution; or

(2) take other action that is necessary.

(b) If the attorney general does not commence an action within the twenty-four (24) hour period, the governor's proclamation becomes void.

As added by P.L.1-1996, SEC.7.

IC 13-17-5

Chapter 5. Motor Vehicle Emission Control

IC 13-17-5-1

Rules

Sec. 1. The board may adopt rules for the control of emissions from vehicles. However, the board must, before adopting the rules, forward to each member of the general assembly a copy of the proposed rules. The rules may prescribe requirements for the following:

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

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

As added by P.L.1-1996, SEC.7. Amended by P.L.133-2012, SEC.121.

IC 13-17-5-2

Consistency of rules with federal emission control laws

Sec. 2. Any rules proposed for adoption under section 1 of this chapter must be consistent with provisions of federal law relating to control of emissions from vehicles. The board may not require, as a condition precedent to the initial sale of a vehicle or vehicular equipment, the inspection, certification, or other approval of any feature or equipment designed for the control of emissions from vehicles if the feature or equipment has been certified, approved, or otherwise authorized under federal law.

As added by P.L.1-1996, SEC.7.

IC 13-17-5-3

Removal or failure to maintain emission control device

Sec. 3. Except as permitted or authorized by law, a person may not:

(1) fail to maintain in good working order; or

(2) remove, dismantle, or otherwise cause to be inoperative;

any air pollution control system or mechanism that is used to control air pollution of a vehicle and that is required by rules of the board to be maintained in or on the vehicle.

As added by P.L.1-1996, SEC.7.

IC 13-17-5-4

Penalty

Sec. 4. The commissioner of the bureau of motor vehicles shall suspend the registration of any vehicle that is not in compliance with section 3 of this chapter and may not reinstate the registration until:

(1) the emission control equipment of the vehicle has been restored, replaced, or repaired and is in good working order; and

(2) if the vehicle is subject to a rule of the board requiring testing of the emission characteristics of certain vehicles in certain counties, all requirements of that rule applying to the vehicle have been satisfied.

As added by P.L.1-1996, SEC.7.

IC 13-17-5-5
Repealed

(Repealed by P.L.229-1999, SEC.5.)

IC 13-17-5-5.1
Applicability of rules regarding tests; inspection station powers; contracts to conduct tests

Sec. 5.1. (a) A rule adopted by the board under air pollution control laws that requires:

(1) certain motor vehicles registered in certain counties to undergo a periodic test of emission characteristics; and

(2) vehicles failing the emissions test to be repaired and retested;

applies to the vehicles registered in those counties subject to the rules. An exemption in the rules applies to motor vehicles registered in those counties subject to the rule.

(b) An inspection station authorized by a rule adopted by the board may:

(1) inspect any vehicle; and

(2) certify that the inspected vehicle meets air emission control standards established in the applicable rules.

(c) The department may contract with a person to conduct inspections to test the emissions or emission control devices of motor vehicles. If inspections are conducted by a contractor under this subsection, the inspections and testing shall be conducted under the direction of the department. The department may not enter into a contract with a foreign corporation under this section unless the foreign corporation is registered with the secretary of state to do business in Indiana.

(d) The duration of a contract entered into under this section may not exceed ten (10) years.

(e) This section does not prohibit the board or the department from adopting fleet inspection procedures.

(f) IC 5-22-17-3 does not apply to a procurement under this section.

As added by P.L.229-1999, SEC.2.

IC 13-17-5-5.2
Legalization of certain rules, inspections, certifications, and contracts

Sec. 5.2. The following are legalized:

(1) A rule adopted by the air pollution control board and described in IC 13-17-5-5(a) before its repeal.

(2) An inspection or certification conducted under IC 13-17-5-5(b) before its repeal.

(3) Contracts entered into and inspections made under IC 13-17-5-5(c) before its repeal.

As added by P.L.220-2011, SEC.281.

IC 13-17-5-5.4
Number of inspection stations in certain counties

Sec. 5.4. (a) This section applies to the following counties:

(1) A county having a population of more than seventy-one thousand (71,000) but less than seventy-five thousand (75,000).

(2) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred eleven thousand (111,000).

(b) For the purpose of determining the number of inspection stations operating in a county under this subsection, a temporary or portable inspection station counts as an inspection station. After July 1, 1997, the department must maintain in a county under subsection (a) an equal or greater number of inspection stations as were operating in the county on July 1, 1996.

As added by P.L.79-1997, SEC.2. Amended by P.L.170-2002, SEC.86; P.L.119-2012, SEC.109.

IC 13-17-5-6
Vehicle emissions tests certificate of compliance; new and recently manufactured vehicles

Sec. 6. (a) A rule adopted by the board under air pollution control laws that:

(1) requires periodic motor vehicle emissions tests; and

(2) makes new vehicles exempt from the emissions tests for a time;

may not require that new vehicles be presented at an official vehicle inspection station for the purpose of obtaining a certificate of compliance.

(b) A rule adopted by the board under air pollution control laws that:

(1) requires periodic motor vehicle emissions tests; and

(2) makes certain vehicles exempt from the emissions test due to the length of time since the vehicles were manufactured;

may not require that those vehicles be presented at an official vehicle inspection station for the purpose of obtaining a certificate of compliance.

As added by P.L.1-1996, SEC.7.

IC 13-17-5-6.7
Repealed

(Repealed by P.L.1-2007, SEC.248.)

IC 13-17-5-7
Motor vehicle emissions testing program; funding

Sec. 7. (a) The department shall annually advise the budget committee on whether:

(1) money appropriated by the general assembly; and

(2) money available through federal grants;

is adequate to implement a motor vehicle emissions testing program described in section 5.1 of this chapter.

(b) If the money described under subsection (a) becomes insufficient to implement a motor vehicle emissions testing program, the department shall immediately notify:

(1) the governor; and

(2) the budget committee;

of the insufficiency.

As added by P.L.1-1996, SEC.7. Amended by P.L.229-1999, SEC.3.

IC 13-17-5-8

Motor vehicle emissions inspection station; duty to report violations; notification of compliance

Sec. 8. (a) Whenever:

(1) an officer or employee of the department; or

(2) a person the department has contracted with under section 5 (before its repeal) or 5.1 of this chapter or IC 13-1-1-11 (before its repeal);

learns of a violation of section 1, 2, 3, or 4 of this chapter or IC 13-1-1-6 (before its repeal), the officer or employee shall notify the bureau of motor vehicles in writing of the violation or failure for purposes of the suspension of the registration of the vehicle in question under IC 9-18-2-39.

(b) After a vehicle's registration is suspended under IC 9-18-2-39:

(1) an officer or employee of the department; or

(2) a person the department has contracted with under section 5 (before its repeal) or 5.1 of this chapter or IC 13-1-1-11 (before its repeal);

who recognizes that the violation of section 1, 2, 3, or 4 of this chapter or IC 13-1-1-6 (before its repeal) has been corrected shall notify the bureau of motor vehicles in writing of the correction or achievement of compliance for purposes of the reinstatement of the vehicle's registration under IC 9-18-2-39.

As added by P.L.1-1996, SEC.7. Amended by P.L.229-1999, SEC.4.

IC 13-17-5-9

Rules for vehicle inspection programs in certain counties; approval of programs by budget agency

Sec. 9. (a) After December 31, 2006, the board may not adopt a rule under air pollution control laws that requires motor vehicles to undergo a periodic test of emission characteristics in the following counties:

(1) A county having a population of more than seventy-one thousand (71,000) but less than seventy-five thousand (75,000).

(2) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred eleven thousand (111,000).

(b) After December 31, 2006, 326 IAC 13-1.1 is void to the extent it applies to a county referred to in subsection (a).

(c) Unless the budget agency approves a periodic vehicle inspection program for a county referred to in subsection (a), the board shall amend 326 IAC 13-1.1 so that it does not apply after

December 31, 2006, to a county referred to in subsection (a).

(d) The budget agency, after review by the budget committee, may approve in writing the implementation of a periodic vehicle inspection program for one (1) or more counties described in subsection (a) only if the budget agency determines that the implementation of a periodic vehicle inspection program in the designated counties is necessary to avoid a loss of federal highway funding for the state or a political subdivision. The approval must specify the counties to which the periodic vehicle inspection program applies and the time during which the periodic vehicle inspection program must be conducted in each designated county. The budget agency, after review by the budget committee, shall withdraw an approval given under this subsection for a periodic vehicle inspection program in a county if the budget agency determines that the suspension of the periodic vehicle inspection program will not adversely affect federal highway funding for the state or a political subdivision.

As added by P.L.282-2003, SEC.37. Amended by P.L.119-2012, SEC.110.

IC 13-17-6

Chapter 6. Regulation of Asbestos and Asbestos Contractors

IC 13-17-6-1

Asbestos emission control; program for accreditation of persons engaged in inspection, management, or abatement; licensing of contractors

Sec. 1. (a) This section does not apply to a person making an inspection under the authority of IC 22-8-1.1.

(b) The board shall adopt rules under IC 4-22-2 requiring the commissioner to establish a program for the following:

(1) The accreditation of persons engaged in the inspection, management, or abatement of asbestos containing material.

(2) The licensing of asbestos contractors.

(c) The board shall, in the rules adopted under this section, do the following:

(1) Prohibit a person without accreditation or an asbestos contractor without a license from engaging in the inspection, management, or abatement of asbestos containing material at:

(A) elementary and secondary schools; and

(B) facilities subject to:

(i) United States Environmental Protection Agency regulations; or

(ii) rules of the board;

pertaining to asbestos emission control.

(2) Require training and examination as a precondition to accreditation.

(3) Require periodic retraining and reexamination to maintain accreditation.

(4) Establish minimum requirements for the issuance of an asbestos contractor license, including a requirement that all workers employed by an asbestos contractor to inspect, manage, or abate asbestos containing material be accredited under the program established under this section.

(5) Extend the applicability of the accreditation and licensing requirements to other facilities as determined by the board.

(6) Exempt from accreditation and licensing requirements a person that performs work:

(A) on a private residential dwelling and commercial residential building with fewer than five (5) dwelling units; and

(B) during an emergency that results from a sudden and unexpected event that is not a planned asbestos project.

As added by P.L.1-1996, SEC.7.

IC 13-17-6-2

Fee for certification

Sec. 2. (a) This section does not apply to a person making an inspection under the authority of IC 22-8-1.1.

(b) The board shall adopt a rule under IC 4-22-2 to do the

following:

(1) Establish a fee not to exceed one hundred fifty dollars ($150) per person per certification for persons seeking accreditation through the program established under section 1 of this chapter.

(2) Establish a fee for asbestos contractors seeking licensing through the program established under section 1 of this chapter.

(c) The amount of the fee established under subsection (b) must not be more than is considered to be necessary to recover the cost of establishing the accreditation and licensing programs.

(d) The proceeds of the fee shall be deposited in the asbestos trust fund established by section 3 of this chapter.

As added by P.L.1-1996, SEC.7.

IC 13-17-6-3

Asbestos trust fund

Sec. 3. (a) The asbestos trust fund is established to provide a source of money for the purposes set forth in section 4 of this chapter.

(b) The expenses of administering the fund shall be paid from the money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The sources of money for the fund are the following:

(1) Accreditation fees paid under section 2 of this chapter.

(2) Appropriations made by the general assembly, gifts, and donations intended for deposit in the fund.

(3) Penalties imposed under IC 13-30-4 and IC 13-30-5 for violations of the rules of the board concerning asbestos.

As added by P.L.1-1996, SEC.7.

IC 13-17-6-4

Asbestos trust fund; use of funds

Sec. 4. The commissioner may use money in the fund to do the following:

(1) Pay the expenses of administration of the accreditation program established under section 1 of this chapter.

(2) Cover other costs related to implementation of the federal Asbestos Hazard Emergency Response Act of 1986 (15 U.S.C. 2641 et seq.).

As added by P.L.1-1996, SEC.7.

IC 13-17-6-5

Agents or employees of licensed asbestos contractor; necessity of accreditation under certain circumstances

Sec. 5. An asbestos contractor licensed under this chapter may not allow an agent or employee of the contractor to:

(1) exercise control over an asbestos project; or
(2) come into contact with asbestos;
unless the agent or employee is accredited under this chapter.
As added by P.L.1-1996, SEC.7.

IC 13-17-6-6
Records of asbestos removal projects; contents; maintenance; inspection

Sec. 6. (a) An asbestos contractor licensed under this chapter shall compile records concerning each asbestos project the asbestos contractor performs. The records must include the following information on each asbestos project:

(1) The name, address, and proof of accreditation of the following:
(A) The person who supervised the asbestos project for the asbestos contractor.
(B) Each employee or agent of the asbestos contractor that worked on the project.
(2) The site of the asbestos project.
(3) A description of the asbestos project.
(4) The amount of asbestos containing material that was removed in the project.
(5) The date on which the asbestos project was started and the date on which the asbestos project was completed.
(6) A summary of procedures that were used in the asbestos project to comply with all applicable federal and state standards on asbestos projects.
(7) The name and address of each disposal site used for the disposal of asbestos containing material that was disposed of on the asbestos project.

(b) A copy of each receipt issued by a disposal site identified under subsection (a)(7) must be included in the records concerning the project compiled under this section.

(c) An asbestos contractor shall retain the records compiled under subsection (a) concerning a particular asbestos project for at least thirty (30) years after the asbestos project is concluded.

(d) An asbestos contractor shall make records kept under this section available to the department upon request.
As added by P.L.1-1996, SEC.7.

IC 13-17-6-7
Onsite inspection of asbestos project

Sec. 7. At least one (1) time each year, the department shall investigate the procedures employed by each licensed asbestos contractor with regard to the:

(1) abatement;
(2) removal;
(3) renovation;
(4) enclosure;
(5) repair; and

(6) encapsulation;
of asbestos containing material by conducting an inspection of the site of an asbestos project being carried out by the licensed asbestos contractor.
As added by P.L.1-1996, SEC.7.

IC 13-17-6-8
Public asbestos projects; bidder restrictions
Sec. 8. A political subdivision or a state agency may not accept a bid for an asbestos project from a person that does not hold an asbestos contractor license.
As added by P.L.1-1996, SEC.7.

IC 13-17-6-9
Commissioner's inspection or investigation
Sec. 9. The commissioner may do the following:
(1) Inspect the site of an asbestos project:
(A) during the project; or
(B) after the project is completed.
(2) Conduct an investigation of an asbestos project upon:
(A) the commissioner's own initiation; or
(B) the receipt of a complaint by a person.
As added by P.L.1-1996, SEC.7.

IC 13-17-6-10
Injunction against nonconforming asbestos removal procedures; notice; review
Sec. 10. (a) If the commissioner finds that an asbestos project is not being performed in accordance with air pollution control laws or rules adopted under air pollution control laws, the commissioner may enjoin further work on the asbestos project without prior notice or hearing by delivering a notice to:
(1) the asbestos contractor engaged in the asbestos project; or
(2) the agent or representative of the asbestos contractor.
(b) A notice issued under this section must:
(1) specifically enumerate the violations of law that are occurring on the asbestos project; and
(2) prohibit further work on the asbestos project until the violations enumerated under subdivision (1) cease and the notice is rescinded by the commissioner.
(c) Not later than ten (10) days after receiving written notification from a contractor that violations enumerated in a notice issued under this section have been corrected, the commissioner shall issue a determination whether or not to rescind the notice.
(d) An asbestos contractor or any other person aggrieved or adversely affected by the issuance of a notice under subsection (a) may obtain a review of the commissioner's action under IC 4-21.5 and IC 4-21.5-7.
As added by P.L.1-1996, SEC.7. Amended by P.L.25-1997, SEC.8.

IC 13-17-6-11

Reprimand, suspension, or revocation of license or accreditation; grounds

Sec. 11. (a) The commissioner may under IC 4-21.5 reprimand an asbestos contractor or asbestos worker or suspend or revoke the license of an asbestos contractor or the accreditation of an asbestos worker for the following reasons:

(1) Fraudulently or deceptively obtaining or attempting to obtain a license or accreditation under this chapter.

(2) Failing to meet the qualifications for a license or accreditation or failing to comply with the requirements of air pollution control laws or rules adopted under air pollution control laws.

(3) Failing to meet an applicable federal or state standard for the abatement, removal, or encapsulation of asbestos.

(b) The commissioner may under IC 4-21.5 reprimand an asbestos contractor or suspend or revoke the license of an asbestos contractor that does any of the following:

(1) Employs a person who is not accredited under this chapter.

(2) Permits a person who is not accredited under this chapter to work on an asbestos project.

As added by P.L.1-1996, SEC.7.

IC 13-17-6-12

Necessity of license or accreditation before performing asbestos project; exceptions

Sec. 12. (a) Except as provided in subsections (c) and (d), a person that enters into a contract providing for the person to execute, for compensation, an asbestos project must hold an asbestos contractor's license.

(b) Except as provided in subsections (c) and (d), an individual who works on an asbestos project must be accredited under this chapter.

(c) In an emergency that results from a sudden and unexpected event that is not a planned renovation or demolition, the commissioner may waive the requirements set forth in subsections (a) and (b) for a person that enters into a contract or works to resolve the emergency.

(d) The commissioner may:

(1) exempt an employer from subsection (a); and

(2) exempt the employer's employees from subsection (b) with respect to an asbestos project on premises owned or leased by the employer;

if the commissioner determines that the employer has adopted and is enforcing an asbestos safety program that is adequate to protect the health and safety of the employees and of any other persons who are or may be affected by the asbestos project.

As added by P.L.1-1996, SEC.7.

IC 13-17-7

Chapter 7. Clean Air Act Permit Compliance Program

IC 13-17-7-1

Limitation on liability

Sec. 1. Except as otherwise provided in this chapter, if a person:

(1) constructed, reconstructed, modified, or operated a facility or source that emits or is capable of emitting into the atmosphere a regulated pollutant in an amount for which:

(A) a registration;

(B) a construction permit; or

(C) an operating permit;

is required under IC 13-30-2-1(7) and rules adopted by the board under IC 13-15-1-1;

(2) fails to obtain the:

(A) registration;

(B) construction permit; or

(C) operating permit;

as required by Indiana law;

(3) meets the conditions described in section 2 of this chapter; and

(4) pays a civil penalty described in section 6 of this chapter;

the person's failure to obtain the registration, construction permit, or operating permit does not result in any liability beyond the liability described in this chapter.

As added by P.L.1-1996, SEC.7.

IC 13-17-7-2

Conditions

Sec. 2. (a) All of the following conditions must be satisfied for a person to qualify for the exemption from liability established in section 1 of this chapter:

(1) If the source is required to obtain a Title V operating permit, a complete permit application for a Title V operating permit, a FESOP, or an enforceable operating agreement that includes the existing and unpermitted facility or source is submitted to the commissioner not later than November 16, 1996, or a date established by the board for timely submission of an application for a Title V operating permit, whichever is earlier. The permit application submitted under this subdivision must comply with:

(A) the requirements of 40 CFR 70.5(a)(2); and

(B) all rules adopted by the board implementing 40 CFR 70.5(a)(2).

(2) If the source is not required to obtain a Title V operating permit, a complete application for a registration or construction permit, as applicable, for the existing and unpermitted facility or source is submitted to the commissioner not later than November 16, 1996. The registration or construction permit application must comply with all rules adopted by the board.

(3) Each existing emitting facility or source for which limited

liability is claimed under this chapter is clearly identified in the application submitted under subdivision (1) or (2), whichever is applicable.

(4) The emitting facility or source was constructed or modified before January 1, 1994.

(5) The emitting source was not the subject of a completed administrative or civil action for failure to obtain a necessary air construction or operation permit:

(A) after January 1, 1989; and

(B) before January 1, 1994.

(6) The source is not the subject of a pending administrative or civil action for failure to obtain a necessary air construction or operation permit.

(b) The department may not require:

(1) a separate registration application;

(2) a construction permit application; or

(3) an additional operating permit application;

if the Title V operating permit application submitted for the sources or facilities qualifying for an exemption from liability under section 1 of this chapter and identified under subsection (a)(3) contains information that satisfies all requirements of the rules adopted by the board and all Indiana statutes concerning new or modified sources and facilities.

(c) This section does not relieve a person from any obligation to:

(1) apply for or obtain a permit required for the prevention of significant deterioration or by new source review requirements of the federal Clean Air Act under 42 U.S.C. 7470 et seq. (Part C) or 42 U.S.C. 7501 et seq. (Part D); or

(2) obtain a registration or construction permit required under an Indiana law or rules adopted by the board.

As added by P.L.1-1996, SEC.7.

IC 13-17-7-3

Applicability of chapter; limitations

Sec. 3. This chapter does not do any of the following:

(1) Limit the scope of a person's liability for criminal penalties or for civil penalties under IC 13-30-4, IC 13-30-5, and IC 13-30-8.

(2) Excuse or prohibit enforcement of violations of any state or federal health based or technology based standard, including national primary and secondary ambient air quality standards.

(3) Excuse a facility or source for failure to obtain in advance a construction permit required by the prevention of significant deterioration or new source review requirements of the federal Clean Air Act under 42 U.S.C. 7470 et seq. (Part C) or 42 U.S.C. 7501 et seq. (Part D).

(4) Apply to an individual facility at a source:

(A) that has potential emissions of more than one hundred (100) tons per year of any regulated pollutant;

(B) to which the board had established permit requirements

under rules in effect on January 1, 1994; and

(C) that never received an operating permit under 326 IAC 2-1-4 as in effect on January 1, 1994.

As added by P.L.1-1996, SEC.7. Amended by P.L.137-2007, SEC.9.

IC 13-17-7-4

Prohibition on reopening of enforcement action

Sec. 4. An enforcement action that has been resolved or settled with the commissioner or any other person may not be reopened on the basis of this chapter.

As added by P.L.1-1996, SEC.7.

IC 13-17-7-5

Basis for civil action

Sec. 5. A private citizen, the commissioner, the governor, or the attorney general may initiate a civil action under:

(1) IC 13-14-10-2;

(2) IC 13-15-3-6;

(3) IC 13-17-4;

(4) IC 13-30-1-1 through IC 13-30-1-7;

(5) IC 13-30-3-2 through IC 13-30-3-9; or

(6) IC 32-30-6-7;

whichever is applicable, to enjoin or abate emissions resulting from the operation of an existing emitting facility or source.

As added by P.L.1-1996, SEC.7. Amended by P.L.1-1998, SEC.105; P.L.2-2002, SEC.56.

IC 13-17-7-6

Civil penalty for failure to possess a permit or registration

Sec. 6. The sole civil penalty for a failure to possess a permit or registration as described in section 1 of this chapter, regardless of the number of facilities identified in the application filed under section 2 of this chapter, is as follows:

(1) For a person who submits a timely and complete Title V operating permit application under section 2 of this chapter:

(A) three thousand dollars ($3,000); and

(B) an amount equal to the amount charged for an annual operation fee for all facilities or sources owned or operated by the person that should have been permitted or registered based on fees established for 1993 in 326 IAC 2-1-7.1(a)(4) or 326 IAC 2-1-7.1(a)(5).

(2) For a person who submits a timely and complete application for a FESOP, an enforceable operating agreement under section 2(a)(1) of this chapter, or a timely and complete application for a registration or construction permit under section 2(a)(2) of this chapter:

(A) two thousand dollars ($2,000); and

(B) an amount equal to the amount charged for an annual operation fee for all facilities or sources owned or operated by that person that should have been permitted or registered

based on fees established for 1993 in 326 IAC 2-1-7.1(a)(4) or 326 IAC 2-1-7.1(a)(5).

As added by P.L.1-1996, SEC.7.

IC 13-17-7-7

Applicability of chapter

Sec. 7. The limitation on liability provided under section 1 of this chapter only applies to an administrative or a judicial enforcement action brought against a person for failure to possess a valid state construction permit, operating permit, or registration. This chapter does not apply to any other type of violation.

As added by P.L.1-1996, SEC.7.

IC 13-17-7-8

Rules

Sec. 8. The board may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.1-1996, SEC.7.

IC 13-17-8

Chapter 8. Title V Operating Permit Program, Trust Fund, and Fees

IC 13-17-8-1

Title V operating permit program trust fund

Sec. 1. (a) The Title V operating permit program trust fund is established to provide a source of money for the implementation, enforcement, and administration of the operating permit program required to implement 42 U.S.C. 7661 through 7661f of the federal Clean Air Act, as provided in sections 2 through 9 of this chapter.

(b) The expenses of administering the fund shall be paid from the money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The sources of money for the fund are the following:

(1) Fees collected under the operating permit program required to implement 42 U.S.C. 7661 through 7661f.

(2) Appropriations made by the general assembly.

(f) Money in the fund may be used only to pay the costs of the operating permit program activities described in section 3 of this chapter.

(g) Revenues that accrue to the fund are appropriated to the department for the purposes described in section 3 of this chapter.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-2

Fees; owner or operator of source requiring permit

Sec. 2. (a) The owner or operator of a source subject to the requirement to obtain a permit necessary to implement 42 U.S.C. 7661 through 7661f shall pay a fee determined by the board under rules adopted under IC 4-22-2.

(b) The department shall do the following:

(1) Collect the fees described in subsection (a).

(2) Deposit the fees in the Title V operating permit program trust fund.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-3

Fees

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

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

As added by P.L.1-1996, SEC.7. Amended by P.L.133-2012, SEC.122.

IC 13-17-8-4
Fee structure

Sec. 4. The fee structure established under section 3 of this chapter may include any of the following:
(1) The placement of persons described in section 2(a) of this chapter into categories.
(2) Fee amounts based on the amount and type of emissions if:
(A) maximum; and
(B) minimum or base;
fee amounts are included as part of the fee structure.
(3) Fee amounts based on the cost of performing the activities described in section 3 of this chapter.
(4) A maximum fee amount for each source described in section 2(a) of this chapter;
(5) A base or minimum fee for each source described in section 2(a) of this chapter.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-5
Fee structure; application

Sec. 5. The fee structure established under section 3 of this chapter applies to each source subject to the requirement to obtain a permit required to implement 42 U.S.C. 7661 through 7661f.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-6
Fee structure; restrictions

Sec. 6. The following apply to the initial fee structure established under section 3 of this chapter:
(1) Except as provided in subdivision (2), the initial fee

structure may not include a fee for a source that exceeds one hundred fifty thousand dollars ($150,000) in each year.

(2) For a source that:

(A) is located in an area designated as a serious or severe ozone nonattainment area under the federal Clean Air Act; and

(B) emits more than:

(i) one hundred (100) tons of volatile organic compounds; and

(ii) one hundred (100) tons of nitrogen oxides;

the initial fee structure may not include a fee that exceeds two hundred thousand dollars ($200,000) in each year.

(3) Except as provided in subdivision (4), during the period:

(A) after December 31, 1994; and

(B) before January 1, 2000;

the fee structure may not be attributable to the amount or type of emissions from a steam electric generating unit that is an affected unit under 42 U.S.C. 7651c.

(4) During the period described in subdivision (3), the total annual fee for affected units at a source that contains at least one (1) affected unit described in subdivision (3) may not exceed fifty thousand dollars ($50,000). Fees paid for the source under the fee structure established in section 3 of this chapter shall be credited toward the amount of the fee that the source is required to pay under this subdivision.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-7

Fees; increases and decreases in amount

Sec. 7. (a) Except as provided in section 8 of this chapter, this section applies to an increase or a decrease in the fees described in this chapter:

(1) based on the Consumer Price Index (CPI), consistent with 42 U.S.C. 7661a; or

(2) necessary to provide adequate revenue to fund all activities described under section 3 of this chapter.

(b) The increase or decrease shall be made equally and proportionately to all:

(1) minimum fees;

(2) base fees;

(3) maximum fees;

(4) cost of service fees; and

(5) emission based fees;

established as described in this chapter or as revised by the board.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-8

Fees; adjustments to cost of service

Sec. 8. The requirement for equal and proportionate increases does not apply to adjustments to cost of service based fees that are:

(1) the result of increased activities described under section 3 of this chapter; and

(2) attributable to federal mandates related to particular types or categories of sources.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-9

Annual accounting

Sec. 9. The commissioner shall provide the Administrator of the United States Environmental Protection Agency with an annual accounting of:

(1) the receipt of operating permit fees; and

(2) the expenditure of money in the fund under this chapter;

to demonstrate that operating permit fees are used solely to support the operating permit program.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-10

Failure to obtain permit

Sec. 10. (a) This section applies to the issuance or denial of an operating permit under the operating permit program established under 42 U.S.C. 7661 through 7661f.

(b) If:

(1) an applicant has submitted a timely and complete application for a permit required under the operating permit program; and

(2) final action has not been taken on the application;

the applicant's failure to have a permit is not a violation of this article until after final agency action is taken on the permit application.

As added by P.L.1-1996, SEC.7.

IC 13-17-9
Chapter 9. Open Burning

IC 13-17-9-1
Open burning of certain vegetation and wood items; no permit required

Sec. 1. (a) Subject to section 3 of this chapter, a person may open burn the following for maintenance purposes:

(1) Vegetation from:
(A) a farm;
(B) an orchard;
(C) a nursery;
(D) a tree farm;
(E) a cemetery; or
(F) a drainage ditch.

(2) Vegetation from agricultural land if the open burn occurs in an unincorporated area.

(3) Wood products derived from pruning or clearing a roadside by a county highway department.

(4) Wood products derived from the initial clearing of a public utility right-of-way if the open burn occurs in an unincorporated area.

(5) Undesirable:
(A) wood structures on real property; or
(B) wood remnants of the demolition of a predominantly wooden structure originally located on real property;
located in an unincorporated area.

(b) A person who is allowed to open burn under subsection (a) is not required to obtain:

(1) a permit; or
(2) any other authorization;

from the department, a unit of local government, or a volunteer fire department before conducting the open burning.

As added by P.L.1-1996, SEC.7. Amended by P.L.1-1999, SEC.35; P.L.238-2003, SEC.1.

IC 13-17-9-2
Railroad maintenance and repair

Sec. 2. Subject to section 3 of this chapter, a person may open burn clean petroleum products for the purpose of maintaining or repairing railroad tracks, including the railroad rights-of-way. A person may not open burn railroad ties.

As added by P.L.1-1996, SEC.7.

IC 13-17-9-3
Conditions of open burning

Sec. 3. All open burning that is allowed under this chapter must comply with the following conditions:

(1) A person who open burns any material shall extinguish the fire if the fire creates a nuisance or fire hazard.

(2) Burning may not be conducted during unfavorable meteorological conditions such as high winds, temperature inversions, or air stagnation.

(3) All fires must be attended at all times during burning until completely extinguished.

(4) All asbestos containing materials must be removed before the burning of a structure.

(5) Asbestos containing materials may not be burned.

(6) Except as provided under section 1 of this chapter, all burning must comply with state and federal laws.

As added by P.L.1-1996, SEC.7.

IC 13-17-10
Chapter 10. Incineration of PCB

IC 13-17-10-1
Permit and recommendation of local plan commission

Sec. 1. A person may not incinerate PCB in an incinerator unless the person:

(1) holds a permit issued by the commissioner specifically authorizing the incineration of PCB in the incinerator; and

(2) has received the recommendation of the local plan commission that has jurisdiction over the area in which the incinerator is located and the county executive of the county in which the incinerator is located has approved the incineration of the PCB or, if an appropriate local plan commission does not exist, the county executive of the county in which the incinerator is located has approved the incineration of the PCB.

As added by P.L.1-1996, SEC.7.

IC 13-17-10-2
Study required

Sec. 2. The commissioner may not:

(1) issue; or

(2) consider an application for;

a permit specifically authorizing the incineration of PCB until the study required by section 3 of this chapter is concluded.

As added by P.L.1-1996, SEC.7.

IC 13-17-10-3
Alternative PCB technologies; study

Sec. 3. The department, in cooperation with the United States Environmental Protection Agency, an applicant for a permit issued under this chapter, and a city or town in which an incinerator described under section 1 of this chapter is or will be located, shall conduct a study of alternative PCB technologies. The study must include an assessment of the efficacy and the technical and economic feasibility of the following:

(1) Alternative technologies such as the following:

(A) The application of lime to break down PCB.

(B) The low temperature thermal disorption process.

(C) Disorption and vaporization extraction.

(D) Plasma torch technology.

(E) Bacterial remediation.

(2) Other technologies identified by the commissioner as having possible value in the treatment or disposal of PCB in Indiana.

As added by P.L.1-1996, SEC.7.

IC 13-17-10-4
Alternative PCB technologies; period for study; report

Sec. 4. (a) The study required by section 3 of this chapter must be concluded before January 1, 1996.

(b) At the conclusion of the study the commissioner shall prepare a report setting forth the results of the study. The commissioner shall:

(1) present the report to:

(A) the governor; and

(B) the general assembly; and

(2) make copies of the report available to the public.

As added by P.L.1-1996, SEC.7.

IC 13-17-11
Chapter 11. Thermal Oxidation Unit Permits

IC 13-17-11-1
Applicability of chapter

Sec. 1. This chapter does not apply to a thermal oxidation unit that would be used by a person that:

(1) generates soil contaminated by petroleum or a petroleum byproduct at a site owned or operated by the person; and

(2) remediates the soil at the same site.

As added by P.L.1-1996, SEC.7.

IC 13-17-11-2
Issuance of permits

Sec. 2. The department may not issue a permit for the construction or the operation of a thermal oxidation unit that would be used only to remediate soil contaminated by petroleum or a petroleum byproduct if the thermal oxidation unit would be constructed or operated in a county that:

(1) has a population of:

(A) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000); and

(2) is located in an air quality control area that has been classified as a nonattainment area under the federal Clean Air Act (42 U.S.C. 7401 et seq.);

unless it can be demonstrated that the thermal oxidation unit is in compliance with a state implementation plan submitted under Section 182 of the federal Clean Air Act (42 U.S.C. 7511a).

As added by P.L.1-1996, SEC.7. Amended by P.L.170-2002, SEC.87; P.L.119-2012, SEC.111.

IC 13-17-12

Chapter 12. Enforcement of Local Air Pollution Ordinances

IC 13-17-12-1

Adoption and enforcement of local air pollution ordinances and programs

Sec. 1. Air pollution control laws do not prevent towns, cities, or counties from:

(1) enforcing local air pollution ordinances consistent with air pollution control laws; or

(2) adopting or enforcing more restrictive ordinances to further the expressed purposes of air pollution control laws.

As added by P.L.1-1996, SEC.7.

IC 13-17-12-2

Power of county to adopt and enforce air pollution ordinances

Sec. 2. (a) For the maintenance of the quality of the air resource, a county may adopt and enforce ordinances controlling air pollution.

(b) In a county not having a consolidated city, the ordinances may not include municipalities with an air pollution ordinance under air pollution control laws.

(c) In a county having a consolidated city, a county air pollution ordinance may apply throughout the entire county, including territory inside the corporate boundaries of excluded cities.

As added by P.L.1-1996, SEC.7.

IC 13-17-12-3

Cooperation of towns, cities, or counties

Sec. 3. A town, city, or county within an air quality basin may administer its air pollution control program in cooperation with one (1) or more towns, cities, or counties of Indiana in accordance with IC 36-1-7. However, a county having a consolidated city is not required to enter into an agreement under IC 36-1-7 to regulate air pollution inside an excluded city in the county.

As added by P.L.1-1996, SEC.7.

IC 13-17-12-4

Annual reports

Sec. 4. An air pollution control agency shall submit annual reports as requested by the department.

As added by P.L.1-1996, SEC.7.

IC 13-17-12-5

Failure of air quality jurisdiction or administrator to enforce ordinances

Sec. 5. If:

(1) an air quality jurisdiction; or

(2) an administrator of an air quality jurisdiction;

fails to enforce a local ordinance that affords protection to the public equal to that provided by state law, the department may, after

consultation with the jurisdiction or administrator, take appropriate action necessary to enforce applicable provisions of state law.
As added by P.L.1-1996, SEC.7.

IC 13-17-12-6
Establishment of air permit program

Sec. 6. A county having a consolidated city may, subject to department approval, establish an air permit program that complies with:

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

(2) regulations implementing Title V of the Clean Air Act Amendments of 1990 (40 CFR 70 et seq.); and

(3) rules adopted by the board.

As added by P.L.1-1996, SEC.7.

IC 13-17-13
Chapter 13. Enforceable Operating Agreement Program

IC 13-17-13-1
Rules

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

As added by P.L.1-1996, SEC.7. Amended by P.L.133-2012, SEC.123.

IC 13-17-13-2
Establishment; applicability

Sec. 2. For categories established under section 1 of this chapter, the department shall recommend rules to establish an enforceable operating agreement program. The program established under this section may apply to some or all of the sources or facilities within the categories. Rules adopted under this section must be approved by the United States Environmental Protection Agency.

As added by P.L.1-1996, SEC.7.

IC 13-17-13-3
Annual report

Sec. 3. (a) The department shall provide an annual report to the following:

(1) The board.

(2) The interim study committee on environmental affairs established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6.

(b) The report must include a summary of the:

(1) reviews conducted; and

(2) agreements approved;

in the preceding year under this chapter.

As added by P.L.1-1996, SEC.7. Amended by P.L.53-2014, SEC.123.

IC 13-17-14
Repealed

(Repealed by P.L.57-2009, SEC.18.)

IC 13-18

ARTICLE 18. WATER POLLUTION CONTROL

IC 13-18-1

Repealed

(Repealed by P.L.133-2012, SEC.124.)

IC 13-18-2

Chapter 2. Water Pollution Agency Under Federal Law

IC 13-18-2-1

Powers; cooperation with federal agencies; federal funds; approval of projects; participation in proceedings; administration of permitting programs

Sec. 1. (a) In carrying out the purposes of IC 13-13-5-1(1), the department may, in addition to any other action that is necessary or appropriate to carry out the purpose of IC 13-13-5-1(1), do the following:

(1) Cooperate with the United States Surgeon General and other agencies of the federal government, other states, interstate agencies, and other interested parties in all matters relating to water pollution, including the development of programs for eliminating or reducing pollution and improving the sanitary condition of waters.

(2) On behalf of Indiana, apply for and receive money made available to the department under the Federal Water Pollution Control Act by any agency of the federal government. However, all money received from any federal agency:

(A) shall be paid into the state treasury; and

(B) shall be expended, under the direction of the department, solely for the purpose for which the grant has been made.

(3) Approve projects for which application for loans or grants under the Federal Water Pollution Control Act is made by:

(A) any political subdivision or other public body created by or under Indiana law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes;

(B) a state agency; or

(C) an interstate agency.

(4) Participate through the department's authorized representatives in proceedings under the Federal Water Pollution Control Act.

(5) Give consent on behalf of Indiana to requests by the Administrator of the Federal Security Agency to the Attorney General of the United States for the bringing of suit for abatement of pollution.

(6) Consent to the joinder as a defendant in a suit for the abatement of pollution of a person who is alleged to be discharging matter contributing to the pollution.

(7) Except for a Class II well (as defined in IC 14-8-2-41) regulated under IC 14:

(A) develop a regulatory program for implementation of; and

(B) seek authority to implement;

the Underground Injection Control program under the federal Safe Drinking Water Act (42 U.S.C. 300f through 300j).

(8) Subject to subsection (b), enter into an agreement with the United States Army Corps of Engineers and the United States Environmental Protection Agency to administer a permitting

program under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(b) Administration of a permitting program by the department under an agreement entered into under subsection (a)(8) does not affect the authority of the department of natural resources to regulate activities within the waterways of Indiana under IC 14-26, IC 14-28, or IC 14-29.

As added by P.L.1-1996, SEC.8. Amended by P.L.159-2011, SEC.22.

IC 13-18-2-2

Effect on other laws

Sec. 2. This chapter, IC 13-13-5-1(1), and IC 13-13-5-2:

(1) do not amend, alter, or repeal any provision of the water pollution control laws; and

(2) are supplemental to the other provisions of the water pollution control laws.

As added by P.L.1-1996, SEC.8.

IC 13-18-2-3

Requirements for department preparation of list of impaired waters; rule adoption; identification of pollutants under consideration in establishing total maximum daily load for a surface water

Sec. 3. (a) The department shall prepare a list of impaired waters for the purpose of complying with federal regulations implementing Section 303(d) of the federal Clean Water Act (33 U.S.C. 1313(d)). In determining whether a water body is impaired, the department shall consider all existing and readily available water quality data and related information. The department, before submitting the list to the United States Environmental Protection Agency, shall:

(1) publish the list in the Indiana Register;

(2) make the list available for public comment for at least ninety (90) days; and

(3) present the list to the board.

If the United States Environmental Protection Agency changes the list, the board shall publish the changes in the Indiana Register and conduct a public hearing within ninety (90) days after receipt of the changes.

(b) The board shall adopt a rule that:

(1) establishes the methodology to be used in identifying waters as impaired; and

(2) specifies the methodology and criteria for including and removing waters from the list of impaired waters.

(c) In the establishment of the total maximum daily load for a surface water under Section 303(d)(1)(C) of the federal Clean Water Act (33 U.S.C. 1313(d)(1)(C)), the department shall, in identifying the surface water under Section 303(d)(1)(A) of the federal Clean Water Act (33 U.S.C. 1313(d)(1)(A)), make every reasonable effort to identify the pollutant or pollutants under consideration for the establishment of the total maximum daily load.

(d) The department shall comply with subsection (e) if either of the following applies:

(1) The department:

(A) is unable in identifying the surface water as described in subsection (c) to identify the pollutant or pollutants under consideration for the establishment of the total maximum daily load; and

(B) determines, after identifying the surface water as described in subsection (c), that one (1) or more pollutants should be under consideration for establishment of the total maximum daily load.

(2) The department:

(A) in identifying the surface water as described in subsection (c), identifies the pollutant or pollutants under consideration for the establishment of the total maximum daily load; and

(B) determines, after identifying the pollutant or pollutants as described in clause (A), that one (1) or more other pollutants should be under consideration for establishment of the total maximum daily load.

(e) The department complies with subsection (d) if the department does the following before making a pollutant or pollutants the subject of consideration for the establishment of the total maximum daily load:

(1) Determines and demonstrates that either or both of the following apply:

(A) The surface water does not attain water quality standards (as established in 327 IAC 2-1 and 327 IAC 2-1.5) due to an individual pollutant, multiple pollutants, pollution, or an unknown cause of impairment.

(B) The surface water:

(i) receives a thermal discharge from one (1) or more point sources; and

(ii) does not have or maintain a balanced indigenous population of shellfish, fish, and wildlife.

(2) Publishes in the Indiana Register the determination referred to in subdivision (1).

(3) Makes the determination referred to in subdivision (1) available for public comment for at least ninety (90) days.

(4) Presents the determination referred to in subdivision (1) to the commissioner for final approval after the comment period under subdivision (3).

As added by P.L.140-2000, SEC.16. Amended by P.L.78-2009, SEC.14.

IC 13-18-3

Chapter 3. Powers and Duties Concerning Water Pollution Control

IC 13-18-3-1

Duties of board

Sec. 1. The board shall adopt rules for the control and prevention of pollution in waters of Indiana with any substance:

(1) that is deleterious to:

(A) the public health; or

(B) the prosecution of any industry or lawful occupation; or

(2) by which:

(A) any fish life or any beneficial animal or vegetable life may be destroyed; or

(B) the growth or propagation of fish life or beneficial animal or vegetable life is prevented or injuriously affected.

As added by P.L.1-1996, SEC.8. Amended by P.L.133-2012, SEC.125.

IC 13-18-3-2

Designation of outstanding state resource waters; rules and recommendations; NPDES general permits and antidegradation review; classification of waters

Sec. 2. (a) The board may adopt rules under IC 4-22-2 that are necessary to the implementation of:

(1) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as in effect January 1, 1988; and

(2) the federal Safe Drinking Water Act (42 U.S.C. 300f through 300j), as in effect January 1, 1988;

except as provided in IC 14-37.

(b) "Degradation" has the meaning set forth in IC 13-11-2-50.5.

(c) "Outstanding national resource water" has the meaning set forth in IC 13-11-2-149.5.

(d) "Outstanding state resource water" has the meaning set forth in IC 13-11-2-149.6.

(e) "Watershed" has the meaning set forth in IC 14-8-2-310.

(f) The board may designate a water body as an outstanding state resource water by rule if the board determines that the water body has a unique or special ecological, recreational, or aesthetic significance.

(g) Before the board may adopt a rule designating a water body as an outstanding state resource water, the board must consider the following:

(1) Economic impact analyses, presented by any interested party, taking into account future population and economic development growth.

(2) The biological criteria scores for the water body, using factors that consider fish communities, macro invertebrate communities, and chemical quality criteria using representative biological data from the water body under consideration.

(3) The level of current urban and agricultural development in

the watershed.

(4) Whether the designation of the water body as an outstanding state resource water will have a significant adverse effect on future population, development, and economic growth in the watershed, if the water body is in a watershed that has more than three percent (3%) of its land in urban land uses or serves a municipality with a population greater than five thousand (5,000).

(5) Whether the designation of the water body as an outstanding state resource water is necessary to protect the unique or special ecological, recreational, or aesthetic significance of the water body.

(h) Before the board may adopt a rule designating a water body as an outstanding state resource water, the board must make available to the public a written summary of the information considered by the board under subsections (f) and (g), including the board's conclusions concerning that information.

(i) The commissioner shall present a summary of the comments received from the comment period and information that supports a water body designation as an outstanding state resource water to the interim study committee on environmental affairs established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6 not later than one hundred twenty (120) days after the rule regarding the designation is finally adopted by the board.

(j) Notwithstanding any other provision of this section, the designation of an outstanding state resource water in effect on January 1, 2000, remains in effect.

(k) For a water body designated as an outstanding state resource water, the board shall provide by rule procedures that will:

(1) prevent degradation; and

(2) allow for increases and additions in pollutant loadings from an existing or new discharge if:

(A) there will be an overall improvement in water quality for the outstanding state resource water as described in this section; and

(B) the applicable requirements of 327 IAC 2-1-2(1) and 327 IAC 2-1-2(2) and 327 IAC 2-1.5-4(a) and 327 IAC 2-1.5-4(b) are met.

(l) The procedures provided by rule under subsection (k) must include the following:

(1) A definition of significant lowering of water quality that includes a de minimis quantity of additional pollutant load:

(A) for which a new or increased permit limit is required; and

(B) below which antidegradation implementation procedures do not apply.

(2) Provisions allowing the permittee to choose application of one (1) of the following for each activity undertaken by the permittee that will result in a significant lowering of water quality in the outstanding state resource water:

(A) Implementation of a water quality project in the watershed of the outstanding state resource water that will result in an overall improvement of the water quality of the outstanding state resource water.

(B) Payment of a fee, not to exceed five hundred thousand dollars ($500,000), based on the type and quantity of increased pollutant loadings, to the department for deposit in the outstanding state resource water improvement fund established under section 14 of this chapter for use as permitted under that section.

(3) Criteria for the submission and timely approval of projects described in subdivision (2)(A).

(4) A process for public input in the approval process.

(5) Use of water quality data that is less than seven (7) years old and specific to the outstanding state resource water.

(6) Criteria for using the watershed improvement fees to fund projects in the watershed that result in improvement in water quality in the outstanding state resource water.

(m) For a water body designated as an outstanding state resource water after June 30, 2000, the board shall provide by rule antidegradation implementation procedures before the water body is designated in accordance with this section.

(n) A water body may be designated as an outstanding national resource water only by the general assembly after recommendations for designation are made by the board and the interim study committee on environmental affairs established by IC 2-5-1.3-4.

(o) Before recommending the designation of an outstanding national resource water, the department shall provide for an adequate public notice and comment period regarding the designation. The commissioner shall present a summary of the comments and information received during the comment period and the department's recommendation concerning designation to the interim study committee on environmental affairs established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6 not later than ninety (90) days after the end of the comment period. The committee shall consider the comments, information, and recommendation received from the department, and shall convey its recommendation concerning designation to the general assembly within six (6) months after receipt.

(p) This subsection applies to all surface waters of the state. The department shall complete an antidegradation review of all NPDES general permits. The department may modify the general permits for purposes of antidegradation compliance. After an antidegradation review of a permit is conducted under this subsection, activities covered by an NPDES general permit are not required to undergo an additional antidegradation review. An NPDES general permit may not be used to authorize a discharge into an outstanding national resource water or an outstanding state resource water, except that a short term, temporary storm water discharge to an outstanding national resource water or to an outstanding state resource water may

be permitted under an NPDES general permit if the commissioner determines that the discharge will not significantly lower the water quality downstream of the discharge.

(q) Subsection (r) applies to an application for:

(1) an NPDES permit subject to IC 13-15-4-1(a)(2)(B), IC 13-15-4-1(a)(3)(B), or IC 13-15-4-1(a)(4); or

(2) a modification or renewal of a permit referred to in one (1) of the sections referred to in subdivision (1) that proposes new or increased discharge that would result in a significant lowering of water quality as defined in subsection (l)(1).

(r) For purposes of an antidegradation review with respect to an application referred to in subsection (q), the applicant shall demonstrate at the time the application is submitted to the department, and the commissioner shall review:

(1) an analysis of alternatives to the proposed discharge; and

(2) subject to subsection (s), social or economic factors indicating the importance of the proposed discharge if alternatives to the proposed discharge are not practicable.

(s) Subject to subsection (t), the commissioner shall consider the following factors in determining whether a proposed discharge is necessary to accommodate important economic or social development in the area in which the waters are located under antidegradation standards and implementation procedures:

(1) Creation, expansion, or maintenance of employment.

(2) The unemployment rate.

(3) The median household income.

(4) The number of households below the poverty level.

(5) Community housing needs.

(6) Change in population.

(7) The impact on the community tax base.

(8) Provision of fire departments, schools, infrastructure, and other necessary public services.

(9) Correction of a public health, safety, or environmental problem.

(10) Production of goods and services that protect, enhance, or improve the overall quality of life and related research and development.

(11) The impact on the quality of life for residents in the area.

(12) The impact on the fishing, recreation, and tourism industries.

(13) The impact on threatened and endangered species.

(14) The impact on economic competitiveness.

(15) Demonstration by the permit applicant that the factors identified and reviewed under subdivisions (1) through (14) are necessary to accommodate important social or economic development despite the proposed significant lowering of water quality.

(16) Inclusion by the applicant of additional factors that may enhance the social or economic importance associated with the proposed discharge, such as an approval that:

(A) recognizes social or economic importance; and
(B) is given to the applicant by:
(i) a legislative body; or
(ii) other government officials.
(17) Any other action or recommendation relevant to the antidegradation demonstration made by a:
(A) state;
(B) county;
(C) township; or
(D) municipality;
potentially affected by the proposed discharge.
(18) Any other action or recommendation relevant to the antidegradation demonstration received during the public participation process.
(19) Any other factors that the commissioner:
(A) finds relevant; or
(B) is required to consider under the Clean Water Act.

(t) In determining whether a proposed discharge is necessary to accommodate important economic or social development in the area in which the waters are located under antidegradation standards and implementation procedures, the commissioner:
(1) must give substantial weight to any applicable determinations by governmental entities; and
(2) may rely on consideration of any one (1) or a combination of the factors listed in subsection (s).

(u) Each exceptional use water (as defined in IC 13-11-2-72.5, before its repeal) designated by the board before June 1, 2009, becomes an outstanding state resource water on June 1, 2009, by operation of law.

(v) Beginning June 1, 2009, all waters of the state are classified in the following categories:
(1) Outstanding national resource waters.
(2) Outstanding state resource waters.
(3) Waters of the state as described in 327 IAC 2-1-2(1), as in effect on January 1, 2009.
(4) High quality waters as described in 327 IAC 2-1-2(2), as in effect on January 1, 2009.
(5) Waters of the state as described in 327 IAC 2-1.5-4(a), as in effect on January 1, 2009.
(6) High quality waters as described in 327 IAC 2-1.5-4(b), as in effect on January 1, 2009.

As added by P.L.1-1996, SEC.8. Amended by P.L.140-2000, SEC.17; P.L.1-2001, SEC.16; P.L.78-2009, SEC.15; P.L.81-2011, SEC.1; P.L.53-2014, SEC.124.

IC 13-18-3-2.1
Deadline for department to complete antidegradation review in certain circumstances; extension

Sec. 2.1. (a) If a discharge results from an activity for which:
(1) an NPDES permit subject to IC 13-15-4-1(a)(2)(B),

IC 13-15-4-1(a)(3)(B), or IC 13-15-4-1(a)(4); or

(2) a modification or renewal of a permit referred to in one (1) of the sections referred to in subdivision (1) that proposes new or increased discharge that would result in a significant lowering of water quality as defined in IC 13-18-3-2(l)(1);

is sought, the deadline for the department to complete the antidegradation review under 40 CFR 131.12 and 40 CFR Part 132, Appendix E with respect to the discharge is the deadline for the commissioner to approve or deny the NPDES permit application under IC 13-15-4-1.

(b) The commissioner may extend for cause for not more than ninety (90) days the deadline under subsection (a) for the department to complete the antidegradation review.

As added by P.L.78-2009, SEC.16.

IC 13-18-3-2.3

Designated use change to CSO wet weather category; long term control plans

Sec. 2.3. (a) This subsection applies if a use attainability analysis is performed and approved to change the designated use of a water body receiving wet weather discharges from combined sewer overflows from the recreational use designation that applied to the waters immediately before the application to the waters of the CSO wet weather subcategory established in section 2.5 of this chapter to that subcategory. Upon implementation of the approved long term control plan, the plan fulfills the water quality goals of the state with respect to wet weather discharges that are a result of overflows from the combined sewer system addressed by the plan.

(b) A long term control plan must meet the requirements of:

(1) Section 402(q) of the federal Clean Water Act (33 U.S.C. 1342(q)); and

(2) 59 FR 18688.

(c) An approved long term control plan shall be incorporated into:

(1) the NPDES permit holder's NPDES permit; or

(2) an order of the commissioner under IC 13-14-2-6.

(d) If a use attainability analysis is performed, the department shall:

(1) review a use attainability analysis submitted under this chapter concurrently with a long term control plan submitted under this chapter; and

(2) use the approved long term control plan to satisfy the requirements of the use attainability analysis.

As added by P.L.140-2000, SEC.18. Amended by P.L.54-2005, SEC.2.

IC 13-18-3-2.4

Review of feasibility of implementing additional or new control alternatives to attain water quality standards

Sec. 2.4. An NPDES permit holder shall review the feasibility of implementing additional or new control alternatives to attain water

quality standards. The NPDES permit holder shall conduct such a review periodically, but not less than every five (5) years after approval of the long term control plan by the department. The NPDES permit holder shall:

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

(2) update the long term control plan as necessary;

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

(4) implement control alternatives determined to be cost effective and affordable.

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

As added by P.L.140-2000, SEC.19. Amended by P.L.1-2001, SEC.17; P.L.54-2005, SEC.3.

IC 13-18-3-2.5

CSO wet weather limited use subcategory established; application after approval of long term control plan; other requirements; EPA approval; monitoring and review; rules

Sec. 2.5. (a) A CSO wet weather limited use subcategory is established for waters affected by receiving combined sewer overflows, as specified in an approved long term control plan. The CSO wet weather limited use subcategory applies to a specific water body after implementation of an approved long term control plan for the combined sewer system whose overflow discharges affect those waters is implemented and the conditions of subsection (b) are satisfied. The following requirements apply to the CSO wet weather limited use subcategory:

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

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

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

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

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

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

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

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

(f) In conjunction with a review of its long term control plan under section 2.4 of this chapter, the NPDES permit holder shall review information generated after the use attainability analysis was approved by the department to determine whether the conclusion of the use attainability analysis is still valid. The NPDES permit holder shall provide the results of the review to the department.

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

As added by P.L.140-2000, SEC.20. Amended by P.L.54-2005, SEC.4.

IC 13-18-3-2.6
Permit schedules of compliance

Sec. 2.6. (a) Where appropriate, permits shall contain schedules of compliance requiring the permittee to take specific steps to achieve expeditious compliance with applicable standards, limitations, and other requirements.

(b) The schedule of compliance shall require compliance as soon as reasonably possible, but may remain in effect as long as the National Pollutant Discharge Elimination System (NPDES) permit requirements are in effect.

(c) The department shall, at the request of the NPDES permit holder, incorporate in the permit a schedule of compliance for

meeting the water quality based requirements associated with combined sewer overflows during the period of development, approval, and implementation of the long term control plan. The schedules of compliance:

(1) may exceed time frames authorized under 327 IAC; and

(2) may not exceed the period specified for implementation in an approved long term control plan.

(d) If the term of a schedule of compliance exceeds the term of an NPDES permit, the department shall continue to implement the schedule of compliance continuously before and during each successive permit term, to the maximum duration as provided in subsection (c). The permit shall specify that the schedule of compliance lasts beyond the term of the permit.

(e) Upon request of the permittee, the department shall modify NPDES permits containing water quality based requirements associated with combined sewer overflows to provide schedules of compliance as provided in subsection (c).

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

As added by P.L.54-2005, SEC.5.

IC 13-18-3-3
Repealed

(Repealed by P.L.133-2012, SEC.126.)

IC 13-18-3-4
Orders; review by environmental law judge

Sec. 4. (a) The commissioner may enter into agreed orders as provided in IC 13-30-3-6.

(b) An environmental law judge under IC 4-21.5-7 shall review orders and determinations of the commissioner.

As added by P.L.1-1996, SEC.8.

IC 13-18-3-5
Additional duties

Sec. 5. The board shall carry out other duties imposed by law.

As added by P.L.1-1996, SEC.8.

IC 13-18-3-6
Enforcement

Sec. 6. The water pollution control laws may be enforced under IC 13-30-3 or IC 13-14-2-6.

As added by P.L.1-1996, SEC.8.

IC 13-18-3-7
Orders to acquire, construct, repair, alter, or extend plants

Sec. 7. The commissioner may order any person to acquire, construct, repair, alter, or extend the plants that are necessary for the disposal or treatment of organic or inorganic matter that is:

(1) causing;

(2) contributing to; or
(3) about to cause or contribute to;
a polluted condition of the waters of Indiana.
As added by P.L.1-1996, SEC.8.

IC 13-18-3-8
Sealing of mines and wells
Sec. 8. The commissioner may require the sealing of mines, oil and gas wells, brine wells, or any other subterranean strata that are:
(1) causing;
(2) contributing to; or
(3) about to cause or contribute to;
a polluted condition of the waters of Indiana.
As added by P.L.1-1996, SEC.8.

IC 13-18-3-9
Entry upon property; purposes
Sec. 9. The department may, through any authorized agent, enter at all reasonable times in or upon any private or public property for the purpose of inspecting and investigating conditions relating to the pollution of any water of Indiana.
As added by P.L.1-1996, SEC.8.

IC 13-18-3-10
Assistance from other state departments, agencies, or institutions
Sec. 10. The department may call upon:
(1) any state officer, board, department, school, university, or other state institution; and
(2) the officers or employees of an individual entity described in subdivision (1);
for any assistance necessary to carry out the water pollution control laws.
As added by P.L.1-1996, SEC.8.

IC 13-18-3-11
Liberal construction
Sec. 11. Since the water pollution control laws are necessary for the public health, safety, and welfare, the water pollution control laws shall be liberally construed to effectuate the purposes of the water pollution control laws.
As added by P.L.1-1996, SEC.8.

IC 13-18-3-12
Adoption of rules waiving requirement of submission of plans
Sec. 12. The board shall adopt rules providing that whenever a person submits plans to a unit concerning the design or construction of:
(1) a sanitary sewer or public water main, if:
(A) a professional engineer who is registered under IC 25-31 prepared the plans;

(B) the unit provided for review of the plans by a qualified engineer and subsequently approved the plans; and
(C) all other requirements specified in rules adopted by the board are met; or
(2) a sanitary sewer extension for and within a subdivision, if:
(A) a qualified professional surveyor who is registered under IC 25-21.5 prepared the plans;
(B) the subdivision is being laid out or having been laid out by the professional surveyor subject to IC 25-21.5-7;
(C) the unit provided for review of the plans by a qualified engineer and subsequently approved the plans; and
(D) all other requirements specified in rules adopted by the board are met;

the plans are not required to be submitted to any state agency for a permit, permission, or review, unless required by federal law.
As added by P.L.104-1998, SEC.1. Amended by P.L.241-1999, SEC.1; P.L.133-2012, SEC.127; P.L.57-2013, SEC.10; P.L.113-2014, SEC.70.

IC 13-18-3-13
Violation of storm water runoff rules

Sec. 13. If a violation of 327 IAC 15-5 occurs, the department shall determine which person is responsible for committing the violation. In making this determination, the department shall, if appropriate, consider:
(1) public records of ownership;
(2) building permits issued by local units of government; or
(3) other relevant information.

The department's determination to proceed against a person responsible for committing a violation must be based on the specific facts and circumstances related to a particular violation.
As added by P.L.161-1999, SEC.1.

IC 13-18-3-14
Fund; report

Sec. 14. (a) The outstanding state resource water improvement fund is established. All money collected under section 2 of this chapter and any money accruing to the fund are continuously appropriated to the fund to carry out the purposes of section 2 of this chapter. Money in the fund at the end of a state fiscal year does not revert to the state general fund, unless the outstanding state resource water improvement fund is abolished.

(b) The outstanding state resource water improvement fund shall be administered as follows:
(1) The fund may be used by the department of environmental management to fund projects that will lead to overall improvement to the water quality of the affected outstanding state resource water.
(2) The treasurer of state may invest the money in the fund not currently needed to meet the obligations of the fund in the same

manner as other public money may be invested.

(3) Any interest received accrues to the fund.

(4) The expenses of administering the fund shall be paid from the fund.

(c) The commissioner shall annually report to the interim study committee on environmental affairs established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6:

(1) plans for the use and implementation of the outstanding state resource water improvement fund; and

(2) the balance in the fund.

As added by P.L.140-2000, SEC.21. Amended by P.L.78-2009, SEC.17; P.L.53-2014, SEC.125.

IC 13-18-3-15

Terms and conditions of NPDES general permits

Sec. 15. (a) Subject to subsection (c), the board shall amend 327 IAC 5 and 327 IAC 15 to eliminate:

(1) the requirement that NPDES general permit terms and conditions be contained in a rule; and

(2) the terms and conditions of each NPDES general permit that is:

(A) contained in that article; and

(B) in effect on the effective date of this section.

(b) The department may develop and issue NPDES general permits in accordance with 40 CFR 122.28.

(c) After 327 IAC 5 and 327 IAC 15 are amended under subsection (a), the terms and conditions of an NPDES general permit under that article as they existed before the amendment remain in effect and are binding on any person regulated under the NPDES general permit until the person submits a notice of intent to be covered by an NPDES general permit developed and issued under subsection (b).

(d) Any person regulated under an NPDES general permit on the effective date of the amendment required by subsection (a) must:

(1) submit a notice of intent described in subsection (c) not later than ninety (90) days after the department makes the form of the notice of intent available to the person; or

(2) apply for an NPDES individual permit under 327 IAC 5 to maintain permit coverage required under the Clean Water Act.

(e) This section does not affect the authority of the board to adopt rules that authorize NPDES general permits.

As added by P.L.81-2011, SEC.2.

IC 13-18-4

Chapter 4. Restrictions on Pollution of Water

IC 13-18-4-1

Water qualities and properties indicating pollution

Sec. 1. The board may adopt rules under IC 4-22-2 to determine what qualities and properties of water indicate a polluted condition of the water in any of the streams or waters of Indiana:

(1) that is deleterious to:

(A) the public health; or

(B) the prosecution of any industry or lawful occupation for which or in which any waters may be lawfully used or employed;

(2) by which any agricultural, floricultural, or horticultural pursuit may be or is injuriously affected;

(3) by which the lawful conduct of any livestock industry or the use of any waters for domestic animals may be prevented, injuriously affected, or impaired;

(4) by which any lawful use of any waters by the state or by any person may be lessened or impaired or materially interfered with; or

(5) by which:

(A) any fish life or any beneficial animal or vegetable life in the waters may be destroyed; or

(B) the growth or propagation of fish life or beneficial animal or vegetable life in the water is prevented or injuriously affected.

As added by P.L.1-1996, SEC.8.

IC 13-18-4-2

Filing of rules and determinations

Sec. 2. A rule or determination made by the board or the commissioner under sections 1 through 4 of this chapter shall be filed of record in the office of the department.

As added by P.L.1-1996, SEC.8.

IC 13-18-4-3

Rules restricting polluting content discharged into streams

Sec. 3. The board may adopt rules restricting the polluting content of any waste material and polluting substances discharged or sought to be discharged into any of the streams or waters of Indiana.

As added by P.L.1-1996, SEC.8.

IC 13-18-4-4

Prevention of unreasonable pollution and against public interest

Sec. 4. The commissioner may take appropriate steps to prevent any pollution that is determined to be unreasonable and against public interests in view of the condition in any stream or other waters of Indiana.

As added by P.L.1-1996, SEC.8.

IC 13-18-4-5
Unlawful discharge of deleterious substances; land application of fertilizer

Sec. 5. (a) Except as provided in subsection (b), a person may not:

(1) throw, run, drain, or otherwise dispose; or

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

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

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

(1) runoff from a storm event; or

(2) irrigation return flow;

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

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

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

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

(f) Before the rules for land application of fertilizer materials adopted under IC 15-16-2-44 by the state chemist take effect, a person may meet the requirements under subsection (b) if the person maintains documentation of compliance with:

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

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

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

As added by P.L.1-1996, SEC.8. Amended by P.L.189-2011, SEC.11.

IC 13-18-4-6
Notice of violation; service; contents

Sec. 6. (a) Whenever the commissioner determines that a person:

(1) is violating; or

(2) is about to violate;

section 5 of this chapter, the department shall serve notice of the commissioner's determination on the person in accordance with IC 13-14-2-1.

(b) The commissioner shall include in the notice an order against the person to:

(1) cease the violation; and

(2) abate the condition of pollution;

fixing in the order a reasonable time within which the correction and abatement must take place.

(c) Proceedings concerning an order issued under this section are governed by IC 4-21.5.

As added by P.L.1-1996, SEC.8. Amended by P.L.263-2013, SEC.3.

IC 13-18-4-7

Mixing zones

Sec. 7. (a) Notwithstanding any rules of the board, the commissioner shall allow for a mixing zone in permits that involve a discharge into Lake Michigan if the applicant can demonstrate to the commissioner that the mixing zone will not cause harm to human health or aquatic life.

(b) For mixing zones allowed under subsection (a), surface water quality standards for bioaccumulative chemicals of concern shall be applied to the undiluted discharge, rather than at a point outside the mixing zone.

As added by P.L.1-1996, SEC.8.

IC 13-18-4-8

Discharge induced mixing permits

Sec. 8. In issuing permits authorizing discharge induced mixing, the commissioner shall allow for mixing initiated by the use of:

(1) submerged, high rate diffuser outfall structures; or

(2) the functional equivalent of submerged, high rate diffuser outfall structures;

that provide turbulent initial mixing and minimize organism exposure times.

As added by P.L.1-1996, SEC.8.

IC 13-18-5

Chapter 5. Release of Hazardous Materials

IC 13-18-5-1

Rules regarding secondary containment structures at storage or transfer facilities; release contingency plans

Sec. 1. The board shall adopt rules under IC 4-22-2 to require the following:

(1) The construction or installation of secondary containment structures at facilities in which hazardous materials are stored or transferred for the purpose of preventing released hazardous materials from entering surface water or groundwater.

(2) The development by the owner or operator of each facility at which hazardous materials are stored or handled of a plan for responding to the release of a hazardous material at that facility.

(3) The rules must be consistent with applicable safety and fire code laws.

As added by P.L.1-1996, SEC.8.

IC 13-18-5-2

Exemptions

Sec. 2. The rules adopted under section 1 of this chapter must provide exemptions for the following:

(1) A facility that is subject to similar requirements under other administrative rules or under state law, federal law, or federal regulations.

(2) Hazardous materials that are stored or transferred as products packaged for distribution to and use by the public.

(3) An above ground storage tank that:

(A) is used to store oils or petroleum products; and

(B) has a capacity of not more than six hundred sixty (660) gallons.

(4) Tanks subject to regulations adopted by the administrator of the United States Environmental Protection Agency under 42 U.S.C. 6991 through 6991i, as amended.

(5) Tanks subject to IC 13-23.

As added by P.L.1-1996, SEC.8.

IC 13-18-6
Repealed

(Repealed by P.L.127-1997, SEC.2.)

IC 13-18-7

Chapter 7. Plans for Abatement or Correction

IC 13-18-7-1

Approval by commissioner

Sec. 1. The commissioner must approve all plans and specifications for abatement or correction of any polluted condition.

As added by P.L.1-1996, SEC.8.

IC 13-18-7-2

Advice and consultation by department

Sec. 2. The department shall advise and consult, on request, with any person planning any correction or prevention of any pollution condition of any water of Indiana.

As added by P.L.1-1996, SEC.8.

IC 13-18-8

Chapter 8. Compliance With Orders

IC 13-18-8-1

Final order

Sec. 1. A person upon whom a final order is served under the water pollution control laws shall take the steps that are necessary to comply with the final order.

As added by P.L.1-1996, SEC.8.

IC 13-18-8-2

Compliance by municipality; bond issue

Sec. 2. (a) If the offender is a municipal corporation, the cost of:

(1) acquisition, construction, repair, alteration, or extension of the necessary plants, machinery, or works; or

(2) taking other steps that are necessary to comply with the order;

shall be paid out of money on hand available for these purposes or out of the general money of the municipal corporation not otherwise appropriated.

(b) If there is not sufficient money on hand or unappropriated, the necessary money shall be raised by the issuance of bonds. The bond issue is subject only to the approval of the department of local government finance (before July 1, 2008).

As added by P.L.1-1996, SEC.8. Amended by P.L.90-2002, SEC.367; P.L.224-2007, SEC.103; P.L.146-2008, SEC.421.

IC 13-18-8-3

Issuance of bonds as direct obligation of municipal corporation

Sec. 3. If the estimated cost of the steps necessary for a municipal corporation to comply with a final order is great enough that the bond issue necessary to finance the project would not raise the total outstanding bonded indebtedness of the municipal corporation in excess of the constitutional limit, the necessary bonds:

(1) may be issued as a direct obligation of the municipal corporation; and

(2) may be retired by a general tax levy against all the property within the limit of the municipal corporation listed and assessed for taxation.

As added by P.L.1-1996, SEC.8.

IC 13-18-8-4

Revenue bonds

Sec. 4. (a) Subject to subsection (b), if:

(1) the amount of the bonds necessary to be issued would raise the total outstanding bonded indebtedness of the municipal corporation above the constitutional limitation; or

(2) the municipal corporation determines against the issuance of direct obligation bonds;

the municipal corporation shall issue revenue bonds and provide for

the retirement of the bonds in the same manner and subject to the same conditions provided for the issuance and retirement of bonds in IC 36-9-23 to the extent that the provisions of that statute are applicable and not in conflict with any of the express provisions of the water pollution control laws.

(b) IC 36-9-23-12 does not apply to bond issues proposed by a municipal corporation to comply with a final order issued under the authority of the water pollution control laws or IC 13-1-3 (before its repeal) and objections or submission to the qualified voters of the municipal corporation:

(1) may not be authorized; and

(2) if objections are made, do not operate to justify or excuse failure to comply with the final order.

As added by P.L.1-1996, SEC.8.

IC 13-18-8-5
Sanitary fund

Sec. 5. The money made available by the issuance of either direct obligation bonds or revenue bonds as provided by the water pollution control laws or IC 13-1-3 (before its repeal):

(1) constitutes a sanitary fund; and

(2) shall be used for no other purpose than for carrying out an order issued under the water pollution control laws or IC 13-1-3 (before its repeal).

As added by P.L.1-1996, SEC.8.

IC 13-18-8-6
Municipal pollution control works; governing law

Sec. 6. (a) Subject to subsection (b):

(1) the construction, acquisition, improvement, equipment, custody, operation, repair, and maintenance of a plant, machinery, or works by a municipal corporation in compliance with a final order of the commissioner, other than the financing; and

(2) the rights, powers, and duties of the municipal corporation and the respective officers and departments of the municipal corporation, whether the plant, machinery, or works is financed by the issuance of revenue or direct obligation bonds;

is governed by IC 36-9-23 to the extent that the provisions of IC 36-9-23 are applicable and do not conflict with any of the express provisions of the water pollution control laws.

(b) IC 36-9-23-12 does not apply to the construction, acquisition, equipping, improvement, repair, or maintenance of a plant, machinery, or works by any municipal corporation in compliance with a final order issued under the water pollution control laws or IC 13-1-3 before its repeal, and the objections or submission to the qualified voters of the municipal corporation:

(1) may not be authorized; and

(2) if objections are made, do not operate to justify or excuse failure to comply with the final order.

(c) IC 36-9-23 may not be construed to allow the municipal corporation or any of the officers of the municipal corporation discretion in the manner of complying with the order since complying with the order is mandatory.
As added by P.L.1-1996, SEC.8.

IC 13-18-8-7
Failure to comply with final order

Sec. 7. Failure of:

(1) a municipal corporation; or

(2) the board of directors or other governing body of a private corporation, association, or other legal entity;

to provide for the financing and construction of the works that are necessary to carry out a final order issued under the water pollution control laws or IC 13-1-3 (before its repeal) by appropriate ordinance or resolution constitutes failure to begin appropriate action or proceedings to comply with the order.
As added by P.L.1-1996, SEC.8.

IC 13-18-8-8
Extensions of time; penalties

Sec. 8. (a) The commissioner may extend the time fixed in a final order issued under the water pollution control laws or IC 13-1-3 (before its repeal) within which any offender is ordered to correct or abate a condition of pollution of any water upon written petition filed with the department not less than thirty (30) days before the time fixed in the order if it appears that:

(1) a good faith effort to comply with the order is being made; and

(2) it will be impossible for the offender to complete the project of work undertaken within the time fixed.

(b) A person who fails or refuses to correct or abate the polluted condition in compliance with the order:

(1) within the time fixed; or

(2) within the time additionally granted under this section;

is subject to the penalties imposed by IC 13-30-4, IC 13-30-5, and IC 13-30-8, and may be subject to criminal prosecution under IC 13-30-10.
As added by P.L.1-1996, SEC.8. Amended by P.L.137-2007, SEC.10.

IC 13-18-8-9
Violations

Sec. 9. A person who fails to discharge a duty imposed upon the person by the water pollution control laws commits a Class B misdemeanor.
As added by P.L.1-1996, SEC.8.

IC 13-18-9

Chapter 9. Prohibitions on Certain Detergents

IC 13-18-9-1

Applicability of chapter

Sec. 1. This chapter does not apply to any of the following:

(1) Detergents for cleaning in place food processing and dairy equipment.

(2) Phosphoric acid products, including sanitizers, brighteners, acid cleaners, and metal conditioners.

(3) Detergents for use in commercial machine dishwashers.

(4) Institutional laundry detergents, including detergents for use in hospitals and health care facilities.

(5) Detergents for use in dairy, beverage, food processing, and other industrial cleaning equipment.

(6) A detergent or cleaning compound contained in fuel or lubricating oil.

(7) Any other use of detergents in which the phosphorus contents are not permitted to:

(A) enter a public or private sewer; or

(B) be disposed of in the natural environment.

As added by P.L.1-1996, SEC.8. Amended by P.L.25-2008, SEC.1.

IC 13-18-9-2

Alkyl benzine sulfonate limitations

Sec. 2. A person may not use, sell, or otherwise dispose of any hard or nondegradable detergent containing alkyl benzine sulfonate (ABS) in any manner or any location in Indiana or into the boundary waters of Indiana from a source within Indiana.

As added by P.L.1-1996, SEC.8.

IC 13-18-9-3

Phosphorus limitations; exemptions

Sec. 3. (a) A person may not use, sell, or otherwise dispose of any detergent containing phosphorus, except:

(1) for those amounts not exceeding one-half percent (0.5%) by weight incidental to manufacturing; and

(2) in accordance with rules adopted under IC 4-22-2 by the board;

in Indiana or into the boundary waters of Indiana from a source within Indiana.

(b) The concentration of phosphorus shall be determined by the applicable method prescribed by the American Society for Testing and Materials.

As added by P.L.1-1996, SEC.8. Amended by P.L.113-2014, SEC.71.

IC 13-18-9-4

Enforcement of chapter

Sec. 4. (a) The department shall enforce this chapter under IC 13-30-3 or IC 13-14-2-6.

(b) The board shall adopt rules under IC 4-22-2 for the disposition of any detergent carried over on September 1, 1974. However, the commissioner may approve the use of phosphates by a manufacturer or processor for cleaning plant or equipment upon application to the commissioner by the manufacturer or processor. The commissioner shall require phosphate removal from the water so used by criteria established by the board.
As added by P.L.1-1996, SEC.8.

IC 13-18-9-5
Attorney general; injunction proceedings
Sec. 5. The attorney general shall, upon the request of the department, institute injunction proceedings to enjoin acts constituting a violation of this chapter.
As added by P.L.1-1996, SEC.8.

IC 13-18-9-6
Violations
Sec. 6. A person who violates this chapter is subject to the penalties imposed by the following:
(1) IC 13-30-4.
(2) IC 13-30-5.
(3) IC 13-30-8.
In addition, a person who violates this chapter may be subject to criminal prosecution under IC 13-30-10.
As added by P.L.1-1996, SEC.8. Amended by P.L.137-2007, SEC.11.

IC 13-18-10
Chapter 10. Confined Feeding Control

IC 13-18-10-1
Department approval necessary for confined feeding operations

Sec. 1. (a) A person may not start:
(1) construction of a confined feeding operation; or
(2) expansion of a confined feeding operation that increases:
(A) animal capacity; or
(B) manure containment capacity; or
(C) both;
without obtaining the prior approval of the department.

(b) A person may not operate a confined feeding operation without obtaining the prior approval of the department.

As added by P.L.1-1996, SEC.8. Amended by P.L.24-2004, SEC.3; P.L.81-2009, SEC.2; P.L.127-2009, SEC.5; P.L.1-2010, SEC.62; P.L.199-2014, SEC.1.

IC 13-18-10-1.4
Disclosure statement for confined feeding operation application

Sec. 1.4. (a) Subject to subsection (b), an application for approval under section 1 of this chapter must include for each responsible party the disclosure statement referred to in subsection (c) if either or both of the following apply:
(1) State or federal officials at any time alleged that the responsible party committed acts or omissions that constituted a material violation of state or federal environmental law.
(2) Foreign officials at any time alleged that the responsible party committed acts or omissions that:
(A) constituted a material violation of foreign environmental law; and
(B) would have constituted a material violation of state or federal environmental law if the act or omission had occurred in the United States.

(b) Subsection (a):
(1) applies only if the acts or omissions alleged under subsection (a)(1) or (a)(2) presented a substantial endangerment to human health or the environment; and
(2) does not apply to a renewal of an approval under section 1 of this chapter that does not involve construction or expansion as described in section 1 of this chapter.

(c) A responsible party referred to in subsection (a) must make reasonable efforts to provide complete and accurate information to the department in a disclosure statement that includes the following:
(1) The name and business address of the responsible party.
(2) A description of the responsible party's experience in managing the environmental aspects of the type of facility that will be managed under the permit.
(3) A description of all pending administrative, civil, or criminal enforcement actions filed in the United States against the

responsible party alleging any acts or omissions that:

(A) constitute a material violation of state or federal environmental law; and

(B) present a substantial endangerment to human health or the environment.

(4) A description of all pending administrative, civil, or criminal enforcement actions filed in a foreign country against the responsible party alleging any acts or omissions that:

(A) constitute a material violation of foreign environmental law;

(B) would have constituted a material violation of state or federal environmental law if the act or omission on which the action is based had occurred in the United States; and

(C) present a substantial endangerment to human health or the environment.

(5) A description of all finally adjudicated or settled administrative, civil, or criminal enforcement actions in the United States resolved against the responsible party within the five (5) years that immediately precede the date of the application involving acts or omissions that:

(A) constitute a material violation of federal or state environmental law; and

(B) present a substantial endangerment to human health or the environment.

(6) A description of all finally adjudicated or settled administrative, civil, or criminal enforcement actions in a foreign country resolved against the responsible party within the five (5) years that immediately precede the date of the application involving acts or omissions that:

(A) constitute a material violation of foreign environmental law;

(B) would have constituted a material violation of state or federal environmental law if the act or omission on which the action is based had occurred in the United States; and

(C) present a substantial endangerment to human health or the environment.

(7) Identification of all state, federal, or foreign environmental permits:

(A) applied for by the responsible party that were denied; or

(B) previously held by the responsible party that were revoked.

(d) A disclosure statement submitted under subsection (c):

(1) must be executed under oath or affirmation; and

(2) is subject to the penalty for perjury under IC 35-44.1-2-1.

(e) The department may investigate and verify the information set forth in a disclosure statement submitted under this section.

As added by P.L.127-2009, SEC.6. Amended by P.L.126-2012, SEC.32.

IC 13-18-10-1.9

Application of the law to certain confined feeding operations

Sec. 1.9. (a) This section applies:

(1) to a confined feeding operation for which a person is required to submit an application for approval under section 1 of this chapter if an application for approval under section 1 of this chapter submitted with respect to the confined feeding operation was not approved by the department before May 12, 2009; and

(2) notwithstanding the effective date of the addition or amendment by P.L.127-2009 of the provisions listed in subsection (b)(1) through (b)(8).

(b) The following, as added or amended by P.L.127-2009, effective July 1, 2009, apply to a confined feeding operation described in subsection (a)(1) in the same manner as if they had been in effect on the date on which the application was submitted with respect to the confined feeding operation under section 1 of this chapter:

(1) IC 13-11-2-8.
(2) IC 13-11-2-40.
(3) IC 13-11-2-191.
(4) Section 1 of this chapter.
(5) Section 2 of this chapter.
(6) Section 2.1 of this chapter.
(7) Section 2.2 of this chapter.
(8) Section 4 of this chapter.

As added by P.L.1-2010, SEC.63.

IC 13-18-10-2

Application for approval; notice requirements; renewal of approval; approval of manure management system

Sec. 2. (a) An application for an approval under section 1 of this chapter must be submitted on a form provided by the department. An applicant must submit the completed application form to the department together with the following:

(1) Plans and specifications for the design and operation of manure treatment and control facilities.

(2) A manure management plan that outlines procedures for the following:

(A) Soil testing.
(B) Manure testing.

(3) Maps of manure application areas.

(4) Supplemental information that the department requires, including the following:

(A) General features of topography.
(B) Soil types.
(C) Drainage course.
(D) Identification of nearest streams, ditches, and lakes.
(E) Location of field tiles.
(F) Location of land application areas.
(G) Location of manure treatment facilities.

(H) Farmstead plan, including the location of water wells on the site.

(5) A fee of one hundred dollars ($100). The department shall refund the fee if the department does not make a determination in accordance with the time period established under section 2.1 of this chapter.

(b) An applicant who applies for an approval under section 1 of this chapter shall, not more than ten (10) working days after submitting the application, make a reasonable effort to provide notice under this subsection:

(1) to the county executive of the county in which the confined feeding operation is to be located or expanded; and

(2) to each owner and each occupant of land of which any part of the boundary is one-half (1/2) mile or less from the following:

(A) Any part of the proposed footprint of either or both of the following to be located on the land on which the confined feeding operation is to be located:

(i) A livestock or poultry production structure.

(ii) A permanent manure storage facility.

(B) Any part of the proposed footprint of either or both of the following to be located on the land on which the confined feeding operation is to be expanded:

(i) A livestock or poultry production structure.

(ii) The expanded area of a livestock or poultry production structure.

The notice must be sent by mail, be in writing, include the date on which the application was submitted to the department, and include a brief description of the subject of the application. The applicant shall pay the cost of complying with this subsection. The applicant shall submit an affidavit to the department that certifies that the applicant has complied with this subsection.

(c) A person must submit an application for the renewal of an approval to:

(1) operate a confined feeding operation; or

(2) complete construction or expansion of a confined feeding operation;

at least thirty (30) days prior to the expiration of the existing approval. The construction standards that apply to a renewal application under this subsection shall be the standards in place under rules adopted by the board at the time that the original approval for construction or expansion of a confined feeding operation was issued.

(d) A person who has received approval to construct or expand a confined feeding operation under section 1 of this chapter and has not begun construction or expansion within thirty (30) days of the expiration of the approval must:

(1) submit a renewal application for construction or expansion at least thirty (30) days prior to the expiration of the approval; and

(2) comply with the requirements of subsection (b).

The construction standards that apply to a renewal application under this subsection shall be the standards in place under rules adopted by the board at the time that the renewal application is submitted.

(e) The department shall approve the construction or expansion and the operation of the manure management system of the confined feeding operation if the commissioner determines that the applicant meets the requirements of:

(1) this chapter;

(2) rules adopted under this chapter;

(3) the water pollution control laws;

(4) rules adopted under the water pollution control laws; and

(5) policies and statements adopted under IC 13-14-1-11.5 relative to confined feeding operations.

As added by P.L.1-1996, SEC.8. Amended by P.L.125-1997, SEC.4; P.L.127-2009, SEC.7; P.L.199-2014, SEC.2.

IC 13-18-10-2.1

Approval procedure; requirements; denial or revocation of approval

Sec. 2.1. (a) The department:

(1) shall make a determination on an application submitted under section 2 of this chapter not later than ninety (90) days after the date the department receives the completed application, including all required supplemental information, unless the department and the applicant agree to a longer time; and

(2) may conduct any inquiry or investigation, consistent with the department's duties under this chapter, the department considers necessary before making a determination.

(b) If the department fails to make a determination on an application not later than ninety (90) days after the date the department receives the completed application, the applicant may request and receive a refund of an approval application fee paid by the applicant, and the commissioner shall:

(1) continue to review the application;

(2) approve or deny the application as soon as practicable; and

(3) refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(c) The commissioner may suspend the processing of an application and the ninety (90) day period described under this section if the department determines within thirty (30) days after the department receives the application that the application is incomplete and has mailed a notice of deficiency to the applicant that specifies the parts of the application that:

(1) do not contain adequate information for the department to process the application; or

(2) are not consistent with applicable law.

(d) The department may establish requirements in an approval regarding that part of the confined feeding operation that concerns manure handling and application to assure compliance with:

(1) this chapter;
(2) rules adopted under this chapter;
(3) the water pollution control laws;
(4) rules adopted under the water pollution control laws; and
(5) policies and statements adopted under IC 13-14-1-11.5 relative to confined feeding operations.

(e) Subject to subsection (f), the commissioner may deny an application upon making either or both of the following findings:

(1) A responsible party intentionally misrepresented or concealed any material fact in either or both of the following:
(A) An application for approval under section 1 of this chapter.
(B) A disclosure statement required by section 1.4 of this chapter.

(2) An enforcement action was resolved against a responsible party as described in either or both of the following:
(A) Section 1.4(c)(5) of this chapter.
(B) Section 1.4(c)(6) of this chapter.

(f) Before making a determination to approve or deny an application, the commissioner must consider the following factors:

(1) The nature and details of the acts attributed to the responsible party.
(2) The degree of culpability of the responsible party.
(3) The responsible party's cooperation with the state, federal, or foreign agencies involved in the investigation of the activities involved in actions referred to in section 1.4(c)(5) and 1.4(c)(6) of this chapter.
(4) The responsible party's dissociation from any other persons or entities convicted in a criminal enforcement action referred to in section 1.4(c)(5) and 1.4(c)(6) of this chapter.
(5) Prior or subsequent self-policing or internal education programs established by the responsible party to prevent acts, omissions, or violations referred to in section 1.4(c)(5) and 1.4(c)(6) of this chapter.

(g) Except as provided in subsection (h), in taking action under subsection (e), the commissioner must make separately stated findings of fact to support the action taken. The findings of fact must:

(1) include a statement of ultimate fact; and
(2) be accompanied by a concise statement of the underlying basic facts of record to support the findings.

(h) If the commissioner denies an application under subsection (e), the commissioner is not required to explain the extent to which any of the factors set forth in subsection (f) influenced the denial.

(i) The department may amend an approval under section 1 of this chapter or revoke an approval under section 1 of this chapter:

(1) for failure to comply with:
(A) this chapter;
(B) rules adopted under this chapter;
(C) the water pollution control laws; or
(D) rules adopted under the water pollution control laws; and

(2) as needed to prevent discharges of manure into the environment that pollute or threaten to pollute the waters of the state.

As added by P.L.125-1997, SEC.5. Amended by P.L.127-2009, SEC.8; P.L.199-2014, SEC.3.

IC 13-18-10-2.2

Affidavit after construction or expansion; approval to construct or expand remains effective as operating approval

Sec. 2.2. (a) Not more than thirty (30) days after the completion of construction or expansion of a confined feeding operation, the applicant shall execute and send to the department an affidavit that affirms under penalties of perjury that the confined feeding operation:

(1) was constructed or expanded; and

(2) will be operated;

in accordance with the requirements of the department's approval.

(b) An approval to construct or expand a confined feeding operation shall remain in effect as the operating approval for the duration of the permit term if construction or expansion is completed prior to the end of the permit term under which the confined feeding operation was constructed or expanded.

As added by P.L.125-1997, SEC.6. Amended by P.L.127-2009, SEC.9; P.L.199-2014, SEC.4.

IC 13-18-10-2.3

Repealed

(Repealed by P.L.199-2014, SEC.5.)

IC 13-18-10-2.6

Compliance and technical assistance program

Sec. 2.6. The department shall establish a compliance and technical assistance program for owners and operators of confined feeding operations that may be administered by:

(1) the department;

(2) a state college or university; or

(3) a contractor.

As added by P.L.125-1997, SEC.8.

IC 13-18-10-3

Enforcement of chapter

Sec. 3. This chapter, including requirements established in a department approval under section 2 of this chapter, may be enforced under IC 13-30-3 or IC 13-14-2-6.

As added by P.L.1-1996, SEC.8. Amended by P.L.125-1997, SEC.9.

IC 13-18-10-4

Rules, policies, and statements; uniform standards

Sec. 4. (a) The board may adopt rules under IC 4-22-2 and IC 13-14-9 and the department may adopt policies or statements under IC 13-14-1-11.5 that are necessary for the proper

administration of this chapter. The rules, policies, or statements may concern construction, expansion, and operation of confined feeding operations and may include uniform standards for:

(1) construction, expansion, and manure containment that are appropriate for a specific site; and

(2) manure application and handling that are consistent with best management practices:

(A) designed to reduce the potential for manure to be conveyed off a site by runoff or soil erosion; and

(B) that are appropriate for a specific site.

(b) Standards adopted in a rule, policy, or statement under subsection (a) must:

(1) consider confined feeding standards that are consistent with standards found in publications from:

(A) the United States Department of Agriculture;

(B) the Natural Resources Conservation Service of the United States Department of Agriculture;

(C) the Midwest Plan Service; and

(D) postsecondary educational institution extension bulletins; and

(2) be developed through technical review by the department, postsecondary educational institution specialists, and other animal industry specialists.

As added by P.L.1-1996, SEC.8. Amended by P.L.125-1997, SEC.10; P.L.2-2007, SEC.167; P.L.127-2009, SEC.10.

IC 13-18-10-5
Injunctive relief

Sec. 5. The department may seek injunctive relief under this chapter.

As added by P.L.1-1996, SEC.8. Amended by P.L.125-1997, SEC.11.

IC 13-18-10-6
Violations; penalties

Sec. 6. A person who violates this chapter is subject to the penalties imposed by the following:

(1) IC 13-30-4.

(2) IC 13-30-5.

(3) IC 13-30-8.

In addition, a person who violates this chapter may be subject to criminal prosecution under IC 13-30-10.

As added by P.L.1-1996, SEC.8. Amended by P.L.137-2007, SEC.12.

IC 13-18-10.5

Chapter 10.5. Satellite Manure Storage Structures

IC 13-18-10.5-1

Department approval

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

(1) construction of a satellite manure storage structure; or

(2) expansion of a satellite manure storage structure that increases manure containment capacity;

without obtaining the prior approval of the department.

As added by P.L.189-2011, SEC.12.

IC 13-18-10.5-2

Rules

Sec. 2. The board may adopt rules under IC 4-22-2 and IC 13-14-9 regarding the construction, operation, and maintenance of a satellite manure storage structure.

As added by P.L.189-2011, SEC.12.

IC 13-18-10.5-3

Applying for approval to construct or expand satellite manure storage structure

Sec. 3. (a) An applicant who applies for approval under section 1 of this chapter to construct or expand a satellite manure storage structure shall make a reasonable effort to provide notice not more than ten (10) working days after submitting an application for approval to:

(1) the county executive of the county in which the satellite manure storage structure is to be constructed or expanded; and

(2) each owner and each occupant of land of which any part of the boundary is one-half (1/2) mile or less from any part of the proposed footprint of the satellite manure storage structure.

(b) The notice described in subsection (a) must:

(1) be in writing;

(2) be sent by mail; and

(3) include the following:

(A) The date the application was submitted to the department.

(B) A brief description of the subject of the application.

(c) An applicant shall pay the costs of complying with this section.

As added by P.L.199-2014, SEC.6.

IC 13-18-11

Chapter 11. Operator Certification

IC 13-18-11-1

Exclusion of certain water supply systems

Sec. 1. (a) As used in this chapter, "transient noncommunity water system" has the meaning set forth in IC 13-11-2-237.5.

(b) The commissioner may determine that this chapter does not apply to a transient noncommunity water system.

As added by P.L.1-1996, SEC.8. Amended by P.L.132-2000, SEC.2; P.L.1-2001, SEC.18.

IC 13-18-11-1.5

Certification program for operators

Sec. 1.5. The board shall adopt regulations to implement certification programs for operators of water treatment plants or water distribution systems. The certification program for the operators shall be classified in accordance with the complexity, size, and source of the water for the treatment system and the complexity and size for the distribution system.

As added by P.L.132-2000, SEC.3. Amended by P.L.133-2012, SEC.128.

IC 13-18-11-2

Classification of treatment plants

Sec. 2. The commissioner shall classify all water treatment plants, wastewater treatment plants, and water distribution systems actually used or intended for use:

(1) with due regard to the:
  (A) size;
  (B) type;
  (C) character of wastes or water to be treated; and
  (D) other physical conditions affecting those plants and systems; and

(2) according to the:
  (A) skill;
  (B) knowledge; and
  (C) experience;

that the operator in responsible charge must have to successfully supervise the operation of those facilities so as to protect the public health.

As added by P.L.1-1996, SEC.8.

IC 13-18-11-3

Plant operators

Sec. 3. The commissioner shall certify persons as to their qualifications to supervise successfully the operation of:

(1) water treatment plants;
(2) water distribution systems; and
(3) wastewater treatment plants.

As added by P.L.1-1996, SEC.8.

IC 13-18-11-4
Plant operators; certificates of competency

Sec. 4. The commissioner shall issue certificates attesting to the competency of operators. A certificate must indicate the classification of works, plant, or system that the operator is qualified to supervise.
As added by P.L.1-1996, SEC.8. Amended by P.L.114-2008, SEC.9.

IC 13-18-11-5
Application; fees

Sec. 5. The commissioner shall prescribe and provide an application form for use by applicants in applying for the appropriate certificate issued under this chapter. An applicant must deposit a fee of thirty dollars ($30) at the time of making application for certification.
As added by P.L.1-1996, SEC.8.

IC 13-18-11-6
Renewal

Sec. 6. (a) A wastewater treatment plant operator certified under this chapter may renew the operator's certificate biennially by paying a renewal fee of thirty dollars ($30).

(b) The fee is due and payable before July 2 of the year for which a renewal certificate is issued.

(c) A wastewater treatment plant operator who fails to renew a certificate for three (3) successive years may not receive a renewal certificate without reexamination.
As added by P.L.1-1996, SEC.8. Amended by P.L.132-2000, SEC.4.

IC 13-18-11-6.5
Triennial renewal of certificate

Sec. 6.5. (a) A water treatment plant operator or water distribution system operator certified under this chapter may renew the operator's certificate triennially by:

(1) paying a renewal fee of thirty dollars ($30); and
(2) meeting any continuing education requirements established by the department.

(b) The:

(1) fee is due and payable; and
(2) proof of compliance with continuing education requirements must be submitted to the department;

before July 2 of the year for which a renewal certificate is to be issued.

(c) A water treatment plant operator or a water distribution system operator who fails to renew a certificate within one (1) year after the date the certificate expires may not receive a renewal certificate without reexamination.
As added by P.L.132-2000, SEC.5.

IC 13-18-11-7
Notice of expiration

Sec. 7. (a) The commissioner shall notify by mail each person certified by the commissioner as a wastewater treatment plant operator under this chapter of the following:

(1) The date of the expiration of the operator's certificate.

(2) The amount of the required fee for renewal for two (2) years.

(b) The commissioner shall mail the notice at least one (1) month in advance of the date of expiration of the person's certificate to the last known address of the individual on file with the commissioner.
As added by P.L.1-1996, SEC.8. Amended by P.L.132-2000, SEC.6.

IC 13-18-11-7.5
Notice regarding certificate and renewal

Sec. 7.5. (a) The commissioner shall notify by mail each person certified by the commissioner as a water treatment plant operator or water distribution system operator under this chapter of the following:

(1) The date of expiration of the operator's certificate.

(2) The amount of the required fee for renewal for three (3) years.

(3) The continuing education required for renewal for three (3) years.

(b) The commissioner shall mail the notice at least one (1) month in advance of the date of expiration of the person's certificate to the last known address of the individual on file with the commissioner.
As added by P.L.132-2000, SEC.7.

IC 13-18-11-8
Suspension or revocation

Sec. 8. (a) The commissioner may suspend or revoke the certificate of an operator issued under this chapter, following a hearing under IC 13-15-7-3 and IC 4-21.5, if any of the following conditions are found:

(1) The operator has practiced fraud or deception in any state or other jurisdiction.

(2) Reasonable care, judgment, or the application of the operator's knowledge or ability was not used in the performance of the operator's duties.

(3) The operator is incompetent or unable to properly perform the operator's duties.

(4) A certificate of the operator issued:

(A) under this chapter; or

(B) by any other state or jurisdiction for a purpose comparable to the purpose for which a certificate is issued under this chapter;

has been revoked.

(5) The operator has been convicted of a crime related to a certificate of the operator issued:

(A) under this chapter; or

(B) by any other state or jurisdiction for a purpose comparable to the purpose for which a certificate is issued under this chapter.

(b) A hearing and further proceedings shall be conducted in accordance with IC 4-21.5-7.

As added by P.L.1-1996, SEC.8. Amended by P.L.25-1997, SEC.9; P.L.132-2000, SEC.8; P.L.159-2011, SEC.23.

IC 13-18-11-9

Certificates to operators from other states; reciprocity

Sec. 9. The commissioner may, upon receipt of an application and payment of the fee, issue a certificate without examination in a comparable classification to any person who holds a certificate in any state of the United States if:

(1) the requirements for certification of operators under which the person's certificate was issued:

(A) do not conflict with this chapter; or

(B) are of a standard not lower than that specified by this chapter and the rules adopted under this chapter; and

(2) reciprocal privileges are granted to certified operators of Indiana.

As added by P.L.1-1996, SEC.8.

IC 13-18-11-10

Plant operators; certificates of competency; exceptions

Sec. 10. (a) Certificates in appropriate classification shall be issued upon application and payment of the fee to operators of wastewater treatment plants who, on July 1, 1968, hold certificates of competency attained by examination under the voluntary certification program administered by:

(1) the Indiana Water Pollution Control Association; or

(2) the Indiana Section, American Water Works Association.

However, application for a certificate under this subsection must be made not later than July 1, 1969.

(b) Certificates of proper classification shall be issued upon payment of the fee without examination to each person certified by the governing body or owner to have been in direct responsible charge of the wastewater treatment plant on July 1, 1968. A certificate issued under this subsection is valid only for that particular wastewater treatment plant, which the certificate must indicate.

As added by P.L.1-1996, SEC.8. Amended by P.L.132-2000, SEC.9.

IC 13-18-11-10.5

Issuance of certificate

Sec. 10.5. (a) The commissioner may issue a certificate to a person under this chapter if all of the following conditions are met:

(1) The person is an operator in responsible charge of a water treatment plant or water distribution system that was:

(A) in operation before September 2, 2000; and

(B) required to have a certified operator for the first time

under rules adopted in accordance with guidelines published by the United States Environmental Protection Agency in the Federal Register at 64 FR 5916 et seq.

(2) The owner of the water treatment plant or water distribution system applies for a certificate for the operator in responsible charge before September 1, 2002.

(3) The certificate issued by the commissioner:

(A) is site specific; and

(B) may not be transferred to another operator.

(4) The certificate will become invalid if the classification of the water treatment plant or water distribution system for which the certificate was issued changes to a higher level.

(b) A person certified under subsection (a) must meet all requirements for certification renewal that apply to the classification of the water treatment plant or water distribution system to renew the certificate under this chapter.

(c) A person certified under subsection (a) who commences work for a different water treatment plant or water distribution system must meet the initial certification requirements for the plant or system.

(d) Notwithstanding section 14 of this chapter, a water treatment plant or water distribution system that meets the conditions of subsection (a)(1) may continue to operate if the water treatment plant or water distribution system applies to the commissioner for certification of the operator in responsible charge of the water treatment plant or water distribution system as provided in this section.

As added by P.L.132-2000, SEC.10.

IC 13-18-11-11

Plant supervision by certified plant operator; exceptions

Sec. 11. (a) All water or wastewater treatment plants and water distribution systems, whether publicly or privately owned, must be under the supervision of an operator whose competency is certified to by the commissioner in a classification corresponding to the classification of the plant or distribution system to be supervised. However, this section does not prohibit a governmental agency, a corporation, or an individual from continuing to employ in that capacity a person in responsible charge of the operations of the works if the person is certified under section 10 of this chapter.

(b) A certified operator may supervise more than one (1) plant or system if it can be shown that adequate supervision to ensure safe and effective operation is provided for all plants and systems supervised.

As added by P.L.1-1996, SEC.8.

IC 13-18-11-12

Plant operators; vacancies; provisional certification

Sec. 12. (a) When a vacancy in a position of operator occurs due to death, resignation, extended illness, or a similar cause, the vacancy may be filled for a period not exceeding one (1) year by an operator with a provisional certification.

(b) On written request of the governing body or owner of a wastewater or public water system, the commissioner may issue a provisional certification under subsection (a) to a person with the required education and experience qualifications, until the person has had an opportunity to qualify by examination and be certified under this chapter.
As added by P.L.1-1996, SEC.8. Amended by P.L.184-2002, SEC.13.

IC 13-18-11-13
Rule

Sec. 13. The board shall adopt rules under IC 4-22-2 that are necessary to carry out the intent of this chapter. The rules must include the following:

(1) Provisions establishing the basis for classification of water treatment plants, water distribution systems, and wastewater treatment plants.

(2) Provisions establishing qualifications of applicants and procedures for examination of candidates.

(3) Other provisions that are necessary for the administration of this chapter.

As added by P.L.1-1996, SEC.8.

IC 13-18-11-14
Plant operation by certified operators

Sec. 14. (a) A person, firm, or corporation, whether municipal or private, may not operate a water or wastewater treatment plant or a water distribution system unless the commissioner has certified the operator in responsible charge under this chapter.

(b) A person may not perform the duties of an operator in responsible charge of works described in subsection (a) without being certified under this chapter.
As added by P.L.1-1996, SEC.8.

IC 13-18-11-15
Fees; deposit

Sec. 15. All fees collected under this chapter shall be deposited with the treasurer of state.
As added by P.L.1-1996, SEC.8.

IC 13-18-11-16
Violations

Sec. 16. A person who violates this chapter commits a Class C infraction. Each day of violation of this chapter constitutes a separate infraction.
As added by P.L.1-1996, SEC.8.

IC 13-18-12

Chapter 12. Wastewater Management

IC 13-18-12-1

Regulation of wastewater management services providers

Sec. 1. The board and the department shall regulate persons who provide septage management services.

As added by P.L.1-1996, SEC.8. Amended by P.L.159-2011, SEC.24; P.L.133-2012, SEC.129.

IC 13-18-12-2

Actions prohibited without permit; issuance of certain permits by the department

Sec. 2. (a) A person may not transport, treat, store, or dispose of septage in violation of this chapter.

(b) A person may not engage in:

(1) the cleaning of sewage disposal systems; or

(2) the transportation, treatment, storage, or disposal of septage;

without a septage management permit unless the person is exempted under section 7 of this chapter.

(c) A person may not dispose of septage by land application without first obtaining approval of the land application site under this chapter.

(d) The department may issue a septage management permit that incorporates approval of a land application site.

(e) The department may issue new and renewal permits and approvals under this chapter for a period the department determines appropriate. However, the period may not exceed three (3) years.

As added by P.L.1-1996, SEC.8. Amended by P.L.31-1999, SEC.1; P.L.114-2008, SEC.10; P.L.159-2011, SEC.25; P.L.37-2012, SEC.20.

IC 13-18-12-2.5

Land application of industrial waste products

Sec. 2.5. (a) The department and the board may allow a person to use industrial waste products in a land application operation or as ingredients in a soil amendment or soil substitute to be land applied if:

(1) the industrial waste products are not hazardous wastes;

(2) the industrial waste products:

(A) have a beneficial use (as defined in 327 IAC 6.1-2-6); or

(B) otherwise provide a benefit to the process of creating the soil amendments or soil substitute or to the final soil amendment, soil substitute, or material to be land applied, such as bulking;

(3) the finished soil amendment, soil substitute, or material to be land applied satisfies the applicable criteria in 327 IAC 6.1;

(4) the finished soil amendment, soil substitute, or material to be land applied has a beneficial use;

(5) the requirements of subsection (b) are satisfied; and

(6) the person pays a permit fee in an amount determined by the department that does not exceed the costs incurred by the department to issue the permit.

(b) The department:

(1) may allow the use of industrial waste products:

(A) in a land application operation; or

(B) as ingredients in a soil amendment or soil substitute to be land applied;

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

(2) may not:

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

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

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

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

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

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

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

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

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

As added by P.L.223-2011, SEC.2. Amended by P.L.6-2012, SEC.104; P.L.133-2012, SEC.130.

IC 13-18-12-3

Permit program

Sec. 3. The board shall initiate, in accordance with IC 13-15, a septage management permit program for all persons who offer to perform or are performing septage management services.

As added by P.L.1-1996, SEC.8. Amended by P.L.159-2011, SEC.26.

IC 13-18-12-4
Adoption of rules; local health agency as board's agent to approve land application sites

Sec. 4. (a) The board shall, in accordance with IC 13-14-9, adopt rules to establish the following:

(1) Standards for the following:

(A) The issuance of septage management permits under section 3 of this chapter.

(B) Transportation, storage, and treatment of septage, and disposal of septage, including land application.

(2) Procedures and standards for approval of sites for land application of septage.

(b) The board may designate a county or city health agency as the board's agent to approve land application sites in accordance with rules adopted under this section.

As added by P.L.1-1996, SEC.8. Amended by P.L.31-1999, SEC.2; P.L.114-2008, SEC.11; P.L.159-2011, SEC.27; P.L.37-2012, SEC.21.

IC 13-18-12-5
Fees

Sec. 5. (a) Subject to subsections (b) and (c), the board may adopt a fee schedule for the issuance of:

(1) septage management permits; and

(2) land application site approvals;

under this chapter.

(b) A permit fee may not exceed one hundred dollars ($100) per year.

(c) A land application approval fee may not exceed thirty dollars ($30) per year per site.

(d) Whenever the board designates a county or city health agency as the board's agent to approve land application sites under this chapter, the county or city health agency shall collect and retain the land application approval fee.

As added by P.L.1-1996, SEC.8. Amended by P.L.114-2008, SEC.12; P.L.159-2011, SEC.28; P.L.37-2012, SEC.22.

IC 13-18-12-6
Enforcement; violations; inspections

Sec. 6. (a) This chapter shall be enforced under IC 13-30-3.

(b) Violations of this chapter are subject to the penalties imposed by the following:

(1) IC 13-30-4.

(2) IC 13-30-5.

(3) IC 13-30-8.

In addition, a violation of this chapter may lead to criminal prosecution under IC 13-30-10.

(c) The commissioner may make inspections under this chapter in accordance with IC 13-14-2-2 and IC 13-14-5.

As added by P.L.1-1996, SEC.8. Amended by P.L.137-2007, SEC.13.

IC 13-18-12-6.5

Revocation or modification of permits, vehicle identification numbers, and approvals

Sec. 6.5. In addition to any other authority in this title, the commissioner or a designated staff member may, under IC 4-21.5, revoke or modify a permit or an approval issued under this chapter for any of the following reasons:

(1) Violation of a requirement of this chapter, rules adopted under this chapter, a permit, or an approval.

(2) Failure to disclose all relevant facts.

(3) A misrepresentation made in obtaining the permit or approval.

(4) Failing to meet the qualifications for a permit or an approval or failing to comply with the requirements of the water pollution control laws or rules adopted by the board.

(5) Changes in circumstances relating to the permit or approval that require either a temporary or permanent reduction in the discharge of contaminants.

As added by P.L.31-1999, SEC.3. Amended by P.L.114-2008, SEC.13; P.L.37-2012, SEC.23.

IC 13-18-12-7

Exemptions from requirement to obtain permit or vehicle identification number

Sec. 7. This chapter does not require a person to obtain a permit under this chapter if the person is:

(1) engaged in:

(A) servicing or maintaining publicly owned wastewater treatment facilities; or

(B) transportation of wastewater from a publicly owned wastewater treatment facility;

as long as the wastewater at that facility has been fully treated and is stabilized;

(2) transporting septage from the point of its removal to another location on the same site or tract owned by the same person, although disposal of the septage must be done in accordance with this chapter; or

(3) a homeowner who cleans and services the sewage disposal system serving only the homeowner's residence, although transportation and disposal of septage, including land application, must be done in compliance with this chapter.

As added by P.L.1-1996, SEC.8. Amended by P.L.114-2008, SEC.14; P.L.159-2011, SEC.29; P.L.37-2012, SEC.24.

IC 13-18-12-8

Notification of upset or imminent threat of upset

Sec. 8. (a) If a publicly owned treatment works permittee:

(1) determines that an upset has occurred in the publicly owned treatment works that is likely to pose a threat to human or animal life; or

(2) has knowledge of an imminent threat from a chemical or other release to the collection system that is likely to cause an upset in the publicly owned treatment works that is likely to pose a threat to human or animal life;

the permittee shall notify emergency response personnel of the department not more than two (2) hours after the determination under subdivision (1) or the acquisition of knowledge of an imminent threat under subdivision (2).

(b) If the department receives notification from a publicly owned treatment works permittee under subsection (a), the department:

(1) must notify all appropriate state and local government agencies;

(2) may provide technical assistance to the publicly owned treatment works as the department determines is necessary; and

(3) must, if the department determines that there is or may be a threat to human health or animal life, notify the affected news media;

not more than forty-eight (48) hours after receiving the notification under subsection (a).

As added by P.L.112-2000, SEC.3.

IC 13-18-12-9

Prohibition against discharge of sewage into waters; exception under permit process

Sec. 9. (a) This section applies only in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(b) Except as provided in subsection (c), the point source discharge of sewage, treated or untreated, from a dwelling or its associated residential sewage disposal system to waters is prohibited.

(c) The point source discharge of treated sewage from an onsite residential sewage discharging disposal system to waters is permitted if:

(1) the local health department for the jurisdiction in which the system is located issues an operating permit for the system under subsection (d); and

(2) the discharge is authorized under a general permit issued under 40 CFR 122.28.

(d) In a county onsite waste management district established under IC 36-11 that performs all the functions related to onsite waste management listed in IC 36-11-2-1, the local health department for the jurisdiction in which the system is located may issue an operating permit for an onsite residential sewage discharging disposal system if the system is installed to repair a sewage disposal system that fails to meet public health and environmental standards and if:

(1) the local health department adopts procedural rules for monitoring onsite residential sewage discharging disposal systems in the jurisdiction, including fines or penalties, or both, for noncompliance, to ensure that:

(A) required maintenance is performed on the systems; and

(B) the systems do not discharge effluent that violates water quality standards;

(2) the local health department certifies, with respect to the system for which the permit is issued, that:

(A) the system is capable of operating properly;

(B) the system does not discharge effluent that violates water quality standards;

(C) an acceptable septic tank soil absorption system cannot be located on the property served by the system because of:

(i) soil characteristics;

(ii) size; or

(iii) topographical conditions;

of the property;

(D) the system:

(i) was properly installed by a qualified installer; and

(ii) provides the best available technology for residential discharging onsite sewage disposal systems; and

(E) the local health department has:

(i) investigated all technologies available for repair of the sewage disposal system that fails to meet public health and environmental standards other than the use of an onsite residential sewage discharging disposal system; and

(ii) determined that an onsite residential sewage discharging disposal system is the only possible technology that can be used to effect a repair of the sewage disposal system that fails to meet public health and environmental standards without causing unreasonable economic hardship to the system owner; and

(3) the system for which the permit is issued cannot be connected to a sanitary sewer because:

(A) there is not a sanitary sewer connection available;

(B) the sanitary sewer operator refuses connection; or

(C) unreasonable economic hardship would result to the system owner because of:

(i) the connection requirements of the sanitary sewer operator; or

(ii) the distance to the sanitary sewer.

As added by P.L.172-2002, SEC.4.

IC 13-18-13

Chapter 13. Wastewater Revolving Loan Program

IC 13-18-13-1

Establishment

Sec. 1. The wastewater revolving loan program is established.

As added by P.L.1-1996, SEC.8.

IC 13-18-13-2

Revolving loan fund; purpose; source of funds; repayments; investments; costs

Sec. 2. (a) The wastewater revolving loan fund is established to provide money for loans and other financial assistance to or for the benefit of participants under this chapter. The authority shall administer, hold, and manage the fund.

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to the fund; and

(2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The authority shall invest the money in the fund that is:

(1) not currently needed to meet the obligations of the fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the authority may invest or cause to be invested all or a part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may permit disbursements by the trustee to:

(1) the department;

(2) the budget agency;

(3) a participant;

(4) the Indiana bond bank;

(5) the authority; or

(6) any person to which the authority or a participant is obligated, as provided in the trust agreement or indenture.

(f) Except as provided in the Clean Water Act, the cost of administering the fund may be paid from the fund.

(g) All money accruing to the fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the fund does not revert to the state general fund at the end of a state fiscal year.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.8; P.L.235-2005, SEC.131.

IC 13-18-13-3
Use of funds; authority power to contract with other entities to administer program and fund

Sec. 3. (a) Money in the fund may be used to do the following:

(1) Provide loans or other financial assistance to participants for the planning, designing, construction, renovation, improvement, or expansion of wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks.

(2) Pay the cost of administering the fund and the program.

(3) Conduct all other activities that are permitted by the Clean Water Act.

(b) The authority may contract with the department, the budget agency, or any other entity or person for assistance in administering the program and the fund or in carrying out the purposes of this chapter.

As added by P.L.1-1996, SEC.8. Amended by P.L.235-2005, SEC.132.

IC 13-18-13-4
Repealed

(Repealed by P.L.235-2005, SEC.212.)

IC 13-18-13-5
Authority duties

Sec. 5. The authority shall do the following:

(1) Administer, hold, and manage all aspects of the fund, the program, the supplemental fund, and the supplemental program in accordance with this chapter.

(2) Be the point of contact in relations with the United States Environmental Protection Agency.

(3) Prepare and provide program information.

(4) Ensure that each proposed financial assistance agreement meets the environmental and technical aspects of the program or supplemental program.

(5) Periodically inspect project design and construction to determine compliance with the following:

(A) This chapter.

(B) The Clean Water Act.

(C) Construction plans and specifications.

(6) Negotiate the negotiable aspects of each financial assistance agreement.

(7) Manage any payment systems through which the state receives grant payments from the federal government for the program and disbursements to the fund.

(8) Be the point of contact with participants and other interested persons in preparing and providing program information.

(9) Prepare or cause to be prepared each financial assistance agreement.

(10) Sign each financial assistance agreement.

(11) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement in accordance with the terms of the agreement.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.9; P.L.28-2004, SEC.116; P.L.235-2005, SEC.133.

IC 13-18-13-6
Repealed

(Repealed by P.L.235-2005, SEC.212.)

IC 13-18-13-7
Authority powers

Sec. 7. (a) The authority may do the following:

(1) Employ:

(A) fiscal consultants;
(B) engineers;
(C) bond counsel;
(D) other special counsel;
(E) accountants; and
(F) any other consultants, employees, and agents;

that the authority considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of those persons employed in subdivision (1) from money:

(A) available in the fund or supplemental fund; or
(B) otherwise made available for the program or the supplemental program.

(3) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the following:

(A) The fund.
(B) The program.
(C) The supplemental fund.
(D) The supplemental program.

(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.

(b) Notwithstanding any other law, the authority, program, or fund, or any person or agent acting on behalf of the authority or program, is not liable in damages or otherwise to any participant or party seeking to be a participant for any act or omission in connection with a loan or other financial assistance, or any application, service, or other undertaking, allowed by or taken under this chapter.

(c) No direction given by or service or other undertaking allowed or taken under this chapter by the authority is a defense for or otherwise excuses any act or omission of a participant otherwise required or imposed by law upon a participant.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.11;

P.L.235-2005, SEC.134.

IC 13-18-13-8
Fees

Sec. 8. (a) The authority may:

(1) charge a fee for services provided; and

(2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a participant under this chapter, regardless of whether the application is approved or rejected.

(b) A participant may pay fees charged under this section.

As added by P.L.1-1996, SEC.8. Amended by P.L.235-2005, SEC.135.

IC 13-18-13-9
Duty to use priority ranking system in making loans

Sec. 9. The authority shall use a priority ranking system in making loans or other financial assistance from the fund. The authority, in consultation with the department, shall develop the priority ranking system to achieve optimum water quality consistent with the water quality goals of the state and the Clean Water Act.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.12; P.L.235-2005, SEC.136.

IC 13-18-13-10
Prerequisites for loans or assistance

Sec. 10. The authority may make loans or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:

(1) The loan or other financial assistance must be used:

(A) for:

(i) planning, designing, constructing, renovating, improving, or expanding wastewater collection and treatment systems;

(ii) any purpose eligible for assistance under the Clean Water Act; and

(iii) other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A); or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Any other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.

(2) The authority shall establish the terms and conditions that the authority considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

(3) Notwithstanding any other law, the authority may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.13; P.L.235-2005, SEC.137.

IC 13-18-13-11
Documentation

Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by the authority.

(2) Unless otherwise provided by the guidelines of the authority, the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.14; P.L.235-2005, SEC.138.

IC 13-18-13-12
Financial assistance agreements

Sec. 12. A participant receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable

agreement of the participant.
As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.15; P.L.235-2005, SEC.139.

IC 13-18-13-13
Sale of loans

Sec. 13. The authority may sell loans or evidences of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the authority. Proceeds of sales under this section shall be deposited in the fund.
As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.16; P.L.235-2005, SEC.140.

IC 13-18-13-14
Pledge of loans

Sec. 14. (a) The authority may pledge loans or evidences of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund to secure:

(1) other loans or financial assistance from the fund to or for the benefit of participants; or

(2) other loans or financial assistance from the supplemental fund to or for the benefit of participants;

to the extent permitted by the Clean Water Act.

(b) The authority must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) or a pledge of property made by the authority under this section is binding from the time the pledge is made. Any pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) is binding on the authority. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the department;

(2) the budget agency;

(3) the fund; or

(4) the authority;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the authority.

(e) Action taken to:

(1) enforce a pledge under this section or IC 4-23-21-8(e) (before its repeal); and

(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section or IC 4-23-21-8(e) (before its repeal) does not create a liability or indebtedness of the state.
As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.17; P.L.235-2005, SEC.141.

IC 13-18-13-15
Interest rate

Sec. 15. (a) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(b) The authority, in setting the interest rate or parameters for establishing the interest rate on each loan, may take into account the following:

(1) Credit risk.
(2) Environmental enforcement and protection.
(3) Affordability.
(4) Other fiscal factors the authority considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans or other financial assistance to different participants or for different loans or other financial assistance to the same participants.
As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.18; P.L.235-2005, SEC.142.

IC 13-18-13-16
User charges

Sec. 16. The authority shall require that a participant receiving a loan or other financial assistance under this chapter establish under applicable statute and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the participant to:

(1) operate and maintain the wastewater collection and treatment system; and
(2) pay the obligations of the system.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.19; P.L.235-2005, SEC.143.

IC 13-18-13-17
Defaults; withholding payments from participants; effect on validity of loan or financial assistance

Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency, including the treasurer of state:

(1) that is the custodian of money payable to a participant, other than money in payment for goods or services provided by the participant; and

(2) after written notice from the budget director that the participant is in default on the payment of principal or interest on a loan or evidence of other financial assistance;

may withhold payment of money from that participant and pay over the money to the authority or the Indiana bond bank as directed by the chairman of the authority, for the purpose of curing the default.

(b) The withholding of payment from the participant and payment to:

(1) the authority; or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the loan or other financial assistance.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.20; P.L.235-2005, SEC.144.

IC 13-18-13-18

Rules

Sec. 18. The authority may adopt guidelines, without complying with IC 4-22-2, to govern the administration of this chapter.

As added by P.L.1-1996, SEC.8. Amended by P.L.235-2005, SEC.145.

IC 13-18-13-19

Borrowing money; issuance and sale of notes; renewal or extension; maturity; compliance with statutory requirements

Sec. 19. (a) Notwithstanding any other law, a political subdivision may borrow money from the authority by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The notes must be issued pursuant to a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b) or IC 4-23-21-13 (before its repeal) may renew or extend the notes periodically on terms agreed to with the authority, and the authority may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

(1) in the amounts; and

(2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the authority.

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue its notes and sell the notes to the authority, and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. These notes are:

(1) valid and binding obligations of the political subdivision;

(2) enforceable in accordance with the terms of the notes; and

(3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither:

(1) the provisions of this section; nor

(2) the actual issuance by a political subdivision of notes under subsection (b);

relieves the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.21; P.L.235-2005, SEC.146.

IC 13-18-13-20

Alternative to making loans or providing financial assistance; guarantee of obligations or bonds

Sec. 20. (a) As an alternative to making loans or providing other financial assistance to participants, the authority may use the money in the fund or the supplemental fund to provide a leveraged loan program and other financial assistance programs permitted by the Clean Water Act to or for the benefit of participants, including using money in the fund or the supplemental fund to enhance the obligations of participants issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under IC 4-4-11 or another statute or a trust agreement or indenture as contemplated by section 2(e) of this chapter; or

(ii) an account established within such a fund; or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a participant or for bonds issued by the authority or the Indiana bond bank, if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or a part of obligations issued by participants or of bonds issued by the authority or the Indiana bond bank.

(b) The authority may enter into any agreements with the Indiana bond bank or participants to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3)

must be limited to money in the fund and the supplemental fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.
As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.22; P.L.235-2005, SEC.147.

IC 13-18-13-21
Repealed
(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-22
Repealed
(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-23
Repealed
(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-24
Repealed
(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-25
Repealed
(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-26
Repealed
(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-27
Repealed
(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-28
Repealed
(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-29
Repealed
(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-30
Use of funds to secure leveraged loan or other financial assistance in connection with drinking water revolving loan fund
Sec. 30. Notwithstanding any other law, and to the extent permitted by the federal Clean Water Act and the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), money in the fund, together with loan repayments to be deposited in the fund, may be used to secure a leveraged loan program or other financial assistance

programs established in connection with the drinking water revolving loan fund established by IC 13-18-21-2.
As added by P.L.104-1998, SEC.2.

IC 13-18-13-31
Criminal penalty for application misstatement

Sec. 31. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for a loan or other financial assistance from the fund commits a Level 6 felony.
As added by P.L.137-2007, SEC.14. Amended by P.L.158-2013, SEC.185.

IC 13-18-14

Chapter 14. Interstate Sewage

IC 13-18-14-1

Land filtration or treatment; approval required

Sec. 1. Predominantly domestic sewage and surface run-off or sludges derived from domestic sewage or surface run-off may not be transported through any drain, pipe, railroad car, truck, or barge from another state into Indiana for use in any land filtration or land treatment project without the express approval of the following:

(1) The general assembly.

(2) The county executive of each county affected by the land filtration or transportation.

As added by P.L.1-1996, SEC.8.

IC 13-18-15

Chapter 15. Connection to Sewage Service

IC 13-18-15-1

Order to connect or receive and treat sewage

Sec. 1. If the commissioner finds it is in the interest of the health, safety, convenience, and welfare of the residents of an area, a person may be ordered to connect to or receive and treat sewage from any other person or from an industry, a shopping center, a mobile home community, or a housing development when the service and use will not:

(1) result in irreparable injury to the receiving equipment; or

(2) make impossible the provision of the service previously provided to the users of the equipment.

As added by P.L.1-1996, SEC.8. Amended by P.L.87-2005, SEC.1.

IC 13-18-15-2

Negotiation of terms; remonstrance

Sec. 2. (a) The persons involved shall negotiate the terms for connection and service under this chapter.

(b) If service is ordered under this chapter, a receiver of that service that is located in an unincorporated area may grant a waiver to a municipality providing the service. A waiver under this section:

(1) must waive the receiver's right of remonstrance against annexation of the areas in which the service is to be provided; and

(2) may be one (1) of the terms for connection and service described in subsection (a).

(c) The waiver, if granted:

(1) shall be noted on the deed of each property affected and recorded as provided by law; and

(2) is considered a covenant running with the land.

As added by P.L.1-1996, SEC.8.

IC 13-18-15-3

Failure of negotiations; determination and order

Sec. 3. (a) If the negotiations fail:

(1) any person involved; or

(2) the department;

may apply to the Indiana utility regulatory commission for a determination of any question upon which an agreement was not reached.

(b) Upon application to the commission, the commission shall, in accordance with the commission's procedures:

(1) determine:

(A) the reasonable and just charges; and

(B) the compensation to be made for the connection and service; and

(2) enter an order designating:

(A) each person who shall perform the work of establishing

the connection; and

(B) the other conditions that are necessary to effect the connection.

As added by P.L.1-1996, SEC.8.

IC 13-18-15-4

Appeal

Sec. 4. Any person aggrieved by an order under section 3 of this chapter has all rights of appeal as with other orders of the commission.

As added by P.L.1-1996, SEC.8.

IC 13-18-15-5

Waiver against remonstrance

Sec. 5. A landowner in an unincorporated area who connects to a sewer or water service because a person other than the landowner has polluted or contaminated the area is not required to grant a municipality a waiver against remonstrance if:

(1) the area in which the service to be provided is annexed; and

(2) a person other than the landowner or the municipality has paid the cost of extension of or connection to the service.

As added by P.L.1-1996, SEC.8. Amended by P.L.124-1996, SEC.8.

IC 13-18-16

Chapter 16. Public Water Supplies

IC 13-18-16-1

Submission of plans and specifications; issuance of permit; determination

Sec. 1. (a) A permit is required for the construction, installation, or modification of:

(1) sources;
(2) facilities;
(3) equipment; or
(4) devices;

of a public water system, including water distribution systems.

(b) Plans and specifications for the construction, installation, or modification of sources, facilities, equipment, or devices of a public water system must be submitted to the commissioner with a permit application. The plans and specifications must be complete and of sufficient detail to show all proposed construction, changes, or modifications that may affect the sanitary quality, chemical quality, or adequacy of the public water system involved. The applicant shall supply any additional data or material considered appropriate by the commissioner to a review of the plans and specifications.

(c) Unless otherwise provided in rules adopted under section 8(b) of this chapter, plans and specifications must be submitted to the commissioner with the permit application for water distribution systems.

(d) Construction, installation, or modification of a public water system may not begin until the commissioner has issued a permit under subsection (a).

(e) In determining whether to issue a permit under this section, the commissioner shall proceed under IC 13-15.

As added by P.L.1-1996, SEC.8. Amended by P.L.25-1997, SEC.10; P.L.184-2002, SEC.14.

IC 13-18-16-2

Revocation or modification of permit

Sec. 2. The commissioner may initiate action under IC 13-15-7 to revoke or modify a permit.

As added by P.L.1-1996, SEC.8.

IC 13-18-16-3

Civil penalty

Sec. 3. The commissioner may initiate action under IC 4-21.5-3 to assess a civil penalty against a permit holder who fails to take action to correct or prevent contamination of the sanitary or chemical quality of the water supply after the permit holder knew or should have known that the action should be taken. The civil penalty assessed under this section may not exceed one thousand dollars ($1,000) for each day of violation.

As added by P.L.1-1996, SEC.8.

IC 13-18-16-4
Emergency repairs or proceedings

Sec. 4. This chapter does not preclude emergency repairs or proceedings.

As added by P.L.1-1996, SEC.8.

IC 13-18-16-5
Approval of plans

Sec. 5. Plans and specifications submitted to the commissioner under section 1 of this chapter shall be approved if it is determined that the plans and specifications meet all of the following conditions:

(1) The plans and specifications are satisfactory with respect to the following:

(A) Sanitary quality, including chlorination, if required.

(B) Chemical quality.

(C) Adequacy of the water supply.

(2) The plans and specifications meet the requirements of any rules or standards adopted by the board under section 8 of this chapter governing the location, design, construction, and operation and maintenance of:

(A) public water system installations; and

(B) changes or additions to public water system installations.

As added by P.L.1-1996, SEC.8. Amended by P.L.184-2002, SEC.15.

IC 13-18-16-6
Operation and maintenance; duties; violations

Sec. 6. (a) All public water systems shall be continuously operated and maintained so that water is:

(1) safe in quality;

(2) clean and adequate in quantity; and

(3) chemically satisfactory for ordinary domestic consumption.

(b) The person responsible for the operation of a public water system shall take all measures that are necessary to carry out the requirements of subsection (a) so as to protect the quality and quantity of the raw water supply from actual or threatened contamination. These measures include the relocation of the point of raw water collection to a site that is not contaminated or threatened by contamination.

(c) The failure to carry out a duty set forth in subsection (a) or (b) constitutes a violation subject to the penalties imposed under this chapter. Each day a violation occurs under this section constitutes a separate violation.

As added by P.L.1-1996, SEC.8. Amended by P.L.184-2002, SEC.16.

IC 13-18-16-7
Water samples and reports of operations

Sec. 7. A person responsible for the operation of public water systems shall submit:

(1) samples of water for analysis; and

(2) reports of operation pertaining to the sanitary quality,

chemical quality, or adequacy of water supplied by those systems;

that the commissioner requests. The operator certified under IC 13-18-11 must verify under oath the reports of operation.

As added by P.L.1-1996, SEC.8. Amended by P.L.184-2002, SEC.17.

IC 13-18-16-8

Rules establishing requirements for issuance of permits

Sec. 8. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-9 establishing requirements for the issuance of permits to control public water systems, including the following:

(1) Permits for the construction, installation, or modification of facilities, equipment, or devices for any public water system.

(2) Permits for the operation of sources, facilities, equipment, or devices for any public water system.

(b) The board shall adopt a permit by rule for water main extensions (as defined in 327 IAC 8-3-1) to satisfy the permit requirement in section 1(a) of this chapter.

As added by P.L.1-1996, SEC.8. Amended by P.L.25-1997, SEC.11; P.L.184-2002, SEC.18.

IC 13-18-16-9

Agency to secure benefits of federal act

Sec. 9. Except as provided in IC 14-37, the department:

(1) is the state agency with responsibility concerning the federal Safe Drinking Water Act (42 U.S.C. 300f through 300j) in effect January 1, 1988; and

(2) may take any action necessary to secure the benefits of that act for Indiana.

As added by P.L.1-1996, SEC.8.

IC 13-18-16-10

Continuing surveillance

Sec. 10. The department shall conduct a program of continuing surveillance and inspection of public water systems and technical assistance in connection with public water systems.

As added by P.L.1-1996, SEC.8. Amended by P.L.184-2002, SEC.19.

IC 13-18-16-11

Local government programs and facilities

Sec. 11. The department shall encourage and advise units of local government in developing programs and facilities for public water systems.

As added by P.L.1-1996, SEC.8. Amended by P.L.184-2002, SEC.20.

IC 13-18-16-12

Permit required

Sec. 12. A person may not:

(1) install or contract for the construction of any public water system facilities, including water purification or treatment

works; or

(2) make any material change in any public water system facilities;

until a permit has been issued by the commissioner.

As added by P.L.1-1996, SEC.8. Amended by P.L.25-1997, SEC.12; P.L.184-2002, SEC.21.

IC 13-18-16-13

Impure and dangerous water supply; investigation; orders

Sec. 13. (a) The commissioner may investigate and determine whether any public water system is providing water that is impure and dangerous to public health. If the commissioner determines that the water supply:

(1) is impure and dangerous to public health; or

(2) is not sufficiently purified because of improper construction, inadequate size, or inefficient management or operation;

the commissioner may under IC 13-30-3-10 through IC 13-30-3-12 order that the water supply be made pure and safe to health.

(b) If the commissioner determines under subsection (a) that a water supply is impure and dangerous to public health because of inefficient management or operation of the public water system providing the water, the commissioner may order the person responsible for the public water system to appoint, not later than fifteen (15) days after the commissioner's determination, a competent person to take charge of and superintend the operation of the water system plant or works.

(c) The commissioner must approve the person appointed in response to the commissioner's order under subsection (b). However, the person responsible for the water system plant or works shall pay the salary of the person appointed.

As added by P.L.1-1996, SEC.8. Amended by P.L.184-2002, SEC.22.

IC 13-18-16-14

Sewage treatment plants; inefficient supervision or operation; orders to appoint superintendent

Sec. 14. (a) If a sewage treatment works or plant is not producing a reasonably pure effluent because of inefficient supervision or operation and has consequently:

(1) made any public water supply impure or dangerous to health;

(2) polluted any waters; or

(3) created a public nuisance;

the commissioner may under IC 13-30-3-10 through IC 13-30-3-12 order the person responsible for the sewage treatment works or plant to appoint, not later than fifteen (15) days after the commissioner's order, a competent person to take charge of and superintend the operation of the sewage treatment works or plant.

(b) The commissioner must approve the person appointed in response to the commissioner's order under subsection (a). However, the person responsible for the sewage treatment works or plant shall

pay the salary of the person appointed.
As added by P.L.1-1996, SEC.8.

IC 13-18-16-15
Enforcement of chapter

Sec. 15. The commissioner may enforce this chapter under IC 13-30-3.
As added by P.L.1-1996, SEC.8.

IC 13-18-16-16
Nonprofit water utility reconstituted as water authority by resolution; status as political subdivision; existing obligations; treatment as nonprofit; independent audits

Sec. 16. (a) A nonprofit water utility may adopt a resolution approved by its board of directors under this section that reconstitutes the nonprofit water utility as a water authority to be named as provided in the resolution.

(b) A resolution adopted under this section must allow:

(1) the structure of the board of directors; and

(2) the rules governing the water authority;

to remain the same as those applicable to the nonprofit water utility.

(c) The water authority shall retain all its powers, privileges, rights, and exemptions as a nonprofit water utility under:

(1) its existing bylaws and articles; and

(2) all laws applicable to nonprofit water utilities and local water corporations, including powers granted under IC 32-24-4-1.

(d) Except as provided in subsection (g), a water authority constituted under this section is a political subdivision of the state.

(e) A copy of a resolution adopted under this section must be filed with the secretary of state. When the secretary of state receives a copy of a resolution under this subsection, the secretary of state shall dissolve the corporate status of the nonprofit water utility for purposes of state law.

(f) A water authority constituted under this section shall:

(1) remain obligated under any existing contracts or agreements; and

(2) remain obligated and assume the indebtedness;

of the nonprofit water utility.

(g) Notwithstanding any other law and subject to subsections (h) and (i), a water authority constituted under this section is subject only to the laws applicable to nonprofit water utilities and local water corporations and is not subject to the following:

(1) IC 5-3.
(2) IC 5-4-1.
(3) IC 5-11.
(4) IC 5-13.
(5) IC 5-14-1.5.
(6) IC 5-14-3.
(7) IC 5-22.

(8) IC 36-1-8.
(9) IC 36-1-10.
(10) IC 36-1-10.5.
(11) IC 36-1-11.
(12) IC 36-1-12.
(13) IC 36-1-15.

(h) A water authority constituted under this section is subject to IC 8-1.5-3-8 for purposes of setting rates and charges.

(i) For each fiscal or calendar year of a water authority constituted under this section that ends after December 31, 2006, the water authority:

(1) shall:
(A) have an audit of its financial records performed by an independent certified public accounting firm; and
(B) keep the audit report on file at the water authority; and

(2) notwithstanding IC 5-11-1-9, is not subject to the following:
(A) Audit or examination by the state board of accounts.
(B) The examination guidelines and reporting requirements of the state board of accounts.

As added by P.L.104-1998, SEC.3. Amended by P.L.220-1999, SEC.3; P.L.2-2002, SEC.57; P.L.166-2006, SEC.1.

IC 13-18-17
Chapter 17. Groundwater Protection

IC 13-18-17-1
Repealed
(Repealed by P.L.131-2006, SEC.14.)

IC 13-18-17-2
Registry of contaminated sites
Sec. 2. (a) The department, with the assistance of other state agencies as requested, shall establish and maintain a registry of sites within Indiana at which contamination of groundwater has been detected.
(b) The information in the registry shall be made available to the public under IC 5-14-3 for inspection and copying during ordinary business hours.
(c) The department shall continuously supplement and clarify information in the registry as additional information on sites with groundwater contamination becomes available.
As added by P.L.1-1996, SEC.8.

IC 13-18-17-3
Groundwater quality clearinghouse
Sec. 3. (a) The department, with the assistance of other state agencies as requested, shall establish and operate a groundwater quality clearinghouse within the department.
(b) The groundwater quality clearinghouse established under this section shall do all of the following:
(1) Receive complaints about groundwater contamination.
(2) Screen reports of groundwater pollution.
(3) Ensure that complaints and reports are adequately investigated.
(4) Provide information to the public about groundwater and groundwater pollution.
(5) Coordinate the management of groundwater quality data in Indiana.
As added by P.L.1-1996, SEC.8.

IC 13-18-17-4
Investigation; contamination of private water supply wells; advisory; emergency action
Sec. 4. (a) The department under IC 13-14-2-2:
(1) may investigate allegations of; and
(2) shall investigate confirmed incidents of;
contamination of groundwater that affect private water supply wells.
(b) The commissioner shall:
(1) issue an advisory to the users and owners of a water well found to be contaminated concerning the hazards to health posed by the contamination;
(2) take emergency action, including emergency action under

IC 13-14-10, to reduce exposure to well water contaminants that pose a threat to human health; and

(3) as appropriate to safeguard human health, order abandonment of contaminated water wells.

As added by P.L.1-1996, SEC.8.

IC 13-18-17-5

Quality standards; onsite sewage systems

Sec. 5. (a) The board shall adopt rules under IC 4-22-2 establishing groundwater quality standards that include numeric and narrative criteria, a groundwater classification plan, and a method of determining where the groundwater quality standards must apply. The standards established under this subsection shall be used for the following purposes:

(1) To establish minimum compliance levels for groundwater quality monitoring at regulated facilities.

(2) To ban the discharge of effluents into potable groundwater.

(3) To establish health protection goals for untreated water in water supply wells.

(4) To establish concentration limits for contaminants in ambient groundwater.

(b) Except as provided in subsection (c) and subject to subsection (d), the following agencies shall adopt rules under IC 4-22-2 to apply the groundwater quality standards established under this section to activities regulated by the agencies:

(1) The department.

(2) The department of natural resources.

(3) The state department of health.

(4) The office of the state chemist.

(5) The division of fire and building safety.

(c) The executive board of the state department of health may not adopt rules to apply the nitrate and nitrite numeric criteria included in groundwater quality standards established in rules adopted by the board under subsection (a) to onsite sewage systems.

(d) Any rule adopted by the executive board of the state department of health is void to the extent that the rule applies the nitrate and nitrite numeric criteria included in groundwater quality standards established in rules adopted by the board under subsection (a) to onsite sewage systems.

As added by P.L.1-1996, SEC.8. Amended by P.L.168-1999, SEC.1; P.L.24-2004, SEC.6; P.L.1-2006, SEC.201; P.L.113-2014, SEC.72.

IC 13-18-17-5.5

Water well testing costs incurred by nontransient noncommunity water systems operated by certain nonprofit centers; reimbursement by department; procedures

Sec. 5.5. (a) The department shall pay the costs of well water testing if:

(1) the testing is required by state law, federal law, or both; and

(2) the costs are incurred:

(A) after June 30, 2007;

(B) by a nontransient noncommunity water system operated by a nonprofit center for advocacy for abused and neglected children that does not provide overnight care on site; and

(C) for testing of water from a well operated by the entity as part of the system.

(b) To receive payment from the department for the costs described in subsection (a), an entity described in subsection (a)(2)(B) shall do the following:

(1) Conduct or cause to be conducted the testing required by state law, federal law, or both, by:

(A) submitting samples from the nontransient noncommunity water system to the state department of health for testing; and

(B) arranging for a private laboratory to perform any tests not performed by the state department of health.

(2) Submit to the department a request for reimbursement of the amount paid for the testing by the entity described in subsection (a)(2)(B). A request under this subdivision must include the following:

(A) The name or type of testing conducted.

(B) The date of the testing.

(C) The name of each laboratory conducting the testing.

(D) The cost of each test conducted.

(E) A paid invoice from each laboratory conducting the testing, indicating:

(i) the amount paid by the entity described in subsection (a)(2)(B); and

(ii) the date paid.

(F) The name of the facility served by the nontransient noncommunity water system.

(c) The department shall establish any additional procedures necessary for an entity referred to in subsection (a)(2)(B) to apply to the department for payments under subsection (a).

As added by P.L.61-2007, SEC.3.

IC 13-18-17-6

Water pollution control board; protection zones; notice and hearing

Sec. 6. (a) The board shall adopt rules under IC 4-22-2 to establish protection zones around community water system wells.

(b) The state agencies referred to in section 5(b) of this chapter may not permit activities within the zones established under subsection (a) that would violate the rules or interfere with the purposes of the rules.

(c) The department shall establish and operate a program of education and assistance to local officials in developing and managing well field protection zones.

(d) The rules adopted under subsection (a) or any zoning under IC 36-7 to establish protection zones around community water system

wells may not restrict any activity by:

(1) an owner of land;

(2) a mineral owner; or

(3) a mineral leaseholder of record;

unless the owner or leaseholder is sent written notice of, and has an opportunity to be heard on, the establishment of the zone and the construction of the community public water system that caused the establishment of the zone.

(e) A person that requests a permit for construction of a community water system or establishment of a well field protection zone is responsible for any notice requirements the board establishes.

As added by P.L.1-1996, SEC.8. Amended by P.L.25-1997, SEC.13; P.L.184-2002, SEC.23.

IC 13-18-17-7

Water pollution control board; construction and monitoring of surface impoundments; application

Sec. 7. (a) The board shall adopt rules under IC 4-22-2 for the construction and monitoring of surface impoundments, including pits, ponds, and lagoons, used for the storage or treatment of nonhazardous waste and wastewater.

(b) The requirements of the rules adopted under this section must apply to all the state agencies referred to in section 5(b) of this chapter.

As added by P.L.1-1996, SEC.8.

IC 13-18-18

Chapter 18. General Coal Mine Permits

IC 13-18-18-1

Rules

Sec. 1. The department shall establish a general coal mine permit that may be obtained for a facility instead of obtaining another more specialized National Pollutant Discharge Elimination System coal mine permit.

As added by P.L.1-1996, SEC.8. Amended by P.L.81-2011, SEC.3.

IC 13-18-18-2

Criteria for consideration

Sec. 2. The department shall determine the criteria that must be met to qualify for the general permit.

As added by P.L.1-1996, SEC.8. Amended by P.L.81-2011, SEC.4.

IC 13-18-18-3

Notice of intent

Sec. 3. The general permit established under this chapter must allow a coal mine operator the option of submitting a notice of intent to be governed by the general permit requirements before the requirements apply to the coal mine operator.

As added by P.L.1-1996, SEC.8. Amended by P.L.81-2011, SEC.5.

IC 13-18-19
Chapter 19. NPDES Permits

IC 13-18-19-1
Application

Sec. 1. When the department receives an application for an original National Pollutant Discharge Elimination System (NPDES) permit required for discharge into a stream, the department shall do the following:

(1) Send a list in writing, on a monthly basis, of original applications received during the month to the county surveyor of the affected county, not later than thirty (30) days after receipt of the application.

(2) Advise the applicant in writing that if the stream is a regulated drain under IC 36-9-27, the county drainage board must also review the application for approval under IC 36-9-27.

As added by P.L.1-1996, SEC.8.

IC 13-18-19-2
Issuance of NPDES permits

Sec. 2. (a) The department may issue National Pollutant Discharge Elimination System (NPDES) permits containing conditions that include alternate water quality based effluent limits that:

(1) are based on receiving water flows associated with, or characteristic of:

(A) wet weather events of various degrees of duration and intensity; or

(B) low flow stream conditions derived on a monthly, quarterly, or annual basis;

(2) provide increased mass limitations, concentration limitations, or mass and concentration limitations, for publicly owned treatment works (POTW) that:

(A) are capable of treating wastewater flows that exceed the design flow used to calculate normal water quality based effluent limitations; and

(B) as a result of the increased limitations, can reduce the volume of discharge of wastewater from plant bypasses or combined sewer overflows; or

(3) include any factor or combination of factors described in subdivisions (1) and (2).

(b) The department may require an applicant for an NPDES permit containing at least one (1) of the conditions described in subsection (a) to document, in a reasonable manner, stream conditions and local controls that are germane to a condition described in subsection (a) before the department issues the NPDES permit.

As added by P.L.140-2000, SEC.22.

IC 13-18-20
Chapter 20. NPDES Permit Fees

IC 13-18-20-1
Assessment

Sec. 1. Notwithstanding NPDES fees established under IC 13-16-1, the annual fees contained in this chapter shall be assessed to each facility that has a NPDES permit.
As added by P.L.1-1996, SEC.8.

IC 13-18-20-2
Industrial permits

Sec. 2. For industrial permits, other than coal mine permits or stone quarry permits, the annual base fee per facility is:

(1) one thousand dollars ($1,000) for a major permit; and
(2) four hundred dollars ($400) for a minor permit;

plus the following annual discharge flow fee per facility:

Daily Average Actual Flow in MGD		Fee
.001 -	.05	$240
.051 -	.1	$360
.101 -	.2	$840
.201 -	.3	$1,200
.301 -	.5	$1,680
.501 -	1.0	$2,060
1.001 -	2.0	$3,600
2.001 -	5.0	$5,400
5.001 -	10.0	$8,400
10.001 -	15.0	$12,000
15.001 -	30.0	$16,800
30.001 -	50.0	$22,800
50.001 -	100.0	$28,800
	>100.0	$34,800

Annual flow fees are reduced by twenty percent (20%) for discharges that are comprised of greater than ninety percent (90%) of non-contact cooling water.
As added by P.L.1-1996, SEC.8.

IC 13-18-20-3
Annual fees instead of individual permit fees

Sec. 3. Each facility for which a coal mine operator files a notice of intent under the general coal mine permit rules adopted under IC 13-18-18 shall pay an annual fee of five hundred dollars ($500) instead of the following individual permit fees. The annual fee must accompany the initial notice of intent and is due each year on the anniversary date of the date when the initial notice of intent was filed.

Outfalls	Fee
1 Outfall	$500
2-3 Outfalls	$750
4-6 Outfalls	$1,000
7-10 Outfalls	$1,500
11-20 Outfalls	$2,500
21-99 Outfalls	$3,500

As added by P.L.1-1996, SEC.8.

IC 13-18-20-4
Stone quarry permits

Sec. 4. For stone quarry permits, the annual fee is as follows:

Outfalls	Fee
1 Outfall	$750
2 Outfalls	$1,500
3 Outfalls	$2,000
4 Outfalls	$2,500

As added by P.L.1-1996, SEC.8.

IC 13-18-20-5
Municipal permits

Sec. 5. For municipal permits, the annual base fee per facility is:

(1) one thousand five hundred dollars ($1,500) for a major permit; and

(2) four hundred dollars ($400) for a minor permit;

plus the following annual discharge flow fee per facility:

Daily Average Actual

Flow in MGD	Fee
.001 -. . .05	$300
.051 -. . .1	$600
.101 -. . .2	$2,000
.201 -. . .3	$4,000
.301 -. . .5	$5,000
.501 -. . 1.0	$6,000
1.001 -. 2.0	$7,000
2.001 -. 5.0	$8,000
5.001 -. 10.0	$10,000
10.001 -. 15.0	$13,000
15.001 -. 30.0	$15,000
30.001 -. 50.0	$20,000
50.001 -. 100.0	$22,000

As added by P.L.1-1996, SEC.8.

IC 13-18-20-6
State permits

Sec. 6. For state permits, the annual base fee per facility is:

(1) one thousand dollars ($1,000) for a major permit; and

(2) four hundred dollars ($400) for a minor permit;

plus the following annual discharge flow fee per facility:

Daily Average Actual Flow in MGD	Fee
.001 - .05.	$240
.051 - .1.	$360
.101 - .2.	$840
.201 - .3.	$1,200
.301 - .5.	$1,680
.501 - 1.0.	$2,060
1.001 - 2.0.	$3,600
2.001 - 5.0.	$5,400
5.001 - 10.0.	$8,400
10.001 - 15.0.	$12,000
15.001 - 30.0.	$16,800
30.001 - 50.0.	$22,800
50.001 - 100.0.	$28,800
> 100.0.	$34,800

As added by P.L.1-1996, SEC.8.

IC 13-18-20-7
Federal permits

Sec. 7. For federal permits, the annual base fee per facility is:

(1) one thousand dollars ($1,000) for a major permit; and

(2) four hundred dollars ($400) for a minor permit;

plus the following annual discharge flow fee per facility:

Daily Average Actual Flow in MGD	Fee
.001 - .05	$240
.051 - .1	$360
.101 - .2	$840
.201 - .3	$1,200
.301 - .5	$1,680
.501 - 1.0	$2,060
1.001 - 2.0	$3,600
2.001 - 5.0	$5,400
5.001 - 10.0	$8,400
10.001 - 15.0	$12,000
15.001 - 30.0	$16,800
30.001 - 50.0	$22,800
50.001 - 100.0	$28,800
> 100.0	$34,800

As added by P.L.1-1996, SEC.8.

IC 13-18-20-8
Semipublic permits

Sec. 8. For semipublic permits, the annual base fee per facility is:

(1) seven hundred fifty dollars ($750) for a major permit; and

(2) two hundred dollars ($200) for a minor permit;

plus the following annual discharge flow fee per facility:

Daily Average Design Flow in MGD	Fee

.001 - .05	$150
.051 - .1	$300
.101 - .2	$1,000
.201 - .3	$2,000
.301 - .5	$2,500
.501 - 1.0	$3,000
1.001 - 2.0	$3,500
2.001 - 5.0	$4,000
5.001 - 10.0	$5,000
10.001 - 15.0	$6,500
15.001 - 30.0	$7,500
30.001 - 50.0	$10,000
50.001 - 100.0	$11,000

As added by P.L.1-1996, SEC.8.

IC 13-18-20-9
Public water system permits

Sec. 9. For public water system permits, the annual base fee per facility is:

(1) one thousand dollars ($1,000) for a major permit; and

(2) four hundred dollars ($400) for a minor permit;

plus the following annual discharge flow fee per facility based on projected daily average flow in MGD as set forth in a facility NPDES permit:

Projected Daily Average Flow in MGD	Fee
.001 - .05	$240
.051 - .1	$360
.101 - .2	$840
.201 - .3	$1,200
.301 - .5	$1,680
.501 - 1.0	$2,060
1.001 - 2.0	$3,600
2.001 - 5.0	$5,400
5.001 - 10.0	$8,400
10.001 - 15.0	$12,000
15.001 - 30.0	$16,800
30.001 - 50.0	$22,800
50.001 - 100.0	$28,800
> 100.0	$34,800

As added by P.L.1-1996, SEC.8. Amended by P.L.184-2002, SEC.24.

IC 13-18-20-10
Storm water permits

Sec. 10. (a) For storm water permits for construction activity, a fee of one hundred dollars ($100) shall be submitted with a notice of intent (NOI).

(b) For storm water permits for industrial activity, the annual fee is one hundred dollars ($100).

As added by P.L.1-1996, SEC.8.

IC 13-18-20-11
Industrial waste pretreatment permit

Sec. 11. For an industrial waste pretreatment permit, the annual fee is three hundred fifty dollars ($350).

As added by P.L.1-1996, SEC.8.

IC 13-18-20-11.5
Concentrated animal feeding operations

Sec. 11.5. (a) In addition to the fee under section 12 of this chapter, when a person files a notice of intent with the department concerning:

(1) an initial; or
(2) the renewal of a;

general NPDES permit for a CAFO, the person must remit a permit fee of one hundred dollars ($100) to the department.

(b) In addition to the fee under section 12 of this chapter, when a person files an application with the department concerning:

(1) an initial; or
(2) the renewal of an;

individual NPDES permit for a CAFO, the person must remit a permit fee of two hundred fifty dollars ($250) to the department.

(c) If a person is subject to a fee for a CAFO under this section, no other fee under this chapter applies to the CAFO other than the fee under section 12 of this chapter.

As added by P.L.24-2004, SEC.4.

IC 13-18-20-12
Application fee

Sec. 12. (a) When a person files an application with the department concerning a NPDES permit, including:

(1) an application for an initial permit;
(2) the renewal of a permit;
(3) the modification of a permit; or
(4) a variance from a permit;

the person must remit an application fee of fifty dollars ($50) to the department.

(b) If a person does not remit an application fee to the department, the department shall deny the person's application.

As added by P.L.1-1996, SEC.8.

IC 13-18-20-13
Assessment

Sec. 13. NPDES annual fees begin accruing January 1 of each year. The department shall assess the fees not later than January 15 of that year.

As added by P.L.1-1996, SEC.8.

IC 13-18-20-14
Delinquency charge

Sec. 14. (a) In addition to the penalties described under:

(1) IC 13-30-4-1;
(2) IC 13-30-4-2; and
(3) IC 13-30-5-1;

if a person does not remit an annual NPDES fee or an installment established by the department under IC 13-16-2 to the department not more than sixty (60) days after the date the fee is assessed or not more than thirty (30) days after the date the installment is due, the person shall be assessed a delinquency charge equal to ten percent (10%) of the annual fee or ten percent (10%) of the installment, whichever is applicable.

(b) A delinquency charge, if applicable, is due and payable sixty (60) days after the date an annual NPDES fee is assessed or thirty (30) days after the date the installment is due.

As added by P.L.1-1996, SEC.8. Amended by P.L.130-1996, SEC.2; P.L.2-1997, SEC.41.

IC 13-18-20-15
Revocation of permit

Sec. 15. If a person does not remit an annual NPDES fee or an installment established by the department under IC 13-16-2 and any applicable delinquency charge to the department not more than ninety (90) days after the date the fee is assessed or not more than sixty (60) days after the date the installment is due, the department may revoke the person's NPDES permit. However, before the department may revoke the permit:

(1) not earlier than sixty (60) days after the date the annual NPDES fee is assessed or not earlier than thirty (30) days after the installment is due; and
(2) not later than thirty (30) days before the department revokes the permit;

the department must deliver a written notice to the person that describes what fees and delinquency charges are due and indicates that the department may revoke the person's permit for nonpayment after thirty (30) days.

As added by P.L.1-1996, SEC.8. Amended by P.L.130-1996, SEC.3; P.L.2-1997, SEC.42.

IC 13-18-20-16
Deposit of fees

Sec. 16. The fees and delinquency charges established under this chapter:

(1) are payable to the department; and
(2) shall be deposited in the environmental management permit operation fund established by IC 13-15-11-1.

As added by P.L.1-1996, SEC.8.

IC 13-18-20.5

Chapter 20.5. Federal Safe Drinking Water Act

IC 13-18-20.5-1

Purpose

Sec. 1. The provisions in this chapter are to defray the costs of administering activities of the federal Safe Drinking Water Act.

As added by P.L.224-2003, SEC.134.

IC 13-18-20.5-2

Annual operation fees; schedule of fees

Sec. 2. For public water systems, the annual operation fees are as follows:

(1) For a community water system with more than four hundred (400) service connections, ninety-five cents ($0.95) per service connection.

(2) For a community water system with four hundred (400) or fewer service connections, the annual operation fee is three hundred fifty dollars ($350).

(3) For a nontransient noncommunity water system, the annual operation fees are as follows:

Number served	Fee
25 - 100	$150
101 - 250	$180
251 - 500	$240
501 - 1,000	$300
1,001 - 3,300	$450
3,301 - 5,000	$600
5,001 - 10,000	$1,500
more than 10,000	$3,000

(4) For a transient noncommunity water system, the annual operation fees are as follows:

Type of transient noncommunity water system	Fee
Groundwater	$100
Purchase	$ 50
Surface	$200

As added by P.L.224-2003, SEC.134.

IC 13-18-20.5-3

Calendar year; liability; assessment schedule

Sec. 3. (a) Public water system annual operation fees begin accruing January 1 of each year.

(b) This subsection applies only to fees that are due in 2004. The department shall assess the public water system annual operation fees not earlier than July 1. Notwithstanding section 2 of this chapter, the annual fee assessed under this subsection is equal to one-third (1/3) of the fee required under section 2 of this chapter.

(c) This subsection applies only to fees that are due in 2005. The department shall assess the public water system annual operation fees

not earlier than July 1. Not withstanding section 2 of this chapter, the annual fee assessed under this subsection is equal to two-thirds (2/3) of the fee required under section 2 of this chapter.

(d) Beginning in 2006 and in each year thereafter, the department shall assess public water system annual operation fees not later than January 15 of each year.

(e) A person must remit a public water system annual operation fee or an installment established under IC 13-16-2 to the department not more than thirty (30) days after the date the fee is assessed or on the date the installment is due.

As added by P.L.224-2003, SEC.134.

IC 13-18-20.5-4

Delinquent payment; penalties

Sec. 4. (a) In addition to the penalties prescribed under:

(1) IC 13-30-4-1;

(2) IC 13-30-4-2; and

(3) IC 13-30-5-1;

if a person does not remit a public water system annual operation fee or installment of the fee under IC 13-16-2 to the department not later than sixty (60) days after the date the fee is assessed or not later than thirty (30) days after the date the installment is due, the person shall be assessed a delinquency charge equal to ten percent (10%) of the fee or ten percent (10%) of the installment, whichever applies.

(b) A delinquency charge assessed under this section is due and payable not later than sixty (60) days after the date a fee is assessed or not later than thirty (30) days after the date an installment of the fee is due under IC 13-16-2.

As added by P.L.224-2003, SEC.134.

IC 13-18-20.5-5

Delinquent payment; enforcement action; notice

Sec. 5. If a person does not remit a public water system annual operation fee or an installment of the fee under IC 13-16-2 to the department not later than ninety (90) days after the date the fee is assessed or not later than sixty (60) days after the date the installment is due, the department may pursue enforcement action under IC 13-30. However, before the department may pursue enforcement action, the department must:

(1) not earlier than sixty (60) days after the date the fee is assessed or not earlier than thirty (30) days after the installment is due; and

(2) not later than thirty (30) days before the department pursues enforcement action;

notify the person by United States mail of the fees and delinquency charges due. The notice must state that the department may pursue enforcement action for nonpayment after thirty (30) days from the date of the notice.

As added by P.L.224-2003, SEC.134.

IC 13-18-20.5-6

Deposit of fees and delinquent charge

Sec. 6. The fees and delinquency charges collected under this chapter:

(1) are payable to the department; and

(2) shall be deposited in the environmental management permit operation fund established by IC 13-15-11-1.

As added by P.L.224-2003, SEC.134.

IC 13-18-21

Chapter 21. Drinking Water Revolving Loan Program

IC 13-18-21-1

Establishment

Sec. 1. The drinking water revolving loan program is established.

As added by P.L.126-1997, SEC.30.

IC 13-18-21-2

Revolving loan fund; source of funds; repayments; investments; costs

Sec. 2. (a) The drinking water revolving loan fund is established to provide money for loans and other financial assistance under this chapter to or for the benefit of participants, including forgiveness of principal if allowed under federal law. The authority shall administer, hold, and manage the fund.

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to the fund; and

(2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The authority shall invest the money in the fund that is:

(1) not currently needed to meet the obligations of the fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the authority may invest or cause to be invested all or part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, an investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

(1) the department;

(2) the budget agency;

(3) a participant;

(4) the Indiana bond bank;

(5) the authority; or

(6) any person to which the authority or a participant is obligated, as provided in the trust agreement or indenture.

(f) Except as provided in the Safe Drinking Water Act, the cost of administering the fund and the program may be paid from the fund or from other money.

(g) All money accruing to the fund and money allotted to the state under 42 U.S.C. 300j-12 is appropriated continuously for the purposes specified in this chapter.

(h) Money in the fund does not revert to the state general fund at

the end of a state fiscal year.
As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.11; P.L.235-2005, SEC.148.

IC 13-18-21-3
Use of funds; power of authority to contract with other entities to administer program and fund

Sec. 3. (a) Money in the fund may be used to do the following:

(1) Provide loans or other financial assistance to participants for the:

(A) planning;
(B) designing;
(C) construction;
(D) renovation;
(E) improvement;
(F) expansion; or
(G) any combination of clauses (A) through (F);

for public water systems that will facilitate compliance with national primary drinking water regulations applicable to public water systems under the Safe Drinking Water Act or otherwise significantly further the health protection objectives of the Safe Drinking Water Act and other activities necessary or convenient to complete these tasks.

(2) Pay the cost of administering the fund and the program.

(3) Conduct all other activities that are allowed by the Safe Drinking Water Act.

(b) The authority shall develop and implement a strategy to assist participants in acquiring and maintaining technical, managerial, and financial capacity as contemplated by 42 U.S.C. 300g-9. The authority shall ensure that all new community water systems and new nontransient, noncommunity water systems, as contemplated by the Safe Drinking Water Act, commencing operations after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each federal primary drinking water regulation in effect on the date operations commence.

(c) This chapter does not require the authority to provide a loan or other financial assistance to any participant that would cause any bonds or other obligations issued to finance the program to lose their exemption from federal income taxation.

(d) The authority may contract with the department, the budget agency, or any other entity or person for assistance in administering the program and the fund and in carrying out the purposes of this chapter.
As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.12; P.L.184-2002, SEC.25; P.L.235-2005, SEC.149.

IC 13-18-21-4
Repealed

(Repealed by P.L.235-2005, SEC.212.)

IC 13-18-21-5
Authority duties

Sec. 5. The authority shall do the following:

(1) Administer, hold, and manage all aspects of the fund, the program, the supplemental fund, and the supplemental program in accordance with this chapter.

(2) Be the point of contact in relations with the United States Environmental Protection Agency.

(3) Prepare and provide program and supplemental program information.

(4) Ensure that each proposed financial assistance agreement meets the environmental and technical aspects of the program or the supplemental program.

(5) Periodically inspect project design and construction to determine compliance with the following:

(A) This chapter.

(B) The Safe Drinking Water Act.

(C) Construction plans and specifications.

(6) Negotiate the negotiable aspects of each financial assistance agreement.

(7) Manage any payment system through which the state receives grant payments from the federal government for the program and disbursements to the fund.

(8) Prepare annual reports concerning the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

(9) Be the point of contact with participants and other interested persons in preparing and providing program information.

(10) Prepare or cause to be prepared each financial assistance agreement.

(11) Sign each financial assistance agreement.

(12) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement.

As added by P.L.126-1997, SEC.30. Amended by P.L.28-2004, SEC.119; P.L.235-2005, SEC.150.

IC 13-18-21-6
Repealed

(Repealed by P.L.235-2005, SEC.212.)

IC 13-18-21-7
Authority powers

Sec. 7. The authority may do the following:

(1) Employ:

(A) fiscal consultants;

(B) engineers;
(C) bond counsel;
(D) special counsel;
(E) accountants; and
(F) any other consultants, employees, and agents;
that the authority considers necessary to carry out the purposes of this chapter.
(2) Fix and pay the compensation of persons employed in subdivision (1) from money:
(A) available in the fund and the supplemental fund; or
(B) otherwise made available for the program and the supplemental program.
(3) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the fund, the program, the supplemental fund, and the supplemental program.
(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.
As added by P.L.126-1997, SEC.30. Amended by P.L.235-2005, SEC.151.

IC 13-18-21-8
Fees
Sec. 8. (a) The authority may:
(1) charge a fee for services provided; and
(2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance under this chapter to or for the benefit of a participant, regardless of whether the application is approved or rejected.
(b) A participant may pay fees charged under this section.
As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.14; P.L.235-2005, SEC.152.

IC 13-18-21-9
Duty to use priority ranking system in making loans
Sec. 9. The authority shall use a priority ranking system in making loans or other financial assistance from the fund. The authority shall develop the priority ranking system consistent with federal primary drinking water regulations and health protection objectives of the Safe Drinking Water Act.
As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.15; P.L.235-2005, SEC.153.

IC 13-18-21-10
Prerequisites for loans or assistance
Sec. 10. The authority may make loans or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:

(1) The loan or other financial assistance must be used:

(A) for:

(i) planning, designing, constructing, renovating, improving, and expanding public water systems;

(ii) any purpose eligible for assistance under the Safe Drinking Water Act; and

(iii) for other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish guaranties, reserves or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A); or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.

(2) The authority shall establish the terms and conditions that the authority considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

(3) Notwithstanding any other law, the authority may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.16; P.L.235-2005, SEC.154.

IC 13-18-21-11

Documentation accompanying loan or other financial assistance

Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by the authority.

(2) Unless otherwise provided by the guidelines of the authority, the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

As added by P.L.126-1997, SEC.30. Amended by P.L.235-2005, SEC.155.

IC 13-18-21-12
Financial assistance agreements

Sec. 12. A participant receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the participant.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.17.

IC 13-18-21-13
Sale of loans

Sec. 13. The authority may sell loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the authority. Proceeds of sales under this section shall be deposited in the fund.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.18; P.L.235-2005, SEC.156.

IC 13-18-21-14
Pledge of loans

Sec. 14. (a) The authority may pledge loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund to secure:

(1) other loans or financial assistance from the fund to or for the benefit of participants; or

(2) other loans or financial assistance from the supplemental fund to or for the benefit of participants;

to the extent allowed by the Safe Drinking Water Act.

(b) The authority must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made by the department and the budget agency under this section, or a pledge of property made by the authority under this section, is binding from the time the pledge is made. Any pledge of property made by the

department and the budget agency under this section is binding on the authority. Revenues, other money, or other property pledged and received are immediately subject to the lien of the pledge without any other act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the department;
(2) the budget agency;
(3) the fund; or
(4) the authority;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the authority.

(e) Action taken to:

(1) enforce a pledge under this section; and
(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.19; P.L.235-2005, SEC.157.

IC 13-18-21-15
Interest rate

Sec. 15. (a) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(b) The authority, in setting the interest rate or parameters for establishing the interest rate on each loan, may take into account the following:

(1) Credit risk.
(2) Environmental, water quality, and health protection.
(3) Affordability.
(4) Other fiscal factors the authority considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans or other financial assistance to different participants or for different loans or other financial assistance to the same participants.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.20; P.L.235-2005, SEC.158.

IC 13-18-21-16
User charges

Sec. 16. The authority shall require a participant receiving a loan or other financial assistance under this chapter to establish under applicable law and maintain sufficient user charges or other charges,

fees, taxes, special assessments, or revenues available to the participant to:

(1) operate and maintain the public water system; and

(2) pay the obligations of the public water system.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.21; P.L.235-2005, SEC.159.

IC 13-18-21-17

Withholding payment from participants

Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, a state department or state agency, including the treasurer of state, that is the custodian of money payable to a participant, other than money in payment for goods or services provided by the participant, may withhold payment of money from that participant and pay over the money to the authority or the Indiana bond bank, as directed by the chairman of the authority, for the purpose of curing a default.

(b) The withholding of payment from the participant and payment to:

(1) the authority; or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the loan or other financial assistance.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.22; P.L.235-2005, SEC.160.

IC 13-18-21-18

Rules

Sec. 18. The authority may adopt guidelines, without complying with IC 4-22-2, to govern the administration of this chapter.

As added by P.L.126-1997, SEC.30. Amended by P.L.235-2005, SEC.161.

IC 13-18-21-19

Borrowing money; issuance and sale of notes; renewal or extension; maturity; compliance with statutes

Sec. 19. (a) Notwithstanding any other law, a political subdivision may borrow money under this chapter by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of bonds or other available money at the time the notes are due. The notes must be issued under a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b)

may renew or extend the notes periodically on terms agreed to with the authority, and the authority may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

(1) in the amounts; and

(2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the authority.

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue notes and sell the notes to the authority, and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of the notes. The notes are:

(1) valid and binding obligations of the political subdivision;

(2) enforceable in accordance with the terms of the notes; and

(3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay notes issued under subsection (b), the:

(1) provisions of this section; or

(2) actual issuance by a political subdivision of notes under subsection (b);

do not relieve the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

As added by P.L.126-1997, SEC.30. Amended by P.L.235-2005, SEC.162.

IC 13-18-21-20

Alternatives to making loans or providing financial assistance

Sec. 20. (a) As an alternative to making loans or providing other financial assistance to participants, the authority may use the money in the fund to provide a leveraged loan program and other financial assistance programs allowed by the Safe Drinking Water Act to or for the benefit of participants, including using money in the fund or a supplemental fund, including the supplemental fund established by section 22 of this chapter, to enhance the obligations of participants issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under IC 4-4-11 or another statute or a trust agreement or indenture as contemplated by IC 13-18-21-2(e); or

(ii) an account established within a fund described in item (i); or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance

premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a participant or for bonds issued by the Indiana bond bank or the authority if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or part of:

(A) obligations issued by participants; or

(B) bonds issued by the Indiana bond bank or the authority.

(b) The authority may enter into any agreements with the Indiana bond bank or participants to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.23; P.L.235-2005, SEC.163.

IC 13-18-21-21

Supplemental drinking water and wastewater assistance program

Sec. 21. The supplemental drinking water and wastewater assistance program is established.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.24.

IC 13-18-21-22

Supplemental drinking water and wastewater assistance fund

Sec. 22. (a) The supplemental drinking water and wastewater assistance fund is established to provide money for grants, loans, and other financial assistance to or for the benefit of participants for the purposes described in section 23 of this chapter.

(b) The general assembly may appropriate money to the supplemental fund. Grants or gifts of money to the supplemental fund and proceeds of the sale of:

(1) gifts to the supplemental fund; and

(2) loans and other financial assistance, as provided in sections 25 through 29 of this chapter;

shall be deposited in the supplemental fund.

(c) Repayments of loans and other financial assistance from the supplemental fund, including interest, premiums, and penalties, shall be deposited in the supplemental fund.

(d) The authority shall invest the money in the supplemental fund that is:

(1) not currently needed to meet the obligations of the supplemental fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from the investments shall be deposited in the supplemental fund.

(e) As an alternative to the investment provided for in subsection (d), the authority may invest or cause to be invested all or a part of

the supplemental fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to the authority, the department, the budget agency, a participant, or any other person as provided in the trust agreement or indenture.

(f) The cost of administering the supplemental fund may be paid from money in the supplemental fund.

(g) All money accruing to the supplemental fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the supplemental fund does not revert to the state general fund at the end of a state fiscal year.

(i) The authority shall administer, hold, and manage the supplemental fund.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.25; P.L.235-2005, SEC.164.

IC 13-18-21-22.3

Transfer of balance of supplemental wastewater assistance fund; liabilities of fund

Sec. 22.3. (a) On July 1, 1999, the treasurer of state shall transfer the balance remaining in the supplemental wastewater assistance fund on June 30, 1999, to the supplemental drinking water and wastewater assistance fund established by IC 13-18-21-22, as amended by P.L.132-1999.

(b) On July 1, 1999, all liabilities of the supplemental wastewater assistance fund become liabilities of the supplemental drinking water and wastewater assistance fund established by IC 13-18-21-22, as amended by P.L.132-1999.

As added by P.L.220-2011, SEC.282.

IC 13-18-21-23

Supplemental drinking water and wastewater assistance fund; use of money

Sec. 23. Money in the supplemental fund may be used to do the following:

(1) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of public water systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the Clean Water Act or the Safe Drinking Water Act.

(2) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or storm water collection and treatment systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are

permitted by the Clean Water Act or the Safe Drinking Water Act.

(3) Provide grants to political subdivisions for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(4) Pay the cost of administering the supplemental fund and the supplemental program.

(5) Conduct all other activities that are permitted by the Clean Water Act or the Safe Drinking Water Act.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.26; P.L.55-2001, SEC.2; P.L.235-2005, SEC.165.

IC 13-18-21-24

Supplemental drinking water and wastewater assistance fund; financial assistance

Sec. 24. The authority shall develop criteria to make or provide grants, loans, or other financial assistance from the supplemental fund.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.27; P.L.235-2005, SEC.166.

IC 13-18-21-25

Supplemental drinking water and wastewater assistance fund; authority to make loans

Sec. 25. (a) The authority may make grants or loans or provide other financial assistance from the supplemental fund for the benefit of a participant under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding public water systems, and other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A); or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the

supplemental program.

(2) The authority must establish the terms and conditions that the authority considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

(b) In addition to its powers under subsection (a), the authority may also make grants or loans or provide other financial assistance from the supplemental fund to or for the benefit of a participant under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding wastewater or storm water collection and treatment systems, and other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A); or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) A grant may be used for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(3) The authority must establish the terms and conditions that the authority considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.28; P.L.55-2001, SEC.3; P.L.235-2005, SEC.167.

IC 13-18-21-26

Supplemental drinking water and wastewater assistance fund; documentation to accompany financial assistance

Sec. 26. (a) A grant, loan, or other financial assistance from the supplemental fund must be accompanied by all papers and opinions required by the authority.

(b) The authority may require that a loan or other financial assistance be accompanied by the following:

(1) A certification and guarantee of signatures.

(2) A certification that, as of the date of the loan or other financial assistance, no litigation is pending challenging the validity of or entry into:

(A) the grant, loan, or other financial assistance; or

(B) any security for the loan or other financial assistance.

(3) Any other certifications, agreements, security, or requirements that the authority requests.

(4) An approving opinion of nationally recognized bond counsel.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.29; P.L.235-2005, SEC.168.

IC 13-18-21-27

Supplemental drinking water and wastewater assistance fund; financial assistance agreements

Sec. 27. A participant receiving a grant, loan, or other financial assistance from the supplemental fund shall enter into a financial assistance agreement. A financial assistance agreement under this section is a valid, binding, and enforceable agreement of the participant.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.30.

IC 13-18-21-28

Supplemental drinking water and wastewater assistance fund; sale of loans

Sec. 28. (a) The authority may sell loans or evidences of other financial assistance and other obligations evidencing the loans or other financial assistance from the supplemental fund:

(1) periodically;

(2) at any price; and

(3) on terms acceptable to the authority.

(b) Proceeds of sales under this section shall be deposited in the supplemental fund, the wastewater revolving loan fund, or the fund at the direction of the authority.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.31; P.L.235-2005, SEC.169.

IC 13-18-21-29

Supplemental drinking water and wastewater assistance fund; pledge of loans

Sec. 29. (a) The authority may pledge:

(1) loans or evidences of other financial assistance; and

(2) other obligations evidencing the loans or other financial assistance;

from the supplemental fund to secure other loans or financial assistance from the fund, the wastewater revolving loan fund, or the supplemental fund for the benefit of participants.

(b) The terms of a pledge under this section must be acceptable to the authority.

(c) Notwithstanding any other law, a pledge of property made by the authority under this section is binding from the time the pledge is made. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the authority;

(2) the budget agency; or

(3) the supplemental fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the authority.

(e) Action taken to:

(1) enforce a pledge under this section; and

(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.32; P.L.235-2005, SEC.170.

IC 13-18-21-30

Use of funds to secure leveraged loan or other financial assistance in connection with wastewater revolving loan fund

Sec. 30. Notwithstanding any other law, and to the extent permitted by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and the federal Clean Water Act, money in the fund, together with loan repayments to be deposited in the fund, may be used to secure a leveraged loan program or other financial assistance programs established in connection with the wastewater revolving loan fund established by IC 13-18-13-2.

As added by P.L.104-1998, SEC.4.

IC 13-18-21-31

Criminal penalty for application misstatement

Sec. 31. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for a loan or other financial assistance from the fund commits a Level 6 felony.

As added by P.L.137-2007, SEC.15. Amended by P.L.158-2013, SEC.186.

IC 13-18-22

Chapter 22. State Regulated Wetlands

IC 13-18-22-1

Permit for wetland activity; exceptions; goal of permitting

Sec. 1. (a) Except as provided in subsection (b), a person proposing a wetland activity in a state regulated wetland must obtain a permit under this chapter to authorize the wetland activity.

(b) A permit is not required for the following wetland activities:

(1) The discharge of dirt, sand, rock, stone, concrete, or other inert fill materials in a de minimis amount.

(2) A wetland activity at a surface coal mine for which the department of natural resources has approved a plan to:

(A) minimize, to the extent practical using best technology currently available, disturbances and adverse effects on fish and wildlife;

(B) otherwise effectuate environmental values; and

(C) enhance those values where practicable.

(3) Any activity listed under Section 404(f) of the Clean Water Act, including:

(A) normal farming, silviculture, and ranching activities, such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

(B) maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

(C) construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;

(D) construction of temporary sedimentation basins on a construction site that does not include placement of fill material into the navigable waters; and

(E) construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where the roads are constructed and maintained, in accordance with best management practices, to assure that:

(i) flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired;

(ii) the reach of the navigable waters is not reduced; and

(iii) any adverse effect on the aquatic environment will be otherwise minimized.

(c) The goal of the permitting program for wetland activities in state regulated wetlands is to:

(1) promote a net gain in high quality isolated wetlands; and

(2) assure that compensatory mitigation will offset the loss of isolated wetlands allowed by the permitting program.

As added by P.L.282-2003, SEC.38.

IC 13-18-22-2
Wetland rules; improving classification of isolated wetland

Sec. 2. (a) The board may adopt rules under IC 4-22-2 and IC 13-14 not later than February 1, 2005, to implement the part of the definition of Class I wetland under IC 13-11-2-25.8(a)(1)(B).

(b) Before the adoption of rules by the board under subsection (a), the department shall determine the class of a wetland in a manner consistent with the definitions of Class I, II, and III wetlands in IC 13-11-2-25.8.

(c) The classification of an isolated wetland that is based on the level of disturbance of the wetland by human activity or development may be improved to a higher numeric class if an action is taken to restore the isolated wetland, in full or in part, to the conditions that existed on the isolated wetland before the disturbance occurred.

As added by P.L.282-2003, SEC.38. Amended by P.L.52-2004, SEC.5; P.L.2-2005, SEC.55.

IC 13-18-22-3
Individual permits for wetland activity; adoption of rules

Sec. 3. (a) An individual permit is required to authorize a wetland activity in a Class III wetland.

(b) Except as provided in section 4(a) of this chapter, an individual permit is required to authorize a wetland activity in a Class II wetland.

(c) The board shall adopt rules under IC 4-22-2 and IC 13-14 not later than June 1, 2005, to govern the issuance of individual permits by the department under subsections (a) and (b).

As added by P.L.282-2003, SEC.38. Amended by P.L.52-2004, SEC.6.

IC 13-18-22-4
General permits for wetland activities; adoption of rules

Sec. 4. (a) Wetland activities with minimal impact in Class I wetlands and Class II wetlands, including the activities analogous to those allowed under the nationwide permit program (as published in 67 Fed. Reg. 2077-2089 (2002)), shall be authorized by a general permit rule.

(b) Wetland activities in Class I wetlands shall be authorized by a general permit rule.

(c) The board shall adopt rules under IC 4-22-2 and IC 13-14 not later than February 1, 2005, to establish and implement the general permits described in subsections (a) and (b).

As added by P.L.282-2003, SEC.38. Amended by P.L.52-2004, SEC.7.

IC 13-18-22-5
Contents of wetland rules

Sec. 5. (a) The rules adopted under section 3 of this chapter:

(1) must require that the applicant demonstrate, as a prerequisite to the issuance of the permit, that wetland activity:

(A) is:
(i) without reasonable alternative; and
(ii) reasonably necessary or appropriate;
to achieve a legitimate use proposed by the applicant on the property on which the wetland is located; and
(B) for a Class III wetland, is without practical alternative and will be accompanied by taking steps that are practicable and appropriate to minimize potential adverse impacts of the discharge on the aquatic ecosystem of the wetland;
(2) except as provided in subsection (c), must establish that compensatory mitigation will be provided as set forth in section 6 of this chapter to reasonably offset the loss of wetlands allowed by the permits; and
(3) may prescribe additional conditions that are reasonable and necessary to carry out the purposes of this chapter.

(b) The rules adopted under section 4 of this chapter must require, as a prerequisite to the applicability of the general permit by rule to a specific wetland activity, that the person proposing the discharge submit to the department a notice of intent to be covered by the general permit by rule that:
(1) identifies the wetlands to be affected by the wetland activity; and
(2) except as provided in subsection (c), provides a compensatory mitigation plan as set forth in section 6 of this chapter to reasonably offset the loss of wetlands allowed by the general permit.

(c) Under subsections (a) and (b), the rules adopted under sections 3 and 4 of this chapter may provide for exceptions to compensatory mitigation in specific, limited circumstances.

(d) For purposes of subsection (a)(1)(A):
(1) a resolution of the executive of the county or municipality in which the wetland is located; or
(2) a permit or other approval from a local government entity having authority over the proposed use of the property on which the wetland is located;
that includes a specific finding that the wetland activity is as described in subsection (a)(1)(A) is considered conclusive evidence of that fact.

As added by P.L.282-2003, SEC.38. Amended by P.L.52-2004, SEC.8.

IC 13-18-22-6
Standards for compensatory mitigation

Sec. 6. (a) Except as otherwise specified in subsections (b) and (c), compensatory mitigation shall be provided in accordance with the following table:

Wetland Class	Replacement Class	On-site Ratio	Off-site Ratio
Class I	Class II or III	1 to 1	1 to 1
Class I	Class I	1.5 to 1	1.5 to 1

Class II	Class II or III	1.5 to 1 Nonforested 2 to 1 Forested	2 to 1 Nonforested 2.5 to 1 Forested
Class III	Class III	2 to 1 Nonforested 2.5 to 1 Forested	2.5 to 1 Nonforested 3 to 1 Forested

(b) The compensatory mitigation ratio shall be lowered to one to one (1:1) if the compensatory mitigation is completed before the initiation of the wetland activity.

(c) A wetland that is created or restored as a water of the United States may be used, as an alternative to the creation or restoration of an isolated wetland, as compensatory mitigation for purposes of this section. The replacement class of a wetland that is a water of the United States shall be determined by applying the characteristics of a Class I, Class II, or Class III wetland, as appropriate, to the replacement wetland as if it were an isolated wetland.

(d) The off-site location of compensatory mitigation must be within:

(1) the same eight (8) digit U.S. Geological Service hydrologic unit code; or

(2) the same county;

as the isolated wetlands subject to the authorized wetland activity.

(e) Exempt isolated wetlands may be used to provide compensatory mitigation for wetlands activities in state regulated wetlands. An exempt isolated wetland that is used to provide compensatory mitigation becomes a state regulated wetland.

As added by P.L.282-2003, SEC.38. Amended by P.L.241-2005, SEC.4.

IC 13-18-22-7

Department action on wetland permits; department action before adoption of wetland rules; forms

Sec. 7. (a) The department shall:

(1) administer the permit programs established by this chapter; and

(2) review and issue decisions on applications for permits to undertake wetland activities in state regulated wetlands in accordance with the rules issued by the board under this chapter.

(b) Before the adoption of rules by the board under this chapter, the department shall:

(1) issue individual permits under this chapter consistent with the general purpose of this chapter; and

(2) for wetland activities in Class I wetlands, issue permits under this subsection:

(A) that are simple, streamlined, and uniform;

(B) that do not require development of site specific provisions; and

(C) promptly upon submission by the applicant to the

department of a notice of registration for a permit.

(c) Not later than June 1, 2004, the department shall make available to the public:

(1) a form for use in applying for a permit under subsection (b)(1); and

(2) a form for use in submitting a notice of registration for a permit to undertake a wetland activity in a Class I wetland under subsection (b)(2).

As added by P.L.282-2003, SEC.38. Amended by P.L.52-2004, SEC.9.

IC 13-18-22-8

Department action on wetland permits; effective dates of permits; amended permit application

Sec. 8. (a) Subject to subsection (f), the department shall make a decision to issue or deny an individual permit under section 3 or 7(b)(1) of this chapter not later than one hundred twenty (120) days after receipt of the completed application. If the department fails to make a decision on a permit application by the deadline under this subsection or subsection (f), a permit is considered to have been issued by the department in accordance with the application.

(b) A general permit under section 4 of this chapter becomes effective with respect to a proposed wetland activity that is within the scope of the general permit on the thirty-first day after the department receives a notice of intent from the person proposing the wetland activity that the wetland activity be authorized under the general permit.

(c) Except as provided in subsection (d), a permit to undertake a wetland activity in a Class I wetland under section 7(b)(2) of this chapter is considered to have been issued to an applicant on the thirty-first day after the department receives a notice of registration submitted under section 7(b)(2) of this chapter if the department has not previously authorized the wetland activity.

(d) The department may deny a registration for a permit for cause under subsection (c) before the period specified in subsection (c) expires.

(e) The department must support a denial under subsection (a) or (d) by a written statement of reasons.

(f) The department may notify the applicant that the completed application referred to in subsection (a) is deficient. If the department fails to give notice to the applicant under this subsection not later than fifteen (15) days after the department's receipt of the completed application, the application is considered not to have been deficient. After receipt of a notice under this subsection, the applicant may submit an amended application that corrects the deficiency. The department shall make a decision to issue or deny an individual permit under the amended application within a period that ends a number of days after the date the department receives the amended application equal to the remainder of:

(1) one hundred twenty (120) days; minus

(2) the number of days the department held the initial application before giving a notice of deficiency under this subsection.

As added by P.L.282-2003, SEC.38. Amended by P.L.52-2004, SEC.10.

IC 13-18-22-9

Designation of Class III wetland as outstanding state protected wetland; rules; restrictions on wetland owner; rescission of designation

Sec. 9. (a) The owner of a Class III wetland may petition the board for designation of the wetland as an outstanding state protected wetland. Upon verification by the board that the wetland is a Class III wetland and that the petitioner is the owner of the wetland, the board shall conduct a proceeding under IC 4-22-2 and IC 13-14 to adopt a rule designating the wetland as an outstanding state protected wetland.

(b) A rule adopted by the board under subsection (a) must specifically identify each wetland to be designated as an outstanding state protected wetland, including:

(1) the wetland type;

(2) a legal description of the wetland as delineated; and

(3) other information considered necessary by the board.

(c) The owner of a Class III wetland designated as an outstanding state protected wetland under this section shall:

(1) not cause or allow any anthropogenic activities on the property on which the wetland is located that may adversely affect or degrade the wetland, except for activities with minimal and short term effect, such as construction of an observation pathway or installation of an underground pipeline that are:

(A) authorized by rules adopted by the board; or

(B) approved by the department in the absence of rules under clause (A); and

(2) provide for the long term assurance of the protections described in subdivision (1) through:

(A) a restrictive covenant that is recorded with respect to the property on which the delineated wetland is located; or

(B) a grant of title to or a conservation easement in the property on which the delineated wetland is located to:

(i) the department of natural resources; or

(ii) a nonprofit entity with demonstrated ability in the maintenance and protection of wetlands.

(d) Notwithstanding the designation of a wetland under this section by the board as an outstanding state protected wetland, the owner of a Class III wetland may petition the board for rescission of the designation if the owner can demonstrate important social or economic needs that warrant adverse effects to the wetland. In its review of the petition, the board shall give great weight to a resolution of the legislative body of the municipality or county in which the Class III wetland is located describing important social or economic needs, the accomplishment of which would necessitate

adverse effects to the wetland.
As added by P.L.282-2003, SEC.38.

IC 13-18-22-10
Department authority over wetlands

Sec. 10. (a) Except as provided in subsection (b), the department has no authority over the:

(1) filling;
(2) draining; or
(3) elimination by other means;

before January 1, 2004, of a wetland that would have been an isolated wetland.

(b) The department has authority over wetland activities in an isolated wetland, including an exempt isolated wetland, that are subject to the provisions of:

(1) a National Pollutant Discharge Elimination System (NPDES) permit issued by the department under 33 U.S.C. 1342;
(2) an agreed order under IC 13-30-3-3, consent order, or consent decree executed by the department and the regulated party;
(3) an order issued under IC 13-30-3-4; or
(4) a judgment of a court enforcing or upholding an enforcement order or decree described in subdivision (2) or (3);

that became effective before January 1, 2004.
As added by P.L.282-2003, SEC.38. Amended by P.L.52-2004, SEC.11.

IC 13-18-22-11
Applicability of chapter to certain isolated wetlands

Sec. 11. When land referred to in IC 13-11-2-74.5(a)(7) is no longer subject to United States Department of Agriculture wetland conservation rules:

(1) isolated wetlands located on the land are subject to this chapter; and
(2) any past wetland activities in the isolated wetlands located on the land become subject to this chapter, unless the wetland activities were in compliance with United States Department of Agriculture wetland conservation rules.

As added by P.L.282-2003, SEC.38.

IC 13-18-23

Chapter 23. Department Action on Certification Applications

IC 13-18-23-1

Deadline for department action; statement of reasons; waiver

Sec. 1. (a) The department shall:

(1) make a final determination on an application for a certification under Section 401 of the Clean Water Act not later than one hundred twenty (120) days after its receipt of a complete application; and

(2) include in its notice of the final determination to the applicant a statement of reasons for the final determination.

(b) A failure by the department to act within the period specified in subsection (a)(1) constitutes a waiver of the certification.

As added by P.L.282-2003, SEC.39.

IC 13-19

ARTICLE 19. SOLID WASTE AND HAZARDOUS WASTE MANAGEMENT GENERALLY

IC 13-19-1

Chapter 1. Purpose, Policy, and Goal of Statute

IC 13-19-1-1

Policy

Sec. 1. The policy of the state is that:

(1) source reduction;

(2) recycling; and

(3) other solid waste management alternatives;

are preferred over incineration and landfill disposal as solid waste management methods.

As added by P.L.1-1996, SEC.9.

IC 13-19-1-2

Goal

Sec. 2. The goal of the state is to encourage solid waste source reduction, recycling, and other alternatives to conserve environmental resources. The department shall produce an annual report on the state of the environment.

As added by P.L.1-1996, SEC.9. Amended by P.L.37-2012, SEC.25.

IC 13-19-1-3

Differential treatment; injunctive relief

Sec. 3. (a) The state may not impose differential treatment against solid waste involved in interstate commerce unless:

(1) authorized by federal law;

(2) differential treatment of solid waste in interstate commerce equalizes financial, regulatory, or enforcement burdens among:

(A) persons engaged in or benefitting from the interstate commerce; or

(B) any other group of persons; or

(3) the differential treatment serves a legitimate state purpose that could not be served as well by reasonably available means that did not impose differential treatment.

(b) A court may enjoin a violation of this section but may not award monetary damages or attorney's fees against any of the following:

(1) The state.

(2) A state agency.

(3) An officer or employee of the state.

As added by P.L.1-1996, SEC.9.

IC 13-19-2
Repealed

(Repealed by P.L.133-2012, SEC.131.)

IC 13-19-3

Chapter 3. Powers and Duties Concerning Solid Waste and Hazardous Waste Management

IC 13-19-3-1

Regulation of solid and hazardous waste and atomic radiation; review orders; development of operating policies

Sec. 1. The board shall do the following:

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

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

(3) Carry out other duties imposed by law.

As added by P.L.1-1996, SEC.9. Amended by P.L.25-1997, SEC.14; P.L.133-2012, SEC.132.

IC 13-19-3-2

Orders; review by environmental law judge

Sec. 2. (a) The commissioner may enter into agreed orders as provided in IC 13-30-3-6.

(b) An environmental law judge under IC 4-21.5-7 shall review orders and determinations of the commissioner.

As added by P.L.1-1996, SEC.9.

IC 13-19-3-3

Prohibited areas of regulation

Sec. 3. The board may not adopt rules under section 1 of this chapter to regulate the following:

(1) The disposal of waste indigenous to the coal mining process and coal combustion products (as defined by ASTM E-2201-02a), including fly ash, bottom ash, boiler slag, fluidized bed combustion ash, or flue gas desulfurization material produced from the combustion of coal or the cleaning of stack gases on coal combustion units if the material:

(A) is not included in the definition of hazardous waste or is exempt from regulation as a hazardous waste under 42 U.S.C. 6921; and

(B) is disposed of at a facility regulated under IC 14-34.

(2) The use of coal combustion products (as defined by ASTM E-2201-02a), including fly ash, bottom ash, boiler slag, fluidized bed combustion ash, or flue gas desulfurization material produced from the combustion of coal or the cleaning of stack gases on coal combustion units, if the use includes one (1) of the following uses:

(A) The extraction or recovery of materials and compounds contained within coal combustion products.

(B) Bottom ash as an antiskid material.
(C) Raw material for manufacturing another product.
(D) Mine subsidence, mine fire control, and mine sealing.
(E) Structural fill when combined with cement, sand, or water to produce a controlled strength fill material.
(F) A base in road construction.
(G) Cover for coal processing waste disposal locations to inhibit infiltration at surface and underground mines subject to IC 14-34, so long as a demonstration is made in concurrence with the department of natural resources that the materials and methods to be employed are appropriate for the intended use.
(H) Providing buffering or enhancing structural integrity for refuse piles at surface and underground mines subject to IC 14-34, so long as a demonstration is made in concurrence with the department of natural resources that the materials and methods to be employed are appropriate for the intended use.
(I) Agricultural applications, when applied using appropriate agronomic amounts to improve crop or vegetative production.

As added by P.L.1-1996, SEC.9. Amended by P.L.215-2003, SEC.4.

IC 13-19-3-4
Vertical expansions of existing permitted landfills; rules prohibited

Sec. 4. Except as provided by sections 5 and 6 of this chapter, the board and the department may not adopt rules under section 1 of this chapter to:
(1) prohibit; or
(2) arbitrarily restrict;
vertical expansions of existing permitted landfills.

As added by P.L.1-1996, SEC.9. Amended by P.L.122-1996, SEC.3.

IC 13-19-3-5
Vertical expansions of existing permitted landfills; environmental assessments

Sec. 5. Notwithstanding federal regulations, the board and the department shall adopt rules under section 1 of this chapter that require an applicant for a vertical expansion of an existing permitted landfill to submit environmental assessments as part of the application, including the following:
(1) Hydrogeology of the existing landfill site and adjacent areas.
(2) Evaluation of groundwater.
(3) Operational history of the landfill.
(4) Identification of adjacent land uses.

As added by P.L.1-1996, SEC.9.

IC 13-19-3-6
Vertical expansions of existing permitted landfill; submission of design, engineering, and operational requirements

Sec. 6. Notwithstanding federal regulations, the board and the department shall adopt rules under section 1 of this chapter that require the applicant for a vertical expansion of an existing permitted landfill to submit design, engineering, and operational requirements, including the following:

(1) A more precise definition of the hydrogeology of the site, including a soil gas analysis.
(2) Operational requirements.
(3) Surface water control plan.
(4) Landfill gas control plan.
(5) Final cover requirements.
(6) Closure and financial assurance plans.
(7) Remedial action plan.

As added by P.L.1-1996, SEC.9.

IC 13-19-3-7
Use of foundry sand

Sec. 7. The department and the board shall allow a person to use foundry sand that meets Type III criteria under 329 IAC 10-9 for the following activities in accordance with guidance without requiring the person to obtain any permits from the department:

(1) As a daily cover for litter and vermin control at a landfill in accordance with any applicable permits issued for the landfill.
(2) As a protective cover for a landfill leachate system in accordance with any applicable permits issued for the landfill.
(3) For use as capped embankments for ground and sight barriers under ten thousand (10,000) cubic yards or embankments for airports, bridges, or overpasses.
(4) For use:
(A) in a land application operation; or
(B) as a soil amendment;
if the application or amendment does not include the operation of a landfill.
(5) As a structural fill base capped by clay, asphalt, or concrete for the following:
(A) Roads.
(B) Road shoulders.
(C) Parking lots.
(D) Floor slabs.
(E) Utility trenches.
(F) Bridge abutments.
(G) Tanks and vaults.
(H) Construction or architectural fill.
(I) Other similar uses.
(6) As a raw material constituent incorporated into another product, including the following:
(A) Flowable fill.
(B) Concrete.
(C) Asphalt.
(D) Brick.

(E) Block.
(F) Portland cement.
(G) Glass.
(H) Roofing materials.
(I) Rock wool.
(J) Plastics.
(K) Fiberglass.
(L) Mineral wool.
(M) Lightweight aggregate.
(N) Paint.
(O) Plaster.
(P) Other similar products.

As added by P.L.129-1997, SEC.2. Amended by P.L.30-1999, SEC.3; P.L.14-2000, SEC.37; P.L.133-2012, SEC.133.

IC 13-19-3-7.2
Rules for voluntary certification programs

Sec. 7.2. (a) The board may adopt rules under IC 4-22-2 and IC 13-14-9 to develop a voluntary certification program for persons that remediate sites where releases of hazardous substances (as defined in IC 13-11-2-98) or petroleum (as defined in IC 13-11-2-160) have occurred.

(b) The rules adopted under this section must establish, at a minimum, the following:

(1) Eligibility criteria for certification.
(2) Criteria and procedures for suspension or revocation of certification.
(3) A certification application fee.

(c) The department may audit remediations performed by persons certified under rules adopted under this section.

As added by P.L.131-1997, SEC.1.

IC 13-19-3-8
Use of slag

Sec. 8. The board may not adopt rules under section 1 of this chapter to regulate the following activities involving the legitimate use of slag generated by the production of iron or steel under Bureau of the Census Standard Industrial Classification 3312:

(1) Production of slag.
(2) Transportation of slag.
(3) Storage of slag.
(4) Processing of slag.
(5) Legitimate use of slag.

As added by P.L.257-2001, SEC.1.

IC 13-19-3-8.2
Permit modification to prohibit processing or disposal of solid waste

Sec. 8.2. The department may modify a permit to prohibit the processing or disposal of specific solid waste at:

(1) a solid waste disposal facility; or
(2) a solid waste processing facility.
As added by P.L.218-2001, SEC.6.

IC 13-19-3-9
Construction\demolition waste; setback requirements

Sec. 9. (a) This section does not apply to an expansion of a solid waste landfill:
(1) that accepts only construction\demolition waste; and
(2) for which a construction\demolition waste permit was issued before January 1, 2005.

(b) A solid waste landfill that accepts only construction\demolition waste shall comply with setback requirements concerning public schools established by the board under 329 IAC 10-16-11 for municipal solid waste landfills.
As added by P.L.189-2005, SEC.2.

IC 13-19-4

Chapter 4. Good Character Requirements for Solid Waste and Hazardous Waste Management Permits

IC 13-19-4-1

Chapter not applicable to certain transfer station and solid waste disposal facility permits

Sec. 1. (a) Except as provided in section 8(e) of this chapter, this chapter does not apply to:

(1) an applicant for a transfer station permit that holds a permit for and continuously operates; or

(2) the transfer of a permit for a transfer station to an applicant that holds a permit for and is operating;

a transfer station, solid waste disposal facility, or hazardous waste facility in Indiana after December 31, 2004.

(b) Except as provided in section 8(e) of this chapter, this chapter does not apply to the transfer of a permit for a solid waste disposal facility to an applicant that holds a permit for and is operating a solid waste disposal facility or hazardous waste facility in Indiana after December 31, 2004.

As added by P.L.1-1996, SEC.9. Amended by P.L.154-2005, SEC.4.

IC 13-19-4-2

Requirement to submit permit disclosure statement or other information

Sec. 2. Before an application for the issuance, transfer, or major modification of a permit for a solid waste processing facility, solid waste disposal facility, or hazardous waste facility may be granted, the applicant and each person who is a responsible party with respect to the applicant must submit to the department:

(1) a disclosure statement that:

(A) meets the requirements set forth in section 3(a) of this chapter; and

(B) is executed under section 3(b) of this chapter; or

(2) all of the following information:

(A) The information concerning legal proceedings that:

(i) is required under Section 13 or 15(d) of the federal Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); and

(ii) the applicant or responsible party has reported under form 10-K.

(B) A description of all judgments that:

(i) have been entered against the applicant or responsible party in a proceeding described in section 3(a)(3) of this chapter; and

(ii) have imposed upon the applicant or responsible party a fine or penalty described in section 3(a)(3)(A) of this chapter.

(C) A description of all judgments of conviction entered against the applicant or responsible party within five (5)

years before the date of submission of the application for the violation of any state or federal environmental protection law.

(D) Any other related information to support the application requested by the department concerning either of the following:

(i) The applicant.

(ii) The responsible party.

As added by P.L.1-1996, SEC.9. Amended by P.L.154-2005, SEC.5; P.L.114-2008, SEC.15.

IC 13-19-4-3

Permit applicant disclosure statement; contents; oath

Sec. 3. (a) In a disclosure statement required by section 2 of this chapter, the applicant or responsible party shall set forth the following information:

(1) The name and business address of the applicant or responsible party.

(2) A description of the applicant's or responsible party's experience in managing the type of waste that will be managed under the permit.

(3) A description of all civil and administrative complaints against the applicant or responsible party for the violation of any state or federal environmental protection law that:

(A) have resulted in a fine or penalty of more than ten thousand dollars ($10,000) within five (5) years before the date of the submission of the application; or

(B) allege an act or omission that:

(i) constitutes a material violation of the state or federal environmental protection law; and

(ii) presented a substantial endangerment to the public health or the environment.

(4) A description of all pending criminal complaints alleging the violation of any state or federal environmental protection law that have been filed against the applicant or responsible party within five (5) years before the date of submission of the application.

(5) A description of all judgments of criminal conviction entered against the applicant or responsible party within five (5) years before the date of submission of the application for the violation of any state or federal environmental protection law.

(6) A description of all judgments of criminal conviction of a felony constituting a crime of moral turpitude under the laws of any state or the United States that are entered against the applicant or responsible party within five (5) years before the date of submission of the application.

(7) The location of all facilities at which the applicant or responsible party manages the type of waste that would be managed under the permit to which the application refers.

(b) A disclosure statement submitted under section 2(1) of this

chapter:

(1) must be executed under oath or affirmation; and

(2) is subject to the penalty for perjury under IC 35-44.1-2-1.

As added by P.L.1-1996, SEC.9. Amended by P.L.114-2008, SEC.16; P.L.126-2012, SEC.33.

IC 13-19-4-4

Permit applicant disclosure statement; verification

Sec. 4. The department may investigate and verify the information set forth in a disclosure statement required by section 2 of this chapter.

As added by P.L.1-1996, SEC.9. Amended by P.L.2-1997, SEC.43.

IC 13-19-4-5

Denial; grounds

Sec. 5. (a) Subject to subsection (b), the commissioner may deny an application for the issuance, transfer, or major modification of a permit for a solid waste processing facility, solid waste disposal facility, or hazardous waste facility if the commissioner finds that:

(1) the applicant or a responsible party has intentionally misrepresented or concealed any material fact in a statement required by section 2 or 3 of this chapter;

(2) a civil or administrative complaint described in section 3(a)(3) of this chapter has been filed against the applicant or a responsible party within five (5) years before the date of submission of the application;

(3) a criminal complaint described in section 3(a)(4) of this chapter has been filed against the applicant or a responsible party within five (5) years before the date of submission of the application;

(4) a judgment of criminal conviction described in section 3(a)(5) or 3(a)(6) of this chapter has been entered against the applicant or a responsible party within five (5) years before the date of submission of the application; or

(5) the applicant or a responsible party has knowingly and repeatedly violated any state or federal environmental protection laws.

(b) The commissioner may not deny a permit under this section based solely upon pending complaints disclosed under section 3(a)(3)(B) or 3(a)(4) of this chapter.

As added by P.L.1-1996, SEC.9. Amended by P.L.154-2005, SEC.6.

IC 13-19-4-6

Denial; mitigating factors

Sec. 6. Before making a determination to deny an application for the issuance, transfer, or major modification of a permit under section 5 of this chapter, the commissioner shall consider the following mitigating factors:

(1) The nature and details of the acts attributed to the applicant or responsible party.

(2) With respect to:

(A) a civil or an administrative complaint referred to in section 5(a)(2) of this chapter or IC 13-7-10.2-4(a)(2) (before its repeal); or

(B) a criminal complaint referred to in section 5(a)(3) of this chapter or IC 13-7-10.2-4(a)(3) (before its repeal);

whether the matter has been resolved.

(3) With respect to:

(A) a civil or an administrative complaint referred to in section 5(a)(2) of this chapter or IC 13-7-10.2-4(a)(2) (before its repeal);

(B) a criminal complaint referred to in section 5(a)(3) of this chapter or IC 13-7-10.2-4(a)(3) (before its repeal); or

(C) a judgment of conviction referred to in section 5(a)(4) of this chapter or IC 13-7-10.2-4(a)(4);

whether any appeal is pending.

(4) The degree of culpability of the applicant or responsible party.

(5) The applicant's or responsible party's cooperation with the state or federal agencies involved in the investigation of the activities involved in complaints and convictions referred to in section 5(a)(2) through 5(a)(5) of this chapter or IC 13-7-10.2-4(a)(2) through IC 13-7-10.2-4(a)(5) (before their repeal).

(6) The applicant's or responsible party's dissociation from any other persons or entities convicted of acts referred to in section 5(a)(2) through 5(a)(5) of this chapter or IC 13-7-10.2-4(a)(2) through IC 13-7-10.2-4(a)(5) (before their repeal).

(7) Prior or subsequent self-policing or internal education programs established by the applicant to prevent activities referred to in section 5(a) of this chapter or IC 13-7-10.2-4(a) (before its repeal).

(8) Whether the best interests of the public will be served by denial of the permit.

(9) Any demonstration of good citizenship by the applicant or responsible party.

As added by P.L.1-1996, SEC.9. Amended by P.L.154-2005, SEC.7.

IC 13-19-4-7

Findings of fact

Sec. 7. (a) In taking action under this chapter on an application for the issuance, transfer, or major modification of a permit for a solid waste processing facility, solid waste disposal facility, or hazardous waste facility, the commissioner shall make separately stated findings of fact to support the action taken.

(b) The findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. However, when the commissioner denies an application, the commissioner is not required to explain the extent to which any of the mitigating factors set forth in section 6 of this chapter

influenced the commissioner's determination to deny the application.
As added by P.L.1-1996, SEC.9. Amended by P.L.154-2005, SEC.8.

IC 13-19-4-8
Change of ownership; procedure; exemption; revocation by commissioner

Sec. 8. (a) This section does not apply to the transfer of ownership of a facility from a permittee whose business derives less than fifty percent (50%) of its gross revenue from the management of solid waste to a prospective owner whose business derives less than fifty percent (50%) of its gross revenue from the management of solid waste.

(b) If there is a prospective change of the entire ownership interest in a facility for which a permit described in IC 13-15-1-3 is required, the prospective owner, at least one hundred eighty (180) days before the proposed change in ownership, shall submit to the commissioner a disclosure statement that:

(1) includes the information required by section 3(a) of this chapter; and

(2) was executed under section 3(b) of this chapter.

(c) The commissioner:

(1) shall review the disclosure statement submitted under subsection (b); and

(2) may investigate and verify the information set forth in the disclosure statement.

(d) If the commissioner determines that:

(1) the information disclosed by the disclosure statement submitted under subsection (b); and

(2) any investigation by the commissioner;

would require the commissioner to deny the prospective owner's permit application if the prospective owner were applying for a permit under section 2 of this chapter, the commissioner shall disapprove the transfer of ownership of the facility to the prospective owner.

(e) If:

(1) subsection (b) does not apply; and

(2) there is a change of at least fifty percent (50%) ownership control of an entity that holds a permit described in IC 13-15-1-3, including an entity referred to in section 1 of this chapter (other than an entity referred to in subsection (a));

the entity must, not later than thirty (30) days after the change of ownership control is completed, submit to the department the disclosure statement referred to in subsection (b).

(f) The commissioner:

(1) shall review the disclosure statement submitted under subsection (e); and

(2) may investigate and verify the information set forth in the disclosure statement.

(g) If the commissioner determines:

(1) that:

(A) the information disclosed by the disclosure statement submitted under subsection (e); and

(B) any investigation by the commissioner;

would require the commissioner to deny an application for a permit described in IC 13-15-1-3 if the entity that submits the disclosure statement were applying for a permit under section 2 of this chapter; or

(2) that an entity failed to submit to the department a timely disclosure statement under subsection (e);

the commissioner shall revoke any permit described in IC 13-15-1-3 held by the entity.

As added by P.L.1-1996, SEC.9. Amended by P.L.154-2005, SEC.9.

IC 13-19-4-9

Administrative procedure

Sec. 9. IC 4-21.5 governs determinations, notice, hearings, and appeal of determinations under this chapter.

As added by P.L.1-1996, SEC.9.

IC 13-19-4-10

Rules of administration

Sec. 10. The board may adopt rules under IC 4-22-2 and IC 13-14-9 to administer this chapter.

As added by P.L.1-1996, SEC.9. Amended by P.L.133-2012, SEC.134.

IC 13-19-5

Chapter 5. Environmental Remediation Revolving Loan Program

IC 13-19-5-1

Program establishment and purpose

Sec. 1. The environmental remediation revolving loan program is established to assist in the remediation of brownfields to encourage the rehabilitation, redevelopment, and reuse of real property by providing grants, loans, forgivable loans, or other financial assistance to political subdivisions to conduct any of the following activities:

(1) Identification and acquisition of brownfields within a political subdivision as suitable candidates for redevelopment following the completion of remediation activities.

(2) Environmental assessment of identified brownfields, including assessment of petroleum contamination, and other activities necessary or convenient to complete the environmental assessments.

(3) Remediation activities conducted on brownfields, including:

(A) remediation of petroleum contamination; and

(B) other activities necessary or convenient to complete remediation activities conducted on brownfields, including clearance of real property.

(4) Other activities in conjunction with assessment and remediation activities necessary or convenient to prepare a brownfield for redevelopment.

As added by P.L.59-1997, SEC.13. Amended by P.L.119-1999, SEC.11; P.L.235-2005, SEC.171; P.L.221-2007, SEC.7.

IC 13-19-5-2

Establishment of fund; sources of revenue; investments

Sec. 2. (a) The environmental remediation revolving loan fund is established for the purpose of providing money for loans and other financial assistance, including grants, to or for the benefit of political subdivisions under this chapter. The authority shall administer, hold, and manage the fund.

(b) Expenses of administering the fund shall be paid from money in the fund.

(c) The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Grants and gifts intended for deposit in the fund.

(3) Repayments of loans and other financial assistance, including premiums, interest, and penalties.

(4) Proceeds from the sale of loans and other financial assistance under section 9 of this chapter.

(5) Interest, premiums, gains, or other earnings on the fund.

(6) Money transferred from the hazardous substances response trust fund under IC 13-25-4-1(a)(9).

(7) Fees collected under section 7 of this chapter.

(d) The authority shall invest the money in the fund not currently

needed to meet the obligations of the fund in accordance with an investment policy adopted by the authority. Interest, premiums, gains, or other earnings from these investments shall be credited to the fund.

(e) As an alternative to subsection (d), the authority may invest or cause to be invested all or a part of the fund in a fiduciary account with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

(1) the authority;
(2) a political subdivision;
(3) the Indiana bond bank; or
(4) any person to which the authority, the Indiana bond bank, or a political subdivision is obligated, including a trustee that is a financial institution for a grantor trust;

as provided in the trust agreement or indenture. The budget agency must approve any trust agreement or indenture before its execution. *As added by P.L.59-1997, SEC.13. Amended by P.L.235-2005, SEC.172; P.L.221-2007, SEC.8.*

IC 13-19-5-3
Duties of authority; immunity of authority

Sec. 3. (a) The authority shall do the following under this chapter:

(1) Be responsible for the management of all aspects of the program.
(2) Prepare and provide program information.
(3) Negotiate the negotiable aspects of each financial assistance agreement and submit the agreement to the budget agency for approval.
(4) Sign each financial assistance agreement.
(5) Review each proposed project and financial assistance agreement to determine if the project meets the credit, economic, or fiscal criteria established by guidelines of the authority.
(6) Periodically inspect or cause to be inspected projects to determine compliance with this chapter.
(7) Conduct or cause to be conducted an evaluation concerning the financial ability of a political subdivision to:
    (A) pay a loan or other financial assistance and other obligations evidencing loans or other financial assistance, if required to be paid; and
    (B) otherwise comply with terms of the financial assistance agreement.
(8) Evaluate or cause to be evaluated the technical aspects of the political subdivision's:
    (A) environmental assessment of potential brownfield properties;
    (B) proposed remediation; and
    (C) remediation activities conducted on brownfield properties.

(9) Inspect or cause to be inspected remediation activities conducted under this chapter.

(10) Act as a liaison to the United States Environmental Protection Agency regarding the program.

(11) Be a point of contact for political subdivisions concerning questions about the program.

(12) Enter into memoranda of understanding, as necessary, with the department and the budget agency concerning the administration and management of the fund and the program.

(b) The authority may do the following under this chapter:

(1) Undertake activities to make private environmental insurance products available to encourage and facilitate the cleanup and redevelopment of brownfield properties.

(2) Enter into agreements with political subdivisions to manage any of the following conducted on brownfield properties:

(A) Environmental assessment activities.

(B) Environmental remediation activities.

(c) The authority may:

(1) negotiate with;

(2) select; and

(3) contract with;

one (1) or more insurers to provide insurance products as described in subsection (b)(1).

(d) Notwithstanding IC 13-23, IC 13-24-1, and IC 13-25-4, the authority is not liable for any contamination addressed by the authority under an agreement under subsection (b)(2) unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the authority.

(e) For purposes of subsection (d), reckless, willful, or wanton misconduct constitutes gross negligence.

(f) The authority is entitled to the same governmental immunity afforded a political subdivision under IC 34-13-3-3(22) for any act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield under an agreement under subsection (b)(2).

As added by P.L.59-1997, SEC.13. Amended by P.L.28-2004, SEC.121; P.L.235-2005, SEC.173; P.L.221-2007, SEC.9; P.L.121-2009, SEC.3.

IC 13-19-5-4
Repealed

(Repealed by P.L.235-2005, SEC.212.)

IC 13-19-5-5
Repealed

(Repealed by P.L.235-2005, SEC.212.)

IC 13-19-5-6
Employment; compensation; immunity

Sec. 6. (a) The authority may do the following:

(1) Employ:
(A) fiscal consultants;
(B) engineers;
(C) bond counsel;
(D) other special counsel;
(E) accountants; and
(F) any other consultants, employees, and agents;
that the authority considers necessary to carry out the purposes of this chapter.
(2) Fix and pay the compensation of persons employed under subdivision (1) from money available in the fund or otherwise made available for the program.
(3) Provide services to a political subdivision in connection with a loan or other financial assistance, including advisory and other services.

(b) Notwithstanding any other law, the authority, program, or fund, or any person or agent acting on behalf of the authority or program, is not liable in damages or otherwise to any political subdivision for any act or omission in connection with a loan or other financial assistance, or any application, service, or other undertaking, allowed by or taken under this chapter.

(c) No direction given by or service or other undertaking allowed or taken under this chapter by the authority is a defense for or otherwise excuses any act or omission of a political subdivision otherwise required or imposed by law upon a political subdivision.
As added by P.L.59-1997, SEC.13. Amended by P.L.235-2005, SEC.174.

IC 13-19-5-7
Services to persons; fees

Sec. 7. (a) The authority may provide services to a person (as defined in IC 13-11-2-158(a)) in connection with financial assistance, technical assistance, and liability clarification, and may assess and collect a fee for:
(1) services provided to offset the costs of providing the services; and
(2) costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a political subdivision under this chapter, regardless of whether the application is approved or rejected.

(b) A political subdivision may pay fees charged under this section.

(c) The authority shall adopt guidelines for the assessment and collection of fees under this section.

(d) Fees collected under this section shall be deposited in the fund.
As added by P.L.59-1997, SEC.13. Amended by P.L.235-2005, SEC.175; P.L.221-2007, SEC.10.

IC 13-19-5-8
Priority ranking system for loans and financial assistance

Sec. 8. The authority may use a priority ranking system in making loans and providing other financial assistance under this chapter based on the following:

(1) Socioeconomic distress in an area, as determined by the poverty level and unemployment rate in the area.

(2) The technical evaluation under section 3(8)(A) and 3(8)(B) of this chapter.

(3) Other factors determined by the authority, including the following:

(A) The number and quality of jobs that would be generated by a project.

(B) Housing, recreational, and educational needs of communities.

(C) Any other factors the authority determines will assist in the implementation of this chapter.

As added by P.L.59-1997, SEC.13. Amended by P.L.235-2005, SEC.176; P.L.221-2007, SEC.11.

IC 13-19-5-9

Loans and financial assistance; interest; sale of loans; pledges of loans

Sec. 9. (a) A loan or other financial assistance must be used for at least one (1) of the purposes under section 1 of this chapter and may be used for any of the following purposes:

(1) To:

(A) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by this chapter; or

(B) provide interest subsidies.

(2) To pay financing charges, including interest on the loan or other financial assistance during remediation and for a reasonable period after the completion of remediation.

(3) To pay consultant, advisory, and legal fees, and any other costs or expenses resulting from:

(A) the assessment, planning, or remediation of a brownfield; or

(B) the loan or other financial assistance.

(b) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(c) The authority, in setting the interest rate or parameters for establishing the interest rate on each loan, may take into account the following:

(1) Credit risk.

(2) Environmental enforcement and protection.

(3) Affordability.

(4) Other fiscal factors the authority considers relevant, including the program's cost of funds and whether the financial

assistance provided to a particular political subdivision is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans or other financial assistance to different political subdivisions or for different loans or other financial assistance to the same political subdivision.

(d) Not more than fifty percent (50%) of the money available in the fund during a state fiscal year may be loaned or otherwise provided to any one (1) political subdivision during that fiscal year.

(e) Before a political subdivision may receive a loan or other financial assistance, including grants, from the fund, a political subdivision must submit the following:

(1) Documentation of community and neighborhood comment concerning the use of a brownfield on which remediation activities will be undertaken after remediation activities are completed.

(2) A plan for repayment of the loan or other financial assistance, if applicable.

(3) An approving opinion of a nationally recognized bond counsel if required by the authority.

(4) A summary of the environmental objectives of the proposed project.

(f) A political subdivision that receives a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the political subdivision.

(g) The authority may sell or assign:

(1) loans or evidence of other financial assistance; and

(2) other obligations of political subdivisions evidencing the loans or other financial assistance from the fund;

at any price and on terms acceptable to the authority. Proceeds of sales or assignments under this subsection shall be deposited in the fund. A sale or an assignment under this subsection does not create a liability or an indebtedness of the state or the authority except, in the case of the authority, strictly in accordance with the sale or assignment terms.

(h) The authority may pledge loans or evidences of other financial assistance and other obligations of political subdivisions evidencing the loans or other financial assistance from the fund to secure other loans or financial assistance from the fund to or for the benefit of political subdivisions. The terms of a pledge under this subsection must be approved by the budget agency. Notwithstanding any other law, a pledge of property made by the authority and approved by the budget agency under this subsection is binding from the time the pledge is made. Revenues, other money, or other property pledged and then received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, a trustee, or the fund, regardless of whether the

parties have notice of a lien. A resolution, an indenture, or other instrument by which a pledge is created is not required to be filed or recorded, except in the records of the authority. An action taken to enforce a pledge under this subsection and to realize the benefits of the pledge is limited to the property pledged. A pledge under this subsection does not create a liability or an indebtedness of the state or the authority except, in the case of the authority, strictly in accordance with the pledge terms.

As added by P.L.59-1997, SEC.13. Amended by P.L.119-1999, SEC.12; P.L.235-2005, SEC.177; P.L.221-2007, SEC.12.

IC 13-19-5-10

Political subdivision in default on loan or financial assistance

Sec. 10. Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency, including the treasurer of state, that is the custodian of money payable to a political subdivision, other than money in payment for goods or services provided by the political subdivision, after written notice from the budget director that the political subdivision is in default on the payment of principal or interest on a loan or evidence of other financial assistance, may:

(1) withhold payment of money from that political subdivision; and

(2) pay over the money to the authority, a trustee that is a financial institution for a grantor trust, or the Indiana bond bank, as directed by the chairman of the authority, for the purpose of curing the default.

However, the withholding of payment from the political subdivision and payment to the authority, a trustee, or the Indiana bond bank may not adversely affect the validity of the defaulted loan or other financial assistance.

As added by P.L.59-1997, SEC.13. Amended by P.L.235-2005, SEC.178.

IC 13-19-5-11

Adoption of guidelines

Sec. 11. The authority may adopt guidelines without complying with IC 4-22-2 to govern the administration of this chapter.

As added by P.L.59-1997, SEC.13. Amended by P.L.235-2005, SEC.179.

IC 13-19-5-12

Negotiation of loans and financial assistance; issuance and sale of notes

Sec. 12. (a) Notwithstanding any other law, a political subdivision may borrow money from the authority by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision must observe any existing contractual commitments to bondholders

or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The:

(1) notes must be issued in accordance with a resolution or an ordinance; and

(2) proceeds must be used to carry out this chapter.

(c) A political subdivision that issues notes under subsection (b) may renew or extend the notes on terms agreed to with the authority. The authority may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including renewals or extensions, mature in the amounts and at the times, not exceeding four (4) years from the date of original issuance, that are agreed to by the political subdivision and the authority.

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue notes and sell the notes to the authority. The political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. The notes are valid and binding obligations of the political subdivision and are enforceable in accordance with the terms of the notes and payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes. If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither this section nor the actual issuance by a political subdivision of its notes under subsection (b) relieves the political subdivision of its obligation to comply with the statutory requirements for the issuance of its bonds.

As added by P.L.59-1997, SEC.13. Amended by P.L.235-2005, SEC.180.

IC 13-19-5-13

Leveraged loan program and financial assistance programs; agreements

Sec. 13. (a) As an alternative to making loans or providing other financial assistance to political subdivisions, the authority may use the money in the fund to provide a leveraged loan program and other financial assistance programs to or for the benefit of political subdivisions, including using money in the fund to enhance a political subdivision's obligations under this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under IC 4-4-11 or another law, including this chapter; or

(ii) any account established within the fund; or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a political subdivision or for bonds or other obligations issued by a trustee that is a financial institution for a grantor trust, the authority, or the Indiana bond bank if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or a part of obligations issued by political subdivisions or of bonds or other obligations issued by a trustee that is a financial institution for a grantor trust, the authority, or the Indiana bond bank.

(b) The authority may enter into any agreements with:

(1) a trustee that is a financial institution for a grantor trust;

(2) the Indiana bond bank; or

(3) political subdivisions;

to carry out this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or an indebtedness of the state or of the authority except, in the case of the authority, strictly in accordance with the guarantee terms.

(d) Notwithstanding any other law, the authority is considered a qualified entity for purposes of IC 5-1.5.

As added by P.L.59-1997, SEC.13. Amended by P.L.235-2005, SEC.181.

IC 13-19-5-14

Issuance and sale of revenue bonds, notes, and obligations

Sec. 14. (a) Notwithstanding any other law and in addition to any other law, including IC 4-4, the authority may issue, guarantee, and sell its revenue bonds, notes, and other obligations and guarantee loans and other financial assistance in connection with the program and the fund. The revenue bonds, notes, and other obligations must be issued in accordance with a resolution of the authority on terms or within parameters established by the authority, and proceeds must be used to carry out one (1) or more of the purposes of this chapter.

(b) Compliance with this section constitutes full authority for the authority to issue and guarantee its revenue bonds, notes, and other obligations, to guarantee loans and other financial assistance, and to sell the revenue bonds, notes, and other obligations at public or private negotiated sale on terms or within parameters established by the authority. The authority is not required to comply with any other law applicable to the authorization, approval, issuance, guarantee, and sale of its revenue bonds, notes, and other obligations and guarantee loans and other financial assistance. The revenue bonds, notes, and other obligations, including guarantees, issued by the authority in connection with the program and the fund are valid and binding obligations of the authority and are enforceable in accordance with their terms and payable solely from the sources specified in the resolution authorizing their issuance, guarantee, and

sale. The authority's revenue bonds, notes, and other obligations, including guarantees, do not create a liability or debt of the state.
As added by P.L.59-1997, SEC.13.

IC 13-19-5-15
Forgivable loans to political subdivisions

Sec. 15. (a) The authority may deposit appropriations or other money received under this chapter after June 30, 1999, into an account of the fund. The authority may use money deposited in the account to award forgivable loans to political subdivisions for remediation or other brownfield redevelopment activities. The authority shall, in the manner provided by section 11 of this chapter, adopt guidelines to establish a political subdivision's eligibility for a forgivable loan. The guidelines may provide priority for projects that:

(1) involve abandoned gas stations or underground storage tank issues; or

(2) are located within one-half (0.5) mile of any of the following:

(A) A child care center (as defined by IC 12-7-2-28.4).

(B) A child care home (as defined by IC 12-7-2-28.6).

(C) A child caring institution (as defined by IC 12-7-2-29).

(D) A school age child care program (as defined by IC 12-17-12-5).

(E) An elementary or a secondary school attended by students in kindergarten or grades 1 through 12.

(b) Not more than twenty percent (20%) of the total amount of loans provided for a project under this chapter may be in the form of a forgivable loan.

(c) The financial assistance agreement for a project to be financed with a forgivable loan must specify economic development or redevelopment goals for the project that must be achieved before the political subdivision will be released from its obligation to repay the forgivable loan.
As added by P.L.119-1999, SEC.13. Amended by P.L.109-2001, SEC.2; P.L.235-2005, SEC.182.

IC 13-19-5-16
Repealed

(Repealed by P.L.235-2005, SEC.212.)

IC 13-19-5-17
Criminal penalty for application misstatement

Sec. 17. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for a loan or other financial assistance from the fund commits a Level 6 felony.
As added by P.L.137-2007, SEC.16. Amended by P.L.158-2013, SEC.187.

IC 13-19-6

Chapter 6. Liability Limitation for Certain Surficial Activities

IC 13-19-6-1

Liability limitation for certain surficial activities

Sec. 1. (a) Subject to subsection (b) and except as provided under existing defenses and exemptions to liability contained in the environmental management laws, a person who:

(1) owns or otherwise legally possesses real property that is not more than one (1) acre in size; and

(2) installs only:

(A) pavement or another hard surface; or

(B) landscaping and other surficial plantings;

on the surface of the real property does not incur any additional liability for those paving or landscaping activities under the environmental management laws for costs or damages associated with the presence of a hazardous substance, a contaminant, petroleum, or a petroleum product that is located beneath the surface of the real property.

(b) Paving or landscaping activities on real property described in subsection (a)(2) may not:

(1) impede the effectiveness or integrity of any institutional control employed on the real property in connection with a response action at the real property;

(2) violate a land use restriction established or relied on in connection with a response action at the real property;

(3) result in a release of a hazardous substance, a contaminant, petroleum, or a petroleum product at the real property; or

(4) exacerbate existing contamination at the real property.

As added by P.L.6-2011, SEC.1.

IC 13-20

ARTICLE 20. SOLID WASTE MANAGEMENT

IC 13-20-1

Chapter 1. Demonstration of Need for Solid Waste Management Facilities

IC 13-20-1-1

Exempt entities

Sec. 1. This chapter does not apply to an individual, a corporation, a partnership, a limited liability company, or a business association that in its regular business activity:

(1) produces solid waste as a byproduct of or incidental to its regular business activity; and

(2) disposes of the solid waste at a site that is:

(A) owned by the individual, corporation, partnership, limited liability company, or business association; and

(B) limited to use by that individual, corporation, partnership, limited liability company, or business association for the disposal of solid waste produced by:

(i) that individual, corporation, partnership, limited liability company, or business association; or

(ii) a subsidiary of an entity referred to in item (i).

As added by P.L.1-1996, SEC.10. Amended by P.L.138-2000, SEC.6; P.L.1-2001, SEC.19; P.L.218-2001, SEC.7; P.L.154-2005, SEC.10.

IC 13-20-1-2

Need for local or regional facility

Sec. 2. A person that applies for a permit for a solid waste disposal facility or a solid waste processing facility, except for a transfer station, must demonstrate that there is a local or regional need in Indiana for the facility.

As added by P.L.1-1996, SEC.10. Amended by P.L.154-2005, SEC.11.

IC 13-20-1-3

Demonstration statement

Sec. 3. A person that applies for a permit referred to in section 2 of this chapter must submit the following information to the department along with the permit application:

(1) A description of the area that would be served by the solid waste disposal or processing facility.

(2) A description of existing solid waste management facilities in the area that would be served by the solid waste disposal facility.

(3) A description of the need that would be fulfilled by constructing the solid waste disposal facility.

As added by P.L.1-1996, SEC.10. Amended by P.L.154-2005, SEC.12.

IC 13-20-1-4
Denial of permit

Sec. 4. If the department determines that there is not a local or regional need in Indiana for the solid waste disposal facility, the person referred to in section 2 of this chapter may not receive a permit described under IC 13-15-1-3 of this chapter. If a permit is denied under this section, the department must provide the person referred to in section 2 of this chapter with a statement describing the reasons the department denied the permit.

As added by P.L.1-1996, SEC.10. Amended by P.L.154-2005, SEC.13.

IC 13-20-1-5
Rules

Sec. 5. The board shall adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.133-2012, SEC.135.

IC 13-20-2

Chapter 2. Permits for Solid Waste Landfills

IC 13-20-2-1

Financial statement

Sec. 1. Before an original permit for the construction or operation of a landfill may be granted, the applicant must submit a statement of financial position that meets the following requirements:

(1) The statement must have been prepared in accordance with generally accepted accounting principles.

(2) The statement must have been audited by an independent certified public accountant.

(3) The accountant referred to in subdivision (2) must have issued an unqualified opinion as to the statement.

(4) The statement must indicate that, at the end of the calendar year or fiscal year immediately preceding the year in which the permit would be issued, the applicant had a positive net worth of at least two hundred fifty thousand dollars ($250,000).

As added by P.L.1-1996, SEC.10.

IC 13-20-2-2

State of outstanding judgments

Sec. 2. Before an original permit for the construction or operation of a landfill may be granted, the applicant or a person authorized to act for the applicant under this section must submit a statement in which the applicant or authorized person swears or affirms, subject to the penalty for perjury set forth in IC 35-44.1-2-1, that, to the best of the applicant's or authorized person's knowledge, there are no unsatisfied and nonappealable judgments requiring the payment of money by the applicant.

As added by P.L.1-1996, SEC.10. Amended by P.L.126-2012, SEC.34.

IC 13-20-2-3

Financial statement by parent satisfactory for subsidiary in certain instances

Sec. 3. If the applicant is a subsidiary corporation, the submission of the statement of financial position of the ultimate parent satisfies the requirement under section 1 of this chapter if the applicant has been a subsidiary of the parent for at least one (1) year before the submission of the statement of financial position.

As added by P.L.1-1996, SEC.10.

IC 13-20-2-4

Investigation and verification by department

Sec. 4. The department may investigate and verify the information contained in the statements required by this chapter.

As added by P.L.1-1996, SEC.10.

IC 13-20-2-5

Denial of permit

Sec. 5. The commissioner may deny an application for an original permit for the construction or operation of a landfill if the commissioner finds that:

(1) the applicant does not have a positive net worth of at least two hundred fifty thousand dollars ($250,000); or

(2) there is at least one (1) unsatisfied and nonappealable judgment requiring the payment of money by the applicant.

As added by P.L.1-1996, SEC.10.

IC 13-20-2-6

Valuation of real property

Sec. 6. For the purposes of this chapter, real property in which the applicant has an interest must be valued at the property's fair market value as determined under the assumption that the permit application will not be granted.

As added by P.L.1-1996, SEC.10.

IC 13-20-2-7

Rules

Sec. 7. The board may adopt rules under IC 4-22-2 and IC 13-14-9 to administer this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.133-2012, SEC.136.

IC 13-20-2-8

Notice of legal action

Sec. 8. If a legal action is filed that:

(1) names the department or a representative of the department as a party to the action; and

(2) concerns an application that has been filed with the department to obtain an original permit or a permit renewal for a solid waste landfill;

the department shall notify the county executive of the county in which the solid waste landfill is or would be located that the legal action has been filed.

As added by P.L.1-1996, SEC.10.

IC 13-20-2-9

Requirement resulting from inaction on construction permit

Sec. 9. (a) A person that:

(1) holds a valid construction permit that is issued under this chapter and authorizes construction for a facility that has not been substantially developed; and

(2) has not commenced construction within:

(A) five (5) years after the date of the permit; or

(B) another period established by rule or statute;

must apply for a new construction permit and meet the requirements of all applicable environmental laws existing at the time the new permit is sought.

(b) A person that:

(1) holds a valid construction permit that is issued under this chapter and authorizes construction at an operating facility; and

(2) has not commenced construction within:

(A) five (5) years after the date of the permit; or

(B) another period established by rule or statute;

must meet the requirements of all applicable environmental laws existing at the time construction is substantially commenced.

(c) The periods described in subsections (a) and (b) for a person to commence construction are tolled pending either of the following concerning the construction permit:

(1) An administrative appeal.

(2) A judicial review.

As added by P.L.205-2007, SEC.1.

IC 13-20-2-10

Conditions requiring submission of new application for original construction permit; fee inapplicable; ordinance to approve facility location

Sec. 10. (a) This section applies only:

(1) in a county that does not zone under IC 36-7-4; and

(2) to a facility:

(A) that is proposed to be constructed after April 1, 2008;

(B) that is not exempt under IC 13-20-1-1 from the demonstration of needs requirements of IC 13-20-1; and

(C) for which a permit for construction or operation is required under this article.

(b) If:

(1) a person submitted to the department before April 1, 2008:

(A) an application under this chapter for an original construction permit for a facility;

(B) a modification of an application under this chapter previously submitted to the department for an original construction permit for a facility; or

(C) an application under this chapter for modification of an original construction permit issued by the department under this chapter; and

(2) the department did not issue the permit or modified permit applied for as described in subdivision (1) before April 1, 2008;

the person must submit a new application for an original construction permit for the facility and meet the requirements of all applicable environmental laws existing at the time the new permit is sought.

(c) The fee under IC 13-20-21-3 does not apply to the new application for an original construction permit under subsection (b).

(d) The county executive of a county in which a facility is proposed to be located must adopt an ordinance approving the proposed facility location before the department may issue an original construction permit in response to:

(1) a new application for an original construction permit for the facility under subsection (b); or

(2) an application for an original construction permit for the facility submitted to the department after March 31, 2008.

As added by P.L.114-2008, SEC.17.

IC 13-20-2-11

Zoning approval required for certain facility construction

Sec. 11. (a) This section applies only:

(1) in a county that zones under IC 36-7-4; and

(2) to a facility:

(A) for which the zoning required for the construction of the facility was approved before April 1, 1985;

(B) for which the department issued a valid construction permit under this chapter before April 1, 2008; and

(C) that did not accept waste before April 1, 2008.

(b) The person that holds the permit referred to in subsection (a)(2)(B) may begin or complete construction of the facility referred to in subsection (a)(2) only if after April 1, 2008, the zoning authority that has jurisdiction reviews and approves the:

(1) appropriateness; and

(2) legality;

of the zoning referred to in subsection (a)(2)(A) under the requirements of all applicable zoning laws existing at the time of the review.

As added by P.L.114-2008, SEC.18.

IC 13-20-3

Chapter 3. Solid Waste Management Reporting

IC 13-20-3-1

County and state of origin of solid waste; certification to transfer station or final disposal facility; weight determination; certified statements

Sec. 1. (a) A solid waste hauler that takes solid waste to a transfer station or a final disposal facility located in Indiana shall certify to the owner or operator of the transfer station or final disposal facility the county and state of origin of the largest part of the solid waste by weight. If a transfer station or a final disposal facility does not have a scale suitable for weighing the solid waste received at the transfer station or final disposal facility, the following conversion factors shall be used to determine the weight of the solid waste by conversion from the volume of the solid waste:

(1) Three and three-tenths (3.3) cubic yards of compacted solid waste equals one (1) ton of solid waste.

(2) Six (6) cubic yards of uncompacted solid waste equals one (1) ton of solid waste.

(b) The owner or operator of a transfer station or final disposal facility who receives certified statements under subsection (a) shall do the following:

(1) Retain the statements for one (1) year.

(2) File quarterly reports with the department that state the county and state of origin of the largest part of the solid waste by weight received at the facility during the reporting period.

As added by P.L.1-1996, SEC.10.

IC 13-20-3-2

Disposal of solid waste outside Indiana; maintenance of records; quarterly reports

Sec. 2. (a) A solid waste hauler that collects solid waste in Indiana and takes the solid waste to a transfer station or final disposal facility outside Indiana shall maintain records for at least one (1) year that identify, for each shipment, the county and state of origin of the largest part of the solid waste by volume.

(b) Each solid waste hauler who is required to maintain records under subsection (a) shall file quarterly reports with the department that:

(1) state the location of each out-of-state transfer station or final disposal facility; and

(2) identify the volume of solid waste from each county and state taken to the transfer station or final disposal facility during the reporting period.

As added by P.L.1-1996, SEC.10.

IC 13-20-3-3

Certification of origin from owner or operator of facility instead of certification of report by hauler

Sec. 3. A hauler that:

(1) is required to make a certification or report under section 1 or 2 of this chapter concerning the origin of the solid waste; and

(2) did not collect the solid waste at the point of origin;

may satisfy the requirements of sections 1 and 2 of this chapter concerning a certification or report of origin of the solid waste by presenting a certification from the owner or operator of the facility at which the solid waste was picked up that indicates the county and state of origin of the largest part of the solid waste. The department shall establish procedures that allow the use of average figures in making the certification.

As added by P.L.1-1996, SEC.10.

IC 13-20-3-4

Exemption from certification and record and reporting requirements

Sec. 4. The requirements of sections 1 and 2 of this chapter do not apply to haulers and owners or operators engaged in transporting or disposing of solid waste that is:

(1) generated by a person; and

(2) disposed of at a site that is:

(A) owned by the person; and

(B) limited, for the purposes of the disposal of solid waste, to use by the person for the disposal of solid waste generated by the person.

As added by P.L.1-1996, SEC.10.

IC 13-20-3-5

Rules

Sec. 5. The board shall adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.133-2012, SEC.137.

IC 13-20-4

Chapter 4. Municipal Waste Collection and Transportation Requirements

IC 13-20-4-1

Exempted vehicles

Sec. 1. This chapter does not apply to a vehicle used exclusively to transport municipal waste that is:

(1) generated by a person; and

(2) disposed of at a site that is:

(A) owned by the person; and

(B) for the purposes of solid waste disposal, may only be used by the person for the disposal of solid waste generated by the person.

As added by P.L.1-1996, SEC.10.

IC 13-20-4-2

Repealed

(Repealed by P.L.131-2006, SEC.14.)

IC 13-20-4-3

Repealed

(Repealed by P.L.131-2006, SEC.14.)

IC 13-20-4-4

Repealed

(Repealed by P.L.131-2006, SEC.14.)

IC 13-20-4-5

Repealed

(Repealed by P.L.131-2006, SEC.14.)

IC 13-20-4-6

Repealed

(Repealed by P.L.131-2006, SEC.14.)

IC 13-20-4-7

Municipal waste carrying vehicles; manifest; contents

Sec. 7. (a) This section applies to the transportation of municipal waste from solid waste processing facilities.

(b) A shipment of municipal waste in a municipal waste collection and transportation vehicle must be accompanied by a municipal waste transportation manifest.

(c) A manifest required under subsection (b) must include the following information:

(1) The amount in tons of municipal waste transported in the vehicle.

(2) The name and address of the solid waste processing facility from which the municipal waste is transported.

(3) The destination of the municipal waste.

(4) The name of the person transporting the municipal waste.

(d) The owner or operator of the solid waste processing facility from which municipal waste is to be transported shall:

(1) prepare the manifest required by subsection (b); and

(2) deliver the manifest to the operator of the vehicle.

(e) The operator of the vehicle shall:

(1) carry the manifest while transporting the municipal waste; and

(2) present the manifest to the owner or operator of the facility to which the municipal waste is transported.

(f) The owner or operator of the facility to which the municipal waste is transported shall:

(1) retain each manifest for one (1) year; and

(2) make each manifest retained under subdivision (1) available on request to the department.

As added by P.L.1-1996, SEC.10. Amended by P.L.154-2005, SEC.14; P.L.131-2006, SEC.3.

IC 13-20-4-8
Repealed

(Repealed by P.L.218-2001, SEC.11.)

IC 13-20-4-9
Repealed

(Repealed by P.L.131-2006, SEC.14.)

IC 13-20-4-10
Inspection of vehicles

Sec. 10. (a) The department may inspect a vehicle for the purpose of determining compliance with this chapter.

(b) The department may:

(1) inspect a vehicle that is not moving; and

(2) not stop a vehicle that is in motion on a public highway (as defined in IC 9-25-2-4) only to conduct an inspection;

under subsection (a).

As added by P.L.1-1996, SEC.10.

IC 13-20-4-11
Waste must be accompanied by manifest to be accepted by waste facility

Sec. 11. A solid waste disposal facility or a solid waste processing facility may not accept a shipment of municipal waste that is not accompanied by a municipal waste transportation manifest as required by section 7 of this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.131-2006, SEC.4.

IC 13-20-4-12
Transportation of municipal waste between processing facilities

Sec. 12. A solid waste processing facility may not transport municipal waste to:

(1) another solid waste processing facility; or
(2) a solid waste disposal facility;

unless the municipal waste is accompanied by a municipal waste transportation manifest required by section 7 of this chapter.

As added by P.L.1-1996, SEC.10.

IC 13-20-4-13
Repealed

(Repealed by P.L.131-2006, SEC.14.)

IC 13-20-4-14
Repealed

(Repealed by P.L.131-2006, SEC.14.)

IC 13-20-4-15
Repealed

(Repealed by P.L.131-2006, SEC.14.)

IC 13-20-4-16
Rules

Sec. 16. The board may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.113-2014, SEC.73.

IC 13-20-5

Chapter 5. Requirements for Transporting Solid Waste to Final Disposal Facility

IC 13-20-5-1

Applicability of chapter

Sec. 1. This chapter does not apply to the disposal of solid waste by a person that:

(1) generated the solid waste; and

(2) disposes of the solid waste at a site that is:

(A) owned by the person; and

(B) limited, for purposes of the disposal of solid waste, to use by the person for the disposal of solid waste generated by the person.

As added by P.L.1-1996, SEC.10.

IC 13-20-5-2

Vehicle operator must identify the origin of solid waste to disposal facility

Sec. 2. Upon transporting solid waste in a vehicle to a final disposal facility in Indiana for disposal, the operator of the vehicle shall identify to the owner or operator of the facility the origin of the solid waste by:

(1) county and state, if the solid waste originated in the United States; or

(2) country, if the solid waste originated outside the United States.

As added by P.L.1-1996, SEC.10. Amended by P.L.131-2006, SEC.5.

IC 13-20-5-3

Failure to identify origin of solid waste

Sec. 3. If the operator of a vehicle does not identify to the owner or operator of a final disposal facility the origin of the solid waste as required by section 2 of this chapter, the owner or operator may not permit the disposal in the final disposal facility of the solid waste transported in the operator's vehicle.

As added by P.L.1-1996, SEC.10. Amended by P.L.131-2006, SEC.6.

IC 13-20-5-4

Repealed

(Repealed by P.L.131-2006, SEC.14.)

IC 13-20-5-5

County and state of origin of solid waste

Sec. 5. For purposes of the collection of fees under IC 13-20-22, the county and state identified to the owner or operator of the facility under section 2(1) of this chapter with respect to a quantity of solid waste transported in a vehicle is considered the county and state in which the entire quantity of solid waste was generated.

As added by P.L.1-1996, SEC.10. Amended by P.L.131-2006, SEC.7.

IC 13-20-5-6
Repealed
(Repealed by P.L.131-2006, SEC.14.)

IC 13-20-5-7
Repealed
(Repealed by P.L.131-2006, SEC.14.)

IC 13-20-6

Chapter 6. Requirements for Municipal Waste Transfer Activities

IC 13-20-6-1

Applicability of chapter

Sec. 1. This chapter does not apply to a person who:

(1) generates municipal waste on a site owned or operated by the person; and

(2) disposes of the municipal waste at a site that:

(A) is owned or operated by the person; and

(B) for the purpose of municipal waste disposal, may only be used by the person to dispose of municipal waste generated by the person.

As added by P.L.1-1996, SEC.10.

IC 13-20-6-2

Repealed

(Repealed by P.L.154-2005, SEC.17.)

IC 13-20-6-3

Repealed

(Repealed by P.L.154-2005, SEC.17.)

IC 13-20-6-4

Suspension of waste transfer activities of nonresident operator or operator that failed inspection; notice; contents; reinstatement

Sec. 4. (a) The commissioner may, by order, do the following:

(1) Suspend the waste transfer activities of an operator who is not a resident of Indiana if the operator is not properly licensed, certified, or permitted to conduct waste transfer activities in another state in which the operator does business.

(2) Suspend the waste transfer activities of a transfer station that does not meet the requirements of the inspection program established under section 7 of this chapter.

(b) An order issued by the commissioner under this section requiring an operator or transfer station to suspend operations must contain the date by which waste transfer activities must be suspended.

(c) After issuing an order requiring an operator or transfer station to suspend waste transfer activities but before the date by which the activities must be suspended, the department must provide notice in accordance with IC 13-14-2-1 to the following:

(1) Each regulated solid waste processing facility in Indiana.

(2) Each regulated solid waste disposal facility in Indiana.

(d) The notice described under subsection (c) must contain the following:

(1) The name of the operator or transfer station subject to the order.

(2) The date on which waste transfer activities are suspended under the order.

(3) If the order applies to a transfer station, the location of the transfer station.

(e) Upon a determination by the commissioner that an operator previously ordered to suspend waste transfer activities may engage again in waste transfer activities, the department shall immediately provide notice in accordance with IC 13-14-2-1 to each:

(1) regulated solid waste processing facility in Indiana; and

(2) regulated solid waste disposal facility in Indiana;

that the operator or transfer station will be allowed to resume waste transfer activities. The notice required under this subsection must contain the date on which the operator or transfer station will be allowed to resume waste transfer activities.

As added by P.L.1-1996, SEC.10. Amended by P.L.154-2005, SEC.15; P.L.263-2013, SEC.4.

IC 13-20-6-5
Repealed

(Repealed by P.L.154-2005, SEC.17.)

IC 13-20-6-6
Repealed

(Repealed by P.L.154-2005, SEC.17.)

IC 13-20-6-7
Inspection of transfer stations; fees

Sec. 7. (a) The department shall establish a uniform transfer station inspection program to protect the health of the residents of Indiana and the environment of Indiana:

(1) for transfer stations located:

(A) inside Indiana; and

(B) outside Indiana;

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

(2) under rules adopted by the board.

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

(1) the department; or

(2) a contractor hired by the department;

for conducting the inspection of the transfer station.

As added by P.L.1-1996, SEC.10. Amended by P.L.133-2012, SEC.138.

IC 13-20-6-8
Prohibition on transfer activities during suspension; acceptance of waste by disposal facility; conditions

Sec. 8. (a) An operator who is not a resident of Indiana or a transfer station may not engage in waste transfer activities while the operator or transfer station is suspended from engaging in waste

transfer activities under section 4 of this chapter.

(b) On or after the effective date established under a rule adopted by the board, a solid waste disposal facility or a solid waste processing facility located inside Indiana may not knowingly accept municipal waste from a transfer station located inside of or outside of Indiana that receives municipal waste if:

(1) the municipal waste is not accompanied by a manifest that contains the information required under IC 13-20-4-7; or

(2) the person who manages the solid waste disposal facility or solid waste processing facility has received notice under section 4(c) of this chapter that:

(A) the transfer station that shipped the municipal waste; or

(B) an operator listed on the manifest;

has been suspended from engaging in waste transfer activities under this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.154-2005, SEC.16.

IC 13-20-6-9

Rules

Sec. 9. The board shall adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.113-2014, SEC.74.

IC 13-20-7
Repealed

(Repealed by P.L.138-2000, SEC.11.)

IC 13-20-7.5
Repealed

(Repealed by P.L.218-2001, SEC.11.)

IC 13-20-8

Chapter 8. Regulation of Solid Waste Incineration

IC 13-20-8-1

Rules for construction and operation of incinerators

Sec. 1. The board shall adopt rules under IC 4-22-2 and IC 13-14-9 to regulate the construction and operation of incinerators under IC 13-14-8. The rules must incorporate by reference pertinent rules adopted by the board concerning air pollution control.

As added by P.L.1-1996, SEC.10. Amended by P.L.37-2012, SEC.26; P.L.133-2012, SEC.139.

IC 13-20-8-2

Repealed

(Repealed by P.L.37-2012, SEC.27.)

IC 13-20-8-3

Repealed

(Repealed by P.L.37-2012, SEC.28.)

IC 13-20-8-4

Repealed

(Repealed by P.L.37-2012, SEC.29.)

IC 13-20-8-5

Department duties

Sec. 5. (a) The department, in accordance with IC 13-15, shall operate a permit program for all incinerators subject to regulation under the rules of the board.

(b) The department shall issue permits for an incinerator that is in compliance with construction and operating rules adopted by the board.

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

(1) complied with all construction and pre-operational standards established by pertinent rules; and

(2) submitted the results of a pre-operational emissions test that demonstrate that the incinerator's performance complies with all pertinent rules.

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

(1) All pertinent rules.

(2) The pre-operational emissions test plan submitted with the permit application.

As added by P.L.1-1996, SEC.10. Amended by P.L.133-2012, SEC.140.

IC 13-20-8-6
Permit provisions

Sec. 6. A permit issued under this chapter for the operation of an incinerator must include:

(1) a provision requiring the permit holder to notify the department and appropriate local government officials of:

(A) any release of a contaminant in a quantity exceeding a control level in a permit issued under IC 13-17;

(B) any violation of operating requirements established in the permit;

(C) any unscheduled shutdown of the incinerator or associated equipment; or

(D) any damage to the incinerator or associated equipment that could, if unrepaired, result in a release of a contaminant in a quantity exceeding a control level in a permit issued under IC 13-17; and

(2) a provision requiring that the notification be given not later than twenty-four (24) hours after the permit holder learns of the release, violation, shutdown, or damage.

As added by P.L.1-1996, SEC.10. Amended by P.L.37-2012, SEC.30.

IC 13-20-8-7
Enforcement of chapter; penalties

Sec. 7. (a) This chapter shall be enforced under IC 13-30-3.

(b) A violation of this chapter or a rule adopted under this chapter is subject to criminal prosecution and to the penalties set forth in the following:

(1) IC 13-30-4.

(2) IC 13-30-5.

(3) IC 13-30-8.

As added by P.L.1-1996, SEC.10. Amended by P.L.137-2007, SEC.17.

IC 13-20-8-8
Repealed

(Repealed by P.L.37-2012, SEC.31.)

IC 13-20-8-9
Notification of criteria regarding contents

Sec. 9. (a) A generator that ships solid waste to a waste-to-energy facility must, before the facility accepts the solid waste, notify the facility if the solid waste meets any of the following criteria:

(1) The solid waste contains:

(A) a volatile:

(i) liquid; or

(ii) solid;

(B) a powder;

(C) a flammable material;

(D) an allergen; or

(E) a sensitizer.

(2) The solid waste:

(A) was segregated from other solid waste; or

(B) received special preparation for shipment.

(3) The solid waste is a bulk material.

(4) The solid waste is a waste resulting directly from a manufacturing process.

(b) The notification under subsection (a) is required before each shipment by a generator of solid waste in bulk quantities to a waste-to-energy facility.

As added by P.L.218-2001, SEC.8.

IC 13-20-9

Chapter 9. Restrictions on Disposal of Vegetative Matter

IC 13-20-9-1

Applicability of chapter

Sec. 1. This chapter does not apply to the following:

(1) The use of vegetative matter resulting from landscaping maintenance and land clearing projects that, after composting, is used as cover material for a solid waste landfill.

(2) The deposit into a solid waste landfill of:

(A) grass;

(B) woody vegetative matter that is:

(i) less than three (3) feet in length; and

(ii) bagged, bundled, or otherwise contained; or

(C) de minimis amounts of vegetative matter that are:

(i) less than three (3) feet in length;

(ii) bagged, bundled, or otherwise contained; and

(iii) not set out separately for collection and disposal.

As added by P.L.1-1996, SEC.10.

IC 13-20-9-2

Deposit of vegetative matter in solid waste landfill prohibited

Sec. 2. Except as provided in section 4 of this chapter, a person may not knowingly deposit vegetative matter resulting from landscaping maintenance and land clearing projects in a solid waste landfill.

As added by P.L.1-1996, SEC.10.

IC 13-20-9-3

Rules

Sec. 3. The board may adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.133-2012, SEC.141.

IC 13-20-9-4

Emergency resolution authorizing use of landfill

Sec. 4. If an emergency exists, the county executive of a county may, by resolution or order:

(1) waive the prohibition under section 2 of this chapter; and

(2) allow vegetative matter resulting from landscaping maintenance and land clearing projects to be deposited in the solid waste landfill;

for not more than ninety (90) days.

As added by P.L.1-1996, SEC.10.

IC 13-20-10

Chapter 10. Registration of Facilities for Composting Certain Vegetative Matter

IC 13-20-10-1

Applicability of chapter

Sec. 1. (a) This chapter applies to composting (as defined in IC 13-11-2-38) of vegetative matter and other organic material.

(b) This chapter does not apply to the following:

(1) A person who conducts a composting operation at the person's residence or farm for vegetative matter and other types of organic material that are:

(A) generated by the person's activities; and

(B) stored, treated, or disposed of at the person's residence or farm.

(2) A person who conducts a composting operation that processes less than two thousand (2,000) pounds of vegetative matter during a year.

(3) Temporary stores of vegetative matter where only an incidental amount of composting will occur before removal of the matter.

As added by P.L.1-1996, SEC.10. Amended by P.L.199-2014, SEC.7.

IC 13-20-10-2

Registration of facility required for operation

Sec. 2. A person may operate a composting facility only if the person registers the composting facility with the department.

As added by P.L.1-1996, SEC.10. Amended by P.L.199-2014, SEC.8.

IC 13-20-10-3

Registration applications; contents

Sec. 3. To register a composting facility with the department, a person must submit an application to the department that contains the following:

(1) A:

(A) legal description; and

(B) topographic map;

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

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

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

(4) Any other information that the department or the board requires by rule.

As added by P.L.1-1996, SEC.10. Amended by P.L.133-2012, SEC.142; P.L.199-2014, SEC.9.

IC 13-20-10-4

Location of active areas of facilities

Sec. 4. Except as provided in sections 5 and 6 of this chapter, the

active area of a composting facility:

(1) may not be located:

(A) within two hundred (200) feet of a well that supplies potable water; or

(B) within two hundred (200) feet of a residential structure that exists at the time that the composting facility initially registers under this chapter;

(2) must be located outside the ten (10) year floodplain, except a facility that is either:

(A) operated in conjunction with a publicly owned works permitted under IC 13-15-3; or

(B) designed and operated to provide adequate controls to prevent ground or surface water contamination in the event a ten (10) year flood occurs;

(3) must be designed and operated to:

(A) prevent compost from being placed within five (5) feet of a water table or provide adequate controls to prevent ground or surface water contamination;

(B) adequately control runoff from the composting facility; and

(C) manage leachate that is generated by the composting facility; and

(4) must include controls for the following:

(A) Dust.

(B) Odor.

(C) Noise.

As added by P.L.1-1996, SEC.10. Amended by P.L.199-2014, SEC.10.

IC 13-20-10-5

Local ordinance on distance between composting facility and residence

Sec. 5. A unit of local government may adopt an ordinance providing the distance required between the active area of a composting facility and an existing residence. An ordinance adopted under this section may not do any of the following:

(1) Allow the active area of a composting facility to locate less than two hundred (200) feet from an existing residence.

(2) Require the active area of a composting facility to locate more than six hundred (600) feet from an existing residence.

As added by P.L.1-1996, SEC.10. Amended by P.L.199-2014, SEC.11.

IC 13-20-10-6

Conditions under which composting facility may be located less than 200 feet from residence

Sec. 6. The active area of a composting facility may be located less than two hundred (200) feet from a residence if:

(1) no unit of local government with jurisdiction over:

(A) the residence; or

(B) the composting facility;

has adopted an ordinance under section 5 of this chapter or IC 13-7-35-6(b) (before its repeal); and

(2) the composting facility obtains written consent from the occupant and the owner of the residence.

As added by P.L.1-1996, SEC.10. Amended by P.L.199-2014, SEC.12.

IC 13-20-10-7

Annual reports

Sec. 7. A person who operates a composting facility that must be registered under this chapter shall submit an annual report to the department:

(1) before February 1 of each year; and

(2) that indicates the volume of material processed by the composting facility during the preceding year.

As added by P.L.1-1996, SEC.10. Amended by P.L.199-2014, SEC.13.

IC 13-20-10-8

Expiration and renewal of registrations

Sec. 8. (a) The department shall approve an application for registration of a composting facility under this chapter or renewal of a registration if the applicant meets the requirements of this chapter and rules adopted by the board.

(b) The department may deny an application for the registration of a composting facility or renewal of a registration if the application does not meet the requirements of this chapter or rules adopted by the board.

(c) A registration under this chapter:

(1) expires five (5) years after the date the composting facility is registered; and

(2) may be renewed by the person who registered the composting facility if the person applies to the department.

(d) A registration under this chapter may be revoked if the registrant operates the composting facility in violation of:

(1) this chapter or any other environmental management law; or

(2) rules adopted by the board.

As added by P.L.1-1996, SEC.10. Amended by P.L.199-2014, SEC.14.

IC 13-20-10-9

Combination of vegetative matter with solid waste prohibited

Sec. 9. Except as provided in IC 13-20-9-1, a person may not knowingly combine vegetative matter resulting from landscaping maintenance and land clearing projects that is intended for:

(1) collection; and

(2) disposal at a solid waste landfill;

with another type of solid waste.

As added by P.L.1-1996, SEC.10.

IC 13-20-10-10

Rules

Sec. 10. The board may adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.133-2012, SEC.143.

IC 13-20-10.5

Chapter 10.5. Biomass Anaerobic Digestion Facilities and Biomass Gasification Facilities

IC 13-20-10.5-1

Department approval

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

(1) construction of:

(A) a biomass anaerobic digestion facility; or

(B) a biomass gasification facility; or

(2) expansion of:

(A) a biomass anaerobic digestion facility; or

(B) a biomass gasification facility;

without obtaining prior approval of the department.

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

As added by P.L.189-2011, SEC.13.

IC 13-20-10.5-2

Regulation as a solid waste processing facility

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

As added by P.L.189-2011, SEC.13.

IC 13-20-10.5-3

Regulation as a solid waste processing facility; department determination

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

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

As added by P.L.189-2011, SEC.13.

IC 13-20-10.5-4

Rules

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

As added by P.L.189-2011, SEC.13.

IC 13-20-11

Chapter 11. Landfill Inspectors

IC 13-20-11-1

Designation by department

Sec. 1. The department shall designate employees of the department as landfill inspectors. However, the department may not designate a landfill inspector for a county that has a consolidated city.

As added by P.L.1-1996, SEC.10. Amended by P.L.159-2011, SEC.30.

IC 13-20-11-2

Duties

Sec. 2. A department employee designated as a landfill inspector for a county under this chapter shall monitor operations at every landfill in the county. The duties of the landfill inspector include the following:

(1) Promoting compliance with the rules of the board governing landfill operations.

(2) Keeping records required by the rules of the board or ensuring that those records be kept.

(3) Investigating possible violations of:

(A) the rules of the board; or

(B) any statute;

governing landfill operation or solid waste disposal.

As added by P.L.1-1996, SEC.10. Amended by P.L.113-2014, SEC.75.

IC 13-20-12

Chapter 12. Sanitary Landfill Locations in Lake County

IC 13-20-12-1

Applicability of chapter

Sec. 1. This chapter applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

As added by P.L.1-1996, SEC.10.

IC 13-20-12-2

Location of landfills near residential subdivisions

Sec. 2. A person may not establish a sanitary landfill for the disposal of garbage, rubbish, or refuse on land in Indiana within one-half (1/2) mile of an area:

(1) that has been subdivided for residential purposes; and

(2) for which the plat is on file in the office of the county recorder at the time the landfill is established.

As added by P.L.1-1996, SEC.10.

IC 13-20-12-3

Violation; penalty

Sec. 3. A person that violates section 2 of this chapter shall be assessed a civil penalty of not more than one thousand dollars ($1,000). Each additional day of violation constitutes a separate violation.

As added by P.L.1-1996, SEC.10.

IC 13-20-13

Chapter 13. Regulation of Waste Tire Storage Sites; Waste Tire Management Fund

IC 13-20-13-1

Applicability of certificate of registration provisions

Sec. 1. (a) As used in this chapter, "passenger tire equivalent" means a unit of waste tire material weighing twenty (20) pounds, whether the waste tire material is comprised of one (1) or more whole tires or one (1) or more altered tires.

(b) The provisions of this chapter concerning waste tire storage site and waste tire processing operation certificates of registration do not apply to the following:

(1) A facility operated as a solid waste processing facility under a valid permit issued by the commissioner.

(2) The site of a facility that is used to retread tires at which fewer than five thousand (5,000) waste tires are present indoors within a completely enclosed structure.

(3) A vehicle or container in which waste tires are stored for less than thirty (30) days.

(4) A vehicle that is properly licensed, capable of legally transporting waste tires, and in which waste tires are completely enclosed.

(5) A waste tire amnesty day sponsored by a local government.

(6) A facility that:

(A) manufactures tires; and

(B) keeps five thousand (5,000) or fewer waste tires indoors in an enclosed structure.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.4; P.L.37-2012, SEC.32.

IC 13-20-13-1.5

Manner of storage of waste tires

Sec. 1.5. A person that stores waste tires shall do so in a manner that:

(1) does not pose a threat to human health or the environment;

(2) does not pose a fire hazard; and

(3) controls vectors that pose a threat to human health.

As added by P.L.93-1998, SEC.5.

IC 13-20-13-2

Necessity of registration or certificate

Sec. 2. A person may not create or maintain a waste tire storage site or waste tire processing operation unless the person:

(1) has registered the waste tire storage site or waste tire processing operation under this chapter or IC 13-7-23 (before its repeal); and

(2) holds a valid certificate of registration issued under section 3 of this chapter or IC 13-7-23-7 (before its repeal).

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.6.

IC 13-20-13-3
Certificate of registration

Sec. 3. (a) The commissioner shall issue a waste tire storage site or waste tire processing operation certificate of registration to a person that owns or operates a waste tire storage site or waste tire processing operation if the person complies with the requirements of this chapter and rules adopted by the board under section 11 of this chapter.

(b) A certificate of registration issued under this section expires five (5) years after the date the certificate is issued.

(c) The commissioner may include in a certificate of registration issued under this section conditions that ensure compliance with:

(1) this chapter; and

(2) rules adopted by the board under this chapter;

including a compliance schedule.

(d) The department may deny an application for a certificate of registration under this chapter if:

(1) the application is incomplete;

(2) the applicant has failed to comply with the requirements of:

(A) this chapter;

(B) IC 13-20-14; or

(C) a rule adopted by the board under section 11 of this chapter or under IC 13-20-14-6; or

(3) an enforcement action is pending against the applicant.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.7.

IC 13-20-13-4
Prerequisites to certificate of registration; deposit of fees

Sec. 4. (a) To apply for a certificate of registration under section 3 of this chapter, a person must submit the following to the department:

(1) A description of the location of the:

(A) waste tire storage site; or

(B) waste tire processing operation.

(2) A description of buildings, signs, notices, and alarms to be used:

(A) on the waste tire storage site; or

(B) in connection with the waste tire processing operation.

(3) A description of the management program for the waste tire storage site or waste tire processing operation, including emergency measures to be used on the site or at the operation.

(4) If the person who applies for the certificate of registration does not own the property where the waste tires will be stored or processed, the signature of the person who owns the property.

(5) If a person is to operate a waste tire storage site, a description of evidence of financial assurance to be maintained by the person under rules adopted by the board under section 11 of this chapter.

(6) A fee in an amount determined by the board.

(7) Other information reasonably requested by the department.

(b) The department shall deposit the fee submitted under subsection (a)(6) in the waste tire management fund established by this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.8.

IC 13-20-13-5

Duties of certificate of registration holders

Sec. 5. A person that obtains a certificate of registration under section 3 of this chapter must do the following:

(1) Report annually to the department on the following:

(A) The number of passenger tire equivalents received at the waste tire storage site or by the waste tire processing operation.

(B) The number and manner of disposal of the passenger tire equivalents.

(2) Maintain contingency plans to protect public health and the environment.

(3) If the person operates a waste tire storage site, maintain financial assurance acceptable to the department necessary for waste tire removal, in an amount specified in rules adopted by the board under section 11(b)(3) of this chapter.

(4) Maintain a copy of the certificate of registration at the site.

(5) Comply with applicable rules and requirements established by the fire prevention and building safety commission for indoor waste tire storage sites.

(6) Retain a copy of manifests received from a waste tire transporter under IC 13-20-14 for at least one (1) year and make a copy of the manifests available to the department upon request.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.9; P.L.37-2012, SEC.33.

IC 13-20-13-5.5

Revocation or modification of certificate of registration; appeal

Sec. 5.5. (a) A certificate of registration issued by the department under this chapter may be revoked or modified by the commissioner, or by a designated staff member of the department, after notification in writing is sent in accordance with IC 13-14-2-1 to the holder of the certificate for:

(1) failure to disclose all relevant facts;

(2) making a misrepresentation in obtaining the registration; or

(3) failure to correct, within the time established by the department:

(A) a violation of a condition of the registration; or

(B) a violation of this chapter or a rule adopted by the board under section 11 of this chapter.

(b) A person aggrieved by the revocation or modification of a certificate of registration may appeal the revocation or modification to the office of environmental adjudication under IC 4-21.5-7. Pending the decision resulting from a hearing under IC 4-21.5-3

concerning the revocation or modification, the registration remains in force. However, subsequent to revocation or modification, the commissioner may seek injunctive relief concerning the activity described in the registration.
As added by P.L.93-1998, SEC.10. Amended by P.L.1-1999, SEC.36; P.L.263-2013, SEC.5.

IC 13-20-13-6
Inspection program

Sec. 6. (a) The department shall operate a waste tire storage site and waste tire processing operation inspection program.

(b) A person that obtains a certificate of registration under section 3 of this chapter must allow the department access to the waste tire storage site or waste tire processing operation at reasonable times to inspect for potential violations of:

(1) this chapter; or

(2) rules adopted under this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.11.

IC 13-20-13-7
New replacement tire and new vehicle sales fees

Sec. 7. (a) A fee of twenty-five cents ($0.25) is imposed on the sale of the following:

(1) Each new tire that is sold at retail.

(2) Each new tire mounted on a new vehicle sold at retail.

(b) The person that sells the new tire or vehicle at retail to the ultimate consumer of the tire or vehicle shall collect the fee imposed by this section.

(c) A person that collects a fee under subsection (b):

(1) shall pay the fees collected under subsection (b):

(A) to the department of state revenue; and

(B) at the same time and in the same manner that the person pays the state gross retail tax collected by the person to the department of state revenue;

(2) shall indicate on the return:

(A) prescribed by the department of state revenue; and

(B) used for the payment of state gross retail taxes;

that the person is also paying fees collected under subsection (b); and

(3) is entitled to deduct and retain one percent (1%) of the fees required to be paid to the department of state revenue under this subsection.

(d) The department of state revenue shall deposit fees collected under this section in the waste tire management fund established by this chapter.
As added by P.L.1-1996, SEC.10.

IC 13-20-13-8
Waste tire management fund; establishment; purposes; sources of revenue

Sec. 8. (a) Except as provided in subsection (d)(2), (d)(3), (d)(6), and (d)(7), the waste tire management fund is established for the following purposes:

(1) The department may use not more than thirty-five percent (35%) of the money deposited in the fund each year for:

(A) the removal and disposal of waste tires from sites where the waste tires have been disposed of improperly; and

(B) operating the waste tire education program under section 15 of this chapter.

(2) The department may use the remaining money deposited in the fund each year to:

(A) provide grants and loans under section 9(b) of this chapter to entities involved in waste tire management activities; and

(B) pay the expenses of administering the programs described in:

(i) subdivision (1)(B); and

(ii) clause (A).

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) Sources of money for the fund are the following:

(1) Fees paid under section 4(a)(6) of this chapter and IC 13-20-14-5(c).

(2) Fees collected under section 7 of this chapter. All money deposited in the fund under this subdivision may be used by the department for waste reduction, recycling, removal, or remediation projects.

(3) Costs and damages recovered from a person or other entity under section 14 of this chapter or IC 13-20-14-8. All money deposited in the fund under this subdivision may be used by the department for removal and remediation projects.

(4) Fees established by the general assembly for the purposes of this chapter.

(5) Appropriations made by the general assembly.

(6) Gifts and donations intended for deposit in the fund. A gift or donation deposited in the fund under this subdivision may be specified to be entirely for the use of the department.

(7) Civil penalties collected under IC 13-30-4 for violations of:

(A) this chapter;

(B) IC 13-20-14; and

(C) rules adopted under section 11 of this chapter and IC 13-20-14-6.

All money deposited in the fund under this subdivision may be used by the department for eligible projects.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.12; P.L.1-1999, SEC.37; P.L.1-2006, SEC.202; P.L.204-2007, SEC.14; P.L.37-2012, SEC.34.

IC 13-20-13-9
Waste tire management fund; use of funds

Sec. 9. (a) The department may use money in the fund to assist the department in:

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

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

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

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

As added by P.L.1-1996, SEC.10. Amended by P.L.1-2006, SEC.203; P.L.204-2007, SEC.15; P.L.133-2012, SEC.144.

IC 13-20-13-10
Annual report

Sec. 10. (a) The department shall report annually to the governor and the general assembly on the following:

(1) Waste tire management as required by this chapter.
(2) The status of the waste tire management fund.
(3) The status of programs funded by the fund.

(b) A report issued by the department under this section may include recommendations for revisions to waste tire management programs.

(c) Before the department may issue a report under this section, the department must solicit public comment on the report.

(d) A report issued by the department under this section to the general assembly must be in an electronic format under IC 5-14-6.

As added by P.L.1-1996, SEC.10. Amended by P.L.28-2004, SEC.122.

IC 13-20-13-11
Adoption of rules

Sec. 11. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-8 necessary to implement this chapter.

(b) The rules adopted under this section must include the following:

(1) Requirements for the registration of waste tire storage sites and waste tire processing operations.
(2) Requirements concerning the following:
    (A) The operation of waste tire storage sites and waste tire

processing operations.

(B) Proper storage and processing of waste tires.

(C) Contingency plans concerning the minimization of hazards to human health and the environment at waste tire storage sites and waste tire processing operations.

(D) Record keeping guidelines concerning the quantity of waste tires stored and processed at waste tire storage sites and waste tire processing operations.

(3) Financial assurance acceptable to the department necessary for waste tire removal that a person that operates a waste tire storage site must maintain.

(4) The establishment of the fee required by section 4(a)(4) of this chapter in an amount necessary to cover the costs incurred in the following:

(A) Registering waste tire storage sites and waste tire processing operations under this chapter.

(B) Administering this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.13.

IC 13-20-13-12

Certificate of registration not required

Sec. 12. A person that obtains a certificate of registration under this chapter is not required to obtain a solid waste processing facility permit referred to in section 1 of this chapter:

(1) for activities covered under the registration, including the:

(A) baling;

(B) transferring;

(C) cutting; or

(D) shredding;

of waste tires; or

(2) if the person stores or processes waste tires in a facility in accordance with this chapter and the rules adopted under this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.37-2012, SEC.35.

IC 13-20-13-13

Removal and remedial actions

Sec. 13. (a) The commissioner may proceed in court, by appropriate action, to:

(1) compel a person responsible for the improper storage of waste tires to undertake a removal or remedial action with respect to the waste tires; or

(2) obtain an order to enter upon private or public property to carry out a removal or remedial action with respect to the waste tires if the commissioner cannot identify or locate another person responsible for carrying out the removal or remedial action who:

(A) is willing to carry out the removal or remedial action and is capable of doing so; or

(B) can be compelled to carry out the removal or remedial

action under subdivision (1).

(b) The commissioner may issue an administrative order for the purpose set forth in subsection (a)(1).

As added by P.L.1-1996, SEC.10.

IC 13-20-13-14

Recovery of costs and damages

Sec. 14. The commissioner may proceed in the appropriate court to recover costs and damages from a person who:

(1) is responsible for the improper storage of waste tires; and

(2) fails, without sufficient cause, to properly undertake a removal or remedial action under section 13 of this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.14.

IC 13-20-13-15

Education program

Sec. 15. The department shall operate a waste tire education program to inform the public concerning the following issues:

(1) Proper waste tire management procedures.

(2) Methods to minimize the production of waste tires, including information concerning the advantages of using retreaded tires.

As added by P.L.1-1996, SEC.10.

IC 13-20-13-16

Repealed

(Repealed by P.L.93-1998, SEC.21.)

IC 13-20-13-17

Criminal penalty for application misstatement

Sec. 17. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for a loan or grant from the fund commits a Level 6 felony.

As added by P.L.137-2007, SEC.18. Amended by P.L.158-2013, SEC.188.

IC 13-20-14

Chapter 14. Disposal of Waste Tires

IC 13-20-14-1

Disposal at solid waste landfills

Sec. 1. (a) Except as provided in:

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

(2) section 10 of this chapter;

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

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

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

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

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

As added by P.L.1-1996, SEC.10. Amended by P.L.123-1996, SEC.13; P.L.132-1997, SEC.1; P.L.133-2012, SEC.145.

IC 13-20-14-2

Notices in retail tire establishments

Sec. 2. (a) In each retail establishment in which a retailer sells new tires, the retailer shall post in a conspicuous place a written notice that bears the following statements:

"Do not put waste tires in the trash."

"Recycle your waste tires."

"State law requires us to accept your waste tires for recycling or proper disposal if you purchase new tires from us.".

(b) A notice required by this section must be at least eight and one-half (8.5) inches wide and eleven (11) inches high.

(c) A person who knowingly violates this section commits a Class C infraction.

As added by P.L.1-1996, SEC.10.

IC 13-20-14-3

Acceptance of waste tires by retailers on sale of new tires

Sec. 3. (a) A retailer who sells new tires to a person shall accept waste tires that the person presents to the retailer at the place where possession of the new tires is transferred to the person.

(b) The number of waste tires that a retailer is required to accept from a person under this section is equal to the number of new tires that the retailer sells to the person.

As added by P.L.1-1996, SEC.10.

IC 13-20-14-4

Disposal by source of waste tires

Sec. 4. (a) A source of waste tires shall dispose of waste tires in the source's possession by one (1) or more of the following means:

(1) Delivery to a wholesaler or to an agent of a wholesaler.

(2) Delivery to a manufacturer of tires.

(3) Delivery to a facility that retreads tires.

(4) Delivery to a permitted final disposal facility regulated under environmental management laws.

(5) Delivery to a registered waste tire storage site.

(6) Delivery to a registered waste tire processing operation.

(7) Collection by a registered waste tire transporter.

(b) A person referred to in subsection (a) is not required to accept waste tires from a source of waste tires.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.15; P.L.37-2012, SEC.36.

IC 13-20-14-5

Waste tire transporters; registration; manifest forms; fees; retention and furnishing of manifest copies

Sec. 5. (a) A person may not act as a waste tire transporter, as defined in IC 13-11-2-252, unless the person is registered with the department as a waste tire transporter. To apply for a certificate of registration as a waste tire transporter, a person must submit the following to the department:

(1) The person's name.

(2) The address of the person's principal office.

(3) The addresses of any offices maintained by the person in Indiana.

(4) Evidence of financial assurance, maintained in accordance with rules adopted under section 6 of this chapter, in the amount of at least ten thousand dollars ($10,000). The financial assurance must be in the form of:

(A) a bond for performance, executed by a corporate surety licensed to do business in Indiana;

(B) a negotiable certificate of deposit; or

(C) a negotiable letter of credit;

payable to the department and conditional upon faithful performance of the requirements of this chapter and the registration.

(b) The rules adopted under section 6 of this chapter must adopt a manifest form and require a waste tire transporter to prepare and carry a manifest based upon that form each time a waste tire transporter transports waste tires. The format and wording of the form must require a waste tire transporter to enter information in each manifest indicating the source and number of waste tires to be transported and the destination to which the waste tires are transported.

(c) A person who acts as a waste tire transporter in Indiana shall pay an annual registration fee of twenty-five dollars ($25) that shall be deposited in the waste tire management fund and appropriated to the department for the department's use in providing for the removal

and disposal of waste tires from sites where the waste tires have been disposed of improperly.

(d) A waste tire transporter shall do the following:

(1) Retain a copy of a manifest described under this section for at least one (1) year.

(2) Make a copy of a manifest described under this section available to the department upon request.

(3) Report annually to the department the number of passenger tire equivalents transported by the waste tire transporter.

(4) Maintain financial assurance acceptable to the department in accordance with subsection (a)(4).

(e) The commissioner may include in a certificate of registration issued under this chapter conditions that ensure compliance with:

(1) this chapter; and

(2) rules adopted by the board under this chapter;

including a compliance schedule.

(f) The department may deny an application to register under this chapter if:

(1) the application is incomplete;

(2) the applicant has failed to comply with the requirements of:

(A) this chapter;

(B) IC 13-20-13; or

(C) a rule adopted by the board under section 6 of this chapter or under IC 13-20-13-11; or

(3) an enforcement action is pending against the applicant.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.16; P.L.37-2012, SEC.37.

IC 13-20-14-5.3

Retention and availability of manifests

Sec. 5.3. A person that is the source of more than twelve (12) waste tires per year, or the equivalent in passenger tire equivalents, including tire retailers, auto salvagers, and sellers of used tires, shall:

(1) retain a copy of manifests received from a waste tire transporter under section 5 of this chapter for at least one (1) year; and

(2) make a copy of the manifests available to the department upon request.

As added by P.L.93-1998, SEC.17. Amended by P.L.37-2012, SEC.38.

IC 13-20-14-5.6

Revocation or modification of certificate of registration; appeal

Sec. 5.6. (a) A certificate of registration issued by the department under this chapter may be revoked or modified by the commissioner, or by a designated staff member of the department, after notification in writing is sent in accordance with IC 13-14-2-1 to the holder of the certificate, for:

(1) failure to disclose all relevant facts;

(2) making a misrepresentation in obtaining the registration; or

(3) failure to correct, within the time established by the department, a violation of:

(A) a condition of the registration;

(B) this chapter; or

(C) a rule adopted by the board under section 6 of this chapter.

(b) A person aggrieved by the revocation or modification of a certificate of registration may appeal the revocation or modification to the office of environmental adjudication under IC 4-21.5-7. Pending the decision resulting from a hearing under IC 4-21.5-3 concerning the revocation or modification, the registration remains in force. However, subsequent to revocation or modification, the commissioner may seek injunctive relief concerning the activity described in the registration.

As added by P.L.93-1998, SEC.18. Amended by P.L.1-1999, SEC.38; P.L.263-2013, SEC.6.

IC 13-20-14-6

Rules

Sec. 6. The board shall adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.37-2012, SEC.39; P.L.133-2012, SEC.146.

IC 13-20-14-7

Removal and remedial actions

Sec. 7. (a) The commissioner may proceed in court, by appropriate action, to:

(1) compel a person responsible for the improper disposal of waste tires to undertake a removal or remedial action with respect to the waste tires; or

(2) obtain an order to enter upon private or public property to carry out a removal or remedial action with respect to the waste tires if the commissioner cannot identify or locate another person responsible for carrying out the removal or remedial action who:

(A) is willing to carry out the removal or remedial action and is capable of doing so; or

(B) can be compelled to carry out the removal or remedial action under subdivision (1).

(b) The commissioner may issue an administrative order for the purpose set forth in subsection (a)(1).

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.19.

IC 13-20-14-8

Recovery of costs and damages

Sec. 8. The commissioner may proceed in the appropriate court to recover costs and damages from a person who:

(1) is responsible for the improper disposal of waste tires; and

(2) fails, without sufficient cause, to properly undertake a

removal or remedial action under section 7 of this chapter.
As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.20.

IC 13-20-14-9.5
Disposal by transfer station operators

Sec. 9.5. (a) Except as provided in rules adopted under subsection (c), an operator of a transfer station shall remove whole waste tires present in solid waste that is being transferred from a vehicle or container to another vehicle or container at the transfer station.

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

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

(d) The rules adopted under subsection (c) may allow a transfer station operator to meet the requirements of the rule by employing procedures designed to achieve the objectives of subsection (c) in lieu of a numeric standard.
As added by P.L.123-1996, SEC.14. Amended by P.L.133-2012, SEC.147.

IC 13-20-14-10
Disposal at a mineral extraction operation

Sec. 10. A person may dispose of a whole waste tire at a land excavation associated with a mineral extraction operation if the:

(1) person:
  (A) owns the whole waste tire; and
  (B) owns or leases the disposal site; and
(2) waste tire:
  (A) has a:
    (i) bead width of at least fourteen (14) inches; and
    (ii) rim or wheel diameter of at least twenty-four (24) inches;
  (B) was used on:
    (i) an off-road construction or mining vehicle; or
    (ii) off-road construction or mining equipment; and
  (C) is buried under at least twenty-five (25) feet of compacted cover.

As added by P.L.132-1997, SEC.2.

IC 13-20-15

Chapter 15. Regulation of Polychlorinated Biphenyls and Terphenyls

IC 13-20-15-1

Administration and implementation of chapter; rules

Sec. 1. The department shall administer and implement this chapter to protect the public health, safety, and welfare from the toxic effects and environmental dangers of PCB. The board shall adopt the rules required by this chapter under IC 4-22-2 and IC 13-14-9.

As added by P.L.1-1996, SEC.10. Amended by P.L.133-2012, SEC.148.

IC 13-20-15-2

Sale, manufacture, or use of PCB compound prohibited; maximum concentrations; exception; exemption

Sec. 2. (a) Except as provided in subsections (e) and (f), a person may not:

(1) sell; or

(2) manufacture for sale;

in Indiana the compound PCB.

(b) Except as provided in subsections (c), (d), (e), and (f), a person may not:

(1) sell;

(2) manufacture for sale; or

(3) use;

an item, a product, or a material in the person's business in Indiana if the item, product, or material contains a concentration of PCB equal to or greater than one hundred (100) ppm.

(c) The board may adopt rules to prescribe a lower maximum concentration of PCB for a specific item, product, or material if the board finds the one hundred (100) ppm concentration provided in subsection (b) to be inadequate to protect the public health, safety, and welfare from the toxic dangers of the PCB contained in the item, product, or material.

(d) An item, a product, or a material for which a lower maximum concentration of PCB is prescribed by federal law or regulation may not contain a concentration of PCB higher than the federal maximum.

(e) PCB or an item, a product, or a material containing PCB may be:

(1) manufactured;

(2) sold for use; or

(3) used;

in Indiana if the PCB or item is used in a closed system as a dielectric fluid for an electric transformer or capacitor under rules adopted by the board to insure the public health, safety, and welfare.

(f) An item, a product, or a material containing PCB may be:

(1) manufactured for sale;

(2) sold for use; or

(3) used;

in a business in Indiana under an exemption certificate issued by the commissioner under section 3 of this chapter or IC 13-7-16.5-4 (before its repeal).
As added by P.L.1-1996, SEC.10.

IC 13-20-15-3
Exemption certificate; application; scope; conditions

Sec. 3. (a) A person may apply to the commissioner for an exemption certificate on forms provided by the department. The department may require additional information or materials to accompany the application as considered necessary for an accurate evaluation of the application.

(b) The commissioner, according to rules adopted by the board, may grant an exemption for an item, a product, or a material:

(1) manufactured for sale;
(2) sold for use; or
(3) used by the person;

in the person's business if the item, product, or material contains incidental concentrations of PCB.

(c) In granting a certificate of exemption, the commissioner shall impose conditions on the exemption so that the exemption covers only incidental concentrations of PCB.
As added by P.L.1-1996, SEC.10.

IC 13-20-15-4
Additional prohibitions; exceptions; notice; approval; report

Sec. 4. In addition to the prohibitions prescribed in section 2 of this chapter, a person may not use an item, a product, or a material containing a concentration of PCB equal to or greater than one hundred (100) ppm in the person's business in Indiana unless:

(1) the person files with the department:
  (A) a written notice of intent to use:
    (i) the PCB; or
    (ii) the item, product, or material containing PCB;
  in the person's business; and
  (B) a plan for the disposal of all material containing PCB;
(2) the department approves the plan for disposal of the material containing PCB described in subdivision (1)(B); and
(3) the person annually files with the department a report detailing:
  (A) the total amount of PCB used by the person; and
  (B) other information required by rule of the board to protect the public health, safety, and welfare from the toxic effects and environmental dangers of PCB.

As added by P.L.1-1996, SEC.10.

IC 13-20-15-5
Additional prohibitions; exceptions; disclosure label; notice; report

Sec. 5. In addition to the prohibitions prescribed in section 2 of this chapter, a person may not manufacture for sale or sell in Indiana

an item, a product, or a material containing a concentration of PCB equal to or greater than one hundred (100) ppm unless:

(1) the PCB or the item, product, or material containing PCB is conspicuously labeled to disclose:

(A) the presence of PCB;

(B) the concentration of PCB; and

(C) other information required by rule of the board to protect the public health, safety, and welfare from the toxic effects and environmental dangers of PCB;

(2) the person files with the department a written notice of intent to manufacture or sell:

(A) the PCB; or

(B) the item, product, or material containing PCB; and

(3) the person annually files with the department a report detailing:

(A) the total amount of PCB manufactured or sold by the person; and

(B) other information required by rule of the board to protect the public health, safety, and welfare from the toxic effects and environmental dangers of PCB.

As added by P.L.1-1996, SEC.10.

IC 13-20-15-6

Disposal of solid or liquid waste containing PCB

Sec. 6. A person may not dispose of solid or liquid waste resulting from the use in the person's business of:

(1) PCB; or

(2) an item, a product, or a material containing or that has contained PCB;

except in conformity with rules adopted by the board.

As added by P.L.1-1996, SEC.10.

IC 13-20-15-7

Violations; enforcement of chapter

Sec. 7. (a) A person who violates this chapter is subject to the penalties imposed by the following:

(1) IC 13-30-4.

(2) IC 13-30-5.

(3) IC 13-30-8.

In addition, a person who violates this chapter may be subject to criminal prosecution under IC 13-30-10.

(b) This chapter may be enforced under IC 13-30-3 or IC 13-14-2-6.

As added by P.L.1-1996, SEC.10. Amended by P.L.137-2007, SEC.19.

IC 13-20-16

Chapter 16. Battery Recycling

IC 13-20-16-1

Improper disposal notice; posting; violations

Sec. 1. (a) In each retail establishment in which a retailer sells lead acid batteries, the retailer shall post in a conspicuous place a written notice that bears the following statements:

"Improper disposal of batteries is against the law."

"It is illegal to put used motor vehicle batteries or other vehicle or boat batteries in the trash."

"Recycle your used batteries."

"State law requires us to accept your used battery for recycling if you purchase a new battery from us.".

(b) A notice required by this section must be at least eight and one-half (8.5) inches by eleven (11) inches in size.

(c) A person who knowingly violates this section commits a Class C infraction.

As added by P.L.1-1996, SEC.10.

IC 13-20-16-2

Disposal of used batteries; violations

Sec. 2. (a) A retailer, wholesaler, or manufacturer that sells one (1) or more new lead acid batteries to a purchaser shall:

(1) accept from the purchaser, if offered, a number of used lead acid batteries equal to the number of new batteries sold to the purchaser; and

(2) dispose of the used batteries in accordance with section 4, 5, or 6 of this chapter.

(b) A person who violates this section commits a Class C infraction.

As added by P.L.1-1996, SEC.10.

IC 13-20-16-3

Time limit on possession of used battery; violations

Sec. 3. A retailer or wholesaler that accepts a used lead acid battery under section 2 of this chapter may not retain possession of the battery for more than ninety (90) days. A person who violates this section commits a Class C infraction.

As added by P.L.1-1996, SEC.10.

IC 13-20-16-4

Means of disposal of used batteries by retailers; violations

Sec. 4. (a) A retailer shall dispose of the used lead acid batteries in the retailer's possession by one (1) or more of the following means:

(1) Delivery to a wholesaler or to an agent of a wholesaler.

(2) Delivery to a manufacturer of lead acid batteries.

(3) Delivery to a facility that:

(A) recycles lead acid batteries; or

(B) collects lead acid batteries for delivery to a recycling

facility.

(4) Delivery to a facility operated as a secondary lead smelter under a valid permit issued by the department or the United States Environmental Protection Agency.

(b) A person who violates this section commits a Class C infraction.

As added by P.L.1-1996, SEC.10.

IC 13-20-16-5

Means of disposal of used batteries by wholesalers; violations

Sec. 5. (a) A wholesaler shall dispose of the used lead acid batteries in the wholesaler's possession by one (1) or more of the following means:

(1) Delivery to a manufacturer of lead acid batteries.

(2) Delivery to a facility that:

(A) recycles lead acid batteries; or

(B) collects lead acid batteries for delivery to a recycling facility.

(3) Delivery to a facility operated as a secondary lead smelter under a valid permit issued by the department or the United States Environmental Protection Agency.

(b) A person who violates this section commits a Class C infraction.

As added by P.L.1-1996, SEC.10.

IC 13-20-16-6

Means of disposal of used batteries by manufacturers; violations

Sec. 6. (a) A manufacturer shall dispose of the used lead acid batteries in the manufacturer's possession in Indiana by one (1) or more of the following means:

(1) Delivery to a facility that:

(A) recycles lead acid batteries; or

(B) collects lead acid batteries for delivery to a recycling facility.

(2) Delivery to a facility operated as a second lead smelter under a valid permit issued by the department or the United States Environmental Protection Agency.

(b) A person who violates this section commits a Class C infraction.

As added by P.L.1-1996, SEC.10.

IC 13-20-16-7

Offense

Sec. 7. A person who knowingly causes or allows:

(1) the placing of a lead acid battery into a container intended for collection and disposal at a facility that is not authorized under IC 13-22 or federal law for operation as a hazardous waste facility; or

(2) the disposal of a lead acid battery in a facility that is not authorized under IC 13-22 or federal law for operation as a

hazardous waste facility;

commits a Class C infraction.

As added by P.L.1-1996, SEC.10.

IC 13-20-16-8

Means of disposal of used batteries by state or political subdivision

Sec. 8. The state or a political subdivision (as defined in IC 34-6-2-110) shall dispose of used lead acid batteries in the state's or political subdivision's possession by one (1) or more of the following means:

(1) Delivery to a wholesaler or an agent of a wholesaler.

(2) Delivery to a manufacturer of lead acid batteries.

(3) Delivery to a facility that:

(A) recycles used lead acid batteries; or

(B) collects lead acid batteries for delivery to a recycling facility.

(4) Delivery to a facility operated as a secondary lead smelter under a valid permit issued by the department or the United States Environmental Protection Agency.

As added by P.L.1-1996, SEC.10. Amended by P.L.1-1998, SEC.106.

IC 13-20-17

Chapter 17. Restrictions on Batteries Containing Mercury

IC 13-20-17-1

Sale of intentionally introduced alkaline-manganese battery

Sec. 1. (a) This section does not apply to an alkaline-manganese button cell battery if each button cell does not have more than twenty-five (25) milligrams of mercury.

(b) A person may not:

(1) sell;

(2) offer for sale; or

(3) offer for promotional purposes;

an alkaline-manganese battery that contains mercury that was intentionally introduced if the battery was manufactured after December 31, 1995.

As added by P.L.1-1996, SEC.10.

IC 13-20-17-2

Sale of intentionally introduced zinc-carbon battery

Sec. 2. A person may not:

(1) sell;

(2) offer for sale; or

(3) offer for promotional purposes;

a zinc-carbon battery that contains mercury that was intentionally introduced if the battery was manufactured after December 31, 1995.

As added by P.L.1-1996, SEC.10.

IC 13-20-17-3

Sale of intentionally introduced button-cell, mercuric-oxide battery

Sec. 3. A person may not:

(1) sell;

(2) offer for sale; or

(3) offer for promotional purposes;

a button cell, mercuric-oxide battery if the battery was manufactured after December 31, 1995.

As added by P.L.1-1996, SEC.10.

IC 13-20-17-4

Sale of mercuric-oxide battery

Sec. 4. (a) This section does not apply to a button cell, mercuric-oxide battery.

(b) A person may not sell, offer for sale, or offer for promotional purposes a mercuric-oxide battery if the battery was manufactured after December 31, 1995, unless the person does all of the following:

(1) Identifies a collection site that meets all government standards and at which a used mercuric-oxide battery may be recycled or properly disposed.

(2) Informs each of the person's purchasers of mercuric-oxide batteries of the collection site identified in subdivision (1).

(3) Informs each of the person's purchasers of mercuric-oxide

batteries of a telephone number that the purchaser may call to get information about returning the mercuric-oxide battery for recycling or proper disposal.

As added by P.L.1-1996, SEC.10.

IC 13-20-17-5

Violations

Sec. 5. A person who knowingly violates this chapter commits a Class C infraction.

As added by P.L.1-1996, SEC.10.

IC 13-20-17.5

Chapter 17.5. Mercury and Mercury Products

IC 13-20-17.5-1

Applicability of chapter

Sec. 1. This chapter does not apply to antiques.

As added by P.L.225-2001, SEC.15.

IC 13-20-17.5-2

Prohibition of sale or distribution of mercury-added novelty

Sec. 2. (a) This section does not apply to a mercury-added novelty if:

(1) the novelty uses a mercury-added button cell battery to function; and

(2) the only mercury contained in the novelty is found in the mercury-added button cell battery.

(b) After July 1, 2003, a mercury-added novelty may not be:

(1) offered for final sale; or

(2) distributed for promotional purposes;

in Indiana if the offerer or distributor knows or has reason to know that the novelty contains mercury.

As added by P.L.225-2001, SEC.15.

IC 13-20-17.5-3

Mercury thermometers

Sec. 3. (a) This section does not apply to a mercury thermometer or to a thermometer if:

(1) the thermometer uses a mercury-added button cell battery; and

(2) the only mercury contained in the thermometer is found in the mercury-added button cell battery.

(b) Except as provided in subsection (c), after July 1, 2003, a person may sell or supply a mercury fever thermometer to an individual only if:

(1) the person is a pharmacist or a pharmacist's assistant working at a pharmacy; and

(2) the thermometers are stored in such a manner that the pharmacist or the pharmacist's assistant must obtain the thermometer for the individual.

(c) A licensed practitioner of medicine may sell or supply a mercury fever thermometer to an individual.

As added by P.L.225-2001, SEC.15.

IC 13-20-17.5-4

Mercury in schools

Sec. 4. After July 1, 2003, a public school or nonpublic school may not use or purchase for use in a primary or secondary classroom:

(1) a mercury commodity;

(2) mercury compounds; or

(3) mercury-added instructional equipment and materials;

except measuring devices and thermometers for which no adequate substitute exists for use in laboratories.
As added by P.L.225-2001, SEC.15.

IC 13-20-17.5-5
Restrictions on sale of mercury commodities

Sec. 5. After July 1, 2003, a person may sell or provide a mercury commodity to another person in this state (other than for collection for recycling) only if:

(1) the person selling or providing the mercury commodity provides a material safety data sheet with the mercury commodity; and

(2) the person selling or providing the mercury commodity requires the purchaser or recipient to sign a statement with respect to the mercury in the mercury commodity that the purchaser or recipient:

(A) will use the mercury only:

(i) for medical purposes;

(ii) in dental amalgam dispose-caps;

(iii) for training;

(iv) for research; or

(v) for manufacturing purposes;

(B) understands that mercury is toxic;

(C) will store and use the mercury appropriately so that no individual is exposed to the mercury under normal conditions of use; and

(D) will not intentionally:

(i) place or cause to be placed; or

(ii) allow anyone under the control of the purchaser or recipient to place or cause to be placed;

the mercury commodity in solid waste for disposal, in a sewage disposal system, or in a wastewater treatment plant.
As added by P.L.225-2001, SEC.15. Amended by P.L.159-2011, SEC.31.

IC 13-20-17.5-6
Public education programs

Sec. 6. (a) The districts shall implement educational programs to provide information to the public concerning:

(1) the reuse and recycling of mercury in:

(A) mercury commodities; and

(B) mercury-added products; and

(2) collection programs available to the public for:

(A) mercury commodities; and

(B) mercury-added products.

(b) The department, with assistance from districts and other appropriate persons, shall develop and provide districts with a curriculum model that includes educational core principles concerning the reuse, recycling, and collection of mercury. The districts shall implement educational programs that meet the

minimum standards established by the department in the curriculum model.

(c) Units, in cooperation and with the support of the department, may implement educational programs to provide information to the public concerning:

(1) the reuse and recycling of mercury in:

(A) mercury commodities; and

(B) mercury-added products; and

(2) collection programs available to the public for:

(A) mercury commodities; and

(B) mercury-added products.

As added by P.L.225-2001, SEC.15. Amended by P.L.37-2012, SEC.40.

IC 13-20-17.5-7

Mercury collection programs

Sec. 7. (a) Districts shall implement mercury collection programs for the public and small businesses.

(b) Units may implement mercury collection programs for the public and small businesses.

As added by P.L.225-2001, SEC.15.

IC 13-20-17.7

Chapter 17.7. Mercury Switches in End of Life Vehicles

IC 13-20-17.7-0.5

Goal of mercury switch removal program; implementation meets national standards

Sec. 0.5. (a) The goal of the program established under this chapter is to remove at least eighty percent (80%) of all mercury switches from end of life vehicles processed in Indiana by motor vehicle recyclers.

(b) Implementing the program established under this chapter addresses the mercury national emission standards for hazardous air pollutants for facilities using recycled steel.

As added by P.L.114-2008, SEC.19.

IC 13-20-17.7-1

Development of mercury switch plan

Sec. 1. (a) Except as provided in subsection (b), motor vehicle manufacturers engaged on July 1, 2006, in the business of offering motor vehicles for sale in Indiana shall, individually or collectively:

(1) develop a plan to:

(A) remove;

(B) collect;

(C) recover; and

(D) recycle or dispose of;

mercury switches from end of life vehicles;

(2) submit the plan to the commissioner before October 1, 2006; and

(3) implement the plan as required under section 4(b) of this chapter.

(b) Subsection (a) does not apply to a motor vehicle manufacturer that has never installed mercury switches in the manufacturer's motor vehicles.

As added by P.L.170-2006, SEC.15.

IC 13-20-17.7-2

Information to be included in plan; annual report by the department

Sec. 2. (a) A plan described in section 1 of this chapter must include the following:

(1) An education program concerning the purposes of the mercury switch collection program and how to participate in the program, including the following:

(A) Educational materials about the program.

(B) Information identifying which end of life vehicles might contain mercury switches by make, model, and year of manufacture.

(C) Instructions on safe and environmentally sound methods to remove mercury switches.

(2) The provision of containers for collecting and storing

mercury switches.

(3) Procedures for the transportation of mercury switches to recycling, storage, or disposal facilities.

(4) Procedures for the recycling, storage, and disposal of mercury.

(5) Procedures to track the progress of the program, including a description of performance measures to be used and reported to demonstrate that the program is meeting measures of the effectiveness of the program, including the following:

(A) The number of mercury switches collected from end of life vehicles.

(B) The amount of mercury collected.

(6) Procedures for implementing the plan.

(b) The department shall:

(1) prepare an annual report that includes the information tracked under subsection (a)(5); and

(2) provide the report to:

(A) the legislative council in an electronic format under IC 5-14-6; and

(B) the interim study committee on environmental affairs established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6.

As added by P.L.170-2006, SEC.15. Amended by P.L.53-2014, SEC.126.

IC 13-20-17.7-3

Costs to be paid by motor vehicle manufacturers

Sec. 3. Motor vehicle manufacturers that submit plans, individually or collectively, under this chapter shall pay the following costs incurred for implementing the plans:

(1) Educational materials.

(2) Training.

(3) Packaging for transporting mercury switches to recycling, storage, or disposal facilities.

(4) Shipping of mercury switches to recycling, storage, or disposal facilities.

(5) Recycling, storage, or disposal of mercury switches.

(6) Maintenance of all appropriate systems and procedures to protect the environment from mercury contamination.

As added by P.L.170-2006, SEC.15.

IC 13-20-17.7-4

Procedure for approval of mercury switch plan; review and modifications

Sec. 4. (a) The commissioner shall do the following:

(1) Not more than thirty (30) days after receiving a plan developed by a motor vehicle manufacturer or a group of motor vehicle manufacturers under section 1 of this chapter, issue a public notice of a period of at least thirty (30) days during which the public may submit written comments on the plan to

the commissioner.

(2) Not more than one hundred twenty (120) days after receiving a plan, determine whether the entire plan complies with this chapter and:

(A) if the entire plan complies with this chapter, approve the plan in its entirety;

(B) if no part of the plan complies with this chapter, reject the plan in its entirety; or

(C) if only part of the plan complies with this chapter, approve that part and reject the rest of the plan.

(b) If a plan is approved in its entirety under subsection (a)(2)(A), the motor vehicle manufacturers shall begin implementing the plan not more than thirty (30) days after the date the plan is approved. If an entire plan is rejected under subsection (a)(2)(B), the commissioner shall inform the motor vehicle manufacturers why the plan was rejected, and the manufacturers shall submit a new plan not more than thirty (30) days after the commissioner informs the manufacturers that the entire plan was rejected. If a plan is approved in part and rejected in part under subsection (a)(2)(C), the manufacturers shall immediately implement the approved part of the plan and submit a revision of the rejected part of the plan not more than thirty (30) days after the commissioner informs the manufacturers of the commissioner's partial approval. The commissioner shall make a determination on a revised plan not more than thirty (30) days after receiving the revised plan.

(c) Not more than two hundred forty (240) days after receiving a plan developed by motor vehicle manufacturers under section 1 of this chapter, the commissioner shall complete, on behalf of the manufacturer, any part of the plan that has not yet been approved.

(d) After a plan has been approved under this section, the commissioner shall:

(1) review the plan three (3) years after the original date of approval of the plan and every three (3) years thereafter; and

(2) work with the motor vehicle manufacturers to agree with the manufacturers on appropriate modifications to the plan.

(e) Motor vehicle manufacturers are not required to resubmit a plan modified under subsection (d) to the commissioner for approval.
As added by P.L.170-2006, SEC.15.

IC 13-20-17.7-5

Requirement for removal from vehicles of mercury switches, ABS sensors, and other mercury components; exceptions; acceptance of vehicles by recyclers; records; representation of removal

Sec. 5. (a) Beginning thirty (30) days after the earliest date the commissioner approves a plan under section 4 of this chapter, except as provided in subsection (f), a motor vehicle recycler is required to remove all mercury switches from each end of life vehicle the motor vehicle recycler receives upon receipt of the vehicle.

(b) A mercury switch that is removed from a vehicle shall be collected, stored, transported, and recycled or properly disposed of in

accordance with the plan approved under section 4 of this chapter. Either of the following that is removed from a vehicle shall be collected, stored, transported, and recycled or properly disposed of in the same manner as a mercury switch:

(1) An ABS sensor.

(2) Any other component containing more than ten (10) milligrams of mercury.

(c) Notwithstanding subsection (a), a motor vehicle recycler may accept an end of life vehicle containing mercury switches that has not been intentionally flattened, crushed, or baled if the motor vehicle recycler assumes responsibility for removing the mercury switches.

(d) A motor vehicle recycler or any other person that removes mercury switches, ABS sensors, or any other components containing more than ten (10) milligrams of mercury in accordance with this section shall maintain records that document the number of:

(1) end of life vehicles the person processed for recycling;

(2) end of life vehicles the person processed that contained mercury switches, ABS sensors, or any other components containing more than ten (10) milligrams of mercury; and

(3) mercury switches, ABS sensors, and any other components containing more than ten (10) milligrams of mercury the person collected.

A person that maintains records under this section shall retain the records for at least three (3) years.

(e) A person may not represent that mercury switches, ABS sensors, or any other components containing more than ten (10) milligrams of mercury have been removed from a motor vehicle being sold or otherwise conveyed for recycling if the person has not removed the mercury switches, sensors, or other components from the vehicle.

(f) Subsection (a) does not apply to a mercury switch in an end of life vehicle that is:

(1) intentionally flattened, crushed, or baled; or

(2) damaged to the extent that the mercury switch cannot be removed without dismantling the vehicle.

As added by P.L.170-2006, SEC.15. Amended by P.L.114-2008, SEC.20.

IC 13-20-17.7-6

Payment by department for mercury items; amount established by commissioner; payments from solid waste management fund

Sec. 6. (a) Subject to subsections (b), (c), and (d), a person is entitled to payment from the department for each of the following the person removes from an end of life vehicle under section 5 of this chapter:

(1) A mercury switch.

(2) An ABS sensor.

(3) Any other component containing more than ten (10) milligrams of mercury.

(b) The commissioner shall establish:

(1) the amount of the payment under subsection (a), which must be:

(A) at least one dollar ($1); and

(B) not more than five dollars ($5);

per mercury switch, ABS sensor, or other component containing more than ten (10) milligrams of mercury; and

(2) a procedure for claims for payment under this section.

(c) The commissioner shall determine:

(1) whether to use money in the state solid waste management fund; and

(2) if the commissioner determines under subdivision (1) to use money in that fund, the amount of money from the fund to be used;

to make payments under this section.

(d) The department is required to make payments under this section only to the extent of the amount of money determined by the commissioner under subsection (c)(2).

As added by P.L.170-2006, SEC.15. Amended by P.L.114-2008, SEC.21.

IC 13-20-17.7-7

Adoption of rules

Sec. 7. The board may adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter.

As added by P.L.170-2006, SEC.15.

IC 13-20-17.7-8

Enforcement; penalties

Sec. 8. (a) This chapter shall be enforced under IC 13-30-3.

(b) A violation of this chapter or a rule adopted under this chapter is subject to the penalties set forth in the following:

(1) IC 13-30-4.

(2) IC 13-30-5.

(3) IC 13-30-8.

In addition, a violation of this chapter may lead to criminal prosecution under IC 13-30-10.

As added by P.L.170-2006, SEC.15. Amended by P.L.137-2007, SEC.20.

IC 13-20-17.7-9

Expiration

Sec. 9. This chapter expires on the earlier of:

(1) the date on which a national mercury switch recovery program takes effect, as determined by the commissioner; or

(2) July 1, 2016.

As added by P.L.170-2006, SEC.15.

IC 13-20-18
Repealed
(Repealed by P.L.1-2002, SEC.172.)

IC 13-20-19

Chapter 19. Mandatory Coding of Plastic Containers

IC 13-20-19-1

Recycling coding required before sale

Sec. 1. A person may not sell in Indiana:

(1) a plastic bottle with a capacity of at least sixteen (16) fluid ounces; or

(2) a rigid plastic container with a capacity of at least eight (8) fluid ounces;

unless the bottle or container is coded as required under section 2 of this chapter to assist recyclers in sorting the bottle or container by resin composition.

As added by P.L.1-1996, SEC.10.

IC 13-20-19-2

Requirements of coding

Sec. 2. Each bottle and plastic container described in section 1 of this chapter must be coded. The coding must consist of a three (3) sided triangular arrow with a number in the center and letters underneath. The number and letters must indicate the resin from which the container is made as follows:

(1) One (1) and "PETE" for polyethylene terephthalate.

(2) Two (2) and "HDPE" for high density polyethylene.

(3) Three (3) and "V" for vinyl.

(4) Four (4) and "LDPE" for low density polyethylene.

(5) Five (5) and "PP" for polypropylene.

(6) Six (6) and "PS" for polystyrene.

(7) Seven (7) and "Other" for other materials, including multi-layer materials.

As added by P.L.1-1996, SEC.10.

IC 13-20-19-3

Container with label or base cup of different material to be coded according to primary material

Sec. 3. A bottle or other container with a label or base cup made of a different material than the rest of the container must be coded according to the primary, basic material of the bottle or container.

As added by P.L.1-1996, SEC.10.

IC 13-20-20

Chapter 20. Household Hazardous Waste Grant Program

IC 13-20-20-1

Grants; funding; joint efforts of units and districts

Sec. 1. (a) The department shall provide financial assistance to units and districts through matching grants awarded under this chapter for projects involving the collection, recycling, or disposal of household hazardous waste and conditionally exempt small quantity generator waste.

(b) Grants awarded under this chapter shall be funded:

(1) from the hazardous substances response trust fund established by IC 13-25-4-1 if money is available under IC 13-25-4-4; and

(2) from the solid waste management fund established by IC 13-20-22-2.

(c) Units and districts may join in any combination for the purposes of the following:

(1) Implementing a project.

(2) Applying for a grant under this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.237-1999, SEC.3.

IC 13-20-20-2

Awarding grant; grounds

Sec. 2. A grant may be awarded under this chapter to a unit or district that has developed a household hazardous waste or conditionally exempt small quantity generator waste collection, recycling, or disposal project that does the following:

(1) Provides educational literature describing the hazards associated with household hazardous waste and conditionally exempt small quantity generator waste.

(2) Uses a licensed hazardous waste service to:

(A) collect;

(B) handle;

(C) pack;

(D) transport; or

(E) dispose of;

collected household hazardous waste and conditionally exempt small quantity generator waste.

(3) Allows and encourages participation from all households within a designated household hazardous waste or conditionally exempt small quantity generator waste collection area that is specified in the grant application.

As added by P.L.1-1996, SEC.10. Amended by P.L.237-1999, SEC.4.

IC 13-20-20-3

Grant application; forms; contents

Sec. 3. (a) After a grant applicant has developed a plan under section 2 of this chapter, the applicant may apply for a grant under this chapter on forms prepared and supplied by the department.

(b) A grant application must include the following:

(1) A statement describing a project's scope of activities and objectives that identifies persons responsible for project planning, coordination, and implementation.

(2) A map specifying the area to be served by the project that includes the locations of household hazardous waste and conditionally exempt small quantity generator waste collection sites.

(3) A description of proposed information and educational activities designed to inform households of the opportunity to participate in the project.

(4) A description of safety and security measures that will be implemented during the project.

(5) A budget showing all estimated project costs that includes ineligible project costs and eligible project costs as described under section 4 of this chapter.

(6) A resolution by the legislative body (as defined in IC 36-1-2-9) of a unit or the board of directors of a district involved in the project that does the following:

(A) Authorizes the project and the grant application.

(B) Expresses the specific intent to carry out all proposed project activities described in the grant application.

(C) Allows department employees to have access to and inspect proposed household hazardous waste and conditionally exempt small quantity generator waste collection sites involved in the project.

(D) Commits the applicant to do the following:

(i) Maintain appropriate records that document all expenditures made during the project.

(ii) Submit to the department a final report describing all project activities, achievements, and problems that compares the actual project to the objectives and activities proposed in the grant application, including samples of all informational and educational brochures prepared and distributed and data on the household participation rates, waste quantities collected by category, documentation of all costs, and recommendations for project improvements.

(E) Contains a timetable for completion of the project that:

(i) does not exceed twenty-four (24) months; and

(ii) includes anticipated dates of information and educational activities, waste collection, and submission of final reports.

(F) Commits the applicant to provide all funding required to implement and administer the project, not including the grant award.

(G) Commits the applicant to develop a proposed plan for a permanent household hazardous waste or conditionally exempt small quantity generator waste program that includes sources of funding and a timetable for implementation.

(H) Commits the applicant to develop a proposed plan for a

permanent household hazardous product program designed to educate the public as to nonhazardous and nontoxic substitutes for hazardous household products.

As added by P.L.1-1996, SEC.10. Amended by P.L.237-1999, SEC.5.

IC 13-20-20-4

Project costs

Sec. 4. (a) Estimated project costs submitted under section 3(b)(5) of this chapter must include the following:

(1) Eligible project costs.

(2) Ineligible project costs.

(b) Project costs that are ineligible for grant funding may not be used to fulfill a grantee's match requirement. A grantee is responsible for all project costs except the costs funded by a grant.

(c) Ineligible project costs include the following:

(1) Costs incurred before the approval of a grant.

(2) Costs incurred more than twenty-four (24) months after a grant has been accepted.

(3) Costs incurred by a grantee that exceed original estimated eligible project costs indicated in a grant application.

(4) Other costs that are not specifically related to a project as determined by the department.

(d) Eligible project costs may be:

(1) used to fulfill the grantee's match requirement; and

(2) funded by the grant.

(e) Project costs that are not ineligible under subsection (c) are eligible project costs for purposes of subsection (d).

As added by P.L.1-1996, SEC.10. Amended by P.L.237-1999, SEC.6.

IC 13-20-20-5

Amount of grant; matching contributions

Sec. 5. A grant awarded under this chapter:

(1) may not exceed fifty percent (50%) of the total eligible costs estimated in a grant application; and

(2) must be matched by an applicant's financial or in kind contributions.

As added by P.L.1-1996, SEC.10.

IC 13-20-20-6

Payment of grant

Sec. 6. (a) When a grantee accepts a grant award, the department shall pay the grantee seventy-five percent (75%) of the grant for the project.

(b) The remaining twenty-five percent (25%) of the grant shall be paid to the grantee after the:

(1) grantee submits the final report to the department; and

(2) department has audited and approved in writing the final expenditures.

As added by P.L.1-1996, SEC.10.

IC 13-20-20-7
Documentation of expenditures; source of funds; unexpended grant money

Sec. 7. (a) A grantee shall submit to the department documentation of all project expenditures within:

(1) thirty (30) days after completion of the project; or

(2) twelve (12) months after the grant is awarded;

whichever occurs first.

(b) A grantee shall specify the source of money expended on a project for both ineligible costs and eligible costs.

(c) Unexpended grant money shall be returned to the hazardous substances trust fund within sixty (60) days after the department has:

(1) completed the department's final audit of project expenditures; and

(2) notified the grantee, in writing, of the unexpended amount.

As added by P.L.1-1996, SEC.10.

IC 13-20-20-8
Priority of grant applications

Sec. 8. (a) In determining the priority of grant applications under this chapter, the department shall first consider an applicant's demonstrated commitment to an annual household hazardous waste or conditionally exempt small quantity generator waste collection, recycling, or disposal project. The department shall consider evidence of the following in making the department's determination under this subsection:

(1) A resolution by the applicant that the applicable community is committed to undertaking annual action to promote the proper collection, recycling, or disposal of household hazardous waste or conditionally exempt small quantity generator waste.

(2) An educational project sponsored by the applicant concerning the potential dangers associated with household hazardous waste or conditionally exempt small quantity generator waste, including instructions for the proper methods of handling, storage, recycling, or disposal of household hazardous waste or conditionally exempt small quantity generator waste.

(3) Sponsorship or participation in other projects that relate to the collection, recycling, or disposal of household hazardous waste or conditionally exempt small quantity generator waste, including projects developed or sponsored by civic organizations or private foundations.

(4) An educational project by the applicant concerning nonhazardous and nontoxic substitutes for hazardous household products.

(b) If the department determines that one (1) or more applicants demonstrate substantially similar commitment levels under subsection (a), the department shall give priority to the application the department received first.

As added by P.L.1-1996, SEC.10. Amended by P.L.237-1999, SEC.7.

IC 13-20-20-9
Application for multiple grants; reapplication by previous recipient

Sec. 9. (a) A unit or district may apply for more than one (1) grant under this chapter.

(b) A previous grant recipient under this chapter may reapply for additional grants within the same year only if money is available to the department after awarding grants to all other eligible applicants.
As added by P.L.1-1996, SEC.10.

IC 13-20-20-10
Exemptions

Sec. 10. (a) A grant applicant may request an exemption from a requirement under this chapter by submitting a written request to the department.

(b) A request filed under this section must contain a detailed description of the basis for a requested exemption.

(c) The department shall review an exemption request with regard to:

(1) a potential nuisance;
(2) a hazard to public health or safety; or
(3) estimated degradation of the environment;

involved in the exemption request.

(d) An exemption granted by the department must:

(1) be in writing; and
(2) clearly state the reasons for the exemption.

As added by P.L.1-1996, SEC.10.

IC 13-20-20-11
Termination of grant

Sec. 11. (a) The department may terminate a grant awarded under this chapter if the department determines that there:

(1) has been no sustained progress in meeting a timetable established in section 3(b)(6)(E) of this chapter;
(2) is substantial evidence that a grant was obtained by fraud; or
(3) is substantial evidence of gross abuse or corrupt practices in the administration or implementation of a project.

(b) If the department terminates a grant, the grantee shall return the full amount of the grant received.
As added by P.L.1-1996, SEC.10.

IC 13-20-20-12
Annual report

Sec. 12. (a) Before February 1 of each year, the department shall submit an annual report to the:

(1) governor;
(2) legislative council; and
(3) budget director.

A report submitted under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(b) The report must contain the following:

(1) A description of each project funded through grants under this chapter.

(2) A statement of the total amount of money that the department expends through grants under this chapter during the immediately preceding year.

(3) An estimate of the amount of money that is required to meet the eligible grant requests for the current year.

(4) Proposals of recommendations for any changes, in funding or otherwise, to the grant project.

As added by P.L.1-1996, SEC.10. Amended by P.L.28-2004, SEC.123.

IC 13-20-20-13

Rules

Sec. 13. The board may adopt rules under this chapter in accordance with IC 4-22-2 and IC 13-14-9.

As added by P.L.1-1996, SEC.10. Amended by P.L.237-1999, SEC.8.

IC 13-20-21
Chapter 21. Solid Waste Fees

IC 13-20-21-1
Purpose
Sec. 1. The provisions of this chapter are established to defray the costs of administering the solid waste program.
As added by P.L.1-1996, SEC.10.

IC 13-20-21-2
Establishment
Sec. 2. Notwithstanding fees established under IC 13-16-1, the solid waste permit:
(1) application;
(2) annual operation;
(3) generator; and
(4) disposal;
fees contained in this chapter are established.
As added by P.L.1-1996, SEC.10.

IC 13-20-21-3
Application of fees
Sec. 3. (a) Except as provided in subsections (b) and (c), for solid waste permits, the application fees are as follows:

New Permit or Major Modification	Fee
Construction\Demolition Site	$20,000
Restricted Waste Site	
Type I	$31,300
Type II	$31,300
Type III	$20,000
Processing Facility	
Transfer Station	$12,150
Other	$12,150
Incinerator	$28,650
Waste Tire Storage Registration	$ 500
Waste Tire Processing	$ 200
Waste Tire Transportation	$ 25
Permit Renewal	
Construction\ Demolition Site	$ 7,150
Restricted Waste Site	
Type I	$ 15,350
Type II	$ 15,350
Type III	$ 7,150
Processing Facility	
Transfer Station	$ 2,200
Other	$ 2,200

Incinerator	$ 5,900
Waste Tire Processing	$ 200
Minor Modification	
Minor Modification	$2,500

(b) The fee for:

(1) a new permit; or

(2) a permit for a major modification;

for a solid waste landfill not covered by subsection (a) is thirty-one thousand three hundred dollars ($31,300).

(c) The fee for a permit renewal for a solid waste landfill not covered by subsection (a) is fifteen thousand three hundred fifty dollars ($15,350).

As added by P.L.1-1996, SEC.10. Amended by P.L.159-2011, SEC.32.

IC 13-20-21-4

Annual operation fees

Sec. 4. For solid waste, the annual operation fees are as follows:

	Fee
Solid Waste Landfill	
Not Otherwise Covered in This Section	
> 500 TPD	$35,000
250-499 TPD	$15,000
100-249 TPD	$ 7,000
<100 TPD	$ 2,000
Construction\	
Demolition Site	$ 1,500
Restricted Waste Site	
Type I	$35,000
Type II	$25,000
Type III	$10,000
Processing Facility	
Transfer Station	$ 2,000
Other	$ 2,000
Incinerator	
>500 TPD	$35,000
250-499 TPD	$15,000
100-249 TPD	$ 7,000
<100 TPD	$ 2,000
Infectious Waste	
Incinerator (>7 TPD)	$ 5,000
Waste Tire Storage	
Registration	$ 500
Waste Tire Transportation	
Registration	$ 25
Groundwater	
Compliance	
Sampling	
(per well)	$ 250

As added by P.L.1-1996, SEC.10. Amended by P.L.159-2011,

SEC.33.

IC 13-20-21-5
Repealed
(Repealed by P.L.138-2000, SEC.11.)

IC 13-20-21-6
Disposal fees; additional fees for certain municipal landfills
Sec. 6. (a) Subject to subsection (c), for solid waste, the disposal fees are as follows:

	Fee
Solid waste disposed into a municipal solid waste landfill per ton	$ 0.10
Solid waste disposed into a nonmunicipal solid waste landfill per ton	$ 0.10
Solid waste disposed into an incinerator per ton	$ 0.05
Solid waste disposed into a construction\demolition waste site per ton	$ 0.10

(b) There is no solid waste disposal fee for solid waste disposed into a solid waste landfill permitted to accept restricted waste solely generated by the person to which the permit is issued.
(c) With respect to a municipal solid waste landfill, a nonmunicipal solid waste landfill, or a construction\demolition waste site:
(1) located in a county that does not zone under IC 36-7-4;
(2) for which the department issues an original permit for construction after March 1, 2006; and
(3) for which a host agreement has not been entered into under IC 13-20-24;
the county fiscal body may establish a disposal fee that does not exceed two dollars and fifty cents ($2.50) per ton, which applies in addition to the disposal fee established in subsection (a).
As added by P.L.1-1996, SEC.10. Amended by P.L.138-2000, SEC.9; P.L.218-2001, SEC.9; P.L.131-2006, SEC.8.

IC 13-20-21-7
Remittance of fee required; denial of permit
Sec. 7. (a) When a person files an application or a registration with the department concerning an activity associated with a fee established by section 3, 4, 5, or 6 of this chapter, the person must remit an application fee or a registration fee to the department.
(b) If a person does not remit the application fee or the registration fee to the department, the department shall deny the person's application or registration.
As added by P.L.1-1996, SEC.10.

IC 13-20-21-8
Remittance of fees or installments
Sec. 8. Solid waste annual operation fees begin accruing January

1 of each year. The department shall assess the fees not later than January 15 of that year. A person must remit solid waste annual operation fees or an installment established under IC 13-16-2 to the department not more than thirty (30) days after the date the fees are assessed or on the date the installment is due.
As added by P.L.1-1996, SEC.10. Amended by P.L.130-1996, SEC.4; P.L.2-1997, SEC.44.

IC 13-20-21-9
Disposal fees; applicability; payment

Sec. 9. Solid waste disposal fees must be paid by all solid waste disposal facilities, including solid waste landfills, incinerators, and construction\demolition disposal facilities. Solid waste disposal fees:

(1) for the period of January 1 through June 30 of each year are due on August 1 of that year; and

(2) for the period of July 1 through December 31 of each year are due on February 1 of the following year.

As added by P.L.1-1996, SEC.10. Amended by P.L.159-2011, SEC.34.

IC 13-20-21-10
Delinquency charge; revocation of permit

Sec. 10. (a) In addition to the penalties described under:

(1) IC 13-30-4-1;

(2) IC 13-30-4-2; and

(3) IC 13-30-5-1;

if a person does not remit a solid waste annual operation fee or an installment established by the department under IC 13-16-2 to the department not more than sixty (60) days after the date the fee is assessed or not more than thirty (30) days after the date the installment is due, the person shall be assessed a delinquency charge equal to ten percent (10%) of the solid waste annual operation fee or ten percent (10%) of the installment, whichever is applicable. A delinquency charge is due and payable sixty (60) days after the date the solid waste annual operation fee is assessed or thirty (30) days after the date an installment is due.

(b) If a person does not remit a solid waste annual operation fee or an installment established by the department under IC 13-16-2 and any applicable delinquency charge not more than ninety (90) days after the date the solid waste annual operation fee is assessed or not more than sixty (60) days after the date the installment is due, the department may revoke the person's permit. However, before the department may revoke the permit:

(1) not earlier than sixty (60) days after the date the solid waste annual operation fee is assessed or not earlier than thirty (30) days after the date the installment is due; and

(2) not later than thirty (30) days before the department revokes the permit;

the department must deliver a written notice to the person that describes what fees and delinquency charges are due and indicates

that the department may revoke the person's permit for nonpayment after thirty (30) days.
As added by P.L.1-1996, SEC.10. Amended by P.L.130-1996, SEC.5; P.L.2-1997, SEC.45.

IC 13-20-21-11
Disposal fees; delinquency charges; revocation of permit; notice

Sec. 11. (a) In addition to the penalties described under:

(1) IC 13-30-4-1;
(2) IC 13-30-4-2; and
(3) IC 13-30-5-1;

if a person does not remit a solid waste disposal fee to the department not more than sixty (60) days after the date the fee is due, the person shall be assessed a delinquency charge equal to ten percent (10%) of the solid waste disposal fee. The delinquency charge shall be due and payable sixty (60) days after the date the solid waste disposal fee is due.

(b) If a person does not remit a solid waste disposal fee and any applicable delinquency charge not more than ninety (90) days after the date the solid waste disposal fee is due, the department may revoke the person's permit. However, before the department may revoke the permit:

(1) not earlier than sixty (60) days after the date the solid waste disposal fee is assessed; and
(2) not later than thirty (30) days before the department revokes the permit;

the department must deliver a written notice to the person that describes what fees and delinquency charges are due and indicates that the department may revoke the person's permit for nonpayment after thirty (30) days.
As added by P.L.1-1996, SEC.10.

IC 13-20-21-12
Groundwater compliance sampling fees

Sec. 12. Groundwater compliance sampling fees established under this chapter apply to groundwater monitoring wells in existence at an operating land disposal facility at the time a solid waste annual operation fee concerning the land disposal facility is assessed.
As added by P.L.1-1996, SEC.10.

IC 13-20-21-13
Payment of all fees by person or facility in multiple fee categories

Sec. 13. A person or a facility that is described in more than one (1) fee category under this chapter must pay all applicable fees.
As added by P.L.1-1996, SEC.10.

IC 13-20-21-14
Payment and deposit of fees and charges; remission to counties of additional fees

Sec. 14. (a) Except as provided in subsection (b), fees and

delinquency charges collected under this chapter:

(1) are payable to the department; and

(2) shall be deposited in the environmental management permit operation fund established by IC 13-15-11-1.

(b) Fees and delinquency charges collected under section 6(c) of this chapter are payable to the department. The department shall remit the revenue to the county treasurer of the county in which the landfill is located for deposit in the fund established by the county treasurer under IC 36-2-9-21.

As added by P.L.1-1996, SEC.10. Amended by P.L.131-2006, SEC.9.

IC 13-20-22

Chapter 22. State Solid Waste Management Fees; State Solid Waste Management Fund

IC 13-20-22-1

Fee schedule; rules; deposit into funds; credit against subsequent fee

Sec. 1. (a) A fee is imposed on the disposal or incineration of solid waste in a final disposal facility in Indiana. Except as provided in section 14 of this chapter, the amount of the fee is as follows:

(1) For solid waste generated in Indiana and delivered to a final disposal facility in a motor vehicle having a registered gross vehicle weight greater than nine thousand (9,000) pounds, fifty cents ($0.50) a ton.

(2) For solid waste generated outside Indiana and delivered to a final disposal facility in a motor vehicle having a registered gross vehicle weight greater than nine thousand (9,000) pounds:

(A) fifty cents ($0.50) a ton; and

(B) if the board has adopted rules under subsection (c), an additional amount imposed under the rules.

(3) For solid waste generated in Indiana or outside Indiana and delivered to a final disposal facility in:

(A) a motor vehicle having a registered gross vehicle weight of not more than nine thousand (9,000) pounds; or

(B) a passenger motor vehicle (as defined in IC 9-13-2-123);

fifty cents ($0.50) for each load delivered by the motor vehicle.

(b) The board may adopt rules to establish and impose a fee on the disposal or incineration of solid waste that is:

(1) generated outside Indiana; and

(2) disposed of or incinerated in a final disposal facility in Indiana.

If rules are adopted under this subsection, the fee shall be set at an amount necessary to offset the costs incurred by the state or a county, municipality, or township that can be attributed to the importation of the solid waste into Indiana and the presence of the solid waste in Indiana.

(c) Revenue from fees collected under subsection (a)(1) and (a)(2)(A) shall be deposited in the state solid waste management fund established by section 2 of this chapter. Revenue from fees collected under subsection (a)(2)(B) shall be deposited in the hazardous substances response trust fund established by IC 13-25-4-1, except that any part of the revenue that the board finds is necessary to offset costs incurred by counties, municipalities, and townships shall be distributed to solid waste management districts pro rata on the basis of the district's population.

(d) If solid waste has been subject to a fee under this section, the total amount of the fee paid shall be credited against any other fee to which the solid waste may later be subject under this section.

(e) A fee may not be imposed upon material used as alternate daily cover pursuant to a permit issued by the department under 329 IAC

10-20-13.
As added by P.L.1-1996, SEC.10. Amended by P.L.45-1997, SEC.8; P.L.2-1998, SEC.49; P.L.131-2006, SEC.10; P.L.220-2014, SEC.9.

IC 13-20-22-2
Establishment of solid waste management fund; purpose; administration of fund; sources; investments

Sec. 2. (a) The state solid waste management fund is established to provide money for the following:

(1) Programs that provide grants and loans that provide education and promote the following:

(A) Recycling and the use of recycled materials.

(B) Waste reduction.

(C) Management of yard waste.

(2) Providing grants to implement household hazardous waste source reduction or recycling projects.

(3) Providing grants for household hazardous waste and conditionally exempting small quantity generator waste collection, recycling, or disposal projects under IC 13-20-20.

(4) Payments by the department under IC 13-20-17.7-6.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The sources of money for the fund are the following:

(1) All fees deposited into the fund under section 12(2) of this chapter.

(2) Accrued interest and other investment earnings of the fund.

(3) Appropriations made by the general assembly.

(4) Gifts and donations from any person to the fund.

(5) Civil penalties imposed under IC 13-30-4 for violations of IC 13-20-17.7 and proceeds received following a criminal conviction in connection with a violation of IC 13-20-17.7.

(6) Subject to subsection (f), assets assigned and other contributions made by persons.

(7) Transfers from the Indiana recycling promotion and assistance fund under IC 4-23-5.5-14(i).

(8) Money credited to the fund from the environmental management special fund under IC 13-14-12-1(c).

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) Money in the fund resulting from assets assigned and other contributions made under subsection (c)(6) may be used only by the department of environmental management to make payments under IC 13-20-17.7-6.
As added by P.L.1-1996, SEC.10. Amended by P.L.45-1997, SEC.9; P.L.237-1999, SEC.9; P.L.170-2006, SEC.16; P.L.137-2007, SEC.21.

IC 13-20-22-2.1
Policy on awarding of grants

Sec. 2.1. (a) The department shall adopt and make available a policy concerning the award of grants under section 2 of this chapter.

(b) The policy must include the following considerations:

(1) No private sector services will be displaced if an equipment grant is awarded.

(2) The economic need of the district must be a consideration in awarding a grant.

As added by P.L.45-1997, SEC.10.

IC 13-20-22-3
Appropriation of money; approval of expenditures

Sec. 3. (a) There is annually appropriated to the fund, for the purposes set forth in section 2(a) of this chapter, the amount of money deposited in the fund from the sources set forth in section 2(c) of this chapter.

(b) The governor and the budget agency must approve expenditures from the fund under section 2(a) of this chapter.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-4
Repealed

(Repealed by P.L.220-2014, SEC.10.)

IC 13-20-22-5
Repealed

(Repealed by P.L.220-2014, SEC.11.)

IC 13-20-22-6
Repealed

(Repealed by P.L.220-2014, SEC.12.)

IC 13-20-22-7
Repealed

(Repealed by P.L.220-2014, SEC.13.)

IC 13-20-22-8
Repealed

(Repealed by P.L.220-2014, SEC.14.)

IC 13-20-22-9
Repealed

(Repealed by P.L.220-2014, SEC.15.)

IC 13-20-22-10
Repealed

(Repealed by P.L.220-2014, SEC.16.)

IC 13-20-22-11

Collection; compensation; time limit on remittance; reports

Sec. 11. (a) The owner or operator of a final disposal facility is responsible for collecting the fees imposed under section 1 of this chapter from persons delivering solid waste to that facility.

(b) Each owner or operator may:

(1) deduct from the fees an amount equal to one percent (1%) of the fees collected; and

(2) retain this amount as compensation for collecting and remitting the fees;

if the fees collected and the reports required under subsection (e) are timely remitted and filed.

(c) If:

(1) the fees collected are remitted; or

(2) the required report is filed;

after the due date, the owner or operator shall remit all fees collected to the department.

(d) The owner or operator shall remit the remainder of the fees that the owner or operator collects during a month to the department not later than ten (10) days after the last day of the month in which the fees are collected.

(e) The owner or operator of a final disposal facility shall file monthly reports with the department concerning the fees collected under this section. The department shall adopt a form for these reports. An owner or operator shall use the form in reporting to the department.

As added by P.L.1-1996, SEC.10. Amended by P.L.220-2014, SEC.17.

IC 13-20-22-12

Deposits in funds

Sec. 12. Each month the department shall deposit the following:

(1) Not less than fifty percent (50%) of the revenue from the fee imposed under section 1(a)(1) of this chapter into the Indiana recycling promotion and assistance fund established in IC 4-23-5.5-14.

(2) Not more than fifty percent (50%) of the revenue from the fee imposed under section 1(a)(1) of this chapter into the fund.

(3) The revenue from the fee imposed under section 1(a)(2) of this chapter into the hazardous substance response trust fund established by IC 13-25-4-1.

As added by P.L.1-1996, SEC.10. Amended by P.L.45-1997, SEC.11; P.L.2-1998, SEC.50; P.L.1-1999, SEC.39; P.L.220-2014, SEC.18.

IC 13-20-22-13

Limitation on imposition of fee

Sec. 13. A fee may not be imposed by the state under section 1 of this chapter on the disposal of solid waste by a person who:

(1) generated the solid waste; and

(2) disposed of the solid waste at a site that is:

(A) owned by the person; and

(B) limited, for purposes of the disposal of solid waste, to use by that person for the disposal of solid waste generated by that person.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-14

Contiguous governmental units; solid waste management agreement; fee imposed

Sec. 14. If:

(1) the:

(A) county executive of the county; or

(B) board of directors of the district;

in which a final disposal facility is located has entered into an agreement concerning solid waste management with a governmental unit that is, or that is located within, a county that is contiguous to Indiana but within another state; and

(2) the agreement provides for solid waste generated in that governmental unit to be disposed of in the final disposal facility;

the fee imposed under this chapter upon the disposal in the final disposal facility of solid waste generated in that governmental unit is the fee set forth in section 1(b)(1) of this chapter, not the fee set forth in section 1(b)(2) of this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.2-1998, SEC.51; P.L.1-1999, SEC.40.

IC 13-20-22-15

Fee collection; determination of weight of solid waste

Sec. 15. (a) For purposes of the collection of the fees imposed under section 1 of this chapter, the owner or operator of a final disposal facility that:

(1) receives, on the average, less than two hundred (200) tons of solid waste each day; and

(2) does not have a scale suitable for weighing the solid waste received at the final disposal facility;

may determine the weight of the solid waste received by conversion from the volume of the solid waste.

(b) The owner or operator shall apply the following conversion factors:

(1) Three and three-tenths (3.3) cubic yards of compacted solid waste equals one (1) ton of solid waste.

(2) Six (6) cubic yards of uncompacted solid waste equals one (1) ton of solid waste.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-16

Fees not revenues of facility

Sec. 16. Fees prescribed by this chapter are not:

(1) revenues (as defined in IC 36-9-31-2) of a facility (as defined in IC 36-9-31-2); or

(2) revenues under:

(A) IC 8-1.5;
(B) IC 13-21-3-13;
(C) IC 13-21-7 through IC 13-21-12;
(D) IC 13-21-14; or
(E) IC 36-9-30.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-17
Repealed

(Repealed by P.L.220-2014, SEC.19.)

IC 13-20-22-18
Election and exclusivity of remedies

Sec. 18. The remedies provided by this chapter are cumulative. Action taken by the state may not be construed as an election to pursue a remedy to the exclusion of other remedies.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-19
Failure to remit collected solid waste disposal or incineration fees; offense

Sec. 19. A person who knowingly or intentionally fails to pay the fee to the department under section 11 of this chapter commits a Level 6 felony.

As added by P.L.1-1996, SEC.10. Amended by P.L.220-2014, SEC.20.

IC 13-20-22-20
Repealed

(Repealed by P.L.220-2014, SEC.21.)

IC 13-20-22-21
Criminal penalty for application misstatement

Sec. 21. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for a loan or grant from the fund commits a Level 6 felony.

As added by P.L.137-2007, SEC.22. Amended by P.L.158-2013, SEC.191.

IC 13-20-23

Chapter 23. Municipal Waste Disposal Fees

IC 13-20-23-1

Application of chapter

Sec. 1. This chapter applies to townships located in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

As added by P.L.133-1998, SEC.6. Amended by P.L.119-2012, SEC.112.

IC 13-20-23-2

Funds from disposal fees received by townships

Sec. 2. A township that has one (1) of the following populations and meets the requirements of section 3 of this chapter is entitled to receive the following percentage of disposal fees paid to the county in which the township is located:

Township Population	Percentage
Less than 3,000	8%
More than 3,200 but less than 3,900	6%
More than 60,000 but less than 90,000	6%

As added by P.L.133-1998, SEC.6. Amended by P.L.170-2002, SEC.88.

IC 13-20-23-3

Township resolutions to receive funds from disposal fees

Sec. 3. To receive funds under section 2 of this chapter, the fiscal body of a township must do both of the following:

(1) Adopt a resolution that:

(A) identifies the host agreement that is the subject of the resolution;

(B) states that the township has elected to exercise its entitlement under section 2 of this chapter;

(C) states the percentage of the disposal fees the township elects to receive; and

(D) specifies that the disposal fees will be used to provide fire services within the township.

(2) File the resolution with the county auditor.

As added by P.L.133-1998, SEC.6.

IC 13-20-23-4

Review and determination of township resolutions

Sec. 4. (a) Not more than thirty (30) days after the date a county auditor receives a resolution filed under section 3(2) of this chapter, the county auditor shall review the resolution for compliance with the requirements of sections 2 and 3 of this chapter. If the resolution meets all of the requirements, the county auditor shall:

(1) inform the county fiscal body and the township fiscal body;

(2) accrue disposal fees from the date the resolution is determined to be in compliance with sections 2 and 3 of this chapter under this subsection or subsection (b); and

(3) disburse the accrued disposal fees to the township, in the amount requested, on a quarterly basis.

(b) If the county auditor fails to make a determination concerning a resolution within the time allotted under subsection (a):

(1) the resolution is deemed to be in compliance with the requirements of sections 2 and 3 of this chapter; and

(2) the county auditor shall comply with subsection (a).

As added by P.L.133-1998, SEC.6.

IC 13-20-24

Chapter 24. Host Agreement in a County Without Zoning

IC 13-20-24-1

County without zoning may enter into host agreement

Sec. 1. With respect to a landfill or landfill expansion located or proposed to be located in the unincorporated area of a county that does not zone under IC 36-7-4, the county and another person may enter into a host agreement under this chapter.

As added by P.L.131-2006, SEC.11.

IC 13-20-24-2

Municipality in county without zoning may enter into host agreement

Sec. 2. With respect to a landfill or landfill expansion located or proposed to be located in a municipality in a county that does not zone under IC 36-7-4, the municipality and another person may enter into a host agreement under this chapter.

As added by P.L.131-2006, SEC.11.

IC 13-20-24-3

Duties under host agreement of person who enters into the agreement with the county or municipality

Sec. 3. A host agreement under this chapter must provide that the person that enters into the host agreement with the county or municipality agrees, in exchange for permission from the county or municipality to construct or operate a landfill in the county or municipality, to do one (1) or more of the following during the term of the host agreement:

(1) Make one (1) or more payments in designated amounts to the county or municipality.

(2) Construct, improve, or maintain infrastructure that supports or is otherwise related to the landfill.

(3) Provide to the county or municipality other consideration that supports or is otherwise related to the landfill.

As added by P.L.131-2006, SEC.11.

IC 13-20-24-4

Use by county or municipality of payments under host agreement

Sec. 4. A county or municipality that receives a payment under section 3(1) of this chapter may use the revenue only for the construction, improvement, or maintenance of infrastructure that supports or is otherwise related to the landfill.

As added by P.L.131-2006, SEC.11.

IC 13-20-25

Chapter 25. Resource Conservation and Recycling

IC 13-20-25-1

State recycling goal

Sec. 1. The goal of the state is to recycle at least fifty percent (50%) of its municipal waste.

As added by P.L.126-2014, SEC.9.

IC 13-20-25-2

"Fiscal year"

Sec. 2. As used in this chapter, "fiscal year" means a period:

(1) beginning July 1 in a calendar year; and

(2) ending June 30 of the succeeding calendar year.

As added by P.L.126-2014, SEC.9.

IC 13-20-25-3

"Municipal waste"

Sec. 3. As used in this chapter, "municipal waste" means any:

(1) garbage;

(2) refuse;

(3) industrial lunchroom waste;

(4) office waste; or

(5) other, similar material;

that results from the operation of residential, municipal, commercial, or institutional establishments and community activities.

As added by P.L.126-2014, SEC.9.

IC 13-20-25-4

"Recyclable material"

Sec. 4. As used in this chapter, "recyclable material" means municipal waste that is suitable for recycling.

As added by P.L.126-2014, SEC.9.

IC 13-20-25-5

"Recyclable materials broker"

Sec. 5. As used in this chapter, "recyclable materials broker" means a person that:

(1) engages in the business of arranging for the collection, transportation, delivery, recycling, or reuse of recyclable materials; but

(2) does not take title to, or physical possession of, the recyclable materials.

As added by P.L.126-2014, SEC.9.

IC 13-20-25-6

"Recycle"

Sec. 6. As used in this chapter, "recycle" means to take action by which recyclable materials are recovered from the solid waste stream for purposes of:

(1) use or reuse;
(2) conversion into raw materials; or
(3) use in the production of new products.
As added by P.L.126-2014, SEC.9.

IC 13-20-25-7
"Recycler"
Sec. 7. (a) As used in this chapter, "recycler" means a person who recycles recyclable materials generated by more than one (1) person.
(b) The term includes the following:
(1) A recyclable materials broker.
(2) The owner or operator of a solid waste disposal facility regulated under IC 13-20-8 at which recycling occurs.
(3) The owner or operator of a material recovery facility.
(4) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).
As added by P.L.126-2014, SEC.9.

IC 13-20-25-8
"Single stream recyclable materials"
Sec. 8. As used in this chapter, "single stream recyclable materials" means a combination of two (2) or more types of recyclable materials that have been commingled and cannot be separated into individual types without processing.
As added by P.L.126-2014, SEC.9.

IC 13-20-25-9
Mandatory reporting of recycling activities
Sec. 9. (a) A recycler shall report the recycler's recycling activities under this section. A recycler may elect to report the recycler's recycling activities on an annual basis under subsection (b) or on a quarterly basis under subsection (c).
(b) A recycler that elects to report on an annual basis shall, in 2015 and each succeeding calendar year, before August 1, submit to the commissioner a completed recycling activity report concerning the recycling activities conducted by the recycler during the fiscal year that ended on the most recent June 30.
(c) A recycler that elects to report on a quarterly basis shall, for the July through September quarter of 2014 and each succeeding quarter, not more than thirty (30) days after the end of the quarter, submit to the commissioner a completed recycling activity report concerning the recycling activities conducted by the recycler during the quarter. A quarterly report submitted under this subsection must concern the recycling activities conducted by the recycler during the period of:
(1) July through September;
(2) October through December;
(3) January through March; or
(4) April through June.
(d) A recycler shall submit a separate recycling activity report

under this section for each reporting period, whether annual or quarterly, for each facility:

(1) that was owned or operated by the recycler; and

(2) at which the recycler conducted recycling activities;

during the reporting period.

As added by P.L.126-2014, SEC.9.

IC 13-20-25-10

Voluntary reporting of recycling activities

Sec. 10. (a) A person:

(1) who:

(A) is not required to submit a recycling activity report under section 9 of this chapter; but

(B) recycled recyclable materials during a fiscal year;

(2) who:

(A) meets the definition of "scrap metal processing facility" set forth in IC 8-23-1-36;

(B) meets the definition of "automotive salvage recycler" set forth in IC 9-13-2-10;

(C) meets the definition of "disposal facility" set forth in IC 9-13-2-44;

(D) is engaged in business subject to IC 9-22-3;

(E) meets the definition of "automotive salvage rebuilder" set forth in IC 9-32-2-5;

(F) meets the definition of "scrap metal processor" set forth in IC 13-11-2-196.5;

(G) meets the definition of "core buyer" set forth in IC 25-37.5-1-0.2; or

(H) meets the definition of "valuable metal dealer" set forth in IC 25-37.5-1-1(b); or

(3) who:

(A) is not required to submit a recycling activity report under section 9 of this chapter; but

(B) took action during a fiscal year to recover, from the solid waste stream, for purposes of:

(i) use or reuse;

(ii) conversion into raw materials; or

(iii) use in the production of new products;

materials that were not municipal waste;

may voluntarily submit a recycling activity report to the commissioner concerning the person's recycling activity during the fiscal year.

(b) The commissioner shall include information reported to the commissioner under this section in the annual reports that the commissioner is required to submit under section 14 of this chapter.

As added by P.L.126-2014, SEC.9.

IC 13-20-25-11

Uniform recycling activity report form

Sec. 11. (a) Except as provided in subsection (b), a recycling

activity report submitted to the commissioner under this chapter must be submitted on the uniform recycling activity report form posted by the commissioner on the department's Internet web site under section 12 of this chapter.

(b) If a uniform recycling activity report form is not posted on the department's Internet web site by July 1 in a calendar year in which a recycler is required to submit a completed recycling activity report under section 9(a) of this chapter, the recycler may satisfy the recycler's duties under this chapter by submitting to the commissioner, by a letter postmarked before August 1 of the calendar year, the types of information about the recycler's recycling activities during the fiscal year that are set forth in section 12 of this chapter.
As added by P.L.126-2014, SEC.9.

IC 13-20-25-12
Posting of uniform recycling activity report form on web site

Sec. 12. (a) Not later than July 1, 2015, the commissioner shall post on the department's Internet web site a uniform recycling activity report form. The form must do the following:

(1) Provide for reporting of the:
(A) name and location of; and
(B) principal business activities conducted at;
the recycler's establishment.

(2) Include:
(A) an appropriate space for; and
(B) instructions requiring the completion of;
an appropriate certification, by signature of the recycler (if the recycler is an individual) or a senior official with management responsibility for the recycler (if the recycler is not an individual), of the accuracy and completeness of the recycling activity report.

(3) Provide for reporting of the quantity, in tons, of each type of recyclable material listed in subsection (b) that was in storage at the reporting recycler's establishment:
(A) at the start of the fiscal year; and
(B) at the close of the fiscal year.

(4) Provide for reporting of the quantity, in tons, of each type of recyclable material listed in subsection (b) that was transported from the reporting recycler's establishment, or (in the case of a recycler that is a recyclable materials broker) that was transported or delivered by arrangement of the recycler, to any of the following:
(A) Other recyclers located in Indiana.
(B) Persons that are located in Indiana but are not recyclers, including persons who may employ the recyclable material as a raw material or a new product without further recycling.
(C) Persons located outside Indiana.

(b) The uniform recycling activity report form posted on the department's Internet web site under subsection (a) must specify that the information to be reported by a recycler under subsection (a)(3)

and (a)(4) must be reported separately for each of the following types of recyclable materials:

(1) Glass.
(2) Metal, including white goods (ferrous).
(3) Metal (nonferrous).
(4) Paper and paper products (all grades).
(5) Plastic and plastic products.
(6) Single stream recyclable materials.
(7) Any other distinct type of recyclable material not specified in subdivisions (1) through (6).

As added by P.L.126-2014, SEC.9.

IC 13-20-25-13
Estimating weight of material recycled

Sec. 13. A recycler is not required to measure directly the weight of recyclable materials for purposes of submitting a recycling activities report under this chapter. For the purposes of reporting the quantity, in tons, of a type of recyclable material recycled, a recycler may estimate the weight of the recyclable material by converting the volume of the recyclable material to weight based on the density of the recyclable material.

As added by P.L.126-2014, SEC.9.

IC 13-20-25-14
Commissioner's annual report summarizing information from recycling activity reports

Sec. 14. Not later than December 31, 2015, and each succeeding calendar year, the commissioner shall submit to the executive director of the legislative services agency, in an electronic format under IC 5-14-6, a report summarizing the information obtained through the recycling activity reports submitted to the commissioner under this chapter concerning the fiscal year most recently ended. The executive director of the legislative services agency shall forward the report to the members of the standing committees of the senate and the house having subject matter jurisdiction most closely related to the subject of recycling.

As added by P.L.126-2014, SEC.9.

IC 13-20-25-15
Rules

Sec. 15. The environmental rules board may adopt rules under IC 4-22-2 and IC 13-14-9 to administer this chapter.

As added by P.L.126-2014, SEC.9.

IC 13-20-25-16
Recycling study during 2014 interim period

Sec. 16. (a) The general assembly urges the legislative council to assign to the appropriate study committee for the 2014 interim period the tasks set forth in this section.

(b) Not later than November 1, 2014, the appropriate study committee assigned the task under subsection (a) shall produce a written report that includes the following:

(1) An analysis of all policy options that would increase the recycling of municipal solid waste in Indiana, and a good faith estimate of the number of tons of municipal solid waste that would be recovered from the waste stream in Indiana for recycling into new products as the result of the implementation of each policy option.

(2) An analysis of the role of the solid waste management districts established under IC 13-21-3 and how the solid waste management districts can help to increase the rate of recycling in Indiana.

(3) An analysis of the role of the Indiana recycling market development board created by IC 4-23-5.5-2 and how the recycling market development board can help to increase the rate of recycling in Indiana.

(4) An analysis of the role of the state solid waste management fund established by IC 13-20-22-2 and how the state solid waste management fund can help to increase the rate of recycling in Indiana.

(5) An analysis of alternatives to landfill disposal of municipal waste and the relationship of these alternatives to increasing the rate of recycling in Indiana.

(c) The report produced under subsection (b) must include all written testimony and materials presented to the study committee concerning the subjects set forth in subsection (b)(1) through (b)(5), including citations to all sources referenced or relied upon. However, the report must not:

(1) make recommendations concerning; or

(2) otherwise limit consideration of;

any policy option for increasing the recycling of municipal solid waste for any reason.

(d) This section expires December 31, 2014.

As added by P.L.126-2014, SEC.9.

IC 13-20.5

ARTICLE 20.5. ELECTRONIC WASTE

IC 13-20.5-1

Chapter 1. Registration Programs

IC 13-20.5-1-1

Registration deadlines; information to be included in registration; updates

Sec. 1. (a) "Program year", for purposes of this chapter, means a calendar year.

(b) A manufacturer of video display devices sold or offered for sale to households as of January 1, 2010, shall submit a registration to the department not later than:

(1) April 1, 2010, for the program year that begins on April 1, 2010; and

(2) each immediately succeeding January 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that January 1.

(c) A manufacturer that begins to sell or offer for sale video display devices to households after 2009 and before April 1, 2010, shall submit a registration to the department not later than:

(1) April 20, 2010, for the program year that begins on April 1, 2010; and

(2) each immediately succeeding January 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that January 1.

(d) A manufacturer that begins to sell or offer for sale video display devices to households after March 31, 2010, shall submit a registration to the department not later than:

(1) twenty (20) days after the date the manufacturer begins to sell or offer for sale the video display devices for the program year in which the manufacturer begins to sell or offer for sale the video display devices; and

(2) each immediately succeeding January 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that January 1.

(e) A registration submitted under this section must include the following:

(1) A list of the brands of video display devices offered for sale in Indiana by the manufacturer, regardless of whether the manufacturer owns or licenses the brand.

(2) The name, address, and contact information of a person responsible for ensuring compliance with this article. The department shall post the contact information provided by each manufacturer on an Internet web site.

(3) A certification that the manufacturer or the manufacturer's

agent has complied and will continue to comply with the requirements of this article.

(4) An estimate based on national sales data of the total weight in pounds of the manufacturer's video display devices sold to households during the most recent twelve (12) months:

(A) that precede the date of registration; and

(B) for which that data is available.

(5) A demonstration of how the manufacturer plans in the program year for which the registration is submitted to meet the recycling goal stated in IC 13-20.5-4-1.

(6) A statement that discloses whether:

(A) any video display devices sold by the manufacturer to households exceed the maximum concentration values established:

(i) for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (pbbs), and polybrominated diphenyl ethers (pbdes); and

(ii) under the directive restricting the use of certain hazardous substances in electrical and electronic equipment (RoHS Directive) 2002/95/EC of the European Parliament and Council, as amended; or

(B) the manufacturer has received an exemption from any of the maximum concentration values under the RoHS Directive that has been approved and published by the European Commission.

(f) A manufacturer shall update the manufacturer's registration under this section not more than ten (10) days after the date the manufacturer changes the brand or brands of video display devices the manufacturer sells or offers for sale to households.

As added by P.L.178-2009, SEC.27. Amended by P.L.37-2012, SEC.41.

IC 13-20.5-1-2

Requirements for sale of video display devices from manufacturer to retailer

Sec. 2. After 2009, a manufacturer may not sell, offer for sale, or deliver to a retailer for subsequent sale a new video display device unless:

(1) the video display device is labeled with the manufacturer's brand that is permanently affixed and readily visible; and

(2) the manufacturer has submitted a registration to the department under section 1 of this chapter.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-1-3

Registration applies to program year; department review and listing of manufacturers and brands

Sec. 3. (a) A registration received from a manufacturer by the department under this chapter is, except as provided in subsection (b), effective for the program year for which the registration is submitted

under section 1 of this chapter.

(b) The department shall review each registration and notify a manufacturer of any information required by this chapter that is omitted from the manufacturer's registration. Not more than thirty (30) days after the date a manufacturer receives notification from the department concerning incomplete information in the manufacturer's registration, the manufacturer shall submit a revised registration that includes the information required by the department. A registration received from a manufacturer by the department under this subsection is, unless the manufacturer receives a second or subsequent notification from the department concerning incomplete information, effective for the program year for which the registration is submitted under section 1 of this chapter.

(c) The department shall maintain on an Internet web site the names of manufacturers and the manufacturers' brands listed in registrations submitted to the department. The department shall update the Internet web site information promptly upon receipt of a new or updated registration. The Internet web site must contain prominent language stating that:

(1) this article is directed at video display devices used by households; and

(2) the manufacturers' brands list is not a list of manufacturers qualified to sell to industrial, commercial, or other markets identified as exempt from the requirements of this article.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-1-4

Requirements to operate as collector; effective period of registration

Sec. 4. (a) After 2009, a person may not operate as a collector of covered electronic devices from covered entities unless the person:

(1) has submitted to the department a completed registration form as required by 329 IAC 16-5-1; and

(2) otherwise complies with 329 IAC 16.

(b) A registration submitted under this section:

(1) is effective upon receipt by the department; and

(2) must be submitted not later than November 1 for the next program year.

As added by P.L.178-2009, SEC.27. Amended by P.L.37-2012, SEC.42.

IC 13-20.5-1-5

Requirements to operate as recycler; effective period of registration

Sec. 5. (a) After 2009, a person may not recycle covered electronic devices generated by covered entities unless the person:

(1) has submitted to the department a completed registration form as required by 329 IAC 16-5-1; and

(2) otherwise complies with 329 IAC 16.

(b) A registered recycler may conduct recycling activities that are

consistent with this article.

(c) A registration submitted under this section:

(1) is effective upon receipt by the department; and

(2) must be submitted not later than November 1 for the next program year.

As added by P.L.178-2009, SEC.27. Amended by P.L.37-2012, SEC.43.

IC 13-20.5-1-6

Department may revoke collector or recycler registration

Sec. 6. The department may revoke the registration of a collector or recycler that violates either or both of the following:

(1) This article.

(2) 329 IAC 16.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-2

Chapter 2. Manufacturer's Registration Fee; Electronic Waste Fund

IC 13-20.5-2-1

Registration fee; variable recycling fee and formula for determination; recycling credits; fee exception

Sec. 1. (a) Except as provided in subsection (g), a manufacturer that registers under IC 13-20.5-1 shall pay to the department at the time of registration an annual registration fee. The registration fee applies for the program year for which the registration is submitted to the department. The department shall deposit the fee in the electronic waste fund established by section 3 of this chapter.

(b) The registration fee for the initial program year to which the fee applies under subsection (a) is five thousand dollars ($5,000). For each program year thereafter, the registration fee is equal to two thousand five hundred dollars ($2,500).

(c) In addition to the registration fee under subsection (a), a manufacturer that registers under IC 13-20.5-1 and fails to meet the recycling goal under IC 13-20.5-4-1 is subject to a variable recycling fee for each program year that ends on March 31 of 2013 or December 31 of a later year. Not later than September 1, the department shall provide a statement to each manufacturer liable for the variable recycling fee that states at least the following:

(1) The amount of the fee determined under subsection (d).

(2) The method of calculation of the fee.

(3) The due date of the fee.

(4) The opportunity to petition under section 2 of this chapter.

The department shall deposit the fee in the Indiana recycling promotion and assistance fund established by IC 4-23-5.5-14.

(d) The amount of the variable recycling fee, if applicable, is the amount determined in STEP FOUR of the following formula:

STEP ONE: Multiply the number of pounds of the manufacturer's video display devices sold to households during the immediately preceding program year, as reported in the manufacturer's registration for the program year under IC 13-20.5-1-1(e)(4), by the proportion of sales of video display devices required to be recycled under IC 13-20.5-4-1.

STEP TWO: Subject to subsection (e), add the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under IC 13-20.5-3-1(b), to the number of recycling credits the manufacturer elects to use to calculate the variable recycling fee, as reported to the department under IC 13-20.5-3-1(c)(2).

STEP THREE: Subtract the number of pounds determined in STEP TWO from the number of pounds determined in STEP ONE.

STEP FOUR: Multiply the greater of zero (0) or the number of pounds determined in STEP THREE by the per pound cost of

recycling established as follows:

(A) Forty cents ($0.40) per pound for manufacturers that recycle less than fifty percent (50%) of the number of pounds determined in STEP ONE.

(B) Thirty cents ($0.30) per pound for manufacturers that recycle at least fifty percent (50%) but less than ninety percent (90%) of the number of pounds determined in STEP ONE.

(C) Twenty cents ($0.20) per pound for manufacturers that recycle at least ninety percent (90%) of the number of pounds determined in STEP ONE.

(e) The following apply to the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year for purposes of subsection (d), STEP TWO:

(1) Except as provided in subdivision (3), the number is multiplied by one and one-tenth (1.1) to the extent that the covered electronic devices were recycled in Indiana.

(2) Except as provided in subdivision (3), the number is multiplied by one and five-tenths (1.5) to the extent that the covered electronic devices were recycled from covered entities not located in a metropolitan statistical area, as defined by the federal Office of Management and Budget.

(3) The number is multiplied by one and six-tenths (1.6) to the extent that the covered electronic devices were:

(A) recycled from covered entities not located in a metropolitan statistical area, as defined by the federal Office of Management and Budget; and

(B) recycled in Indiana.

(f) A manufacturer may retain recycling credits to be added, in whole or in part, to the actual number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under IC 13-20.5-3-1(b), during any of the three (3) immediately succeeding program years. A manufacturer may sell all or any part of its recycling credits to another manufacturer, at a price negotiated by the parties, and the other manufacturer may use the credits in the same manner. For purposes of this subsection, the recycling credits for the program year that begins April 1, 2010, are determined taking into account covered electronic devices that the manufacturer recycled, or arranged to have collected and recycled, both:

(1) in that program year; and

(2) after June 30, 2009, and before April 1, 2010.

(g) A manufacturer may not be charged a registration fee or a variable recycling fee for any year in which the combined number of video display devices produced by the manufacturer for sale to households is less than one hundred (100).

As added by P.L.178-2009, SEC.27. Amended by P.L.37-2012, SEC.44.

IC 13-20.5-2-2
Petition for relief from variable recycling fee

Sec. 2. Not later than sixty (60) days after the date of the statement provided to a manufacturer under section 1(c) of this chapter, the manufacturer may petition the Indiana recycling market development board created by IC 4-23-5.5-2 for relief from the variable recycling fee imposed under section 1 of this chapter upon showing of good cause. In determining whether to grant a petition for relief under this section, the Indiana recycling market development board shall determine whether the manufacturer has made good faith progress to achieve substantial compliance with this article. A determination by the Indiana recycling market development board under this subsection is not subject to appeal by the manufacturer.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-2-3
Electronic waste fund; administration; refunds to manufacturers

Sec. 3. (a) The electronic waste fund is established to implement this article. The fund shall be administered by the department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Beginning in 2011 and continuing each year thereafter, as of the last day of the state fiscal year, the department shall determine the total amount of the variable recycling fees that were collected for that state fiscal year under section 1(c) of this chapter.

(f) Except as provided in subsection (g), if the total amount of registration fees collected by the department for a state fiscal year under section 1(a) of this chapter exceeds the amount the department determines necessary to administer this article for the next state fiscal year, the department shall refund on a pro rata basis, to all manufacturers that paid any fees for the state fiscal year that contributed to those collections, the amount of fees collected by the department that exceeds the amount necessary to administer this article for the next state fiscal year.

(g) The department is not required to refund amounts under subsection (f) if either or both of the following apply:

(1) The refund amount determined under subsection (f) is less than one hundred dollars ($100).

(2) The amount the manufacturer claiming the refund recycled for the manufacturer's most recent program year was less than fifty percent (50%) of the amount the manufacturer was required to recycle for that program year under IC 13-20.5-4-1.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-3

Chapter 3. Reporting Requirements

IC 13-20.5-3-1

Reports from manufacturers to the department

Sec. 1. (a) Not later than June 1 of 2011 and of each immediately succeeding year, a manufacturer shall report to the department an estimate of the total weight in pounds of its video display devices sold to households during the program year that ends on the immediately preceding December 31 based on national sales data. A manufacturer shall submit with an estimate under this subsection a description of how the information or estimate was calculated.

(b) Not later than June 1 of 2011 and of each immediately succeeding year, a manufacturer shall report to the department the total weight in pounds of covered electronic devices the manufacturer:

(1) collected from eligible entities and recycled; or

(2) arranged to have collected from eligible entities and recycled;

during the program year that ends on the immediately preceding December 31.

(c) Not later than June 1 of 2011 and of each immediately succeeding year, a manufacturer shall report the following to the department:

(1) The number of recycling credits the manufacturer has purchased and sold during the program year that ends on the immediately preceding December 31.

(2) The number of recycling credits possessed by the manufacturer that the manufacturer intends to use in the calculation of its variable recycling fee under IC 13-20.5-2-1.

(3) The number of recycling credits the manufacturer retains at the beginning of the current program year.

(4) The amount in pounds of covered electronic devices the manufacturer arranged for a recycler to collect and recycle that were not converted to recycling credits.

As added by P.L.178-2009, SEC.27. Amended by P.L.37-2012, SEC.45.

IC 13-20.5-3-2

Reports by recycler to the department

Sec. 2. Before April 1, 2011, and not later than each April 1 thereafter, a recycler of covered electronic devices shall do the following:

(1) Report to the department separately the total weight in pounds of covered electronic devices:

(A) recycled by the recycler; and

(B) taken by the recycler for final disposal;

during the immediately preceding calendar year.

(2) Submit to the department a list of all collectors from whom the recycler received covered electronic devices.

(3) Certify that the recycler has complied with IC 13-20.5-5 and 329 IAC 16.

As added by P.L.178-2009, SEC.27. Amended by P.L.37-2012, SEC.46.

IC 13-20.5-3-3

Reports by collectors to the department

Sec. 3. Before April 1, 2011, and not later than each April 1 thereafter, a collector shall submit to the department a report that contains for the immediately preceding calendar year:

(1) the total weight in pounds of covered electronic devices collected in Indiana by the collector; and

(2) a list of all recyclers to whom the collector delivered covered electronic devices.

As added by P.L.178-2009, SEC.27. Amended by P.L.37-2012, SEC.47.

IC 13-20.5-4

Chapter 4. Manufacturer Responsibilities

IC 13-20.5-4-1

Manufacturer's recycling requirement

Sec. 1. A manufacturer shall in each of the manufacturer's program years recycle or arrange for the collection and recycling from covered entities of an amount of covered electronic devices equal to at least sixty percent (60%) of the total weight of the manufacturer's video display devices sold to households as reported in the manufacturer's registration for the program year under IC 13-20.5-1-1(e)(4).

As added by P.L.178-2009, SEC.27. Amended by P.L.37-2012, SEC.48.

IC 13-20.5-4-2

Manufacturer's due diligence assessments; maintenance of records

Sec. 2. (a) A manufacturer shall conduct and document due diligence assessments of collectors and recyclers with which the manufacturer contracts to allow the manufacturer to comply with this chapter.

(b) A manufacturer shall maintain for three (3) years documentation showing that all covered electronic devices recycled, partially recycled, or sent to downstream recycling operations by the manufacturer are recycled in compliance with this article.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-4-3

Contact information

Sec. 3. A manufacturer shall provide the department with contact information for an individual who can be contacted regarding the manufacturer's activities under this article.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-5

Chapter 5. Recycler Responsibilities

IC 13-20.5-5-1

Recycler not responsible for data in recycled devices

Sec. 1. Except to the extent otherwise required by law, a recycler is not responsible for any data that may be contained in a covered electronic device recycled by the recycler if an information storage device is included in the covered electronic device.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-6

Chapter 6. Retailer Responsibilities

IC 13-20.5-6-1

Information to be provided by retailers to households

Sec. 1. A retailer that sells new video display devices shall provide information to households that:

(1) describes where and how households may recycle video display devices; and

(2) advises households of opportunities and locations for the convenient collection of video display devices for recycling.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-6-2

Means of providing information to households

Sec. 2. The requirement in section 1 of this chapter may be met by retailers:

(1) by providing to households the department's contact information or Internet web site address; and

(2) if the retailer sells through catalogs or the Internet, by including the information in a prominent location in the retailer's catalog or on the retailer's Internet web site.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-7

Chapter 7. Department Duties

IC 13-20.5-7-1

Department adoption of forms and procedures

Sec. 1. (a) The department shall:

(1) subject to subsection (b), adopt forms for use by manufacturers, collectors, and recyclers for all registration statements, certifications, and reports required by this article; and

(2) establish procedures for:

(A) receipt and maintenance of the registration statements and certifications filed with the department under IC 13-20.5-1; and

(B) making the statements and certifications easily available to manufacturers, retailers, and the public.

(b) The department is not required to adopt forms under subsection (a) by rule.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-7-2

Department calculation of estimated sales of video display devices

Sec. 2. Before June 1, 2010, and before June 1 of each year thereafter, the department shall calculate estimated sales of video display devices sold to households by each manufacturer during the immediately preceding calendar year, based on national sales data.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-7-3

Recommendations to reduce revenue if revenue exceeds requirements

Sec. 3. If the revenues in the electronic waste fund established by IC 13-20.5-2-3 exceed the amount that the department determines is necessary for efficient and effective administration of this article, the department shall recommend to the general assembly in a report submitted in an electronic format under IC 5-14-6 that:

(1) the registration fee under IC 13-20.5-2-1(a); or

(2) the proportion of sales of video display devices required to be recycled under IC 13-20.5-4-1;

be lowered to reduce revenues collected in the subsequent state fiscal year by the estimated amount of the excess.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-7-4

Department report on program implementation

Sec. 4. (a) Before August 1, 2013, and before August 1 of each year thereafter, the department shall submit a report concerning the implementation of this article to:

(1) the general assembly in an electronic format under IC 5-14-6;

(2) the governor;
(3) the interim study committee on environmental affairs established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6; and
(4) the Indiana recycling market development board established by IC 4-23-5.5-2.

(b) For each state fiscal year, the report submitted under subsection (a):
(1) must discuss the total weight of covered electronic devices recycled in the state fiscal year and a summary of information in the reports submitted by manufacturers and recyclers under IC 13-20.5-3;
(2) must discuss the various collection programs used by manufacturers to collect covered electronic devices, information regarding covered electronic devices that are being collected by persons other than registered manufacturers, collectors, and recyclers, and information about covered electronic devices, if any, being disposed of in landfills in Indiana;
(3) must include a description of enforcement actions under this article during the state fiscal year; and
(4) may include other information received by the department regarding the implementation of this article.

As added by P.L.178-2009, SEC.27. Amended by P.L.53-2014, SEC.127.

IC 13-20.5-7-5
Department public education and outreach

Sec. 5. The department shall promote public participation in the activities implemented under this article through public education and outreach efforts.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-7-6
Department collection of data and use to determine fee

Sec. 6. (a) The department shall collect the data submitted to it annually by each registered manufacturer on:
(1) the total weight in pounds of each specific model of video display device sold to households, if provided;
(2) the total weight in pounds of video display devices sold to households;
(3) the total weight in pounds of covered electronic devices collected from covered entities that are recycled; and
(4) data on recycling credits, as required under IC 13-20.5-3-1.

(b) The department shall use the data described in subsection (a) to determine the manufacturer's variable recycling fee under the formula in IC 13-20.5-2-1.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-7-7
Department estimation of sales; use of data to verify fee

Sec. 7. The department shall estimate, for each registered manufacturer, the sales of video display devices to households during each calendar year, based on:

(1) data provided by a manufacturer on sales of video display devices to households, including documentation describing how that amount was calculated and certification that the amount is accurate; or

(2) if a manufacturer does not provide the data specified in subdivision (1), national data on sales of video display devices.

The department shall use the data specified in this section to review the determination of each manufacturer's variable recycling fee to ensure that the fee was calculated accurately according to the formula in IC 13-20.5-2-1.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-7-8

Department may participate in organizations and compacts

Sec. 8. The department may participate in or join a regional multistate organization or compact to assist in implementing this article.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-7-9

Department evaluation of national program and regional agreement

Sec. 9. If a national electronic waste program is implemented that is similar to the program established under this article, the department shall review, evaluate, and compare the national program, the program established under this article, and any regional agreement the department has entered into under section 8 of this chapter.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-7-10

Educational programs

Sec. 10. (a) Solid waste management districts shall conduct educational programs to provide information to the public concerning:

(1) reuse and recycling of electronic waste;

(2) collection programs available to the public for the disposal of electronic waste; and

(3) proper disposal of electronic waste.

(b) The department, with assistance from solid waste management districts and other appropriate persons, shall provide solid waste management districts with a curriculum model that includes educational core principles concerning the reuse, recycling, collection, and proper disposal of solid waste. Solid waste management districts shall implement educational programs that meet the minimum standards established by the department in the curriculum model.

As added by P.L.159-2011, SEC.35. Amended by P.L.37-2012,

SEC.49.

IC 13-20.5-8

Chapter 8. Other Recycling Programs

IC 13-20.5-8-1

Governmental entity may not require covered entity to use public recycling facilities

Sec. 1. A city, a county, or any other governmental entity may not require a covered entity to use public facilities to recycle the covered entity's covered electronic devices to the exclusion of other lawful recycling programs available.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-8-2

Actions not prohibited by program

Sec. 2. This article does not prohibit or restrict:

(1) the operation of any program that recycles covered electronic devices in addition to programs provided by manufacturers;

(2) persons from receiving, collecting, transporting, or recycling covered electronic devices, if those persons are registered under IC 13-20.5-1; or

(3) a collector, recycler, or manufacturer from charging for directly collecting any covered electronic devices directly from covered entities, including charging for curbside collection from covered entities.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-9

Chapter 9. Requirements for Purchases by State Agencies

IC 13-20.5-9-1

Department of administration to ensure state agency compliance with program

Sec. 1. The Indiana department of administration shall ensure that acquisitions of video display devices by state agencies comply with or are not subject to this article.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-9-2

State contractor compliance with program

Sec. 2. State agency solicitation documents must specify that the prospective responder is required to cooperate fully in providing reasonable access to the prospective responder's records and documents to demonstrate compliance with this article.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-9-3

Sanctions on state contractor that violates program

Sec. 3. A person awarded a contract by a state agency for purchase or lease of video display devices that is found to be in violation of this article is subject to the following sanctions:

(1) The contract is void if the Indiana department of administration determines that the potential adverse effect to the state from voiding the contract is exceeded by the benefit obtained from voiding the contract.

(2) If the attorney general establishes that any money, property, or benefit was obtained by a contractor as a result of violating this article, a court may, in addition to any other remedy, order the forfeiture of the unlawfully obtained money, property, or benefit.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-10

Chapter 10. Disposal Prohibitions

IC 13-20.5-10-1

Disposal restrictions

Sec. 1. After 2010, a covered entity may not knowingly do any of the following:

(1) Mix or allow the mixing of a covered electronic device or any other computer, computer monitor, printer, or television with municipal waste that is intended for disposal at a landfill.

(2) Mix or allow the mixing of a covered electronic device or any other computer, computer monitor, printer, or television with any waste that is intended for disposal by burning or incineration.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-10-2

No penalties or sanctions for violations; no cause of action

Sec. 2. (a) A covered entity that violates this chapter is not subject to:

(1) a criminal or civil action or penalty; or

(2) any other sanction;

under this title or any other state law.

(b) A violation of this chapter does not create a cause of action.

As added by P.L.178-2009, SEC.27.

IC 13-21

ARTICLE 21. SOLID WASTE MANAGEMENT DISTRICTS

IC 13-21-1

Chapter 1. State Solid Waste Management Plan

IC 13-21-1-1

Adoption of plan; rules

Sec. 1. The commissioner shall do the following:

(1) Adopt the state plan in final form.

(2) Adopt rules under IC 4-22-2 to provide for the plan's implementation.

As added by P.L.1-1996, SEC.11.

IC 13-21-1-2

Required provisions, goals, and criteria

Sec. 2. The state plan must provide for solid waste management in Indiana for the twenty (20) years following the adoption of the state plan. The state plan must include the following, in order of priority:

(1) The establishment of voluntary statewide goals for source reduction.

(2) The establishment of criteria for alternatives to final disposal, including the following:

(A) Recycling.

(B) Composting.

(C) The availability of markets.

(3) The establishment of general criteria for the siting, construction, operation, closing, and monitoring of final disposal facilities.

(4) Criteria and other elements to be considered in the adoption of district solid waste management plans.

As added by P.L.1-1996, SEC.11.

IC 13-21-1-3

Revisions

Sec. 3. Revisions of the state plan must be implemented using the procedures set forth in section 1 of this chapter.

As added by P.L.1-1996, SEC.11. Amended by P.L.12-2005, SEC.4.

IC 13-21-1-4

Assessment of solid waste management districts; report

Sec. 4. (a) In 2015 and every fifth year thereafter, the legislative council shall require an interim study committee or a statutory study committee to:

(1) assess solid waste management districts; and

(2) determine whether any changes should be made to the statutes governing solid waste management districts.

(b) An interim study committee or a statutory study committee

that assesses solid waste management districts under subsection (a) shall issue a final report, in an electronic format under IC 5-14-6, to the legislative council containing the committee's findings and recommendations, including any recommended legislation, not later than November 1 of the year in which an assessment is conducted.
As added by P.L.37-2012, SEC.50.

IC 13-21-2
Repealed

(Repealed by P.L.1-2001, SEC.51.)

IC 13-21-3

Chapter 3. Solid Waste Management Districts

IC 13-21-3-0.2

Application of certain amendments to prior law

Sec. 0.2. (a) The amendments made to IC 13-9.5-2-2 and IC 13-9.5-2-11 (before their repeal, now codified in this chapter) by P.L.96-1995 apply to property taxes first due and payable after December 31, 1995, and to taxable years that begin after December 31, 1995.

(b) The addition of IC 13-9.5-2-11.1 and IC 13-9.5-2-15 (before their repeal) by P.L.96-1995 applies to property taxes first due and payable after December 31, 1995, and to taxable years that begin after December 31, 1995.

As added by P.L.220-2011, SEC.283.

IC 13-21-3-1

Establishment; approval of agreement; failure of county to comply

Sec. 1. (a) Except as provided in subsection (b), each county shall, by ordinance of the county executive:

(1) join with one (1) or more other counties in establishing a joint solid waste management district that includes the entire area of all the acting counties; or

(2) designate itself as a county solid waste management district.

(b) Notwithstanding subsection (a)(1), if a county withdraws from a joint solid waste management district under IC 13-21-4, the county executive of the county may adopt an ordinance to join another or establish another joint solid waste management district with one (1) or more other counties:

(1) not earlier than fifteen (15) days; or

(2) not later than forty-five (45) days;

after the date the ordinance is introduced.

(c) An ordinance adopted under subsection (a)(1) or (b) must include the approval of an agreement governing the operation of the joint district.

(d) If a county fails to comply with this section, the commissioner shall designate the county as a solid waste management district.

As added by P.L.1-1996, SEC.11. Amended by P.L.74-2002, SEC.2.

IC 13-21-3-2

Territory included in designated district

Sec. 2. All of the incorporated and unincorporated territory of a county must be included in the designated county solid waste management district or the joint solid waste management district to which the county belongs.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-3

Copy of agreement to commissioner

Sec. 3. Within thirty (30) days after adopting an ordinance

establishing a joint district and approving an agreement governing the operation of the joint district, a county shall provide the commissioner with a copy of the agreement.
As added by P.L.1-1996, SEC.11.

IC 13-21-3-4
Board of directors; appointment

Sec. 4. After a county has been designated as a county district or has joined with at least one (1) other county in a joint district, a board of directors shall be appointed.
As added by P.L.1-1996, SEC.11.

IC 13-21-3-5
Board of directors; membership

Sec. 5. (a) Except as provided in subsections (b) through (e), the board of a county district consists of the following members:

(1) Two (2) members appointed by the county executive from the membership of the county executive.

(2) One (1) member appointed by the county fiscal body from the membership of the fiscal body.

(3) One (1) member:

(A) who is the executive of the municipality having the largest population in the county if that municipality is a city; or

(B) appointed from the membership of the legislative body of a town if the town is the municipality having the largest population in the county.

(4) One (1) member of the legislative body of the municipality with the largest population in the county appointed by the legislative body of that municipality.

(5) One (1) member:

(A) who is the executive of a city in the county that is not the municipality having the largest population in the county; or

(B) who is a member of the legislative body of a town that is not the municipality having the largest population in the county;

and who is appointed by the executive of that county to represent the municipalities in the county other than the municipality having the largest population.

(6) One (1) additional member appointed by the county executive from the membership of the county executive.

(b) If a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) is designated as a county district, the executives of the three (3) cities in the county having the largest populations each serve as a member of the board or may appoint a member of the legislative body of their city to serve as a member of the board. If a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) is designated as a county district, the executives of the two (2) cities in the county

having the largest populations each serve as a member of the board. If a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) is designated as a county district, the board of that county district must include the following:

(1) One (1) member of the legislative body of the city having the second largest population in the county, appointed by the president of the city legislative body.

(2) One (1) member of the legislative body of a town located in the county, appointed by the judge of the circuit court in the county.

(c) If a county having a consolidated city is designated a county district, the board of public works established under IC 36-3-5-6 constitutes the board of the county district.

(d) If a county designated as a county district has a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the board of the district consists of the following members:

(1) One (1) member appointed by the county executive from the membership of the county executive.

(2) Two (2) members appointed from the county fiscal body appointed from the membership of the county fiscal body.

(3) The executive of each second or third class city or a member of the legislative body of their city appointed by the executive.

(4) One (1) member of the legislative body of each town appointed by the legislative body.

(5) One (1) member of the legislative body of the municipality with the largest population in the county appointed by the legislative body of that municipality.

(6) If a local government unit in the county has an operating final disposal facility located within the unit's jurisdiction, one (1) member of the unit's board of public works appointed by the board of public works.

(e) This subsection applies only to a county that does not contain a city. If the county executive and the county fiscal body of a county designated as a county district agree, the board of the district shall consist of the following nine (9) or ten (10) members:

(1) The three (3) members of the county executive.

(2) Two (2) members of the county fiscal body, chosen by the county fiscal body.

(3) One (1) member of each of the town legislative bodies of the four (4) or five (5) towns in the county having the largest population, chosen by each town legislative body.

As added by P.L.1-1996, SEC.11. Amended by P.L.110-1998, SEC.1; P.L.189-2005, SEC.3; P.L.119-2012, SEC.113.

IC 13-21-3-6

Board of joint district; membership

Sec. 6. (a) Except as provided in subsections (b) through (d), the board of a joint district consists of the following:

(1) One (1) member of the county executive of each participating county.
(2) One (1) member of the county fiscal body of each participating county.
(3) One (1) member:
(A) who is the executive of the municipality having the largest population in the county if that municipality is a city; or
(B) if a town is the municipality having the largest population in the county, who is appointed from the membership of the fiscal body of that town.
(4) One (1) member of the legislative body of the municipality having the largest population in each participating county, appointed by the legislative body of that municipality.
(5) One (1) or more members who are the executives of cities under subsection (b), if applicable.
(6) Additional members appointed by the executive of each participating county from the membership of the executive, as permitted under subsection (c).
(7) One (1) additional member appointed by the executive of the participating county having the largest population from the membership of the executive if the appointments made under subdivisions (1) through (6) result in an even number of members.

(b) If a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) has joined in a joint district, the executive of the three (3) cities in the county having the largest populations each serve as a member of the board. If a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) has joined in a joint district, the executive of the two (2) cities in the county having the largest populations each serve as a member of the board.

(c) An agreement between two (2) or more counties establishing a joint district may allow the executive of each county to appoint a certain number of additional members from the membership of the executive based upon the proportion of each county's population to the population of the entire district.

(d) An agreement among three (3) or more counties establishing a joint district may provide that:
(1) the membership; and
(2) the terms of office of members;
of the board will be determined by the terms of an agreement entered into by the executive of each county governing the operation of the district. All members of a board appointed under this subsection must be elected officials of a county or a municipality.

(e) The board of a joint district established under subsection (d) or IC 13-9.5-2-6(d) (before its repeal) after March 1, 1991:
(1) must include representation from the largest municipality in each county included in the joint district as recommended by the

executive of the largest municipality and approved by the legislative body of the largest municipality; and

(2) may include representation from other municipalities in each county included in the joint district as recommended by the executive of a municipality and approved by the legislative body of the municipality.

(f) The board of a joint district may allow a member who is appointed from:

(1) the county executive;

(2) a county fiscal body; or

(3) a municipal legislative body;

to have the body on which the member serves designate an alternate member from that body to participate and exercise the right to vote with the board if the member is unable to attend a meeting.

As added by P.L.1-1996, SEC.11. Amended by P.L.119-2012, SEC.114.

IC 13-21-3-7

Joint districts; executive committees; powers

Sec. 7. (a) In:

(1) a joint district; or

(2) a single district having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

the board appointed under section 5 of this chapter may elect from the board's membership an executive committee having an odd number of members.

(b) An executive committee elected under subsection (a) for a joint district has only the powers invested in the committee by resolution of the board. An executive committee may exercise any powers of the board under this article that are delegated to the executive committee by resolution of the board.

(c) The board of the joint district may appoint one (1) or more alternates from among the membership of the board to:

(1) participate; and

(2) exercise the power to vote;

with the executive committee if a member of the executive committee is absent.

(d) A meeting of an executive committee may serve as the regularly scheduled monthly meeting of a board as required under IC 13-21-5-2.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-8

Board of directors of district; term

Sec. 8. (a) This section does not apply to the members of a board of public works that constitutes the board of a county district under section 5(c) of this chapter.

(b) The term of office of a member of the board of a district who is appointed from the membership of an executive, legislative, or

fiscal body under this chapter is coextensive with the member's term of office on that body. The term of office of other appointed members of the board is two (2) years.

(c) All members of the board serve at the pleasure of the appointing authority.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-9

Officers

Sec. 9. (a) This section does not apply to a board of public works that constitutes the board of a county district under section 5(c) of this chapter.

(b) The board shall select the following:

(1) A chairperson and vice chairperson from the board's membership.

(2) A controller who is not a member of the board.

(c) If a controller selected by a board under this section is the fiscal officer of a county or municipality, the duties of the controller under a statute or an ordinance are in addition to the duties the controller has while serving as the fiscal officer of the county or municipality.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-10

Controllers; powers and duties

Sec. 10. (a) A controller selected under section 9 of this chapter shall do the following:

(1) Be the official custodian of all district money and, subject to the terms of any resolution or trust indenture under which bonds are issued under this article, deposit and invest all district money in the same manner as other county money is deposited and invested under IC 5-13.

(2) Be responsible to the board for the fiscal management of the district.

(3) Be responsible for the proper safeguarding and accounting of the district's money.

(4) Subject to subsection (c), issue warrants approved by the board after a properly itemized and verified claim has been presented to the board on a claim docket.

(5) Make financial reports of district money and present the reports to the board for the board's approval.

(6) Prepare the district's annual budget.

(7) Perform any other duties:

(A) prescribed by the board; and

(B) consistent with this chapter.

(b) A controller selected under section 9 of this chapter:

(1) does not exercise any sovereign authority of the state; and

(2) does not hold a lucrative office for purposes of Article 2, Section 9 of the Constitution of the State of Indiana.

(c) The board may, by resolution, authorize the controller to make

claim payments for:

(1) payroll;

(2) the state solid waste management fee imposed by IC 13-20-22-1; and

(3) certain specific vendors identified in the resolution;

without the claims being first approved by the board if before payment the claims are approved in writing by the chairperson of the board or in the absence of the chairperson another member of the board designated by the chairperson. The claims shall be reviewed and allowed by the board at the board's next regular or special meeting.

As added by P.L.1-1996, SEC.11. Amended by P.L.214-2005, SEC.58.

IC 13-21-3-11

Citizen solid waste management advisory committee; membership; functions

Sec. 11. (a) The board of each district shall appoint and convene a solid waste management advisory committee of citizens not later than thirty (30) days after the board has been established. The committee must include the following:

(1) Representatives of the solid waste management industry operating in the district.

(2) Representatives of the environmental community and other citizens who are:

(A) knowledgeable about and interested in environmental issues; and

(B) not employed directly or indirectly by the solid waste management industry.

(b) At least fifty percent (50%) of the members of an advisory committee must be made up of the representatives of the environmental community and other citizens. All members of the committee must be residents of the district.

(c) In the resolution establishing an advisory committee, the board shall specify the terms of the members and the purposes of the committee. Each advisory committee shall do the following:

(1) Study the subjects and problems specified by the board and recommend to the board additional problems in need of study and discussion.

(2) If invited by the board to do so, participate, without the right to vote, in the deliberations of the board.

(d) An advisory committee shall report only to the board. Reports of the committee must:

(1) accompany a final district plan when the plan is submitted to the commissioner under IC 13-21-5; and

(2) be made available to members of the public.

(e) An advisory committee may choose to study and report on matters that are not specified by the board if the committee determines a study is warranted.

(f) An advisory committee and board shall conduct at least two (2)

joint meetings each year to discuss current and future issues. The advisory committee shall submit into the record at the next meeting of the board advice on the topics discussed at the joint meeting.

(g) An advisory committee shall do the following:

(1) Meet after the first publication of the district's proposed annual budget.

(2) Submit written comments concerning the proposed budget at a public hearing that is held to review the proposed budget.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-12

Powers of district

Sec. 12. Except as provided in section 14.5 of this chapter, the powers of a district include the following:

(1) The power to develop and implement a district solid waste management plan under IC 13-21-5.

(2) The power to impose district fees on the final disposal of solid waste within the district under IC 13-21-13.

(3) The power to receive and disburse money, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(4) The power to sue and be sued.

(5) The power to plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for solid waste management.

(6) The power to enter with any person into a contract or an agreement that is necessary or incidental to the management of solid waste. Contracts or agreements that may be entered into under this subdivision include those for the following:

(A) The design, construction, operation, financing, ownership, or maintenance of facilities by the district or any other person.

(B) The managing or disposal of solid waste.

(C) The sale or other disposition of materials or products generated by a facility.

Notwithstanding any other statute, the maximum term of a contract or an agreement described in this subdivision may not exceed forty (40) years.

(7) The power to enter into agreements for the leasing of facilities in accordance with IC 36-1-10 or IC 36-9-30.

(8) The power to purchase, lease, or otherwise acquire real or personal property for the management or disposal of solid waste.

(9) The power to sell or lease any facility or part of a facility to any person.

(10) The power to make and contract for plans, surveys, studies, and investigations necessary for the management or disposal of solid waste.

(11) The power to enter upon property to make surveys, soundings, borings, and examinations.

(12) The power to:

(A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and

(B) comply with the terms of the gift, grant, or loan.

(13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:

(A) Regular budget and tax levy procedures.

(B) Section 16 of this chapter.

However, except as provided in sections 15 and 15.5 of this chapter, a property tax rate imposed under this article may not exceed eight and thirty-three hundredths cents ($0.0833) on each one hundred dollars ($100) of assessed valuation of property in the district.

(14) The power to borrow in anticipation of taxes.

(15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.

(16) The power to otherwise do all things necessary for the:

(A) reduction, management, and disposal of solid waste; and

(B) recovery of waste products from the solid waste stream;

if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(17) The power to adopt resolutions that have the force of law. However, a resolution is not effective in a municipality unless the municipality adopts the language of the resolution by ordinance or resolution.

(18) The power to do the following:

(A) Implement a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project.

(B) Apply for a household hazardous waste collection and disposal project grant under IC 13-20-20 and carry out all commitments contained in a grant application.

(C) Establish and maintain a program of self-insurance for a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project, so that at the end of the district's fiscal year the unused and unencumbered balance of appropriated money reverts to the district's general fund only if the district's board specifically provides by resolution to discontinue the self-insurance fund.

(D) Apply for a household hazardous waste project grant as described in IC 13-20-22-2 and carry out all commitments contained in a grant application.

(19) The power to enter into an interlocal cooperation agreement under IC 36-1-7 to obtain:

(A) fiscal;

(B) administrative;

(C) managerial; or

(D) operational;

services from a county or municipality.

(20) The power to compensate advisory committee members for attending meetings at a rate determined by the board.

(21) The power to reimburse board and advisory committee members for travel and related expenses at a rate determined by the board.

(22) The power to pay a fee from district money to:

(A) in a joint district, the county or counties in which a final disposal facility is located; or

(B) a county that:

(i) was part of a joint district;

(ii) has withdrawn from the joint district as of January 1, 2008; and

(iii) has established its own district in which a final disposal facility is located.

(23) The power to make grants or loans of:

(A) money;

(B) property; or

(C) services;

to public or private recycling programs, composting programs, or any other programs that reuse any component of the waste stream as a material component of another product, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(24) The power to establish by resolution a nonreverting capital fund. A district's board may appropriate money in the fund for:

(A) equipping;

(B) expanding;

(C) modifying; or

(D) remodeling;

an existing facility. Expenditures from a capital fund established under this subdivision must further the goals and objectives contained in a district's solid waste management plan. Not more than five percent (5%) of the district's total annual budget for the year may be transferred to the capital fund that year. The balance in the capital fund may not exceed twenty-five percent (25%) of the district's total annual budget. If a district's board determines by resolution that a part of a capital fund will not be needed to further the goals and objectives contained in the district's solid waste management plan, that part of the capital fund may be transferred to the district's general fund, to be used to offset tipping fees, property tax revenues, or both tipping fees and property tax revenues.

(25) The power to conduct promotional or educational programs that include giving awards and incentives that further:

(A) the district's solid waste management plan; and

(B) the objectives of minimum educational standards established by the department of environmental management.

(26) The power to conduct educational programs under

IC 13-20-17.5 to provide information to the public concerning:
(A) the reuse and recycling of mercury in:
(i) mercury commodities; and
(ii) mercury-added products; and
(B) collection programs available to the public for:
(i) mercury commodities; and
(ii) mercury-added products.
(27) The power to implement mercury collection programs under IC 13-20-17.5 for the public and small businesses.
(28) The power to conduct educational programs under IC 13-20.5 to provide information to the public concerning:
(A) reuse and recycling of electronic waste;
(B) collection programs available to the public for the disposal of electronic waste; and
(C) proper disposal of electronic waste.

As added by P.L.1-1996, SEC.11. Amended by P.L.125-1996, SEC.5; P.L.45-1997, SEC.13; P.L.6-1997, SEC.155; P.L.2-1998, SEC.52; P.L.225-2001, SEC.16; P.L.178-2002, SEC.87; P.L.114-2008, SEC.22; P.L.159-2011, SEC.36; P.L.37-2012, SEC.51.

IC 13-21-3-12.2
Additional powers of certain counties

Sec. 12.2. (a) This section applies to a county having a population of more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).

(b) In addition to the powers granted to a district under section 12 of this chapter, a district may make grants or loans of money, property, or services to a public or private program to plant or maintain trees in an area of the district that is a right-of-way, public property, or vacant property.

As added by P.L.98-2000, SEC.6. Amended by P.L.170-2002, SEC.89; P.L.119-2012, SEC.115.

IC 13-21-3-13
Powers of board

Sec. 13. (a) A board may do the following:
(1) Enter into agreements concerning and acquire by any lawful means real property or interests in real and personal property needed for the purposes of this section or IC 13-21-9.
(2) Enter into financing agreements to purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve facilities.
(3) Lease facilities to users or developers with or without an option to purchase.
(4) Sell facilities to users or developers for consideration, which may be paid in installments or otherwise.
(5) Make direct loans to users or developers for the cost of acquisition, construction, or installation of facilities, including real property, machinery, or equipment. If loans are made, the development bonds must be secured by the pledge of one (1) or

more bonds or other secured or unsecured debt obligations of the users or developers.

(6) Enter into agreements with users or developers to allow the users or developers to wholly or partially acquire, construct, or modify facilities to be acquired by the district.

(7) Issue waste management development bonds under IC 13-21-9 to do the following:

(A) Accomplish the purposes of this section and IC 13-21-9.

(B) Secure payment of the development bonds as provided in IC 13-21-9.

(b) This section or IC 13-21-9 does not authorize the district's financing of facilities for a developer unless any agreement that exists between a developer and a user is fully disclosed to and approved by the board.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-13.5
Reports on funds

Sec. 13.5. (a) At the end of each year the district shall prepare, on a form designed by the department of local government finance, a report that is accessible through the computer gateway administered by the office of technology established by IC 4-13.1-2-1 and that provides the following information:

(1) For each fund that contains district money:

(A) the cash balance at the end of the year;

(B) a list of all encumbrances on the fund that the district is legally obligated to pay;

(C) a copy of documentation that supports each encumbrance listed in clause (B);

(D) the fund balance obtained by subtracting the amount under clause (B) from the amount under clause (A);

(E) the total expenditures from the fund for the year; and

(F) any other financial information required by the department.

(2) The total of all fund balances calculated under subdivision (1)(D).

(3) The total of all fund expenditures reported under subdivision (1)(E).

(4) Any programmatic information required by the department.

(5) The total amount of expenditures by the district for the year.

(6) The per capita expenditures by the district for the year.

(7) The amount of expenditures by the district for the year for personnel costs.

(8) The amount of expenditures by the district for the year for program costs (excluding personnel costs).

(9) The total amount of solid waste (in tons) disposed of in the district for the year for which the district is directly responsible.

(10) The total amount of recycling (in tons) carried out in the district in the year for which the district is directly responsible.

(b) The district shall provide the report prepared under subsection

(a):

(1) to the department and to the department of local government finance in a format prescribed by the department; and

(2) to the legislative council in an electronic format under IC 5-14-6;

by March 1 of the year following the year for which the report is made.

(c) The district shall publish the annual report prepared under subsection (a) on an Internet web site maintained by the district or on the Internet web sites maintained by the counties that are members of the district.

As added by P.L.45-1997, SEC.14. Amended by P.L.90-2002, SEC.368; P.L.37-2012, SEC.52; P.L.257-2013, SEC.35.

IC 13-21-3-14

Powers of district; exclusions

Sec. 14. (a) This section does not apply to a contract executed before April 1, 1998.

(b) Except as provided in subsection (d) and section 14.5 of this chapter, the powers of a district do not include the following:

(1) The power of eminent domain.

(2) Except as provided in subsection (c), the power to exclusively control the collection or disposal of any solid waste or recyclables within the district by means that include the following:

(A) Franchising.

(B) Establishing a territory or territories within the district in which a person may provide service.

(3) The power to establish the type of service that a person must provide for the collection or disposal of solid waste or recyclables within the district.

(4) The power to establish fees that a person must charge for the collection or disposal of solid waste or recyclables within the district.

(5) The power to issue permits for an activity that is already permitted by a state agency, except as expressly granted by statute.

(6) Except as provided in subsection (e), the power to:

(A) register;

(B) issue a permit for; or

(C) license;

a vehicle as a condition of allowing a solid waste hauler to render services within the district.

(c) If one (1) or more of the governmental entities in a district, at the time of the formation of the district, is a party to a contract providing that the persons contracted with have the exclusive right to collect or dispose of solid waste within the jurisdiction of the governmental entity, the district may enter into an extension of that contract.

(d) Subsection (b) does not apply to activities conducted as part of

a household hazardous waste collection and disposal project.

(e) A district that was:

(1) registering, issuing a permit for, or licensing vehicles as a condition of allowing a solid waste hauler to render services within the district on January 1, 2013:

(A) may continue to register, issue a permit for, or license the vehicles until January 1, 2015; and

(B) may not register, issue a permit for, or license the vehicles after December 31, 2014; and

(2) levying a charge or fee on January 1, 2013, for registering, issuing a permit for, or licensing vehicles as a condition of allowing a solid waste hauler to render services within the district:

(A) may continue to levy the charge or fee until January 1, 2015; and

(B) may not levy the charge or fee after December 31, 2014.

As added by P.L.1-1996, SEC.11. Amended by P.L.125-1996, SEC.6; P.L.110-1998, SEC.2; P.L.231-2003, SEC.3; P.L.220-2011, SEC.284; P.L.116-2013, SEC.1.

IC 13-21-3-14.5

Conditions for provision of waste management services by district; evaluation of cost

Sec. 14.5. (a) This section does not apply to the following:

(1) The continuation of waste management services that a solid waste district provides with its facilities or work force before March 15, 1996.

(2) Waste management services provided to the district under an agreement entered into by the district before March 15, 1996, with another person until the agreement terminates by its terms or is terminated for cause.

(3) The development, operation, and contracting for the development or operation of a publicly owned solid waste landfill in a county having a population of more than one hundred eleven thousand (111,000) but less than one hundred fifteen thousand (115,000). The operation of the landfill must have begun before July 1, 2001.

(4) A contract entered into between the board and a third party before May 1, 1997, for the development or operation of a solid waste landfill in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The third party is limited to those parties that submitted proposals to the board under a formal request for proposals that were selected by the board, before December 1, 1995, as finalists in the contract negotiations.

(5) A contract between a board and a third party to operate a facility that is owned by the district and for which construction was substantially complete before March 1, 1996.

(6) Activities conducted as part of household hazardous waste (as defined in IC 13-11-2-104) collection and disposal projects.

(7) A contract executed before April 1, 1998.

(b) Except as provided in subsection (c), a district may not:

(1) undertake to provide waste management services by means of its own work force; or

(2) contract with any person to provide waste management services.

(c) A district may perform the activities described in subsection (b):

(1) if:

(A) the board is able to adopt a resolution under subsection (d); and

(B) a private sector entity is not willing or able to provide waste management services at a reasonable cost to the district; or

(2) if the district is requested to do so by a unit of government that performs the activities with the unit's work force.

(d) The board may adopt a resolution determining that the district must either provide waste management services by means of its own work force or contract with a person to provide waste management services, only if the board finds that:

(1) the waste management service is not currently available in the district at a reasonable cost; and

(2) providing the waste management service by means of its own work force or by contract will benefit the public health, welfare, and safety of residents of the district.

The board's determination must be supported with findings of fact.

(e) A district shall provide notice by publication under IC 5-3-1 and at the time of publication serve by first class mail to any person that delivers to the district an annual written request for notices before January 1 of any meeting to consider adoption of a resolution making a preliminary determination that it is necessary for the district to undertake to provide waste management services by means of its own work force or contract with any person to provide waste management services.

(f) Whenever a district evaluates the reasonableness of cost under this section, it shall:

(1) compare the cost of the same level of service provided in the district or in similar demographic areas within Indiana; and

(2) if the district wishes to provide waste management services with its own facilities or work force, the district must disclose the entire cost of providing the service by the district, including the following:

(A) Subsidies arising from taxes, fees, grants, or intergovernmental transfers.

(B) In-kind contributions of real estate, interests in real estate, equipment, personnel, or other assets.

(C) Discounts.

(D) Tax exemptions.

(g) A resolution adopted under subsection (d) may authorize a district to perform more than one (1) solid waste recycling,

collection, or disposal event in the manner described in subsection (b) if:

(1) the duration of each event authorized by the resolution is not more than one (1) day; and

(2) all events authorized by the resolution will take place in one (1) calendar year.

As added by P.L.125-1996, SEC.7. Amended by P.L.110-1998, SEC.3; P.L.70-2001, SEC.3; P.L.170-2002, SEC.90; P.L.220-2011, SEC.285; P.L.119-2012, SEC.116.

IC 13-21-3-15
Appeals

Sec. 15. (a) A district located in a county having a population of more than thirty-three thousand five hundred (33,500) but less than thirty-four thousand (34,000) may appeal to the department of local government finance to have a property tax rate in excess of the rate permitted by section 12 of this chapter. The appeal may be granted if the district establishes that all of the following conditions exist:

(1) The district is in the process of constructing a landfill.

(2) A higher property tax rate is necessary to pay the fees charged by out of county landfills to dispose of solid waste generated in the district during the design and construction phases of the landfill being established by the district.

(b) The procedure applicable to maximum levy appeals under IC 6-1.1-18.5 applies to an appeal under this section. Any additional levy granted under this section may not exceed seven and thirty-three hundredths cents ($0.0733) on each one hundred dollars ($100) of assessed valuation of property in the district.

(c) The department of local government finance shall establish the tax rate if a higher tax rate is permitted.

(d) A property tax rate imposed under this section expires not later than December 31, 1997.

As added by P.L.1-1996, SEC.11. Amended by P.L.6-1997, SEC.156; P.L.90-2002, SEC.369; P.L.146-2008, SEC.422; P.L.119-2012, SEC.117.

IC 13-21-3-15.5
Appeal for additional levy

Sec. 15.5. (a) A district may appeal to the department of local government finance to have a property tax rate in excess of the rate permitted by section 12 of this chapter. The appeal may be granted if the district with respect to 2001 property taxes payable in 2002:

(1) imposed the maximum property tax rate established under section 12 of this chapter; and

(2) collected property tax revenue in an amount less than the maximum permissible ad valorem property tax levy determined for the district under IC 6-1.1-18.5.

(b) The procedure applicable to maximum levy appeals under IC 6-1.1-18.5 applies to an appeal under this section.

(c) An additional levy granted under this section may not exceed

the rate calculated to result in a property tax levy equal to the maximum permissible ad valorem property tax levy determined for the district under IC 6-1.1-18.5.

(d) The department of local government finance shall establish the tax rate if a higher tax rate is permitted.

As added by P.L.178-2002, SEC.88. Amended by P.L.146-2008, SEC.423.

IC 13-21-3-16

Eligibility to include in budget revenue from imposed property tax

Sec. 16. (a) The requirements of this section:

(1) are in addition to the requirements set forth in IC 6-1.1-18.5-7(b); and

(2) do not apply to a district that:

(A) owns a landfill;

(B) will use property tax revenue to:

(i) construct a new landfill cell; or

(ii) close a landfill cell;

at the landfill; and

(C) has received approval from the county fiscal body of the county in which the landfill is located to construct or close the landfill cell.

(b) To be eligible to include within the district's budget for the following year tax revenue derived from the imposition of a property tax, the first year that a property tax will be imposed and any subsequent year in which the proposed tax levy will increase by five percent (5%) or more, a board must present identical resolutions to each of the county fiscal bodies within the district seeking approval for the use of property tax revenue within the district. The resolution must state the proposed property tax levy and the proposed use of the revenue. The resolution must be stated so that:

(1) a "yes" vote indicates approval of the levy and the proposed use of property tax revenue within the district; and

(2) a "no" vote indicates disapproval of the levy and the proposed use of property tax revenue within the district.

(c) For a resolution described in subsection (b) to be approved by the county fiscal body:

(1) the county fiscal body must record the vote taken on the resolution under subsection (b) before May 1 of the year in which the vote was taken; and

(2) the recorded vote must indicate approval of the use of property tax revenue within the district.

(d) If all of the county fiscal bodies within a district do not record the approval described in subsection (c) before May 1 of the year in which the vote under subsection (b) was taken, the board may not:

(1) impose; or

(2) include within the budget of the board;

a property tax for the year following the year in which the vote was taken.

(e) Notwithstanding subsection (d), after the first year a tax is

imposed under this section, the resolution required by subsection (b) for a district that is located in more than two (2) counties need only be approved by a majority of the county fiscal bodies for the counties in which the district is located.

(f) A district may not issue bonds to be repaid, directly or indirectly, with money or property tax revenue of the district until a majority of the members of each of the county fiscal bodies within a district passes a resolution approving the bond issue.

As added by P.L.1-1996, SEC.11. Amended by P.L.129-1996, SEC.1; P.L.189-2005, SEC.4.

IC 13-21-3-17

Conferences, seminars, and training sessions; membership in planning and practice improvement organizations

Sec. 17. (a) If a board determines that it is desirable or necessary for employees or members of the board or advisory committee to attend a conference, seminar, or training session that concerns solid waste management or related issues, the board may pay:

(1) applicable registration fees; and

(2) all actual expenses;

of the employees or members who attend the conference, seminar, or training session.

(b) A board may appropriate money necessary to provide membership for the district in state and national:

(1) civic;

(2) educational;

(3) professional; or

(4) governmental;

organizations that are concerned with the betterment and improvement of solid waste management planning and practices.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-18

Grants and loans from counties and municipalities

Sec. 18. The executive of a county or municipality located in a district may, with the approval of the fiscal body of the county or municipality:

(1) grant or loan public money to the district; and

(2) establish procedures:

(A) for awarding grants; and

(B) for the repayment of loans.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-19

Delegation of board's authority; limitations

Sec. 19. (a) The board of a district may delegate any of the board's authority to any board or legislative body of a municipality by resolution. However:

(1) an exercise by a municipality of the taxing power of the district must be ratified by the board of the district; and

(2) if the board of a municipality has been delegated authority under this subsection, the legislative body of the municipality must approve an action of the board of the municipality that involves:

(A) an exercise of the taxing power of the district;

(B) the issuance of bonds under this article or IC 13-9.5 (before its repeal); or

(C) the setting of fees, rates, and charges under this article or IC 13-9.5 (before its repeal).

(b) The board may delegate authority to the board's officers to carry out the directions of the board.

(c) A resolution delegating powers of the board under this section must contain reasonable standards and parameters within which the delegated powers may be exercised.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-20

Failure of county with consolidated city to elect to participate; exemption from regulation and control of article

Sec. 20. (a) Notwithstanding this chapter, IC 13-21-5, and IC 13-21-13, and except as provided in subsection (b), unless the legislative body of a county having a consolidated city elects by ordinance to participate in the rules, ordinances, and governmental structures enacted or created under this article, the management of solid waste activities and the collection of fees on the disposal of solid waste in a final disposal facility located in that county are exempt from regulation or control under this article.

(b) The exemption under subsection (a) does not apply to IC 13-20-22-1.

As added by P.L.1-1996, SEC.11. Amended by P.L.113-2010, SEC.94.

IC 13-21-3-21

Approval and delivery of budget

Sec. 21. Before the board of a district may adopt an annual budget, the budget must be:

(1) approved by the department of local government finance; and

(2) sent to:

(A) the executive; and

(B) the fiscal body;

of each county and municipality located within the district as a matter of record.

As added by P.L.1-1996, SEC.11. Amended by P.L.90-2002, SEC.370.

IC 13-21-3-22

Contract with county to collect fees and revenue; delinquent payments

Sec. 22. (a) This subsection does not apply to the collection of

property taxes. The board of a district may contract with a county to collect fees and revenue for a board.

(b) A contract under this section must do all of the following:

(1) Describe the fees and revenue that will be collected.

(2) Describe the responsibilities of the district and the county.

(3) Describe any collection charges that a county will impose to reimburse the county for the administrative expenses of collecting fees and revenue.

(4) Establish the date or conditions under which the agreement expires.

(5) Be in writing.

A contract may include other necessary or appropriate terms.

(c) Before a contract under this section becomes effective:

(1) the county auditor and the county treasurer must consent to the terms of the contract; and

(2) the board of the district and the executive body for the county must approve the contract by resolution in a public meeting.

The written consent of the county auditor and county treasurer must be incorporated by reference into the resolution adopted by the county executive body.

(d) To carry out a contract under this section, a county executive body may establish a collection charge. The charge may not exceed the direct costs of collecting fees and revenue, including an allowance for computer reprogramming and other costs incurred to establish and maintain the collection program. Collection charges received by a county shall be deposited in the county general fund.

(e) Revenue and fees collected by a county shall be deposited in a separate fund and distributed to the district, without an appropriation or a claim, under the terms of the contract.

(f) A county may include a notice of the amount of fees, charges, or other revenue subject to this section in a property tax notice sent to a taxpayer.

(g) A county or the district may collect a delinquent payment subject to this section in the same manner as any general debt may be collected.

As added by P.L.1-1996, SEC.11.

IC 13-21-4

Chapter 4. Withdrawal or Removal of Counties From Solid Waste Management Districts

IC 13-21-4-1

Compliance with procedures

Sec. 1. If:

(1) a county seeks to withdraw from a joint district; or

(2) a joint district seeks to remove a county from the joint district;

the county or the joint district must follow the procedures set forth in this chapter.

As added by P.L.1-1996, SEC.11.

IC 13-21-4-2

County executives; resolutions; contents

Sec. 2. (a) If a county seeks to withdraw from a joint district that consists of more than two (2) counties, the county executive must:

(1) adopt two (2) identical resolutions:

(A) at least fifteen (15) days apart; and

(B) not more than forty-five (45) days apart; and

(2) submit both resolutions to the board of the joint district and to the commissioner.

The resolution must specify that the county withdraws from the joint district.

(b) If a county seeks to withdraw from and dissolve a joint district that consists of only two (2) counties, the county executive must:

(1) adopt two (2) identical resolutions:

(A) at least fifteen (15) days apart; and

(B) not more than forty-five (45) days apart; and

(2) submit both resolutions to the county executive of the other county and to the commissioner.

The resolution must specify that the county withdraws from and dissolves the joint district.

(c) If a joint district that consists of more than two (2) counties seeks to remove a county from the joint district, the county executive of each county that would remain in the joint district after the county is removed must:

(1) adopt two (2) identical resolutions:

(A) at least fifteen (15) days apart; and

(B) not more than forty-five (45) days apart; and

(2) submit both resolutions to the county executive of the county that would be removed and to the commissioner.

The resolution must specify that the joint district removes the county from the joint district.

As added by P.L.1-1996, SEC.11. Amended by P.L.74-2002, SEC.3.

IC 13-21-4-2.5

Effective date of withdrawal or removal of a county from a joint district

Sec. 2.5. (a) The withdrawal of a county from a joint district is effective upon:

(1) the later of:

(A) the date of delivery of both resolutions adopted under section (2)(a) of this chapter to the board of the joint district; or

(B) the effective date specified in the resolutions referred to in clause (A); or

(2) the later of:

(A) the date of delivery of both resolutions adopted under section (2)(b) of this chapter to the county executive of the other county; or

(B) the effective date specified in the resolutions referred to in clause (A).

(b) The removal of a county from a joint district is effective upon the later of:

(1) the latest date of delivery of all the resolutions adopted under section (2)(c) of this chapter to the county executive of the county that would be removed; or

(2) the effective date specified in the resolutions referred to in subdivision (1).

As added by P.L.74-2002, SEC.4.

IC 13-21-4-3

Financial impact analysis

Sec. 3. (a) A county executive of a county withdrawing from the district or the county executive of each county that would remain in a joint district after a county is removed from the district that adopts and submits the identical resolutions described in section 2 of this chapter shall prepare or pay for the preparation of an analysis concerning the legal obligations of:

(1) the joint district; and

(2) each county located in the joint district, including the county that would withdraw or be removed from the joint district;

that would remain after the county withdraws from the joint district or the joint district removes the county.

(b) A copy of the analysis shall be submitted to:

(1) the county executive of each county involved in the withdrawal or removal of a county from a joint district; and

(2) the commissioner;

not more than ninety (90) days after the date a resolution adopted under section 2 of this chapter takes effect.

As added by P.L.1-1996, SEC.11. Amended by P.L.74-2002, SEC.5.

IC 13-21-4-4

Responsibility for legal obligations

Sec. 4. (a) Except as provided in subsection (c), if a county withdraws from or is removed from a joint district that consists of more than two (2) counties, the county is responsible for its share of the legal obligations:

(1) entered into by the joint district before the September 20 that last precedes the date the identical resolutions adopted under section 2 of this chapter for the county's withdrawal or removal from the joint district take effect; and

(2) payable before the second January 1 that succeeds the September 20 referred to in subdivision (1).

(b) The legal obligations referred to in subsection (a) include the following:

(1) Contracts entered into by the joint district.

(2) Repayment of loan agreements entered into by the joint district.

(3) Payment of bonds issued by the joint district.

(4) Any other legal obligation entered into by the joint district.

(c) If a joint district consists of more than two (2) counties, the county executive of the county that withdraws or is removed from the joint district and the board of the joint district shall, not more than sixty (60) days after the date the state examiner issues a report under IC 5-11-1-9.7(b) with respect to the withdrawal or removal, enter into a written agreement that specifies the legal obligations of the county and the joint district after the date the identical resolutions adopted under section 2 of this chapter for the withdrawal or removal of the county take effect. A copy of the agreement shall be submitted to the commissioner.

(d) If a joint district consists of only two (2) counties:

(1) each county is responsible for its share of the legal obligations entered into by the joint district before the date the joint district is dissolved; and

(2) the county executive of each county shall enter into a written agreement concerning the division of the joint district's assets.

A copy of the agreement shall be submitted to the commissioner.

As added by P.L.1-1996, SEC.11. Amended by P.L.74-2002, SEC.6.

IC 13-21-4-5

Public meetings

Sec. 5. After an analysis described in section 3 of this chapter has been completed and the terms of any agreement have been tentatively agreed to under section 4(b) or 4(c) of this chapter, a public meeting must be held, not later than forty-five (45) days after the date the tentative agreement is reached, by:

(1) the county executive of each county located in the joint district; and

(2) the board of the joint district;

that concerns the remaining legal obligations of the joint district and each county located in the joint district and the terms of the tentative agreement. Each of the county executives may hold a public meeting required under this section individually or jointly with one (1) or more other county executives, the board of the joint district, or both. The board of the joint district may hold a public meeting required under this section individually or jointly with one (1) or more county executives.

As added by P.L.1-1996, SEC.11. Amended by P.L.74-2002, SEC.7.

IC 13-21-4-6
Designating new county district or joining new or existing joint districts; district plans

Sec. 6. (a) If a county withdraws from or the county executives of a joint district remove a county from a joint district, the county must:

(1) designate itself as a new county district;

(2) join one (1) or more other counties to form a new joint district; or

(3) join an existing joint district;

under the procedures set forth in IC 13-21-3.

(b) If a county:

(1) designates itself as a new county district; or

(2) joins one (1) or more other counties to form a new joint district;

the county district or new joint district shall submit a district plan to the commissioner as provided under IC 13-21-5.

(c) If a county joins an existing joint district, the joint district shall amend the joint district's district plan as provided under IC 13-21-5.

(d) If a county withdraws or is removed from a joint district that consists of more than two (2) counties, the joint district shall amend the joint district's district plan as provided under IC 13-21-5.

As added by P.L.1-1996, SEC.11. Amended by P.L.74-2002, SEC.8.

IC 13-21-4-7
Adoption of district plan

Sec. 7. A district plan described under section 6(b) of this chapter must be adopted by the:

(1) county executive of the county located in the new county district; or

(2) county executive of each county located in the new joint district;

not later than sixty (60) days after the date the district plan is filed with the commissioner under IC 13-21-5-21.

As added by P.L.1-1996, SEC.11. Amended by P.L.74-2002, SEC.9.

IC 13-21-4-8
Repealed

(Repealed by P.L.74-2002, SEC.11.)

IC 13-21-4-9
Repealed

(Repealed by P.L.74-2002, SEC.11.)

IC 13-21-5

Chapter 5. District Solid Waste Management Plan

IC 13-21-5-1

Adoption of plan; submission to commissioner; requirements and criteria

Sec. 1. Each district shall adopt and submit to the commissioner for approval a district solid waste management plan that meets:

(1) the requirements of this chapter; and

(2) the criteria and other elements set forth in the state plan.

As added by P.L.1-1996, SEC.11.

IC 13-21-5-2

Public meetings; notice

Sec. 2. (a) A district must conduct at least one (1) regularly scheduled public meeting each month before the creation, amendment, or alteration of the district solid waste management plan. The board shall give notice of each public meeting in accordance with IC 5-14-1.5. In addition, a copy of the schedule of regularly scheduled monthly meetings shall annually be submitted for publication to a newspaper of general circulation in each county of the district. The notice:

(1) must be at least two (2) columns wide by five (5) inches long; and

(2) may not be placed in the part of the newspaper where legal notices and classified advertisements appear.

(b) Public comments shall be taken at each board meeting.

As added by P.L.1-1996, SEC.11.

IC 13-21-5-3

Public meetings; hearing; notice

Sec. 3. (a) After considering public comment received during all public meetings held under section 2 of this chapter, the board shall hold a public hearing on the proposed plan before adopting a district plan in final form.

(b) The board shall make the proposed plan available to the public at least thirty (30) days before the date the public hearing is held.

(c) The board shall give public notice of the hearing held under this section.

As added by P.L.1-1996, SEC.11.

IC 13-21-5-4

Public meetings; format of plan

Sec. 4. (a) The department shall furnish a model format to be used in the preparation of district plans under this chapter.

(b) A district plan adopted before January 1, 1991, may use a format different from the format furnished under subsection (a), but the commissioner may request that such a plan be revised to conform to the model format furnished under subsection (a).

As added by P.L.1-1996, SEC.11.

IC 13-21-5-5
Public meetings; advisory committee

Sec. 5. (a) An advisory committee established under IC 13-21-3-11 must conduct at least one (1) regularly scheduled public meeting each month before reporting to the board on any matter.

(b) After a board adopts a district plan, the advisory committee appointed by the board shall meet as follows:

(1) At least four (4) times each year.

(2) At the request of the board.

(c) Public comments shall be taken at each advisory committee meeting.

As added by P.L.1-1996, SEC.11.

IC 13-21-5-6
Review of working documents

Sec. 6. A board:

(1) must make all working documents available for review by the public for a period of time that allows sufficient time for adequate review before a public meeting of the board; and

(2) shall make updated copies of working documents available to the public on a regular basis.

As added by P.L.1-1996, SEC.11.

IC 13-21-5-7
Special meetings; notice

Sec. 7. (a) If the board conducts a meeting other than a regularly scheduled public meeting conducted under section 2 of this chapter:

(1) notice of the meeting must be given in accordance with IC 5-14-1.5-5;

(2) an agenda of the meeting must be posted at least forty-eight (48) hours in advance under IC 5-14-1.5-4; and

(3) the board shall notify a general circulation newspaper in each county that makes up the district of the meeting and the agenda to be discussed.

(b) The notice to the newspaper under this section shall be given by:

(1) first class mail if notice can reasonably be expected to reach the newspaper at least forty-eight (48) hours before the meeting; and

(2) telephone if notice cannot reasonably be expected to reach the newspaper under subdivision (1).

(c) At the meeting, the board may discuss only those matters that were indicated on the meeting agenda prepared under this section.

As added by P.L.1-1996, SEC.11.

IC 13-21-5-8
Approval or disapproval of plan

Sec. 8. (a) Based upon the contents of the state plan and on rules adopted by the board, the commissioner shall approve or disapprove

each district plan submitted for review under this chapter within one hundred twenty (120) days after the plan is submitted to the commissioner.

(b) If the commissioner fails to act within one hundred twenty (120) days after a district plan is submitted, the district plan is considered approved.

As added by P.L.1-1996, SEC.11.

IC 13-21-5-9

Notification of disapproval; revision; hearing; time limitations

Sec. 9. (a) If the commissioner disapproves a district plan submitted by a board, the commissioner shall promptly:

(1) notify the board of the disapproval of the district plan; and

(2) provide written comments on changes that would make the district plan acceptable.

(b) The district shall do the following:

(1) Revise the district plan.

(2) Resubmit the plan to the commissioner within ninety (90) days after the disapproval of the original district plan.

(c) Before adoption of the revised district plan, the board shall hold a public hearing using the procedures in section 3 of this chapter.

(d) The commissioner shall approve or disapprove a revised district plan within one hundred twenty (120) days after the revised plan is submitted to the commissioner. If the commissioner fails to act within one hundred twenty (120) days after a revised plan is submitted, the revised plan is considered approved.

As added by P.L.1-1996, SEC.11.

IC 13-21-5-10

Information provided by department to assist counties

Sec. 10. The department shall provide information to assist counties to do the following:

(1) Establish districts.

(2) Develop district plans under this chapter.

As added by P.L.1-1996, SEC.11.

IC 13-21-5-11

Requirements of plan

Sec. 11. A district plan must include the following:

(1) The results of a demographic study of the district predicting the population of the district:

(A) five (5) years;

(B) ten (10) years; and

(C) twenty (20) years;

after the year the district plan is adopted.

(2) A:

(A) description of the origin, content, and weight or volume of the solid waste to be generated in the district at the time of the development of the district plan; and

(B) projection of the origin, content, and weight or volume of the solid waste to be generated in the district:
(i) five (5) years;
(ii) ten (10) years; and
(iii) twenty (20) years;
after the year the district plan is adopted.
(3) An inventory and description of the following:
(A) The facilities located within the district.
(B) The solid waste management activities taking place within the district.
(4) A statement identifying and assessing solid waste problems that:
(A) exist in the district at the time of the development of the district plan; and
(B) may exist in the district in the future.
(5) A:
(A) projection of the need for; and
(B) description of;
facilities in the district five (5) years, ten (10) years, and twenty (20) years after the year the district plan is adopted.
As added by P.L.1-1996, SEC.11.

IC 13-21-5-12
Solid waste management policy required
Sec. 12. (a) A district plan must establish a solid waste management policy for the district that reflects the needs of the district and provides an integrated approach to solid waste management that includes the following:
(1) Source reduction.
(2) Alternatives to complete or partial dependence on final disposal facilities, including recycling and composting.
(3) Final disposal facilities.
(b) A district plan must contain a strategy to promote and educate the public regarding the benefits of managing vegetative matter by:
(1) composting;
(2) mulching; and
(3) any other environmentally appropriate manner the board may determine, other than the disposing of vegetative matter in a landfill.
As added by P.L.1-1996, SEC.11.

IC 13-21-5-13
Required contents of plan
Sec. 13. A district plan must do the following:
(1) Set forth goals and objectives for the district.
(2) Identify alternative means of achieving these goals and objectives based upon the problems and needs of the district.
(3) Set forth a description of the following:
(A) The operational costs and capital costs of implementing the district plan.

(B) The proposed means of financing the implementation of the district plan.

(4) Set forth the basis for setting fees, rates, and charges for use of any facility.

(5) Designate a person to supervise the implementation of the district plan and describe the responsibilities and authority of that person.

(6) Describe the surveillance and enforcement procedures to be implemented to ensure compliance with the district plan.

As added by P.L.1-1996, SEC.11.

IC 13-21-5-14

Disposal of certain waste materials required by plan

Sec. 14. (a) A district plan must also include provisions for the management and disposal of the following materials for the term of the plan:

(1) Waste tires.

(2) Household hazardous waste.

(3) Used oil.

(4) White goods.

(5) Other classifications of waste provided for in the state plan.

(b) A district plan that sets forth provisions for the management and disposal of materials identified in subsection (a) must comply with all laws and rules governing the management and disposal of those materials.

As added by P.L.1-1996, SEC.11.

IC 13-21-5-15

Optional provisions to restrict disposal of solid waste from another state

Sec. 15. A district plan may, to the extent the provisions are constitutionally permissible, include provisions to restrict or prohibit the disposal within the district of solid waste originating from another state if the district reasonably considers the provisions necessary to accomplish the long range planning goals of the district.

As added by P.L.1-1996, SEC.11.

IC 13-21-5-16

Considerations and limitations of plan

Sec. 16. (a) A district plan must consider, in all circumstances, contracts with private persons.

(b) A district plan or amended plan must, where reasonably necessary to effectuate the efficient use of existing permitted final disposal facilities, take account of permitted final disposal facilities in the district that are in operation at the time the district plan is adopted. A district plan or amended plan must incorporate all recycling activities in progress in the district at the time the district plan is adopted or amended.

(c) A district plan may not impose operational requirements on a privately owned or operated facility that differ from operational

requirements imposed on a public facility solely because the facility is privately owned or operated.
As added by P.L.1-1996, SEC.11.

IC 13-21-5-17
Failure to submit plan; disapproval of revision; adoption of plan by commissioner

Sec. 17. If:

(1) a district fails to submit a district plan to the commissioner under section 1 of this chapter; or

(2) the commissioner disapproves a revised district plan submitted by the district under section 9 of this chapter;

the commissioner may adopt a solid waste management plan for the district.
As added by P.L.1-1996, SEC.11.

IC 13-21-5-18
Amendment of plan; procedures; filing and implementation

Sec. 18. (a) A district may amend the district's solid waste management plan at any time using the procedures set forth in sections 1 through 7 of this chapter.

(b) A district shall amend its district plan using the procedures set forth in sections 1 through 7 of this chapter if the district decides to implement one (1) of the following programs and the program is not addressed in the district's district plan or the district decides to not implement one (1) of the following programs and the program is addressed in the district's district plan:

(1) A program involving a facility that requires a permit from or registration with the department.

(2) A program involving a facility for processing recyclable materials.

(3) A program for collecting recyclables.

(4) A major education program.

(c) An amended plan prepared under this section:

(1) shall be immediately filed with the commissioner; and

(2) may be implemented after filing unless the commissioner notifies the district in writing within thirty (30) days after the filing that the amended plan fails to comply with the state plan. The written notice of the commissioner must also provide written comments on changes that would make the amended plan acceptable.

(d) An amended district plan prepared under this section shall be filed:

(1) on a form; or

(2) in a format;

provided by the department.
As added by P.L.1-1996, SEC.11.

IC 13-21-5-19
Merged districts; adoption of plan

Sec. 19. (a) Before a district submits a district plan to the department under this chapter, a district may merge with one (1) or more other districts after the adoption of identical resolutions by the board of each district to be merged.

(b) Upon adoption of identical resolutions under subsection (a), a board for the resulting merged district shall be established using the procedures set forth in IC 13-21-3.

As added by P.L.1-1996, SEC.11.

IC 13-21-5-20

Merger of districts; adoption of identical resolutions; time limitations; notice of noncompliance

Sec. 20. (a) After a district submits a district plan to the department under this chapter, a district may merge with one (1) or more other districts after the adoption of identical resolutions by the board of each district to be merged.

(b) Upon adoption of identical resolutions under subsection (a), a board for the resulting merged district shall be established using the procedures set forth in IC 13-21-3.

(c) A merged district shall:

(1) adopt a district plan under sections 1 through 7 of this chapter not later than sixty (60) days after the merger is completed; and

(2) file the district plan with the commissioner.

The new district plan may be an amended version of the previous approved plans submitted under the new district name. A merger under subsection (a) does not take effect until the district plan is filed with the commissioner.

(d) A district plan adopted under this section is considered approved unless the commissioner notifies the district in writing not later than thirty (30) days after the district plan is filed with the commissioner that the district plan fails to comply with the state plan. The notice provided by the commissioner must include comments concerning changes to the district plan that would make the district plan acceptable.

As added by P.L.1-1996, SEC.11.

IC 13-21-5-21

Withdrawal or removal of counties from joint districts; plan requirements; notice of noncompliance

Sec. 21. (a) If a county seeks to withdraw from a joint district or a joint district seeks to remove a county from the joint district under IC 13-21-4 and the county:

(1) designates itself as a county district;

(2) joins into an existing joint district; or

(3) joins with one (1) or more other counties in establishing a new joint district;

the county district or the joint district shall comply with this section.

(b) If a county that withdraws from a joint district designates itself as a county district, the board appointed for the new county district

under IC 13-21-3-4 shall file a district plan with the commissioner not later than one (1) year after the date the identical resolutions adopted under IC 13-21-4-2 for the county's withdrawal from the joint district take effect. The district plan of the joint district continues to serve as the plan for the new county district to the extent the terms of the plan apply to the new county district until the plan of the new county district is approved under this chapter. If the board fails to file the district plan with the commissioner not later than one (1) year after the effective date of the identical resolutions, the commissioner may adopt a district plan for the new county district.

(c) If a county that is removed by a joint district designates itself as a county district, the board appointed for the new county district under IC 13-21-3-4 shall file a district plan with the commissioner not later than one (1) year after the date the identical resolutions adopted under IC 13-21-4-2 for the county's removal from the joint district take effect. The district plan of the joint district continues to serve as the plan for the new county district to the extent the terms of the plan apply to the new county district until the plan of the new county district is approved under this chapter. If the board fails to file the district plan with the commissioner not later than one (1) year after the effective date of the identical resolutions, the commissioner may adopt a district plan for the new county district.

(d) If a county joins into an existing joint district, the board of the joint district:

(1) must approve the addition of the county to the district;

(2) shall amend the district plan to include the additional county; and

(3) shall file the amended district plan with the commissioner not later than one (1) year after the addition of the county to the district.

The district plan of the joint district continues to serve as the plan for the new joint district until the date the amended district plan is approved under this chapter. If the board fails to file the amended district plan with the commissioner not later than one (1) year after the addition of the county to the district, the commissioner may adopt a district plan for the new joint district.

(e) If a county joins in establishing a new joint district, the board of the new joint district shall, not later than one (1) year after:

(1) the adoption of an ordinance establishing the joint district; and

(2) approving an agreement governing the operation of the joint district;

file a new district plan with the commissioner. If the board fails to file the new district plan with the commissioner not later than one (1) year after the adoption and approval under subdivisions (1) and (2), the commissioner may adopt a district plan for the new joint district.

(f) If a county withdraws from a joint district that consists of more than two (2) counties, the board of the joint district shall:

(1) restructure the joint district's board under IC 13-21-3 not later than forty-five (45) days; and

(2) amend the district plan under sections 1 through 7 of this chapter and file the amended district plan with the commissioner not later than one (1) year;

after the date the identical resolutions adopted under IC 13-21-4-2 for the county's withdrawal from the joint district take effect. The district plan of the joint district continues to serve as the plan for the new joint district to the extent the terms of the plan apply to the new joint district until the amended plan of the new joint district is approved under this chapter. If the board fails to file the amended district plan with the commissioner not later than one (1) year after the effective date of the identical resolutions, the commissioner may adopt a district plan for the new joint district.

(g) If a county is removed from a joint district that consists of more than two (2) counties, the board of the joint district shall:

(1) restructure the joint district's board under IC 13-21-3 not later than forty-five (45) days; and

(2) amend the district plan under sections 1 through 7 of this chapter and file the amended district plan with the commissioner not later than one (1) year;

after the date the identical resolutions adopted under IC 13-21-4-2 for the county's removal from the joint district take effect. The district plan of the joint district continues to serve as the plan for the new joint district to the extent the terms of the plan apply to the new joint district until the amended plan of the new joint district is approved under this chapter. If the board fails to file the amended district plan with the commissioner not later than one (1) year after the effective date of the identical resolutions, the commissioner may adopt a district plan for the new joint district.

(h) A district plan adopted under this section is considered approved unless the commissioner notifies the district in writing not later than thirty (30) days after the district plan is filed with the commissioner that the district plan fails to comply with the state plan. The notice provided by the commissioner must include comments concerning changes to the district plan that would make the district plan acceptable.

(i) With respect to a joint district that consists of only two (2) counties, if the county other than the county that withdraws from the joint district designates itself as a county district, the board appointed for the new county district under IC 13-21-3-4 shall file a district plan with the commissioner not later than one (1) year after the date the identical resolutions adopted under IC 13-21-4-2 for the withdrawal from the joint district take effect. The district plan of the joint district continues to serve as the plan for the new county district to the extent the terms of the plan apply to the new county district until the plan of the new county district is approved under this chapter. If the board fails to file the district plan with the commissioner not later than one (1) year after the effective date of the identical resolutions, the commissioner may adopt a district plan for the new county district.

As added by P.L.1-1996, SEC.11. Amended by P.L.74-2002, SEC.10.

IC 13-21-6

Chapter 6. Contracts and Agreements for Construction or Operation of Solid Waste Management Facilities

IC 13-21-6-1

Length, duration, and terms; amendments, extensions, and supplements; maximum term

Sec. 1. (a) Notwithstanding any other statute concerning the length, duration, and terms of contracts and agreements, a board may enter into a contract or an agreement with a person, upon terms and conditions as agreed upon, for the:

(1) design;
(2) construction;
(3) operation;
(4) financing;
(5) ownership; or
(6) maintenance;

of a facility for solid waste management in accordance with the requirements and conditions of this chapter.

(b) Before or after the expiration or termination of the term or duration of a contract or an agreement entered into under this chapter or IC 13-9.5-8 (before its repeal), the board, in accordance with the requirements and conditions of this chapter, may periodically enter into amended, extended, supplemental, new, or further contracts or agreements with the same person or any other person for any purpose referred to in this chapter.

(c) A contract, including all amendments, extensions, and supplements, may not exceed a term of forty (40) years.

As added by P.L.1-1996, SEC.11.

IC 13-21-6-2

Award of contract

Sec. 2. Notwithstanding any other statute, a contract entered into between a board and any person under this chapter may be awarded by the board by:

(1) public bidding in compliance with IC 36-1-12; or
(2) compliance with sections 3 through 8 of this chapter.

As added by P.L.1-1996, SEC.11.

IC 13-21-6-3

Request for qualifications and proposals

Sec. 3. (a) A board may, by resolution, require that a person that desires to submit a proposal in response to a request for proposals must prequalify as a proposer by submitting information, in response to a request for qualifications, relating to the following:

(1) The experience of the proposer.
(2) The basis on which the proposer purports to be qualified to carry out all work required by a proposed contract.
(3) The financial condition of the proposer.

(b) The board may set minimum requirements regarding these

qualifications in a request for qualifications.
As added by P.L.1-1996, SEC.11.

IC 13-21-6-4
Notice; time limitations

Sec. 4. (a) Before the issuance of a request for proposals under this chapter, the board must do the following:

(1) Adopt a proposed request for proposals by resolution.

(2) Publish a public notice that may contain a request for qualifications if a prequalification process has been adopted under section 3 of this chapter, including the criteria on which proposers may be selected.

(b) The public notice must do the following:

(1) Include the intent to issue a request for proposals.

(2) Designate times and places where the proposed request for proposals may be viewed by the general public.

(3) State the time of commencement of the thirty (30) day period established in this section, which constitutes the event referred to in IC 5-3-1-2.

(c) The board shall allow not more than a thirty (30) day period for the following:

(1) The submission of qualifications, if required.

(2) Comments on the proposed request for proposals.

(d) After the thirty (30) day period described in subsection (c) expires, the board shall do the following:

(1) Select at least one (1) proposer.

(2) Adopt a request for proposals.

(e) Comments may be addressed to the scope or contents of the proposed request for proposals.

(f) The board shall do the following:

(1) Notify each proposer of their selection.

(2) Inform each proposer of the date and place proposals are to be submitted.

(3) Deliver to each proposer a copy of the request for proposal.
As added by P.L.1-1996, SEC.11.

IC 13-21-6-5
Final form

Sec. 5. (a) The board may do the following:

(1) Prescribe the form and content of proposals.

(2) In the request for proposals, set the maximum allowable cost limits that the board determines to be appropriate.

(b) The proposer must submit sufficiently detailed information to permit a fair and equitable evaluation by the board of the proposal.
As added by P.L.1-1996, SEC.11.

IC 13-21-6-6
Receipt of proposals; time limitations

Sec. 6. Proposals may not be received before thirty (30) days following notification to the proposers of their selection.

As added by P.L.1-1996, SEC.11.

IC 13-21-6-7
Criteria for consideration in evaluation of proposals

Sec. 7. The board:

(1) shall evaluate proposals received under this chapter with regard to net cost or net revenues; and

(2) in the manner consistent with provisions set forth in the requests for proposals, may evaluate proposals on the basis of additional factors such as the following:

(A) The technical evaluation of facility design.

(B) Net energy efficiency.

(C) Environmental protection.

(D) Overall system reliability.

(E) Financial condition of the proposer.

As added by P.L.1-1996, SEC.11.

IC 13-21-6-8
Preliminary contract awards; public hearing; notice; final form

Sec. 8. (a) The board may:

(1) negotiate with the proposers; and

(2) make a preliminary contract award to any responsible proposer.

(b) The board shall give public notice of a public hearing, which must designate the time and place of a public hearing at which the board will hear comments upon the preliminary contract to be awarded.

(c) Following the public hearing, the board shall make a final contract award to any responsible proposer selected under this chapter based on a determination that the selected proposal is the most responsive to the needs of the district. The final contract award must:

(1) be in the form of a resolution; and

(2) include particularized findings relative to factors evaluated under section 7 of this chapter indicating that:

(A) the district's needs are met by the final contract award; and

(B) the action is in the public interest.

As added by P.L.1-1996, SEC.11.

IC 13-21-6-9
Request for proposals; required information

Sec. 9. Requests for proposals must include the following:

(1) A clear identification and specification of all elements of cost that will become charges to the district, in whatever form, in return for the fulfillment by the proposer of all tasks and responsibilities established by the request for proposals for the full lifetime of a proposed contract, including matters such as the following:

(A) Proposals for project staffing.

(B) Implementation of all work tasks.

(C) Carrying out of all responsibility required by the proposed contract.

(D) The cost of planning, design, construction, operation, management, or maintenance of any facility.

(E) The cost of solid waste management.

(2) A clear identification and specification of any revenues that would accrue to the district from the sale of any byproducts or from any other source.

(3) Other information that the board determines to have a material bearing on the board's ability to evaluate a proposal in accordance with this chapter.

As added by P.L.1-1996, SEC.11.

IC 13-21-6-10

Contesting validity of contract awarded; time limitation on bringing action

Sec. 10. An action to contest:

(1) the validity of a contract awarded; or

(2) the procedure by which the contract was awarded;

must be brought within thirty (30) days following the final contract award. After that date, the contract is incontestable for any cause.

As added by P.L.1-1996, SEC.11.

IC 13-21-7

Chapter 7. Financing: Waste Management District Bonds

IC 13-21-7-1

Special taxing districts

Sec. 1. (a) A special taxing district is established in each solid waste management district established under IC 13-21-3 or IC 13-9.5-2 (before its repeal) for the purpose of providing persons within the district with solid waste management service.

(b) The special taxing district is coterminous with the territory of the district.

As added by P.L.1-1996, SEC.11.

IC 13-21-7-2

Waste management district bonds; bidding requirements for facility

Sec. 2. The board may issue waste management district bonds under this chapter for the payment of the cost of the facility. Before authorizing the waste management district bonds, the board may:

(1) accept public bids for the facility; or

(2) adopt a resolution approving a request for proposals under IC 13-21-6.

As added by P.L.1-1996, SEC.11.

IC 13-21-7-3

Resolution to construct, modify, acquire, or maintain facility; public notice

Sec. 3. (a) When:

(1) plans and specifications have been prepared according to the public bidding requirements of IC 36-1-12; or

(2) a resolution approving a request for proposals has been adopted by the board;

the board may adopt a resolution declaring that, upon investigation, the board has found it necessary for the public health and welfare, and of public utility and benefit, to construct, modify, or acquire, and maintain if constructed the facility and to acquire the property described for that purpose.

(b) The resolution shall be kept open to inspection by all persons interested in or affected by the acquisition of the property or the construction of the facility.

(c) Upon adoption of the resolution, the board shall give public notice of the adoption and the resolution's purpose. The notice must name a date not later than ten (10) days after the date of the last publication of the notice on which the board will do the following:

(1) Receive or hear remonstrances from persons interested in or affected by the facility.

(2) Determine the public utility and benefit of the facility.

As added by P.L.1-1996, SEC.11.

IC 13-21-7-4

Hearing; remonstrance; final action

Sec. 4. (a) At:

(1) the time fixed for the hearing; or

(2) any time before that;

any person owning real or personal property within the district may file a written remonstrance with the board.

(b) At the hearing, which may be adjourned as necessary, the board shall hear all persons interested in the proceedings and all remonstrances filed.

(c) After considering the remonstrances, the board shall:

(1) take final action determining the public utility and benefit of the proposed proceedings; and

(2) either:

(A) confirm;

(B) modify and confirm; or

(C) rescind;

the resolution.

(d) The final action of the board shall be recorded.

(e) The action of the board is final and conclusive upon all persons. However, any person who:

(1) has remonstrated in writing; and

(2) is aggrieved by the decision of the board;

may take an appeal as provided in section 5 of this chapter.

As added by P.L.1-1996, SEC.11.

IC 13-21-7-5

Appeals

Sec. 5. (a) If the board takes final action confirming the resolution in an original or modified form, a person who has filed a written remonstrance with the board as provided in section 4 of this chapter may appeal to the circuit or superior court of the county in which the person resides.

(b) Within ten (10) days after the final action of the board, the remonstrator must file in the office of the clerk of the court the following:

(1) A copy of the resolution of the board.

(2) The remonstrance.

(3) A surety bond conditioned to pay the costs of the appeal if the appeal is determined against the remonstrator.

(c) The only ground of remonstrance of which the court has jurisdiction on appeal is the question of whether it will be of public utility and benefit to construct, modify, or acquire the proposed facility. The burden of proof is upon the remonstrator. The cause shall be summarily tried by the court without a jury.

(d) The court shall do the following:

(1) Consolidate and hear all remonstrances upon which an appeal are taken as one (1) cause of action.

(2) Hear and determine the cause within thirty (30) days after the time of filing the appeal.

(3) Upon the date fixed for hearing:

(A) hear evidence upon the remonstrances; and
(B) confirm the final action of the board on the resolution or sustain the remonstrance.

As added by P.L.1-1996, SEC.11.

IC 13-21-7-6
Certified copy of resolution and approval to controller

Sec. 6. On adopting a resolution ordering the issuance of waste management district bonds, the board shall certify a copy of:

(1) the resolution; and
(2) the approval;

to the controller of the district, who shall prepare the bonds.

As added by P.L.1-1996, SEC.11.

IC 13-21-7-7
Waste management district bonds not corporate obligation or unit indebtedness

Sec. 7. (a) The waste management district bonds:

(1) are special obligations of the district; and
(2) are not, in any respect, a corporate obligation or indebtedness of the units that comprise the district.

(b) The waste management district bonds issued under this chapter or IC 13-9.5-9-3 (before its repeal) and the interest on the bonds are payable out of a special tax levied upon all of the property of the district and any other revenues made available for that purpose under this article. The waste management district bonds must recite these terms on the face of the bonds together with the purpose for which the bonds are issued.

As added by P.L.1-1996, SEC.11.

IC 13-21-7-8
Proceeds from sale of bonds; use of funds

Sec. 8. All proceeds from the sale of waste management district bonds shall be kept as a separate and specific fund to pay the cost of the facility, and none of the proceeds may be used for any other purpose, except as provided in IC 5-1-13 and IC 5-1-14. However, money derived from sources other than the waste management district bond proceeds, such as state or federal grants or other contributions, are not restricted as to application even if the contribution arises for a project financed from waste management district bond proceeds.

As added by P.L.1-1996, SEC.11.

IC 13-21-7-9
Special tax on real property

Sec. 9. (a) For the purpose of raising money to pay waste management district bonds issued under this chapter or IC 13-9.5-9-3 (before its repeal), the board shall levy each year a special tax upon all the real property of the district in the amount and the manner necessary to meet and pay the following:

(1) The principal of the waste management district bonds as the bonds severally mature.
(2) All accruing interest on the bonds.

(b) The tax constitutes the amount of benefits resulting to all of the property in the district.

As added by P.L.1-1996, SEC.11.

IC 13-21-7-10

Certification of tax levy; distribution of tax

Sec. 10. (a) The tax levied each year shall be certified to the following:

(1) The controller of the district.
(2) The county auditor of each county within the district.

(b) The:

(1) county auditor shall estimate and enter the tax levied and certified upon the tax duplicate; and
(2) county treasurer shall collect and enforce the tax;

in the same manner as county taxes are estimated, entered, collected, and enforced.

(c) As the county treasurer collects the tax, the tax shall be:

(1) transferred to the controller of the district;
(2) kept in a separate fund to be known as the waste management district bond fund; and
(3) applied to the payment of the principal of and interest on the waste management district bonds as the bonds become due and to no other purpose, except as provided in IC 5-1-13 and IC 5-1-14.

As added by P.L.1-1996, SEC.11.

IC 13-21-7-11

Factors to consider in determining amount of tax levy

Sec. 11. (a) In fixing the amount of the necessary levy, the board shall consider:

(1) the amount of net revenues, if any, to be derived from the collection of fees under this article; or
(2) any other net revenues collected under the following:
    (A) IC 13-21-3-13.
    (B) This chapter.
    (C) IC 13-21-8 through IC 13-21-12.
    (D) IC 13-21-14.

(b) Instead of making the levy or to reduce the amount of the levy, the board shall annually set aside by resolution the amount of the net revenues to be collected before maturity of the principal and interest of the waste management district bonds payable in the following year.

(c) If the board adopts this resolution under subsection (b), the board may not use any part of the amount set aside out of the net revenues for any purpose other than the payment of waste management district bonds and the interest on the bonds. A proportionate payment of this amount shall be made monthly to the

fund.
As added by P.L.1-1996, SEC.11.

IC 13-21-7-12
Issuance of waste management district bonds under certain circumstances

Sec. 12. (a) The district may not issue waste management district bonds under this chapter that are payable by special taxation or fees under IC 13-21-14 in a total amount, including outstanding bonds already issued, exceeding six percent (6%) of the adjusted value of taxable property in the district as determined under IC 36-1-15.

(b) All waste management district bonds issued in violation of this section or IC 13-9.5-9-3(k) (before its repeal) are void.
As added by P.L.1-1996, SEC.11. Amended by P.L.6-1997, SEC.157.

IC 13-21-8

Chapter 8. Financing: Revenue Bonds

IC 13-21-8-1

Borrowing money and issuing revenue bonds

Sec. 1. A board may finance the cost of facilities by borrowing money and issuing revenue bonds under this chapter.

As added by P.L.1-1996, SEC.11.

IC 13-21-8-2

Authorization by board of resolution

Sec. 2. The issuance of revenue bonds must be authorized by a resolution of the board.

As added by P.L.1-1996, SEC.11.

IC 13-21-8-3

Revenue bonds; definition; contents

Sec. 3. (a) The revenue bonds:

(1) are special obligations of the district;

(2) are payable solely from and secured by a lien upon the revenues of all or part of the facilities whether or not the facilities are being financed with revenue bonds under this chapter or IC 13-9.5-9-4 (before its repeal), as shall be more fully described in the resolution authorizing the issuance of the revenue bonds; and

(3) including interest, are not:

(A) a debt of the board, the district, or the units that comprise the district; or

(B) a charge, a lien, or an encumbrance, legal or equitable, upon:

(i) the property of the board;

(ii) the property of the district; or

(iii) the revenues of the board or district other than the revenues of the facilities that have been pledged to the payment of the revenue bonds.

(b) Each revenue bond must recite in substance that:

(1) the revenue bond, including interest, is payable solely from the revenues pledged to the bond's payment; and

(2) neither the board or the district is under any obligation to pay the bond, except from those revenues.

As added by P.L.1-1996, SEC.11.

IC 13-21-8-4

Security of bonds

Sec. 4. (a) The resolution may pledge and assign for the security of the revenue bonds all or part of the revenues or net revenues of the facilities.

(b) To adequately secure the payment of the revenue bonds and the interest on the bonds, the district and the district's officers, agents, and employees shall provide for the covenants and do other acts and

things that:

(1) are necessary, convenient, or desirable to secure the revenue bonds; or

(2) may tend to make the revenue bonds more marketable.

As added by P.L.1-1996, SEC.11.

IC 13-21-9

Chapter 9. Financing: Waste Management Development Bonds

IC 13-21-9-1

Financing facilities; negotiations

Sec. 1. A board may periodically enter into negotiations with one (1) or more persons concerning the terms and conditions of financing facilities. Preliminary expenses in connection with negotiations may be paid from any of the following:

(1) Money furnished by the proposed user or developer.

(2) Grant money.

(3) Money of the board.

As added by P.L.1-1996, SEC.11.

IC 13-21-9-2

Public hearing and notice; financing agreement

Sec. 2. (a) The board shall hold a public hearing on the proposed financing of the facilities after giving public notice.

(b) Upon findings by the board that:

(1) the proposed financing will benefit the health or welfare of the district; and

(2) the proposed financing complies with the purposes and provisions of this article;

the board shall adopt a resolution to approve the financing, including the form and terms of the financing agreement, the waste management development bonds, and the trust indenture, if any.

As added by P.L.1-1996, SEC.11.

IC 13-21-9-3

Waste management development bonds

Sec. 3. (a) The resolution adopted under section 2 of this chapter may also authorize the issuance of waste management development bonds payable solely from:

(1) revenues and receipts derived from a financing agreement; or

(2) payments made under a guaranty agreement by a developer, user, or any other person.

(b) The waste management development bonds are not in any respect a general obligation of the district.

As added by P.L.1-1996, SEC.11.

IC 13-21-9-4

Financing agreement; payments; term; retention of interest in facility by district

Sec. 4. (a) A financing agreement must provide for payments in an amount not less than an amount sufficient to pay:

(1) the principal of;

(2) the premium, if any, of; and

(3) interest on;

the waste management development bonds authorized for the financing of the facilities.

(b) The term of a financing agreement may not exceed forty (40) years from the date of any waste management development bonds issued under the agreement. However, a financing agreement does not terminate after forty (40) years if a default under the agreement remains uncured, unless the termination is authorized under the terms of the financing agreement.

(c) If the district retains an interest in the facilities, the financing agreement must require the user or developer to pay all:

(1) costs of maintenance and repair;
(2) taxes;
(3) assessments;
(4) insurance premiums;
(5) trustee's fees; and
(6) any other expenses relating to the facilities;

so that the district will not incur any expenses due to the facilities that are not covered by the payments provided for in the financing agreement.

As added by P.L.1-1996, SEC.11.

IC 13-21-9-5

Bonds; expenses, premiums, and commissions

Sec. 5. The district may advance all expenses, premiums, and commissions that the district considers necessary or advantageous in connection with the issuance of bonds issued under this chapter.

As added by P.L.1-1996, SEC.11.

IC 13-21-9-6

Exemption from property tax on facilities

Sec. 6. (a) The district is exempt from all property taxes on facilities.

(b) Developers and users are liable for property taxes on facilities as provided by law.

(c) This chapter does not deny a tax exemption that a developer or user may have under other laws because of the nature of the facilities or the user.

As added by P.L.1-1996, SEC.11.

IC 13-21-9-7

Approvals and permits

Sec. 7. The user or developer is responsible for obtaining and maintaining all approvals and permits required for the construction of the facilities under this chapter.

As added by P.L.1-1996, SEC.11.

IC 13-21-10

Chapter 10. Financing: Refunding of Outstanding Bonds

IC 13-21-10-1

Issuance of bonds to refund outstanding bonds

Sec. 1. If a board finds that a refunding of outstanding bonds would:

(1) be of benefit to the health and welfare of the district; and

(2) comply with the purposes and provisions of this article;

the board may authorize the issuance of bonds under IC 5-1-5 to refund outstanding bonds issued in accordance with this article or IC 13-9.5-9 (before its repeal).

As added by P.L.1-1996, SEC.11.

IC 13-21-11

Chapter 11. Financing: Borrowing Evidenced by Notes

IC 13-21-11-1

Anticipation notes

Sec. 1. A district:

(1) pending receipt of a grant; or

(2) in anticipation of the issuance of bonds under this article;

may borrow money from any person and evidence the debt by a note or notes executed by the chairperson of the board and the controller of the district and containing the terms and provisions prescribed by the board.

As added by P.L.1-1996, SEC.11.

IC 13-21-11-2

Sale of notes

Sec. 2. An issuance of a note or notes or evidence of indebtedness under this chapter or IC 13-9.5-9-7 (before its repeal) may be sold at a public or private negotiated sale.

As added by P.L.1-1996, SEC.11.

IC 13-21-11-3

Term

Sec. 3. A note or notes issued or renewed under this chapter must:

(1) mature not more than five (5) years from the date of issuance of the original note; and

(2) pledge for the payment of the principal and interest the proceeds of the grant or bonds.

As added by P.L.1-1996, SEC.11.

IC 13-21-11-4

Application of proceeds

Sec. 4. The board shall apply the proceeds of a note issued under this chapter or IC 13-9.5-9-7 (before its repeal) to the cost of the facility for which the grant is to be made or bonds issued, although a purchaser of any obligations is not liable for the proper application of the proceeds.

As added by P.L.1-1996, SEC.11.

IC 13-21-11-5

Board approval

Sec. 5. Notes issued under this chapter must be approved by a resolution of the board.

As added by P.L.1-1996, SEC.11.

IC 13-21-12

Chapter 12. Financing: Requirements for Issuance of Bonds Generally

IC 13-21-12-1

Terms and covenants of bonds; validity; sale

Sec. 1. (a) All bonds issued under this article may:

(1) be issued as serial or term bonds or as a combination of both;

(2) be executed and delivered by the district at any time and from time to time;

(3) bear the date or dates;

(4) bear the maximum interest rates, if fixed rates are used, or specify any manner in which the interest rate will be determined, if variable or adjustable rates are used;

(5) be redeemable before the stated maturities of the bonds on the terms and conditions and at premiums as necessary or advisable;

(6) be issued in any denomination of not less than five thousand dollars ($5,000);

(7) be in a form, either book entry or registered, or both;

(8) carry registration conversion privileges;

(9) be payable in a medium of payment and at a place or places, which may be at any one (1) or more banks or trust companies within or outside Indiana;

(10) provide for the replacement of mutilated, destroyed, stolen, or lost bonds;

(11) be authenticated in a manner and upon compliance with conditions;

(12) establish reserves from the proceeds of the sale of bonds or from other money, or both, to secure the payment of the principal and interest on the bonds issued under this article or IC 13-9.5-9 (before its repeal);

(13) establish reserves from the proceeds of the sale of bonds or from other money, or both, for extensions, enlargements, additions, replacements, renovations, and improvements to or for the facilities; and

(14) contain other terms and covenants;

as provided in the resolution of the board authorizing the bonds.

(b) The bonds issued under this article may mature at the time or times determined by the board, but not to exceed forty (40) years.

(c) The bonds issued under this article:

(1) may bear either the impressed or facsimile seal of the district; and

(2) shall be:

(A) executed by the manual or facsimile signature of the chairperson of the board; and

(B) attested by the manual or facsimile signature of the district controller;

as long as one (1) of these signatures is manual. However, any signatures may be facsimiles if the bonds are to be manually

authenticated by a fiduciary.

(d) The bonds and the interest coupons pertaining to the bonds, if any, issued under this article and IC 13-9.5-9 (before its repeal) are valid and binding obligations of the district for all purposes in accordance with the terms of this article. If before delivery of the bonds and related interest coupons a person whose signature appears on the bonds and related interest coupons has ceased to be an officer of the district, the bonds shall be treated as if the person had continued to be an officer of the district until after delivery.

(e) The bonds issued under this article or IC 13-9.5-9 (before its repeal), other than waste management district bonds issued under IC 13-21-7 or IC 13-9.5-9-3 (before its repeal), may be sold at public or private sale for the price or prices that is provided in the resolution authorizing the issuance of the bonds.

As added by P.L.1-1996, SEC.11.

IC 13-21-12-2

Securement of bond by trust indenture; provisions allowable in trust indenture or resolution

Sec. 2. The bonds issued under this article or IC 13-9.5-9 (before its repeal) may be secured by a trust indenture between the district and a corporate trustee, which may be any national or state bank having its principal office in Indiana and having trust powers. The trust indenture or resolution under which the bonds are issued may do the following:

(1) Mortgage the land, interest in land, or the facilities for which the bonds are issued.

(2) Pledge the revenues or any other money, or any part of the revenues or money, to be received by the district.

(3) Contain the provisions for protecting and enforcing the rights and remedies of the bondholders or lenders that may be considered reasonable, including covenants setting forth the duties of the district or board in relation to the construction of the facilities and the custody, safeguarding, application, and investment of all money received or to be received by the district for the facilities financed by the issuance of the bonds.

(4) Provide for the establishment of reserve funds from the bond proceeds or from other sources to the extent authorized.

(5) Set forth the:

(A) rights and remedies of the bondholders and trust; and

(B) provisions restricting the individual rights or actions of bondholders.

(6) Contain provisions regarding the following:

(A) The investment of money.

(B) Sales, exchange, or disposal of property.

(C) The manner of authorizing and making of payments without regard to any general statute relating to these matters.

(7) Provide for the following:

(A) The payment of the proceeds of the sale of bonds to the

trustee, officer, bank, or depository that may be determined under the trust indenture or resolution for the custody of the proceeds.

(B) The method of disbursement of the proceeds, with the safeguards and restrictions that are determined.

(8) Provide for the appointment of a receiver by the circuit or superior court of the county under terms and conditions that are considered reasonable.

(9) Contain other provisions that the district considers reasonable and proper for the security of the bondholders.

As added by P.L.1-1996, SEC.11.

IC 13-21-12-3

Security exempt from registration requirement of IC 23

Sec. 3. A security issued in connection with a financing under this article, the interest on which is excludable from adjusted gross income tax, is exempt from the registration requirements of IC 23.

As added by P.L.1-1996, SEC.11. Amended by P.L.192-2002(ss), SEC.156.

IC 13-21-12-4

Bonds and anticipation notes exempt from taxation

Sec. 4. All:

(1) bonds, including grant and bond anticipation notes, issued under this article or IC 13-9.5-9 (before its repeal); and

(2) the interest on the bonds and notes;

are exempt from taxation in accordance with IC 6-8-5.

As added by P.L.1-1996, SEC.11.

IC 13-21-12-5

Revenues received by board or district exempt from taxation

Sec. 5. All revenues received by the board or district under this article or IC 13-9.5-9 (before its repeal) are exempt from all taxation.

As added by P.L.1-1996, SEC.11.

IC 13-21-12-6

Alternative financing methods

Sec. 6. The facilities or any part of the facilities to be financed under this article may be financed by any combination of one (1) or more of the methods provided for in this article.

As added by P.L.1-1996, SEC.11.

IC 13-21-12-7

Action to contest validity bonds or to prevent issuance; time limitation

Sec. 7. An action to:

(1) contest the validity of the bonds; or

(2) prevent the issuance of the bonds;

must be brought within thirty (30) days following the first publication of public notice of the adoption of the resolution authorizing the

bonds.
As added by P.L.1-1996, SEC.11.

IC 13-21-12-8
Authority for issuance of bonds

Sec. 8. (a) This article constitutes full authority for the issuance of bonds. No procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things by a board, officer, commission, department, agency, or instrumentality of the state is required to issue bonds or to do any act or perform anything under this article except as prescribed by this article.

(b) The:

(1) powers conferred by this article are in addition to and not in substitution for; and

(2) limitations imposed by this article do not affect;

the powers conferred by any other statute.
As added by P.L.1-1996, SEC.11.

IC 13-21-12-9
Facility and sale of byproducts exempt from regulation under IC 8-1-2 and IC 8-1.5

Sec. 9. The following are exempt from regulation under IC 8-1-2 and IC 8-1.5:

(1) A facility owned, operated, or financed under this article.

(2) The sale of byproducts from the facility.

As added by P.L.1-1996, SEC.11.

IC 13-21-12-10
Covenant and agreement with bondholders

Sec. 10. The general assembly covenants and agrees with the holders of any bonds that as long as any bonds of a district issued under this article or IC 13-9.5-9 (before its repeal) are outstanding and unpaid, the state:

(1) will not limit or alter the rights of the district to:

(A) acquire, construct, reconstruct, improve, enlarge, extend, own, operate, and maintain any project or interest in any project;

(B) establish, maintain, revise, charge, and collect the fees and taxes referred to in this article; and

(C) fulfill the terms of any agreements made with the holders of the bonds; and

(2) will not in any way impair the rights and remedies of the bondholders;

until the bonds, together with interest on the bonds, interest on any unpaid installment of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully paid, met, and discharged.
As added by P.L.1-1996, SEC.11.

IC 13-21-12-11

Article supplemental to other statutes

Sec. 11. This article is supplemental to all other statutes covering the acquisition, construction, modification, use, and maintenance of facilities for solid waste disposal by a district.

As added by P.L.1-1996, SEC.11.

IC 13-21-13

Chapter 13. District Final Disposal Fees

IC 13-21-13-1

Fees for disposal in facilities within the district; penalties

Sec. 1. (a) A board may impose fees on the disposal of solid waste in a final disposal facility located within the district. A fee imposed by a board in a county with a population of more than one hundred eleven thousand (111,000) but less than one hundred fifteen thousand (115,000) under this section may not exceed two dollars and fifty cents ($2.50) a ton. A fee imposed by a board in other counties under this section may not exceed:

(1) two dollars and fifty cents ($2.50) a ton; or

(2) the amount of a fee imposed by the board;

(A) under this section; and

(B) in effect on January 1, 1993;

whichever is greater.

(b) The board shall do the following:

(1) Set the amount of fees imposed under this section after a public hearing.

(2) Give public notice of the hearing.

(c) If solid waste has been subject to a district fee under this section, the total amount of the fee that was paid shall be credited against a district fee to which the solid waste may later be subject under this section.

(d) Except as provided in section 4 of this chapter, fees imposed under this chapter shall be imposed uniformly on public facilities and on privately owned or operated facilities throughout the district.

(e) A resolution adopted by a board that establishes fees under this chapter may contain a provision that authorizes the board to impose a penalty of not more than five hundred dollars ($500) per day because of:

(1) nonpayment of fees; or

(2) noncompliance with a condition in the resolution.

(f) A board may not impose fees for material used as alternate daily cover pursuant to a permit issued by the department under 329 IAC 10-20-13.

As added by P.L.1-1996, SEC.11. Amended by P.L.45-1997, SEC.15; P.L.170-2002, SEC.91; P.L.119-2012, SEC.118.

IC 13-21-13-2

District solid waste management fund

Sec. 2. (a) A board that has imposed fees under section 1 of this chapter shall establish and continuously maintain a separate fund under this section to be known as the "_____ district solid waste management fund".

(b) All fees remitted to the district under section 1 of this chapter shall be deposited in the fund.

(c) Money in the fund may be used only for the following purposes:

(1) To pay expenses of administering the fund.

(2) To pay costs associated with the development and implementation of the district plan.

(d) The controller of the district shall administer a fund established under this section. Money in the fund that is not currently needed for the purposes set forth in subsection (c) shall be deposited and invested in the same manner as other county money is deposited and invested under IC 5-13. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a district's fiscal year does not revert to:

(1) a county general fund; or

(2) any other fund.

(e) The controller of a district shall:

(1) file an individual surety bond; or

(2) revise an existing bond;

in a sufficient amount determined under IC 5-4-1-18 to reflect the liability associated with the handling of the district's money.

As added by P.L.1-1996, SEC.11. Amended by P.L.214-2005, SEC.59.

IC 13-21-13-3

Collection; compensation; time limit on remittance; report

Sec. 3. (a) If a board imposes a fee under section 1 of this chapter, the owner or operator of a final disposal facility located within the district is responsible for collecting fees from persons delivering solid waste to the facility. Each owner or operator may do the following:

(1) Deduct from the fees an amount equal to one percent (1%) of the fees collected.

(2) Retain this amount as compensation for collecting and remitting the fees.

(b) The owner or operator shall remit the remainder of the fees the owner or operator collects during a month to the controller not later than ten (10) days after the last day of the month in which the fees are collected.

(c) Each owner or operator of a final disposal facility shall, at the time the collected fees are remitted, furnish to the controller a fee collection report.

As added by P.L.1-1996, SEC.11.

IC 13-21-13-4

Limitation on imposition

Sec. 4. A board may not impose a fee under this chapter on the disposal of solid waste by a person that:

(1) generated the solid waste; and

(2) disposes of the solid waste at a site that is:

(A) owned by that person; and

(B) limited, for purposes of the disposal of solid waste, to use by the person for the disposal of solid waste generated by the person.

As added by P.L.1-1996, SEC.11.

IC 13-21-13-5
Fee collection; determination of weight of solid waste

Sec. 5. (a) If fees imposed under section 1 of this chapter are based and charged on each ton of solid waste, the owner or operator of a final disposal facility that:

(1) annually receives, on the average, less than two hundred (200) tons of solid waste each day; and

(2) does not have a scale suitable for weighing the solid waste received at the final disposal facility;

may determine the weight of the solid waste received by conversion from the volume of the solid waste.

(b) An owner or operator described in subsection (a) shall apply the following conversion factors:

(1) Three and three-tenths (3.3) cubic yards of compacted solid waste equals one (1) ton of solid waste.

(2) Six (6) cubic yards of uncompacted solid waste equals one (1) ton of solid waste.

As added by P.L.1-1996, SEC.11.

IC 13-21-13-6
Fees not revenues

Sec. 6. Fees prescribed by this chapter are not:

(1) revenues (as defined in IC 36-9-31-2) of a facility (as defined in IC 36-9-31-2); or

(2) revenues under:

(A) IC 8-1.5;

(B) IC 13-21-3-13;

(C) IC 13-21-7 through IC 13-21-12;

(D) IC 13-21-14; or

(E) IC 36-9-30.

As added by P.L.1-1996, SEC.11.

IC 13-21-14

Chapter 14. District Solid Waste Management Fees

IC 13-21-14-1

Additional waste management fees

Sec. 1. (a) A board:

(1) may; and

(2) if necessary to pay principal or interest on any bonds issued under this article or IC 13-9.5-9 (repealed), shall;

establish solid waste management fees in addition to fees imposed under IC 13-21-13 or IC 13-9.5-7 (before its repeal) that apply to all persons owning real property or generating solid waste within the district who are benefited by solid waste management, solid waste collection, a facility for solid waste disposal, or a facility for solid waste processing.

(b) The board may change and readjust fees as necessary.

As added by P.L.1-1996, SEC.11.

IC 13-21-14-2

Basis

Sec. 2. The board may fix the solid waste management fees on the basis of the following:

(1) A flat charge for each residence or building in use in the waste management district.

(2) The weight or volume of the refuse received.

(3) The average number of containers or bags of refuse received.

(4) The relative difficulty associated with the collection or management of the solid waste received.

(5) Any other criteria that the board determines to be logically related to the service.

(6) Any combination of these criteria.

As added by P.L.1-1996, SEC.11.

IC 13-21-14-3

Periodic billing system

Sec. 3. The collection of the fees authorized by this chapter may be effectuated through a periodic billing system.

As added by P.L.1-1996, SEC.11.

IC 13-21-14-4

Fee schedules

Sec. 4. The board may exercise reasonable discretion in adopting differing schedules of fees based upon variations in the following:

(1) The cost of furnishing the services included within this chapter to various classes of owners of property or of generators of solid waste within the district.

(2) The distance of the property benefited from the facility.

(3) Any other variations the board determines to be logically related to the cost of the service.

As added by P.L.1-1996, SEC.11.

IC 13-21-14-5
Public notice and hearing

Sec. 5. (a) Fees shall be established only after public notice and a public hearing before the board at which:

(1) all persons using facilities, owning property, or generating solid waste within the district who are benefited by solid waste management; and

(2) other interested persons;

have an opportunity to be heard concerning the proposed fees.

(b) After introduction of a resolution fixing fees and before the resolution is adopted, public notice of the hearing, setting forth the schedule of fees, shall be given. The hearing may be adjourned as necessary.

(c) After the hearing the resolution establishing fees, either as originally introduced or as amended, shall be passed and put into effect.

(d) A copy of the schedule of fees established shall be kept:

(1) on file in the office of the board or the controller, secretary, or other recordkeeping officer of the district; and

(2) open to inspection by all interested persons.

(e) The fees established extend to cover any additional territory later served that falls within the same class without the necessity of a hearing or notice.

(f) A change or readjustment of fees may be made in the same manner as the fees were originally established.

As added by P.L.1-1996, SEC.11.

IC 13-21-14-6
Contesting validity; time limitation

Sec. 6. An action to contest:

(1) the validity of the fees adopted; or

(2) the procedure by which the fees were adopted;

must be brought within thirty (30) days following the adoption of the fees under section 5 of this chapter.

As added by P.L.1-1996, SEC.11.

IC 13-21-14-7
Use of money

Sec. 7. Fees imposed under this chapter may be used, together with any other revenues, to pay any of the following:

(1) The cost of facilities for solid waste management.

(2) The operation and maintenance of facilities.

(3) The charges that may be pledged to the payment of principal of and interest on waste management district or revenue bonds.

(4) The costs of implementing the district's district plan.

As added by P.L.1-1996, SEC.11.

IC 13-21-14-8
Penalties for late payment

Sec. 8. If a fee established is not paid within the time fixed by the

board, the amount, together with:

(1) a penalty of twenty-five dollars ($25); and

(2) a reasonable attorney's fee;

may be recovered in a civil action in the name of the district.

As added by P.L.1-1996, SEC.11.

IC 13-21-14-9

Exception for transfer station

Sec. 9. A district may not exercise its authority under this chapter to impose a fee on the:

(1) owner of real or personal property that is used solely as a transfer station; or

(2) operation of a transfer station.

As added by P.L.130-1996, SEC.1.

IC 13-22

ARTICLE 22. HAZARDOUS WASTE MANAGEMENT

IC 13-22-1

Chapter 1. Construction of Statutes

IC 13-22-1-1

Disposal at production or generation site

Sec. 1. IC 13-22-2 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14 may not be construed to prohibit disposal of solid waste or hazardous wastes at the site of production or generation if construction and operation permits have been obtained in accordance with IC 13-22-3.

As added by P.L.1-1996, SEC.12.

IC 13-22-2

Chapter 2. Regulation Generally; Adoption of Specific Rules

IC 13-22-2-1

Duty of department to regulate transportation, treatment, storage, and disposal of hazardous waste

Sec. 1. The department shall regulate and require the proper and safe transportation, treatment, storage, and disposal of hazardous waste that is generated in or transported into Indiana.

As added by P.L.1-1996, SEC.12.

IC 13-22-2-2

Rules to implement chapter

Sec. 2. The board shall adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter through IC 13-22-8, IC 13-22-11.5, and IC 13-22-13 through IC 13-22-14.

As added by P.L.1-1996, SEC.12. Amended by P.L.45-1997, SEC.16; P.L.128-1997, SEC.4; P.L.133-2012, SEC.149.

IC 13-22-2-3

Criteria for determining; listing; emergency rule

Sec. 3. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-8 to develop criteria for determining hazardous waste. In developing those criteria, the board shall determine whether any waste to be or being disposed of meets any of the following conditions:

(1) Presents immediate or persistent hazards to humans or wildlife.

(2) Is resistant to natural degradation or detoxification.

(3) Is bioconcentrative, flammable, reactive, toxic, corrosive, or infectious in addition to any other harmful characteristics.

(b) The board shall do the following:

(1) Compile and maintain a listing of wastes that have been determined to be hazardous:

(A) under the criteria described in subsection (a); or

(B) by regulation of the United States Environmental Protection Agency.

(2) Issue the listing by adopting rules under IC 4-22-2. However, the board may by resolution adopt an emergency rule under IC 4-22-2-37.1 to declare any waste determined to be hazardous under this section.

(c) The board shall consider actions taken by adjoining states and the federal government for purposes of uniform criteria relating to the listing and delisting of waste under this section.

(d) The commissioner may exclude a waste produced at a particular generating facility from the listing under subsection (b) if the person seeking exclusion of the waste demonstrates to the satisfaction of the commissioner that the waste does not meet any of the criteria under which the waste was listed as a hazardous waste and:

(1) the person seeking exclusion has already obtained exclusion of the waste from the listing maintained under 40 CFR 261 by the United States Environmental Protection Agency; or

(2) if the department has received authority from the United States Environmental Protection Agency to delist waste under 40 CFR 260.20 and 260.22, the person petitions the commissioner to consider the removal of a waste from the listing, and the commissioner follows the authorized procedure for delisting.

(e) The department shall establish a procedure by which a person may petition the commissioner to consider the removal of a specific waste from the lists maintained under subsection (b).

As added by P.L.1-1996, SEC.12. Amended by P.L.45-1997, SEC.17; P.L.128-1997, SEC.5.

IC 13-22-2-4

Rules

Sec. 4. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-8 on the proper and safe transportation, treatment, storage, and disposal of hazardous wastes. Whenever possible, the rules adopted under this section must allow for variation in Indiana with regard to population density, climate, and geology.

(b) Rules adopted under this section concerning incinerators used as hazardous waste facilities may establish requirements more stringent than the requirements for hazardous waste incinerators established by regulations adopted by the Administrator of the United States Environmental Protection Agency under the following statutes:

(1) The federal Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.).

(2) The federal Clean Air Act (42 U.S.C. 7401 et seq.), as amended by the federal Clean Air Act Amendments of 1990 (P.L.101-549).

As added by P.L.1-1996, SEC.12.

IC 13-22-2-5

Hazardous waste facilities; rules

Sec. 5. The rules adopted by the board concerning the construction and operation of hazardous waste facilities must require, without limitation, the following:

(1) Provision of contingency plans for effective containment and control of any emergency condition resulting from an unanticipated occurrence.

(2) Satisfactory proof of the financial capability of the operator and owner of the facility.

(3) Satisfactory submission of a plan for and financial assurance of closure and postclosure monitoring and maintenance of the facility.

(4) Access to adequate testing facilities onsite or offsite to verify the chemical and physical characteristics of the hazardous wastes stored, received, or transferred.

(5) Provision and maintenance of liability insurance by the owner or operator through self-insurance or from an insurer licensed or eligible to insure facilities in Indiana for accidental occurrences in accordance with rules of the board.

(6) Corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a hazardous waste facility for which a permit is sought under IC 13-22-3, regardless of the time at which waste was placed in the unit. The rules must provide that, if corrective action as required under this subdivision cannot be completed at the site of a facility before issuance of the permit, the permit must contain schedules of compliance for any required corrective action.

As added by P.L.1-1996, SEC.12.

IC 13-22-2-6

Rules setting standards for closure and postclosure monitoring and maintenance plans

Sec. 6. The board shall do the following:

(1) Adopt rules under IC 4-22-2 and IC 13-14-9 setting standards for closure and postclosure monitoring and maintenance plans.

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

As added by P.L.1-1996, SEC.12. Amended by P.L.133-2012, SEC.150.

IC 13-22-2-7

Rules setting standards for corrective action for release of hazardous waste

Sec. 7. The board shall adopt rules under IC 4-22-2 and IC 13-14-9 setting standards for corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a hazardous waste facility. The standards must require that corrective action be taken beyond the facility boundary where necessary to protect human health and the environment, unless the owner or operator of the facility concerned demonstrates to the satisfaction of the commissioner that, despite the best efforts of the owner or operator, the owner or operator is unable to obtain the necessary permission to undertake that action. The rules adopted under this section apply to the following:

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

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

As added by P.L.1-1996, SEC.12. Amended by P.L.133-2012, SEC.151.

IC 13-22-3
Chapter 3. Permits

IC 13-22-3-1
Permit programs
Sec. 1. The department shall operate permit programs for all hazardous waste facilities in accordance with IC 13-15.
As added by P.L.1-1996, SEC.12.

IC 13-22-3-2
Issuance
Sec. 2. The department shall issue permits for a hazardous waste facility constructed and operated in compliance with rules adopted by the board.
As added by P.L.1-1996, SEC.12. Amended by P.L.113-2014, SEC.76.

IC 13-22-3-3
Restrictive covenants
Sec. 3. (a) Before allowing the operation of a landfill for the disposal of hazardous waste, the commissioner and all the owners of the land upon which the landfill is located must execute and record a restrictive covenant upon the land involved. The department shall file the instrument imposing the restrictive covenant for record in the recorder's office in the county in which the landfill is located.
(b) The covenant must state that:
(1) the land has been or may be used as a landfill for disposal of hazardous waste; and
(2) neither the property owners, agents, or employees, nor any of their heirs, successors, lessees, or assignees, may engage in filling, grading, excavating, building, drilling, or mining on the property following the completion and closure of the landfill without authorization of the commissioner.
(c) Before the commissioner grants an authorization for the activities prohibited in the covenant, the commissioner shall review the following:
(1) The original design of the landfill.
(2) The type of operation.
(3) The hazardous waste deposited there.
(4) The state of decomposition of the hazardous wastes.
As added by P.L.1-1996, SEC.12.

IC 13-22-3-4
Exceptions to requirements
Sec. 4. There is no requirement for any of the following:
(1) A manifest for onsite transportation.
(2) A permit for treatment or recovery of hazardous waste generated as a residual or secondary material from a manufacturing process if the waste is:
(A) recycled;

(B) recovered; or
(C) reused;
by the person that generated or utilized the waste.
(3) A permit for the utilization of secondary material under IC 13-22-11.5.
As added by P.L.1-1996, SEC.12. Amended by P.L.45-1997, SEC.18; P.L.128-1997, SEC.6.

IC 13-22-3-5
Exemptions
Sec. 5. The commissioner may exempt the requirement for a permit for the storage, treatment, processing, or disposal of solid or hazardous wastes by a mining operation if:
(1) the mining operation has a permit under IC 14-34; and
(2) the commissioner determines that the department of natural resources is operating a program of regulation of solid and hazardous wastes derived from mining operations that is equivalent to the regulatory program for those wastes under the environmental management laws.
As added by P.L.1-1996, SEC.12.

IC 13-22-3-6
Application for construction permit; contents
Sec. 6. (a) An application for a permit for a hazardous waste treatment, storage, or disposal facility must include a closure plan. If hazardous waste is to be disposed of at the facility, the application must also include a postclosure monitoring and maintenance plan.
(b) The closure plan required under subsection (a) must include at a minimum the following:
(1) An estimate of the cost of closure.
(2) A description of the method of closure.
(3) Possible uses of the land after closure.
(4) Anticipated time before closure.
(5) An estimate of time to complete closure.
(c) The postclosure monitoring and maintenance plan required under subsection (a) must include at a minimum the following:
(1) An estimate of the cost of postclosure monitoring and maintenance for a period of thirty (30) years.
(2) A description of the system to be employed for security, groundwater and leachate monitoring, sampling analysis, and periodic reporting.
As added by P.L.1-1996, SEC.12.

IC 13-22-3-7
Prior convictions; denial of permit
Sec. 7. An individual, a partnership, a limited liability company, or a corporation who or that has been:
(1) convicted of a violation of the environmental management laws or IC 13-7 (before its repeal); and
(2) fined or imprisoned;

may not be issued a permit to own or operate a hazardous waste facility.
As added by P.L.1-1996, SEC.12. Amended by P.L.137-2007, SEC.23.

IC 13-22-3-8
Incinerator for destruction of PCB; permits

Sec. 8. A permit may not be issued under this chapter for the construction or operation of an incinerator for the destruction of PCB at levels established under the federal Toxic Substances Control Act (15 U.S.C. 2601 et seq.) or regulations adopted under the federal Toxic Substances Control Act and operated as a hazardous waste facility if the incinerator:

(1) burns or will burn municipal waste to fuel the incineration process; and

(2) is or will be in a solid waste management district established under IC 13-21-3-1 or IC 13-9.5-2-1 (before its repeal);

unless the solid waste management district has incorporated the incinerator as an active part of the district solid waste management plan submitted by the solid waste management district under IC 13-21-5-1 or IC 13-9.5-4-1 (before its repeal) and approved by the commissioner under IC 13-21-5-8, IC 13-21-5-9, or IC 13-9.5-4-3 (before its repeal).
As added by P.L.1-1996, SEC.12.

IC 13-22-3-9
Incineration of PCB

Sec. 9. In addition to any other requirements, a permit may not be issued under this chapter for the construction or operation of a hazardous waste facility to be used for the incineration of PCB or for an ancillary facility required by the incineration process unless the person applying for the permit has demonstrated all of the following:

(1) That the destruction or treatment technology to be used at the proposed hazardous waste facility has been in operation:

(A) at a facility that is equivalent to the proposed hazardous waste facility; and

(B) for a time sufficient to demonstrate that:

(i) ninety-nine and nine thousand nine hundred ninety-nine ten thousandths percent (99.9999%) of the PCB processed at the equivalent facility has been destroyed; and

(ii) a hazardous substance has not been released into another solid, liquid, or gaseous substance by the destruction or treatment technology used in the incineration process.

(2) That monitoring data from an equivalent hazardous waste facility demonstrates that there are no releases from the equivalent facility that alone or in combination with another substance present a risk of any of the following:

(A) An acute or a chronic human health effect.

(B) An adverse environmental effect.

(3) That a plan to:

(A) provide sufficient training, coordination, and equipment for state and local emergency response personnel needed to respond to possible releases of harmful substances from the proposed hazardous waste facility or ancillary facility; and

(B) evacuate persons in the geographic area at risk from the worst possible release of:

(i) the PCB; or

(ii) a substance produced in the destruction or treatment of the PCB;

from the proposed hazardous waste facility or ancillary facility;

has been funded and developed.

As added by P.L.1-1996, SEC.12.

IC 13-22-3-10

Destruction or treatment of certain chemical munitions; monitoring; plan; inspection and oversight protocol

Sec. 10. (a) In addition to any other requirements, a hazardous waste facility that generates or treats a hazardous waste classified as I001 must demonstrate all of the following:

(1) That the destruction or treatment technology to be used at the proposed hazardous waste facility:

(A) will destroy or treat ninety-nine and nine thousand nine hundred ninety-nine ten thousandths percent (99.9999%) of the chemical munition processed; or

(B) will ensure that the waste has been treated in such a way that designated chemical munition constituents are treated to a specific level as approved by the commissioner.

(2) That monitoring data from the hazardous waste facility demonstrates that there are no emissions from the facility that alone or in combination with another substance present a risk of any of the following:

(A) An acute or a chronic human health effect.

(B) An adverse environmental effect.

(3) That a plan to:

(A) provide sufficient training, coordination, and equipment for state and local emergency response personnel needed to respond to possible releases of harmful substances from the proposed hazardous waste facility; and

(B) evacuate persons in the geographic area at risk from the worst possible release of:

(i) the chemical munition; or

(ii) a substance related to the destruction or treatment of the chemical munition;

from the proposed hazardous waste facility;

has been funded and developed.

(b) The department shall implement an inspection and oversight protocol for each hazardous waste facility described in subsection (a) to ensure that the requirements of this title are met.

As added by P.L.1-1996, SEC.12. Amended by P.L.172-2005, SEC.1.

IC 13-22-4
Chapter 4. Manifests

IC 13-22-4-1
Uniform Hazardous Waste Manifest form

Sec. 1. (a) A person that generates hazardous waste that is transported to a:

(1) treatment;
(2) storage; or
(3) disposal;

facility located at a site other than the site where the waste was generated shall use the Uniform Hazardous Waste Manifest form adopted by the United States Environmental Protection Agency for purposes of the transportation of hazardous waste.

(b) In addition to any other information a person is required to enter on the Uniform Hazardous Waste Manifest form described in subsection (a), the person shall enter, in an appropriate place on the form, the waste codes for each hazardous waste in a shipment that is transported to the treatment, storage, or disposal facility.

As added by P.L.1-1996, SEC.12. Amended by P.L.143-2000, SEC.3.

IC 13-22-4-2
Manifest form; use; requirements

Sec. 2. (a) A generator located in Indiana whose hazardous waste is transported to a treatment, storage, or disposal facility located in another state may use a manifest form prescribed by the law of the other state to meet the requirements of this chapter if the form is compatible with the form described in section 1 of this chapter.

(b) A generator located in a state other than Indiana whose hazardous waste is transported to a treatment, storage, or disposal facility in Indiana must:

(1) use the manifest form described in section 1 of this chapter; and
(2) meet the other requirements of IC 13-22-2 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14.

As added by P.L.1-1996, SEC.12. Amended by P.L.143-2000, SEC.4.

IC 13-22-4-3
Repealed

(Repealed by P.L.143-2000, SEC.8.)

IC 13-22-4-3.1
Reports regarding hazardous waste and shipments

Sec. 3.1. (a) As used in this section, "acute hazardous waste" has the meaning set forth in IC 13-11-2-1.5.

(b) A person that:

(1) in any one (1) or more calendar months of a calendar year generates:
(A) more than one hundred (100) kilograms but less than one thousand (1,000) kilograms of hazardous waste;

(B) less than one (1) kilogram of acute hazardous waste; or
(C) less than one hundred (100) kilograms of material from the cleanup spillage of acute hazardous waste; or

(2) accumulates at least one thousand (1,000) kilograms of hazardous waste or less than one (1) kilogram of acute hazardous waste;

shall, before March 1 of each year, submit to the department on forms provided by the department a report, containing no more than a compilation of information from the Uniform Hazardous Waste Manifest form described in section 1(a) of this chapter, that summarizes the person's hazardous waste shipments during the previous calendar year.

(c) A person that:

(1) in any one (1) or more calendar months of a calendar year generates:

(A) more than one thousand (1,000) kilograms of hazardous waste;
(B) at least one (1) kilogram of acute hazardous waste; or
(C) at least one hundred (100) kilograms of material from the cleanup spillage of acute hazardous waste;

(2) accumulates at least six thousand (6,000) kilograms of hazardous waste or at least one (1) kilogram of acute hazardous waste; or

(3) is a treatment, storage, or disposal facility;

shall, before March 1 of each year, submit to the department either the biennial report required by the United States Environmental Protection Agency concerning the person's waste activities during the previous calendar year, or an annual report on forms provided by the department, containing no more than a compilation of information from the Uniform Hazardous Waste Manifest form described in section 1(a) of this chapter, that summarizes the person's hazardous waste shipments during the previous calendar year.

As added by P.L.143-2000, SEC.5. Amended by P.L.1-2001, SEC.20.

IC 13-22-4-4
Repealed

(Repealed by P.L.143-2000, SEC.8.)

IC 13-22-4-5
Repealed

(Repealed by P.L.143-2000, SEC.8.)

IC 13-22-5
Repealed

(Repealed by P.L.1-2009, SEC.174.)

IC 13-22-6

Chapter 6. Reporting Requirements

IC 13-22-6-1

Report to county board of health

Sec. 1. (a) An owner or operator of a hazardous waste disposal facility must submit each month, to the county board of health of the county in which the facility is located, a report that lists the hazardous wastes disposed of in that facility during the previous month.

(b) The disposal facility may satisfy the requirements of this section by submitting:

(1) photocopies of the facility daily log; or

(2) a copy of any other report listing the hazardous wastes disposed of in the facility.

As added by P.L.1-1996, SEC.12.

IC 13-22-7

Chapter 7. Records

IC 13-22-7-1

Maintenance; trade secrets; disclosure

Sec. 1. (a) The department shall:

(1) maintain records; and

(2) by means of a system of record keeping, tabulate the volume, nature, and location;

of hazardous wastes generated, stored, or disposed of within Indiana.

(b) Because of the potential relationship between hazardous wastes and proprietary processes of hazardous waste producers and operators of hazardous waste facilities, the commissioner shall, in accordance with IC 13-14-11, ensure that trade secrets disclosed to the commissioner or an authorized representative of the department are not otherwise disclosed:

(1) without the consent of the person; or

(2) as required by law.

As added by P.L.1-1996, SEC.12.

IC 13-22-7.5

Chapter 7.5. Transportation of Chemical Munitions

IC 13-22-7.5-1

Application to certain persons

Sec. 1. This chapter applies to a person that transports:

(1) a chemical munition referred to in 329 IAC 3.1-6-3, as in effect on January 1, 2005; or

(2) hazardous waste derived from the bulk neutralization and destruction of the agent VX referred to in IC 13-11-2-25(6).

As added by P.L.172-2005, SEC.2.

IC 13-22-7.5-2

Requirements before transporting certain substances

Sec. 2. (a) Subject to subsections (b) and (c), before transporting a substance referred to in section 1 of this chapter, a person must coordinate the transport with the appropriate state agencies of each state through which the substance will be transported and file in Indiana the following with the department, the state police department, and the department of homeland security established by IC 10-19-2-1:

(1) A written evaluation of potential transportation risks that:

(A) accounts for the type and quantity of hazardous waste to be transported;

(B) identifies the most likely types of incidents that could:

(i) occur during the transport; and

(ii) result in harm to the public health or environment;

(C) assesses the likelihood of the occurrence of each type of incident referred to in clause (B);

(D) identifies the magnitude of the potential harm to the public health or environment associated with each type of incident referred to in clause (B); and

(E) is written in a manner understandable to:

(i) the scientific community; and

(ii) the public.

(2) A written transport safety plan that:

(A) is tailored to the risks described in subdivision (1);

(B) demonstrates that the driver of each vehicle to be used in the transport:

(i) has received United States Department of Transportation training and licensure; and

(ii) is familiar with the content of the plan;

(C) demonstrates for the transport route that appropriate procedures and response personnel will be available for:

(i) medical response;

(ii) environmental response;

(iii) local law enforcement response; and

(iv) evacuation of the area; and

(D) provides for submitting notice to the department before the first shipment of each particular chemical munition or

hazardous waste described in section 1 of the chapter is transported.

(b) A notice submitted under the transport safety plan provision described in subsection (a)(2)(D) must include the estimated shipment schedule for each chemical munition or hazardous waste for the duration of the transport activity. A person who transports a chemical munition or hazardous waste described in subsection (a) shall immediately notify the department of any major variations from the estimated shipment schedule provided under this subsection.

(c) A person must file an amended:

(1) evaluation of potential transportation risks; and

(2) transport safety plan;

under subsection (a) only if the proposed transport route changes.

As added by P.L.172-2005, SEC.2. Amended by P.L.1-2009, SEC.109.

IC 13-22-7.5-3

Transport at times providing maximum public safety

Sec. 3. The transport of a substance referred to in section 2 of this chapter shall occur at times that provide maximum public safety.

As added by P.L.172-2005, SEC.2.

IC 13-22-8
Chapter 8. Financial Responsibility Standards

IC 13-22-8-1
Rules

Sec. 1. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-9 on standards of financial responsibility for the following:

(1) Closure.

(2) Postclosure monitoring at hazardous waste facilities.

(3) Any required corrective action at those facilities.

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

As added by P.L.1-1996, SEC.12. Amended by P.L.133-2012, SEC.152.

IC 13-22-8-2
Bankruptcy of owner or operator of facility; proof of financial responsibility; liability of guarantor

Sec. 2. (a) The rules on financial responsibility for monitoring and corrective action at hazardous waste facilities adopted by the board under section 1 of this chapter and IC 4-22-2 must state that evidence of financial responsibility may be provided through one (1) or more of the following:

(1) Insurance.

(2) Guaranty.

(3) A surety bond.

(4) A letter of credit.

(5) Qualification as a self-insurer.

The rules may specify that certain terms, conditions, or defenses are necessary or are unacceptable in a policy or contract through which proof of financial responsibility is to be provided.

(b) If the owner or operator of a hazardous waste facility is in bankruptcy, reorganization, or arrangement under the federal bankruptcy law, or if no state or federal court could obtain jurisdiction over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility is provided may be asserted directly against the guarantor. In an action based upon such a claim, the guarantor may invoke:

(1) all rights and defenses that would have been available to the owner or operator if the action had been brought against the owner or operator by the claimant; and

(2) all rights and defenses that would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(c) The total liability of a guarantor under this section is limited to the aggregate amount in which the guarantor has provided evidence of financial responsibility for the owner or operator of a hazardous waste facility. This section does not limit any other liability of a guarantor to the owner or operator of a hazardous waste facility, such

as liability for bad faith in negotiating or in failing to negotiate the settlement of any claim.

As added by P.L.1-1996, SEC.12.

IC 13-22-9

Chapter 9. Financial Responsibility for Operators of Hazardous Waste Landfills, Solid Waste Landfills, and Transfer Stations

IC 13-22-9-1

Prerequisite for permit

Sec. 1. Except as provided in section 8 of this chapter, a person that applies for a permit to operate a:

(1) hazardous waste landfill;
(2) solid waste landfill; or
(3) transfer station;

must establish financial responsibility for the costs of closure and postclosure monitoring and maintenance of the hazardous waste landfill, solid waste landfill, or transfer station.

As added by P.L.1-1996, SEC.12.

IC 13-22-9-2

Extent

Sec. 2. The financial responsibility established under section 1 of this chapter must cover the costs of:

(1) properly closing, in an environmentally sound manner; and
(2) during postclosure, monitoring and maintaining;

the hazardous waste landfill, solid waste landfill, or transfer station.

As added by P.L.1-1996, SEC.12.

IC 13-22-9-3

Establishment

Sec. 3. Financial responsibility may be established under section 1 of this chapter by filing one (1) or a combination of the following with the commissioner:

(1) Trust fund agreement.
(2) Surety bond with a standby trust fund agreement.
(3) Letter of credit with a standby trust fund agreement.
(4) Insurance policy with a standby trust fund agreement.
(5) If the person applying for a permit derives less than fifty percent (50%) of the person's gross revenue from waste management, proof that the person meets a financial test established by the board.

As added by P.L.1-1996, SEC.12.

IC 13-22-9-4

Amount necessary for landfill

Sec. 4. The amount of financial responsibility a person must establish under section 1 of this chapter for a hazardous waste landfill or a solid waste landfill must:

(1) be the greater of:
    (A) fifteen thousand dollars ($15,000) for each acre or part of an acre covered by the hazardous waste landfill or solid waste landfill; or

(B) an amount determined by the commissioner that is sufficient to close the hazardous waste landfill or solid waste landfill in a manner that:

(i) minimizes the need for further maintenance; and

(ii) provides reasonable, foreseeable, and necessary maintenance during postclosure; and

(2) provide assurance of proper postclosure maintenance and monitoring for at least thirty (30) years after the hazardous waste landfill or solid waste landfill has ceased operations.

As added by P.L.1-1996, SEC.12.

IC 13-22-9-5

Amount necessary for transfer station

Sec. 5. The amount of financial responsibility a person must establish under section 1 of this chapter for a transfer station must:

(1) be the greater of:

(A) four thousand dollars ($4,000) for each acre or part of an acre covered by the transfer station; or

(B) an amount determined by the commissioner that is sufficient to close the transfer station in a manner that:

(i) minimizes the need for further maintenance; and

(ii) provides reasonable, foreseeable, and necessary maintenance during postclosure; and

(2) provide assurance of proper postclosure maintenance for one (1) year after the transfer station has ceased operations.

As added by P.L.1-1996, SEC.12.

IC 13-22-9-6

Closure or postclosure costs; source upon noncompliance

Sec. 6. The commissioner may use:

(1) a trust fund agreement;

(2) a surety bond;

(3) a letter of credit; or

(4) an insurance policy;

required under this chapter for the closure or postclosure monitoring and maintenance of a hazardous waste landfill, solid waste landfill, or transfer station if the person that files the trust fund agreement, surety bond, letter of credit, or insurance policy does not comply with closure or postclosure requirements.

As added by P.L.1-1996, SEC.12.

IC 13-22-9-7

Rules; criteria

Sec. 7. The board shall adopt rules under IC 4-22-2 and IC 13-14-8 to do the following:

(1) Implement this chapter.

(2) Establish criteria to determine the following:

(A) When the closure and postclosure monitoring and maintenance requirements have been met by a person that provides financial responsibility under section 1 of this

chapter.

(B) How money in a trust fund agreement, surety bond, letter of credit, or insurance policy provided by a person under section 3 of this chapter may be released to the person when the person meets closure and postclosure requirements.

As added by P.L.1-1996, SEC.12.

IC 13-22-9-8

Closure and postclosure costs; financial responsibility; self-insurance

Sec. 8. (a) A municipal corporation that owns or operates a solid waste landfill that:

(1) is used exclusively to dispose of ash; and

(2) complies with construction standards established under:

(A) the federal Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); and

(B) regulations adopted under the federal Resource Conservation and Recovery Act in effect January 1, 1991;

is not required to establish financial responsibility for the costs of closure and postclosure monitoring and maintenance of the solid waste landfill under this chapter if the fiscal body of the municipal corporation adopts a resolution in which the fiscal body elects to practice self-insurance with respect to those costs and commits to the expeditious transfer of money to cover closure and postclosure costs.

(b) A fiscal body adopting a resolution referred to in subsection (a) is not required to:

(1) set aside financial resources for meeting the costs referred to in subsection (a) when the resolution is adopted; or

(2) indicate in the resolution whether financial resources will be set aside to meet those costs.

(c) The amounts set forth in sections 4 through 5 of this chapter do not apply to the practice of self-insurance by a municipal corporation under this section if the fiscal body of the municipal corporation determines in the resolution adopted under this section that the program of self-insurance established by the resolution is adequate to meet the costs of:

(1) closure; and

(2) postclosure monitoring and maintenance;

of the solid waste landfill owned or operated by the municipal corporation.

As added by P.L.1-1996, SEC.12.

IC 13-22-10

Chapter 10. Hazardous or Low Level Radioactive Waste Facility Site Approval

IC 13-22-10-1
Repealed

(Repealed by P.L.124-1996, SEC.30.)

IC 13-22-10-2
Repealed

(Repealed by P.L.124-1996, SEC.30.)

IC 13-22-10-3
Repealed

(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-4
Repealed

(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-5
Approval of construction

Sec. 5. (a) This section does not apply to a person who applied for a certificate of environmental compatibility under IC 13-7-8.6 (before its repeal) before July 1, 1995.

(b) A person who proposes to construct a hazardous waste disposal facility permitted under IC 13-22, a commercial hazardous waste facility permitted under IC 13-22, or a commercial low level radioactive waste facility permitted under IC 13-29-1-6 may not begin construction of the facility until:

(1) the person has obtained all approvals to construct the facility required under applicable zoning ordinances or other zoning laws; or

(2) if the facility is located in an area that is not subject to a zoning ordinance or other zoning law, the person has obtained approval to construct the facility from the county executive of the county in which the facility would be located.

As added by P.L.124-1996, SEC.11. Amended by P.L.45-1997, SEC.19.

IC 13-22-10-6
Repealed

(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-7
Repealed

(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-8
Repealed

(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-9
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-10
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-11
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-12
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-13
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-14
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-15
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-16
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-17
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-18
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-19
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-20
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-21
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-22
Repealed
(Repealed by P.L.1-2001, SEC.51.)

IC 13-22-10-23
Effects of granting certificate; limitations of local government
Sec. 23. (a) A:
(1) certificate of environmental compatibility granted under:
(A) IC 13-7-8.6 (before its repeal); or
(B) this chapter (before the expiration of the sections of this chapter authorizing the hazardous waste facility site approval authority to grant certificates of environmental compatibility);
preempts any local government zoning or other land use regulations, laws, or ordinances; and
(2) person obtaining the certificate of environmental compatibility is not required to apply for approval by:
(A) a regional;
(B) a county; or
(C) a municipal;
zoning board or authority.
(b) Local government may not prohibit or unduly restrict:
(1) the transportation of hazardous waste or low level radioactive waste through the local government's area of jurisdiction that is en route to a facility; or
(2) the:
(A) treatment;
(B) storage; or
(C) disposal;
of hazardous waste or low level radioactive waste at a facility within the jurisdiction of the local government.
As added by P.L.124-1996, SEC.29. Amended by P.L.1-2001, SEC.21.

IC 13-22-11

Chapter 11. Hazardous Waste Reduction

IC 13-22-11-1

Information gathering and dissemination

Sec. 1. (a) The office shall do the following:

(1) Continuously gather information on secondary material utilization or waste reduction practices and technology from sources within and outside Indiana.

(2) Provide information and advice on secondary material utilization or waste reduction in response to a request from a business or business organization that is active in Indiana.

(b) In the absence of a request, the office may, at the direction of the commissioner, present advice on secondary material utilization or waste reduction to a business that:

(1) is active in Indiana; and

(2) in the judgment of the commissioner, could:

(A) significantly reduce;

(B) eliminate; or

(C) avoid;

the generation and disposal of hazardous waste through waste reduction or secondary material utilization under IC 13-22-11.5.

The office shall study the information to be presented with advice under this subsection.

As added by P.L.1-1996, SEC.12. Amended by P.L.45-1997, SEC.20; P.L.128-1997, SEC.7.

IC 13-22-11-2

Advice; priorities

Sec. 2. In directing the office to present advice to businesses under section 1(b) of this chapter, the commissioner shall establish a priority among types of businesses according to the following:

(1) The degree or magnitude of waste reduction that could be achieved by a type of business, in comparison to the waste reduction that could be achieved by other businesses.

(2) The financial and technical feasibility of the waste reduction practices and technologies available to various types of businesses.

(3) The statewide waste reduction impact likely to be achieved through presenting advice to a type of business due to the prevalence of that type of business in Indiana.

(4) Any other factors that, in the judgment of the commissioner, may affect the overall effectiveness of the office in promoting waste reduction in Indiana.

As added by P.L.1-1996, SEC.12.

IC 13-22-11-3

Reports under Federal Resource Conservation and Recovery Act

Sec. 3. A person who submits a report to the department under 42 U.S.C. 6922(a)(6) may include with the report the information listed

under section 4 of this chapter.
As added by P.L.1-1996, SEC.12. Amended by P.L.122-1996, SEC.4.

IC 13-22-11-4
Contents of report; confidentiality for trade secrets

Sec. 4. (a) The following information may be included with the report under section 3 of this chapter for the period covered by the report:

(1) A description of the industrial operation that generated the hazardous waste, including information on the following:

(A) The steps taken in the operation.

(B) The machinery and materials used in the operation.

(C) The inputs and outputs of the operation.

(2) Proposals that would implement waste reduction in the type of industrial operation that generated the hazardous waste.

(3) A statement that the information is accurate to the best of the generator's knowledge.

(4) Any other information the generator desires to provide to the department to obtain voluntary technical assistance from the department.

(b) A person who:

(1) submits information to the department under subsection (a); and

(2) believes that the information or a part of the information is a trade secret or otherwise warrants confidential treatment;

may submit the information under a claim of confidentiality in accordance with IC 13-14-11 and IC 5-14-3-4.

(c) A person who submits information under subsection (a) that is determined to be confidential may not unreasonably withhold permission from the department to disclose to the public general or generic information on waste reduction techniques derived from the submitted information if the disclosure will not divulge:

(1) the trade secret; or

(2) other specific, substantive basis of confidentiality.

As added by P.L.1-1996, SEC.12. Amended by P.L.122-1996, SEC.5.

IC 13-22-11.5

Chapter 11.5. Secondary Material Exemption

IC 13-22-11.5-1

Construction of chapter

Sec. 1. This chapter may not be construed:

(1) as allowing a person to exercise less than reasonable precautions in the handling of hazardous secondary materials; or

(2) to be less stringent than federal law.

As added by P.L.45-1997, SEC.21.

IC 13-22-11.5-2

Secondary material not a solid waste

Sec. 2. A secondary material that is not a solid waste as defined under 40 CFR 261.2(e) or is legitimately utilized in an industrial or manufacturing process, except reclamation, with no significant increase in the threat it poses to health or the environment, is not a solid waste.

As added by P.L.45-1997, SEC.21. Amended by P.L.128-1997, SEC.8.

IC 13-22-11.5-3

Residue of utilization of secondary material not exempt; status determination

Sec. 3. A residue of the utilization of a secondary material that does not itself qualify as an exempt secondary material is subject to a new determination as to its status as a hazardous waste, and, if listed under IC 13-22-2-3(b), does not retain the listing of the secondary material from which it may have been derived.

As added by P.L.45-1997, SEC.21.

IC 13-22-11.5-4

Written recognition of secondary material

Sec. 4. A person may request the commissioner to acknowledge in writing the recognition of a secondary material exemption under this chapter. The commissioner shall respond to the request not later than ninety (90) days after the request is received.

As added by P.L.45-1997, SEC.21.

IC 13-22-11.5-5

Effect of exemption on other exemptions from regulations

Sec. 5. The exemption from regulation provided in this chapter is in addition to any other exemption from regulation as a solid waste provided in rules adopted by the board.

As added by P.L.45-1997, SEC.21. Amended by P.L.2-1998, SEC.53.

IC 13-22-12
Chapter 12. Hazardous Waste Fees

IC 13-22-12-1
Establishment

Sec. 1. Notwithstanding the fees established under IC 13-16-1, the hazardous waste:

(1) permit application fees;
(2) annual operation fees;
(3) prices for purchasing manifests; and
(4) disposal fees;

provided for in this chapter are established.

As added by P.L.1-1996, SEC.12. Amended by P.L.220-2014, SEC.22.

IC 13-22-12-2
Fee schedule; application fees

Sec. 2. For hazardous waste, the application fees are as follows:

	Fee
New Permit Application	
Land Disposal	$40,600
Incinerator (per unit)	$21,700
Storage	$23,800
Treatment	$23,800
Permit Renewal or Class 3 Modification	
Land Disposal	$34,000
Incinerator	$21,700
Storage	$17,200
Treatment	$17,200
Class 2 Modification	
Class 2 Modification	$ 2,250

As added by P.L.1-1996, SEC.12.

IC 13-22-12-3
Fee schedule; annual operation fees

Sec. 3. For hazardous waste, the annual operation fees are as follows:

	Fee
Land Disposal	$37,500
Incinerator (per unit)	$10,000
Storage	$ 2,500
Treatment	$10,000
Generator	$ 1,565
Postclosure Activity	$ 1,500
Groundwater Compliance Sampling at active facilities (per well)	$ 1,000

As added by P.L.1-1996, SEC.12.

IC 13-22-12-3.5
Fee for disposal of hazardous waste

Sec. 3.5. (a) For the disposal of hazardous waste in Indiana, the fees are as follows:

(1) For hazardous waste disposed of in a disposal facility, eleven dollars and fifty cents ($11.50) per ton. If hazardous waste is mixed with or dissolved or suspended in water or another liquid at the time it is disposed of in a disposal facility, the entire mixture, solution, or suspension disposed of is considered hazardous waste disposed of in a disposal facility for the purposes of this subdivision.

(2) For hazardous waste disposed of by underground injection, eleven dollars and fifty cents ($11.50) per ton. However, a person required to pay disposal fees under this subdivision is not liable for more than twenty-five thousand dollars ($25,000) in disposal fees under this subdivision for all hazardous waste disposed of by the person by underground injection in one (1) calendar year.

(b) Fees imposed under subsection (a)(1) shall be paid by the operator of the disposal facility at which the hazardous waste is disposed of. For hazardous waste disposed of by underground injection at a location other than a disposal facility, the fee imposed on the disposal of the hazardous waste under subsection (a)(2) shall be paid by the person disposing of the hazardous waste.

(c) Fees imposed under this section shall be paid quarterly to the department in the manner prescribed by the department. However, the department is not required to assess quarterly payments separately. Fees under this section begin accruing on January 1 of each year.

(d) The fees imposed under this section shall be based on the total tonnage of hazardous waste disposed of. The fees do not apply to the treatment or storage of hazardous waste in a disposal facility.

(e) The fees collected under this section shall be deposited and paid over as provided in section 3.6 of this chapter.

As added by P.L.220-2014, SEC.23.

IC 13-22-12-3.6
Hazardous waste disposal fee revenue; deposit in hazardous substances response trust fund; county fund

Sec. 3.6. (a) The fees collected under section 3.5 of this chapter upon the disposal of a quantity of hazardous waste shall be deposited and paid over as follows:

(1) Seventy-five percent (75%) shall be deposited in the hazardous substances response trust fund established by IC 13-25-4-1.

(2) Twenty-five percent (25%) shall be paid over to the county in which the hazardous waste is disposed of.

(b) Except as provided in subsection (e), and subject to subsections (f) and (g), the revenue paid over to the county under subsection (a)(2) shall be deposited in a separate fund established by the county for the purposes of the following:

(1) Establishing monitoring wells on land near the site of the disposal facility.
(2) Analyzing samples from the monitoring wells established under subdivision (1).
(3) Conducting other types of testing and surveillance for hazardous waste contamination of land near the disposal facility.
(4) Providing training for county and local public health and public safety officers in the proper procedures for dealing with emergencies involving hazardous substances or hazardous waste.
(5) Providing special clothing and equipment needed by county and local public health and public safety officers for dealing with emergencies involving hazardous substances or hazardous waste.
(6) Funding research on alternatives to land disposal as a means of eliminating hazardous waste.
(7) Paying the cost of hazardous waste, hazardous substance, or solid waste removal and remedial action at a site located within the county.
(8) Meeting the county's requirements under IC 13-21 for the planning and implementation of a solid waste management district plan.
(9) Paying the costs associated with the construction or rehabilitation of a facility used for training described in subdivision (4).
(10) Paying the costs associated with any other project that has identifiable environmental benefits.
(11) Paying the costs associated with the construction, structural rehabilitation, and equipment of a facility used for either of the following purposes:
(A) A county public safety central dispatch.
(B) A county emergency operations center.
(12) Paying costs associated with the maintenance or repair of county roads.
(13) Paying for the costs of county ambulance service.

(c) The county fund established under subsection (b) shall be administered by the county treasurer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the county general fund.

(d) No money in the county fund established under subsection (b) shall be used for activities authorized in subsection (b)(8) or (b)(9) until the purposes listed in subsection (b)(1) through (b)(7) have been fulfilled.

(e) Subsection (b)(9), (b)(10), and (b)(11) do not apply to a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(f) The county may not pay from the county fund established under subsection (b) in a calendar year for the purposes set forth in subsection (b)(11) an amount that exceeds ten percent (10%) of the balance in the fund as of January 1 of that calendar year.

(g) If a county expends money in the county fund established under subsection (b) for the maintenance or repair of county roads, the county may not annually expend more than ten percent (10%) of the balance in the fund (as determined on January 1 of the calendar year in which the expenditures are made) for those purposes.

(h) A fund established by a county under IC 6-6-6.6-3 before its repeal:

(1) satisfies the requirement of subsection (b) that a county establish a fund;

(2) shall be administered under subsection (c); and

(3) is in all other respects subject to this section.

(i) Money deposited in a fund established by a county under IC 6-6-6.6-3 before its repeal:

(1) may remain in the fund; and

(2) may be used for the purposes set forth in subsection (b), subject to subsections (d) through (g);

notwithstanding the repeal of IC 6-6-6.6-3.

As added by P.L.220-2014, SEC.24.

IC 13-22-12-4

Repealed

(Repealed by P.L.143-2000, SEC.8.)

IC 13-22-12-5

Remittance of fee required; denial of permit

Sec. 5. (a) When a person files a hazardous waste permit application with the department, the person must remit an application fee to the department.

(b) If a person does not remit an application fee to the department, the department shall deny the person's application.

As added by P.L.1-1996, SEC.12.

IC 13-22-12-6

Accrual of annual operation fees

Sec. 6. Hazardous waste annual operation fees begin accruing January 1 each year. The department shall assess the fees not later than January 15 of that year.

As added by P.L.1-1996, SEC.12.

IC 13-22-12-7

Remittance of fees or installments

Sec. 7. A person must remit a hazardous waste annual operation fee or an installment established by the department under IC 13-16-2 to the department not more than thirty (30) days after the date the fee is assessed or on the date the installment is due.

As added by P.L.1-1996, SEC.12. Amended by P.L.130-1996, SEC.6;

P.L.2-1997, SEC.46.

IC 13-22-12-8
Delinquency charge; revocation of permit

Sec. 8. (a) In addition to the penalties described under:

(1) IC 13-30-4-1;
(2) IC 13-30-4-2; and
(3) IC 13-30-5-1;

if a person does not remit a hazardous waste annual operation fee or an installment established by the department under section 14 of this chapter not more than sixty (60) days after the date the fee is assessed or not more than thirty (30) days after the date the installment is due, the person shall be assessed a delinquency charge equal to ten percent (10%) of the hazardous waste annual operation fee or ten percent (10%) of the installment, whichever is applicable. The delinquency charge is due and payable sixty (60) days after the date the hazardous waste annual operation fee is assessed or thirty (30) days after the date the installment is due.

(b) If a person does not remit a hazardous waste annual operation fee or an installment established by the department under IC 13-16-2 and any applicable delinquency charge not more than ninety (90) days after the date the hazardous waste annual operation fee is assessed or not more than sixty (60) days after the date the installment is due, the department may revoke the person's permit. However, before the department may revoke the permit:

(1) not earlier than sixty (60) days after the date the hazardous waste annual operation fee is assessed or not earlier than thirty (30) days after the date an installment is due; and
(2) not later than thirty (30) days before the department revokes the permit;

the department must deliver a written notice to the person that describes what fees and delinquency charges are due and that indicates that the department may revoke the person's permit for nonpayment after thirty (30) days.

As added by P.L.1-1996, SEC.12. Amended by P.L.130-1996, SEC.7; P.L.2-1997, SEC.47.

IC 13-22-12-9
Annual operation fees; applicability

Sec. 9. Annual operation fees established under this chapter apply to facilities that:

(1) have received a permit from the department; or
(2) are operating under interim status or otherwise manage hazardous waste subject to regulation under the following:
  (A) IC 13-22-2 through IC 13-22-8.
  (B) IC 13-22-13 through IC 13-22-14.

As added by P.L.1-1996, SEC.12.

IC 13-22-12-10
Annual operation fees; requirement under certain circumstances

Sec. 10. Regardless of a person's rate of generation, a person must pay a generator annual operation fee if the person accumulates more than:

(1) six thousand (6,000) kilograms of hazardous waste; or

(2) one (1) kilogram of acutely toxic waste;

onsite at any time during a year.

As added by P.L.1-1996, SEC.12.

IC 13-22-12-11

Groundwater compliance sampling fees

Sec. 11. Groundwater compliance sampling fees established under this chapter apply to groundwater monitoring wells in existence at an operating land disposal facility at the time an annual operation fee concerning the land disposal facility is assessed.

As added by P.L.1-1996, SEC.12.

IC 13-22-12-12

Payment of all fees by person or facility in multiple fee categories

Sec. 12. A person or facility that is described in more than one (1) category under this chapter must pay all applicable fees.

As added by P.L.1-1996, SEC.12.

IC 13-22-12-13

Payment and deposit of fees and delinquency charges

Sec. 13. Except for the hazardous waste disposal fee collected under section 3.5 of this chapter, the fees and delinquency charges collected under this chapter:

(1) are payable to the department; and

(2) shall be deposited in the environmental management permit operation fund established by IC 13-15-11-1.

As added by P.L.1-1996, SEC.12. Amended by P.L.220-2014, SEC.25.

IC 13-22-12-14

Repealed

(Repealed by P.L.2-1997, SEC.89.)

IC 13-22-13

Chapter 13. Corrective Actions

IC 13-22-13-1

Order; civil action by commissioner

Sec. 1. If, on the basis of any information, the commissioner determines that there is or has been a release of a hazardous waste or a constituent of a hazardous waste into the environment from a facility authorized to operate under interim status under Section 3005(e) of the federal Solid Waste Disposal Act (42 U.S.C. 6925(e)) or under IC 13-22-3, the commissioner may:

(1) issue an order requiring corrective action or another response measure that the commissioner considers necessary to protect human health or the environment; or

(2) commence a civil action to compel corrective action as described in subdivision (1).

As added by P.L.1-1996, SEC.12.

IC 13-22-13-2

Restrictions on corrective action

Sec. 2. Under section 1 of this chapter, the commissioner or a court may order the performance of corrective action beyond the boundaries of the facility from which the release occurs. However, the commissioner may not order corrective action beyond the boundaries of the facility if the owner or operator of the facility demonstrates to the satisfaction of the commissioner that, despite the best efforts of the owner or operator, the owner or operator is unable to obtain the necessary permission to undertake the corrective action.

As added by P.L.1-1996, SEC.12.

IC 13-22-13-3

Contents of order

Sec. 3. An order issued by the commissioner under this chapter:

(1) must state with reasonable specificity the nature of the corrective action or other response measure required by the order;

(2) must specify a time for compliance; and

(3) may include a suspension or revocation of authorization for the facility to operate under interim status.

As added by P.L.1-1996, SEC.12.

IC 13-22-14

Chapter 14. Enforcement

IC 13-22-14-1

Enforcement under IC 13-30-3

Sec. 1. IC 13-22-2 through IC 13-22-8 and IC 13-22-13 shall be enforced under IC 13-30-3.

As added by P.L.1-1996, SEC.12.

IC 13-22-14-2

Emergency procedures

Sec. 2. IC 13-22-2 through IC 13-22-8 and IC 13-22-13 are subject to the emergency procedures under IC 13-14-10 and IC 13-24-2.

As added by P.L.1-1996, SEC.12.

IC 13-22-14-3

Penalties for violations

Sec. 3. A violation of a provision of IC 13-22-2 through IC 13-22-8 or IC 13-22-13 is subject to the penalties imposed by the following:

(1) IC 13-30-4.
(2) IC 13-30-5.
(3) IC 13-30-8.

In addition, a violation of a provision of IC 13-22-2 through IC 13-22-8 or IC 13-22-13 may lead to criminal prosecution under IC 13-30-10.

As added by P.L.1-1996, SEC.12. Amended by P.L.137-2007, SEC.24.

IC 13-23

ARTICLE 23. UNDERGROUND STORAGE TANKS

IC 13-23-1

Chapter 1. Establishment of Underground Storage Tank Release Detection, Prevention, and Correction Program

IC 13-23-1-1

Establishment and operation of program

Sec. 1. (a) The department shall establish and operate an underground storage tank release detection, prevention, and correction program under this article according to rules adopted by the board.

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

(1) may be amended;

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

(3) is available to the public for inspection.

As added by P.L.1-1996, SEC.13. Amended by P.L.131-1997, SEC.2; P.L.133-2012, SEC.153.

IC 13-23-1-2

Rules

Sec. 2. (a) The board shall adopt rules under IC 4-22-2, IC 13-14-8, and IC 13-14-9 for the establishment and operation of the program established under section 1 of this chapter.

(b) The rules must not be less stringent than the regulations adopted by the Administrator of the United States Environmental Protection Agency under Section 9003 of the federal Solid Waste Disposal Act, as amended (42 U.S.C. 6991b, as amended).

(c) The rules adopted under subsection (a) must include the following:

(1) Requirements for maintaining:

(A) a leak detection system;

(B) an inventory control system coupled with tank testing; or

(C) a comparable system or method;

designed to identify releases in a manner consistent with the protection of human health and the environment.

(2) Requirements for maintaining records of any:

(A) monitoring;

(B) leak detection system;

(C) inventory control system or tank testing; or

(D) comparable system.

(3) Requirements for reporting of:

(A) any releases; and

(B) corrective action taken in response to a release.

(4) Requirements for ordering or taking corrective action in response to a release.

(5) Requirements for closure of underground storage tanks to

prevent future releases of regulated substances into the environment.

(6) Requirements for maintaining evidence of financial responsibility for:

(A) taking corrective action; and

(B) compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of an underground storage tank.

(7) Standards of performance for new underground storage tanks.

(8) Requirements for the following:

(A) Providing notice to the department of the existence of operational and nonoperational underground storage tanks, as required under 42 U.S.C. 6991a(a).

(B) Providing the information required on the form prescribed under 42 U.S.C. 6991a(b)(2).

(C) Providing notice, by any person who sells a tank intended to be used as an underground storage tank, to the purchaser of that tank of the owner's notification requirements established by this article and 42 U.S.C. 6991a(a).

(9) Requirements for the delivery prohibition program prescribed under 42 U.S.C. 6991k, including:

(A) notice to owners or operators when an underground storage tank is declared ineligible for delivery, deposit, or acceptance of a regulated substance; and

(B) procedures to enforce the delivery prohibition that include the use of a temporary emergency order under IC 4-21.5-4 for violations of section 4(a) of this chapter.

As added by P.L.1-1996, SEC.13. Amended by P.L.38-2012, SEC.2.

IC 13-23-1-3

Operator training program; Internet web site

Sec. 3. (a) The department shall establish a training program:

(1) on an Internet web site; and

(2) that complies with the requirements of the federal Energy Policy Act of 2005 (P.L.109-58).

(b) The department may use the excess liability trust fund to pay expenses related to the training program established under subsection (a).

As added by P.L.105-2011, SEC.1.

IC 13-23-1-4

Delivery prohibition program

Sec. 4. (a) This section shall be enforced under IC 4-21.5-4.

(b) To fully implement the delivery prohibition program requirements under 42 U.S.C. 6991k, the commissioner may:

(1) determine whether an underground storage tank is eligible for delivery, deposit, or acceptance of a regulated substance; and

(2) issue a temporary order to prohibit the use of an underground storage tank that has been determined to be ineligible under subdivision (1), and demand compliance with the rules adopted under this chapter as follows:

(A) If an underground storage tank inspection shows failure to install equipment for:

(i) corrosion protection;

(ii) leak detection;

(iii) overfill protection; or

(iv) spill prevention.

The commissioner must give the owner or operator written notice before implementing a temporary order under this clause.

(B) If the owner or operator fails to properly operate or maintain equipment for corrosion protection, leak detection, overfill protection, and spill prevention. The commissioner must give the owner or operator:

(i) a written warning; and

(ii) at least thirty (30) days to take corrective action to bring the underground storage tank into compliance.

(C) If the owner or operator fails to register an underground petroleum storage tank or pay annual registration fees that are due under IC 13-23-12. The commissioner must give the owner or operator at least thirty (30) days to take corrective action to bring the underground storage tank into compliance.

(c) If ownership of an ineligible underground storage tank is transferred, the new owner must complete the corrective actions required to comply with an order issued by the commissioner to the previous owner.

(d) The commissioner may act to carry out this section prior to the adoption of rules by the board under section 2 of this chapter. This subsection expires January 1, 2015.

As added by P.L.38-2012, SEC.3.

IC 13-23-2

Chapter 2. Local Ordinances

IC 13-23-2-1

Restrictions on enactment and enforcement of ordinances conflicting with article or rules

Sec. 1. A unit of local government may not enact or enforce an ordinance that is in conflict with any of the following:

(1) This article.

(2) Rules adopted by the fire prevention and building safety commission under this article.

(3) Rules adopted by the board under this article.

As added by P.L.1-1996, SEC.13.

IC 13-23-2-2

Restrictions on enactment and enforcement of ordinances; exception

Sec. 2. A unit of local government may not enact or enforce an ordinance that requires:

(1) a permit;

(2) a license;

(3) an approval;

(4) an inspection; or

(5) the payment of a fee or tax;

for the installation, use, retrofitting, closure, or removal of an underground storage tank unless the department has approved the ordinance or a proposed ordinance in writing.

As added by P.L.1-1996, SEC.13.

IC 13-23-2-3

Request for approval; time limitation on response

Sec. 3. If the department does not respond to a request from a unit of local government for approval of an ordinance or a proposed ordinance under section 2 of this chapter not later than ninety (90) days after the request is made, the unit may enact and enforce the ordinance as though the department had given written approval under section 2 of this chapter.

As added by P.L.1-1996, SEC.13.

IC 13-23-2-4

Agreement authorizing local government unit to perform activities

Sec. 4. The commissioner may enter into an agreement with a unit of local government under which the commissioner authorizes the unit of local government to perform activities designed to achieve compliance with this article.

As added by P.L.1-1996, SEC.13.

IC 13-23-3

Chapter 3. Certification of Underground Storage Tank Workers

IC 13-23-3-1

Establishment of certification program by state fire marshal

Sec. 1. (a) The state fire marshal shall, under rules adopted by the fire prevention and building safety commission under IC 4-22-2, establish a certification program for persons who supervise, manage, or direct underground storage tank:

(1) installation or retrofitting;

(2) testing;

(3) cathodic protection procedures; or

(4) decommissioning.

(b) A person may be certified by the state fire marshal if the person submits evidence to the state fire marshal that the person has successfully completed:

(1) the International Fire Code Institute examination; or

(2) another appropriate examination approved by the state fire marshal.

(c) The state fire marshal may create a supplemental educational library concerning proper installation and closure of underground storage tanks, which includes the American Petroleum Institute's series, "An Education and Certification Program for Underground Storage Tank Professionals."

As added by P.L.1-1996, SEC.13. Amended by P.L.67-1996, SEC.4.

IC 13-23-3-2

Examination; rules; reciprocity

Sec. 2. (a) To obtain a certificate under section 1 of this chapter, a person must:

(1) take an examination that is approved;

(2) achieve a passing score on the examination that is established; and

(3) pay any reasonable fees necessary to offset the costs incurred by the state fire marshal in administering the examination and certification procedures that are established;

under rules adopted by the fire prevention and building safety commission.

(b) An examination described under subsection (a) must cover the following subjects:

(1) Relevant rules adopted by the:

(A) board; and

(B) fire prevention and building safety commission;

concerning underground storage tanks.

(2) Any other subjects approved under rules adopted by the fire prevention and building safety commission.

(c) The fire prevention and building safety commission shall adopt rules establishing the following:

(1) The number of times a person who fails an examination

described under this section may take the examination again.

(2) The period of time a person who fails an examination described under this section must wait before taking the examination again.

(d) The state fire marshal may, under rules adopted by the fire prevention and building safety commission, certify a person:

(1) under section 1 of this chapter; and

(2) by reciprocity;

if the person is licensed or certified by another state that has certification requirements that are substantially similar to the requirements established under this section.

As added by P.L.1-1996, SEC.13.

IC 13-23-3-3

Certification required for installation, testing, retrofitting, removing, or closing storage tanks; denial or revocation

Sec. 3. (a) A person described under section 1 of this chapter may not:

(1) install or retrofit;

(2) test;

(3) provide cathodic protection for; or

(4) decommission;

an underground storage tank unless the person has been certified by the state fire marshal.

(b) The state fire marshal may temporarily deny or revoke the certification of a person made under subsection (a) if the person has negligently violated a standard established by the board or the fire prevention and building safety commission concerning the:

(1) installation or retrofitting;

(2) testing;

(3) cathodic protection; or

(4) decommissioning;

of an underground storage tank.

(c) If a person:

(1) has been denied certification; or

(2) had the person's certification revoked under subsection (b) or IC 13-7-20-13.3(b) (before its repeal);

the state fire marshal may certify the person only if the person files a performance bond with the state fire marshal in an amount established by the fire prevention and building safety commission.

(d) If a person who is certified or attempts to become certified under subsection (c) intentionally or negligently violates a standard established by the board or the fire prevention and building safety commission concerning the installation or retrofitting of, testing of, provision of cathodic protection for, or decommissioning of an underground storage tank, the state fire marshal may:

(1) permanently deny the certification of the person; or

(2) permanently revoke the certification of the person.

As added by P.L.1-1996, SEC.13. Amended by P.L.67-1996, SEC.5.

IC 13-23-3-4
Expiration; rules

Sec. 4. (a) A certificate issued under section 1 of this chapter expires two (2) years from the date a person successfully completes the examination to qualify to obtain the certificate.

(b) The fire prevention and building safety commission may adopt rules establishing renewal procedures for certificates that expire under subsection (a).

As added by P.L.1-1996, SEC.13. Amended by P.L.67-1996, SEC.6.

IC 13-23-4

Chapter 4. Financial Responsibility

IC 13-23-4-1

Permissible forms of evidence

Sec. 1. The rules adopted under IC 13-23-1-2(c)(6) may allow evidence of financial responsibility in one (1) or a combination of the following forms:

(1) Insurance.

(2) Guarantee.

(3) Surety bond.

(4) Letter of credit.

(5) Qualification as a self-insurer.

(6) Any other method satisfactory to the commissioner and the Administrator of the United States Environmental Protection Agency.

As added by P.L.1-1996, SEC.13.

IC 13-23-4-2

Required policy provisions or contract terms

Sec. 2. The rules adopted under IC 13-23-1-2(c)(6) may require the use of certain policy provisions or contract terms, including provisions or terms concerning the following:

(1) The minimum amount of coverage required for various classes and categories of underground storage tanks established under section 4 of this chapter.

(2) Conditions or defenses that are necessary or unacceptable in establishing evidence of financial responsibility.

As added by P.L.1-1996, SEC.13.

IC 13-23-4-3

Establishment of method to show evidence of financial responsibility

Sec. 3. (a) The commissioner may provide a method under which the owner or operator of an underground storage tank may establish evidence of financial responsibility as required under sections 1 and 2 of this chapter and 42 U.S.C. 6991b(c)(6) with respect to the part of the potential liability of the owner or operator that is not covered through the excess liability trust fund established by IC 13-23-7-1.

(b) A method provided by the commissioner under this section must be acceptable to the Administrator of the United States Environmental Protection Agency.

(c) A method provided by the commissioner under this section must establish requirements for the establishment of evidence of financial responsibility by a small business petroleum marketer that are less stringent than the requirements applying to a petroleum marketer that owns or operates more than twelve (12) underground storage tanks.

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.4.

IC 13-23-4-4

Underground storage tanks containing petroleum; minimum coverage amounts; classes and categories

Sec. 4. (a) The rules adopted under IC 13-23-1-2(c)(6) may require a minimum amount of coverage for particular classes or categories of underground storage tanks containing petroleum. Minimum coverage amounts established under this subsection must be at least one million dollars ($1,000,000) for each occurrence, with an appropriate aggregate amount.

(b) The board may by rule set minimum coverage amounts lower than the amount set forth in subsection (a) for underground storage tanks containing petroleum that are:

(1) not located at facilities engaged in the production, refining, or marketing of petroleum; and

(2) not used to handle substantial quantities of petroleum.

(c) In adopting rules establishing classes and categories of underground storage tanks containing petroleum for purposes of this section, the board may consider the following factors:

(1) The:

(A) size, type, location, storage, and handling capacity of underground storage tanks in the class or category; and

(B) volume of petroleum handled by those tanks.

(2) The:

(A) likelihood of release; and

(B) potential extent of damage from any release;

from underground storage tanks in the class or category.

(3) The economic impact of the limits on the owners and operators of each class or category, particularly relating to the small business segment of the petroleum marketing industry.

(4) The availability of methods of financial responsibility in amounts greater than the amount established by this section.

(5) Any other factors that the board considers pertinent.

As added by P.L.1-1996, SEC.13.

IC 13-23-4-5

Suspension of enforcement of financial responsibility requirements

Sec. 5. (a) The commissioner, upon the application of any affected person or in the absence of any application, may suspend enforcement of the financial responsibility requirements for a particular class or category of underground storage tanks if the commissioner determines that the following conditions exist:

(1) The methods of financial responsibility satisfying the requirements of this article are not generally available for underground storage tanks in that class or category.

(2) Steps are being taken:

(A) to form a risk retention group for the class or category; or

(B) to establish a fund under Section 9004(c)(1) of the federal Solid Waste Disposal Act, as amended (42 U.S.C. 6991c(c)(1), as amended), to be submitted as evidence of

financial responsibility.

(b) A suspension of enforcement under this section may not exceed one hundred eighty (180) days. Following a suspension of enforcement under this section, the commissioner may suspend enforcement for additional successive periods of not more than one hundred eighty (180) days if:

(1) the commissioner determines that substantial progress has been made in establishing a risk retention group; or

(2) the owners or operators of underground storage tanks in the class or category demonstrate to the satisfaction of the commissioner that:

(A) the formation of a risk retention group is not possible; and

(B) the state is unable or unwilling to establish a fund as described in subsection (a)(2)(B).

(c) A determination to suspend enforcement of the financial responsibility requirements for a particular class or category of underground storage tanks under subsection (a) or (b) may not be effective until the Administrator of the United States Environmental Protection Agency has made the same determination under Section 9003(d)(5)(D) of the federal Solid Waste Disposal Act, as amended (42 U.S.C. 6991b(d)(5)(D), as amended), with respect to the same class or category of underground storage tanks.

As added by P.L.1-1996, SEC.13.

IC 13-23-4-6

Bankruptcy of owner or operator of underground storage tank; liability of guarantor

Sec. 6. (a) If:

(1) the owner or operator of an underground storage tank is in bankruptcy, reorganization, or arrangement under the federal bankruptcy law; or

(2) despite the exercise of reasonable diligence, no state or federal court could obtain jurisdiction over an owner or operator likely to be solvent at the time of judgment;

any claim arising from conduct for which evidence of financial responsibility is provided may be asserted directly against the guarantor.

(b) In an action based upon a claim under subsection (a), the guarantor may invoke:

(1) all rights and defenses that would have been available to the owner or operator if the action had been brought against the owner or operator by the claimant; and

(2) all rights and defenses that would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(c) The total liability of a guarantor under this section is limited to the aggregate amount in which the guarantor has provided evidence of financial responsibility for the owner or operator of an underground storage tank. This section does not do any of the

following:

(1) Limit any other liability of a guarantor to the owner or operator of an underground storage tank, such as liability for bad faith in:

(A) negotiating; or

(B) failing to negotiate;

the settlement of any claim.

(2) Diminish the liability of any person under the following:

(A) Section 107 or 111 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607 or 9611).

(B) Any other applicable law.

As added by P.L.1-1996, SEC.13.

IC 13-23-4-7

Concurrence of Administrator of United States Environmental Protection Agency with actions of board or commissioner

Sec. 7. The provisions of IC 13-11-2-241(d)(10) and sections 1(6) and 5(c) of this chapter requiring the concurrence of the Administrator of the United States Environmental Protection Agency for an action of the board or commissioner to be effective are nullified if the Administrator grants to the commissioner, under the program approved under Section 9004 of the federal Solid Waste Disposal Act, as amended (42 U.S.C. 6991c, as amended), the authority to take the action without the Administrator's specific concurrence.

As added by P.L.1-1996, SEC.13. Amended by P.L.6-2014, SEC.2.

IC 13-23-5

Chapter 5. Installation of Underground Storage Tanks

IC 13-23-5-1

Restrictions on timing of tank installations; tanks for alcohol blended fuels

Sec. 1. (a) Subject to section 2 of this chapter, and except as provided in subsection (b), an underground storage tank, whether of single or double wall construction, may not be installed before the effective date of the rules adopted under IC 13-23-1-2 for the purpose of storing regulated substances unless:

(1) the tank will prevent releases due to corrosion or structural failure for the operational life of the tank;

(2) the tank is:

(A) cathodically protected against corrosion;

(B) constructed of noncorrosive material;

(C) steel clad with a noncorrosive material; or

(D) designed to prevent the release or threatened release of any stored substance;

(3) the material used in the construction or lining of the tank is compatible with the substance to be stored; and

(4) after July 1, 2007, all newly installed or replaced piping connected to the tank meets the secondary containment requirements adopted by the board.

(b) An underground storage tank system that contains alcohol blended fuels composed of greater than fifteen percent (15%) alcohol is a petroleum UST system (as defined in 329 IAC 9-1-36 as in effect January 1, 2007) and may be installed during the period referred to in subsection (a) if the system is otherwise in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks and ancillary equipment, including dispensing equipment, used in the storing or dispensing of alcohol blended fuels for purposes of:

(1) IC 13-23-8-3(1)(A); and

(2) all other provisions of this article.

(c) Owners and operators of underground storage tank systems that store, carry, or dispense alcohol blended fuels composed of greater than fifteen percent (15%) alcohol that comply with subsection (b) are considered to meet the standards of:

(1) compatibility under subsection (a)(3); and

(2) compliance for purposes of:

(A) IC 13-23-8-3; and

(B) all other provisions of this article.

As added by P.L.1-1996, SEC.13. Amended by P.L.75-2007, SEC.1; P.L.221-2007, SEC.13.

IC 13-23-5-2

Restrictions based on soil resistivity

Sec. 2. If soil tests conducted in accordance with:

(1) ASTM Standard G57-78; or

(2) another standard approved by the commissioner as exhibiting the same or a greater degree of reliability and accuracy;

show that soil resistivity in an installation location is at least twelve thousand ohms per centimeter (12,000 ohm/cm), a storage tank without corrosion protection may be installed in that location during the period referred to in section 1 of this chapter.

As added by P.L.1-1996, SEC.13.

IC 13-23-5-3

Compliance of underground storage tank systems with certain laws

Sec. 3. (a) An underground storage tank system that contains fuel composed of greater than fifteen percent (15%) alcohol is considered to comply with section 1(b) of this chapter if either of the following applies:

(1) The system predates May 11, 2007.

(2) The system predates the adoption by:

(A) the solid waste management board (established by IC 13-19-2, before its repeal); or

(B) the environmental rules board;

after May 11, 2007, of any additional rules concerning technical and safety requirements for storing and dispensing alcohol blended fuel.

(b) Replacement tanks or ancillary equipment installed in existing underground storage tank systems storing or dispensing alcohol blended fuels must meet the standards contained in additional rules as described in subsection (a)(2) that were adopted by the solid waste management board before January 1, 2013, or are adopted by the environmental rules board only if the installation occurs after the adoption of those rules.

As added by P.L.16-2009, SEC.21. Amended by P.L.113-2014, SEC.77.

IC 13-23-6

Chapter 6. Underground Petroleum Storage Tank Trust Fund

IC 13-23-6-1

Establishment

Sec. 1. The underground petroleum storage tank trust fund is established to provide a source of money for the uses set forth in IC 13-23-13-6.

As added by P.L.1-1996, SEC.13.

IC 13-23-6-2

Sources

Sec. 2. The sources of money for the fund are as follows:

(1) Grants made by the United States Environmental Protection Agency to the state under cooperative agreements under Section 9003(h)(7) of the federal Solid Waste Disposal Act (42 U.S.C. 6991b(h)(7)).

(2) Costs recovered by the state under IC 13-23-13-8 in connection with any corrective action undertaken under IC 13-23-13-2 with respect to a release of petroleum.

(3) Costs recovered by the state in connection with the enforcement of this article with respect to any release of petroleum.

(4) Appropriations made by the general assembly, gifts, and donations intended for deposit in the fund.

(5) Penalties imposed under IC 13-23-14.

(6) Revenue from the underground petroleum storage tank registration fee deposited in the fund under IC 13-23-12-4.

As added by P.L.1-1996, SEC.13. Amended by P.L.38-2012, SEC.4.

IC 13-23-6-3

Expenses

Sec. 3. The expenses of administering the fund shall be paid from money in the fund.

As added by P.L.1-1996, SEC.13.

IC 13-23-6-4

Investments

Sec. 4. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

As added by P.L.1-1996, SEC.13.

IC 13-23-6-5

Reversion to general fund

Sec. 5. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.1-1996, SEC.13.

IC 13-23-7

Chapter 7. Underground Petroleum Storage Tank Excess Liability Fund

IC 13-23-7-1

Purposes of fund; limitation on use of fund

Sec. 1. (a) Subject to subsection (b), the underground petroleum storage tank excess liability trust fund is established for the following purposes:

(1) Assisting owners and operators of underground petroleum storage tanks to establish evidence of financial responsibility as required under IC 13-23-4.

(2) Providing a source of money to satisfy liabilities incurred by owners and operators of underground petroleum storage tanks under IC 13-23-13-8 for corrective action.

(3) Providing a source of money for the indemnification of third parties under IC 13-23-9-3.

(4) Providing a source of money to pay for the expenses of the department incurred in paying and administering claims against the trust fund. Money may be provided under this subdivision only for those job activities and expenses that consist exclusively of administering the excess liability trust fund.

(5) Providing a source of money to pay for the expenses of the department incurred in inspecting underground storage tanks.

(6) Providing a source of money to pay expenses incurred by the department in establishing and implementing an underground storage tank operator training program:

(A) on an Internet web site; and

(B) that complies with the requirements of the federal Energy Policy Act of 2005.

(b) The combined amount of payments described in subsection (a)(4), (a)(5), and (a)(6) from the underground petroleum storage tank excess liability trust fund in a state fiscal year may not exceed eleven percent (11%) of the fund income in the immediately preceding state fiscal year.

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.5; P.L.14-2001, SEC.4; P.L.114-2008, SEC.23; P.L.105-2011, SEC.2.

IC 13-23-7-2

Sources of money for fund

Sec. 2. Sources of money for the trust fund are the following:

(1) Fees and penalties paid under IC 13-23-12.

(2) Appropriations from the general assembly.

(3) Gifts and donations intended for deposit in the fund.

(4) Inspection fees paid under IC 16-44-2.

(5) Bond revenue under IC 4-4-11.2-7(a)(1).

(6) Any other money authorized to be deposited in or appropriated to the trust fund.

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.6.

IC 13-23-7-3
Administration of fund

Sec. 3. The commissioner or the commissioner's designee shall administer the trust fund.

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.7.

IC 13-23-7-4
Expenses

Sec. 4. The expenses of administering the provisions of this article that are funded by the trust fund, including:

(1) IC 13-23-8;
(2) IC 13-23-9;
(3) IC 13-23-11; and
(4) IC 13-23-12;

shall be paid from money in the fund.

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.8; P.L.14-2001, SEC.5.

IC 13-23-7-5
Investments

Sec. 5. The treasurer of state shall invest the money in the trust fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund. At least one (1) time each year, the treasurer of state shall provide the financial assurance board a report detailing the investments made under this section.

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.9.

IC 13-23-7-6
Reversion to general fund

Sec. 6. Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.10.

IC 13-23-7-7
Audit of fund

Sec. 7. Not later than December 31, 1996, and every two (2) years thereafter, the state board of accounts shall conduct an audit of the excess liability trust fund.

As added by P.L.9-1996, SEC.25.

IC 13-23-7-8
Renaming; underground petroleum storage tank excess liability trust fund

Sec. 8. On July 1, 1996, the underground petroleum storage tank excess liability fund established by section 1 of this chapter is renamed as the underground petroleum storage tank excess liability trust fund. The petroleum storage tank excess liability trust fund shall be considered a trust fund.

As added by P.L.9-1996, SEC.26.

IC 13-23-7-9
Criminal penalty for application misstatement

Sec. 9. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for financial assistance from the fund commits a Level 6 felony.

As added by P.L.137-2007, SEC.25. Amended by P.L.158-2013, SEC.192.

IC 13-23-7-10
Lien to secure payment; department of state revenue

Sec. 10. (a) The department of revenue may impose a lien on the property of an owner or operator, if the owner or operator fails to pay fees that are due under IC 13-23-12-1 according to the provisions in IC 6-8.1-8-2. The lien may secure the payment to the state of an amount equal to the amount of the fees that are due.

(b) If the department of revenue fails to impose a lien on the property described in subsection (a), no penalties or interest may be collected on the tax under IC 6-8.1-8-2.

As added by P.L.19-2012, SEC.1. Amended by P.L.244-2013, SEC.1.

IC 13-23-8

Chapter 8. Use of Money in Excess Liability Fund

IC 13-23-8-1

Payment of claims and loan guaranties from fund

Sec. 1. The department, under rules adopted by the underground storage tank financial assurance board under IC 4-22-2, shall use money in the excess liability trust fund, to the extent that money is available in the excess liability trust fund, to pay claims submitted to the department for the following:

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

(A) liabilities to third parties; and

(B) the costs of repairing or replacing an underground storage tank;

arising out of releases of petroleum.

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

(A) to third parties under IC 13-23-9-3; or

(B) for reasonable attorney's fees incurred in defense of a third party liability claim.

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.13; P.L.14-2001, SEC.6.

IC 13-23-8-2

Payment of claims; maximum amount

Sec. 2. Except as provided in section 6 of this chapter, payments under section 1 of this chapter may not exceed two million dollars ($2,000,000) per occurrence for which claims are made under this chapter.

As added by P.L.1-1996, SEC.13. Amended by P.L.14-2001, SEC.7.

IC 13-23-8-3

Payment of claims; amounts

Sec. 3. For the purposes of section 2 of this chapter, the following amounts shall be used:

(1) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is not in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; and

(B) is in compliance on a date required under the requirements described under section 4 of this chapter at the time a release was discovered;

the amount is thirty-five thousand dollars ($35,000).

(2) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board

concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is not a double walled underground petroleum storage tank; and

(C) has piping that does not have secondary containment;

the amount is thirty thousand dollars ($30,000).

(3) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is not a double walled underground petroleum storage tank; and

(C) has piping that has secondary containment;

the amount is twenty-five thousand dollars ($25,000).

(4) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is a double walled underground petroleum storage tank; and

(C) has piping that does not have secondary containment;

the amount is twenty-five thousand dollars ($25,000).

(5) If the underground petroleum storage tank that was involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is a double walled underground petroleum storage tank; and

(C) has piping that has secondary containment;

the amount is twenty thousand dollars ($20,000).

As added by P.L.1-1996, SEC.13. Amended by P.L.14-2001, SEC.8; P.L.75-2007, SEC.2; P.L.221-2007, SEC.14; P.L.159-2011, SEC.37.

IC 13-23-8-4

Requirements to receive fund money

Sec. 4. (a) Except as provided under subsection (b), and subject to section 4.5 of this chapter, an owner or operator may receive money from the excess liability trust fund under section 1 of this chapter only if the owner or operator is in substantial compliance (as defined

in 328 IAC 1-1-9) with the following requirements:

(1) The owner or operator has complied with the following:

(A) This article or IC 13-7-20 (before its repeal).

(B) Rules adopted under this article or IC 13-7-20 (before its repeal).

A release from an underground petroleum storage tank may not prevent an owner or operator from establishing compliance with this subdivision to receive money from the excess liability fund.

(2) The owner or operator has paid all registration fees that are required under rules adopted under IC 13-23-8-4.5.

(3) The owner or operator has provided the commissioner with evidence of payment of the amount of liability the owner or operator is required to pay under section 2 of this chapter.

(4) A corrective action plan is approved by the commissioner or deemed approved under this subdivision. The corrective action plan for sites with a release from an underground petroleum storage tank that impacts soil or groundwater, or both, is automatically deemed approved only as long as:

(A) the plan conforms with:

(i) 329 IAC 9-4 and 329 IAC 9-5; and

(ii) the department's cleanup guidelines set forth in the Underground Storage Tank Branch Guidance Manual, including the department's guidance on remediation and closure standards; and

(B) the soil and groundwater contamination is confined to the owner's or operator's property.

If the corrective action plan fails to satisfy any of the requirements of clause (A) or (B), the plan is automatically deemed disapproved. If a corrective action plan is disapproved, the claimant may supplement the plan. The corrective action plan is automatically deemed approved when the cause for the disapproval is corrected. For purposes of this subdivision, in the event of a conflict between compliance with the corrective action plan and the department's standards in clause (A), the department's standards control. For purposes of this subdivision, if there is a conflict between compliance with the corrective action plan and the board's rules, the board's rules control. The department may audit any corrective action plan. If the commissioner denies the plan, a detailed explanation of all the deficiencies of the plan must be provided with the denial.

(b) An owner, operator, or transferee of property under subsection (e) is eligible to receive money from the fund before the owner, operator, or transferee has a corrective action plan approved or deemed approved if:

(1) the work for which payment is sought under IC 13-23-9-2 was an initial response to a petroleum release that created the need for emergency action to abate an immediate threat of harm to human health, property, or the environment;

(2) the work is for a site characterization completed in accordance with 329 IAC 9-5; or

(3) the department has not acted upon a corrective action plan submitted under IC 13-23-9-2 within ninety (90) days after the date the department receives the:

(A) plan; or

(B) application to the fund;

whichever is later.

(c) The amount of money an owner, operator, or transferee of property under subsection (e) is eligible to receive from the fund under subsection (b) must be calculated in accordance with 328 IAC 1-3.

(d) An owner, an operator, or a transferee of property described in subsection (e) eligible to receive money from the fund under this section may assign that right to another person.

(e) A transferee of property upon which a tank was located is eligible to receive money from the fund under this section if:

(1) the transferor of the property was eligible to receive money under this section with respect to the property;

(2) the transferee acquired ownership or operation of an underground petroleum storage tank as a result of a bona fide, good faith transaction, negotiated at arm's length, between parties under separate ownership; and

(3) the transferee pays all applicable tank fees under IC 13-23-12-1, including past due fees and interest for each tank, not more than thirty (30) days after receiving notice of the indebtedness.

For purposes of subdivision (3), past due fees include fees, interest, and penalties assessed by the department of revenue.

As added by P.L.1-1996, SEC.13. Amended by P.L.67-1996, SEC.7; P.L.9-1996, SEC.14; P.L.2-1997, SEC.48; P.L.131-1997, SEC.3; P.L.2-1998, SEC.54; P.L.14-2001, SEC.9; P.L.19-2012, SEC.2; P.L.13-2013, SEC.48; P.L.244-2013, SEC.2.

IC 13-23-8-4.5

Duty of board to adopt rules

Sec. 4.5. The financial assurance board shall adopt rules under IC 4-22-2 to do the following:

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

(A) register an underground petroleum storage tank from which a release has occurred; or

(B) pay all registration fees that are due under IC 13-23-12-1 by the date the fees are due.

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

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

(B) a foreclosure or a deed transferred in lieu of a

foreclosure;
(C) the exercise of the person's lien rights; or
(D) an inheritance.

As added by P.L.67-1996, SEC.8. Amended by P.L.14-2001, SEC.10.

IC 13-23-8-5
Priority of liability claims and loan guaranties

Sec. 5. The financial assurance board shall adopt rules under IC 4-22-2 to define the manner in which the priority order of liability claims and loan guaranties is established. The rules must give priority to liability claims associated with releases from underground storage tanks that pose an immediate and significant threat to the environment.

As added by P.L.1-1996, SEC.13.

IC 13-23-8-6
Claims exceeding balance in fund; liability of department and development finance authority; notice

Sec. 6. (a) If the balance in the excess liability trust fund is insufficient to pay:

(1) claims under section 1 of this chapter;
(2) necessary personnel and administrative expenses associated with the excess liability trust fund; and
(3) the transfer repayment specified in IC 13-23-15-3 before its expiration and repeal;

the department shall cease paying claims.

(b) The department shall then notify each claimant that:

(1) the department may not pay the claim; and
(2) the claimant may not use the excess liability trust fund to satisfy any financial assurance requirements under federal law.

As added by P.L.1-1996, SEC.13. Amended by P.L.14-2001, SEC.11; P.L.1-2002, SEC.66.

IC 13-23-8-7
Discrimination; enforceable right

Sec. 7. (a) The department, with respect to payment of claims under section 1 of this chapter, may not discriminate against any claimant. However, subject to this chapter, a claimant does not have an enforceable right to the payment of a claim under this chapter.

(b) This chapter does not create any obligation on the part of the state other than as specifically provided in this article.

As added by P.L.1-1996, SEC.13. Amended by P.L.14-2001, SEC.12.

IC 13-23-8-8
Receipt of funds; amounts; restrictions

Sec. 8. (a) An owner or operator of:

(1) not more than one hundred (100) underground petroleum storage tanks may not receive more than two million dollars ($2,000,000) from the excess liability trust fund during a year; and

(2) more than one hundred (100) underground storage tanks may not receive more than three million dollars ($3,000,000) from the excess liability trust fund during a year.

(b) If the right to receive money from the fund under this chapter is assigned as described in section 4(d) of this chapter, the combined amount of money received by the assignor and the assignee from the excess liability trust fund during a year may not exceed the limits established in subsection (a).

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.15; P.L.14-2001, SEC.13.

IC 13-23-9

Chapter 9. Payment From Excess Liability Fund

IC 13-23-9-1

Duties of administrator regarding requests for payments

Sec. 1. The administrator of the excess liability trust fund shall process, approve, and deny requests made for payments from the excess liability trust fund under sections 2 and 3 of this chapter.

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.21; P.L.14-2001, SEC.14.

IC 13-23-9-2

Requirements for claimant to receive money from fund; corrective action plan; cost effectiveness; notification; failure to meet requirements

Sec. 2. (a) To receive money from the excess liability trust fund under IC 13-23-8-1(1), a claimant must:

(1) submit a corrective action plan to the administrator of the excess liability trust fund for the administrator's approval; and

(2) submit a copy of a work receipt for work that has been performed.

(b) If, after receiving a corrective action plan and a work receipt under subsection (a), the administrator determines that:

(1) the corrective action plan may be approved and that the work that has been performed is consistent with the approved corrective action plan;

(2) the work or part of the work that has been performed is reasonable and cost effective;

(3) the work that has been performed concerns the elimination or mitigation of a release of petroleum from an underground storage tank including:

(A) release investigation;

(B) mitigation of fire and safety hazards;

(C) tank removal;

(D) soil remediation; or

(E) ground water remediation and monitoring; and

(4) the claimant is in compliance with the requirements of this article and the rules adopted under this article;

the administrator shall approve the request for money to be paid from the excess liability trust fund for work that has been performed.

(c) The administrator shall develop criteria for determining the cost effectiveness of corrective action. Although not required for payment from the excess liability trust fund, a claimant may seek pre-approval from the administrator stating that the work to be performed is reasonable and cost effective.

(d) The administrator shall notify the claimant of an approval or a denial of a request made under subsection (b) not later than sixty (60) days after receiving the request. Except as provided in subsection (f), the administrator shall notify the claimant of all reasons for a denial or partial denial.

(e) Not later than seven (7) days after a request is approved by the administrator under subsection (b) for the reimbursement of costs for corrective action, the administrator shall forward a copy of a request approved under this section to the auditor of state.

(f) Not later than thirty (30) days after receiving an approved request under this section, the auditor of state shall pay to the claimant that submitted the approved work receipt the approved amount from money available in the excess liability trust fund.

(g) If a reason the administrator denies a request made under subsection (b) is for failure to meet the requirements of subsection (b)(1), the administrator shall notify the claimant in writing not later than sixty (60) days after receiving the request. The claimant has thirty (30) days from the receipt of the denial to notify the administrator of the claimant's intention to appeal the denial. If the claimant does not notify the administrator of an intention to appeal in the time provided, further review of the application is not required. If an intention to appeal is submitted within the time provided, the administrator has thirty (30) days after the receipt of the notice of the intention to appeal to provide the claimant with all additional reasons for the denial or partial denial of the request or to specify that all reasons have been provided. The claimant has thirty (30) days after receiving notification from the administrator of all additional reasons for the denial or partial denial or notice specifying that all reasons have been provided to file a petition for review of the denial or partial denial.

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.22; P.L.14-2001, SEC.15.

IC 13-23-9-3

Requirements for claimant to receive money from fund; request for indemnification; approval or denial by attorney general

Sec. 3. (a) To receive money from the excess liability trust fund under IC 13-23-8-1(2), a claimant must:

(1) submit to the administrator a request for indemnification of a third party containing any information required by the administrator; and

(2) forward a copy of the request under subdivision (1) to the attorney general for the attorney general's approval.

(b) The attorney general shall approve a request submitted under subsection (a) if the attorney general determines that there is:

(1) a legally enforceable and final judgment against the claimant caused by a release of petroleum that was not entered as a result of:

(A) fraud;

(B) negligence; or

(C) an inadequate defense on the part of the attorney of the claimant; or

(2) a reasonable settlement between the claimant and the third party.

(c) If the attorney general approves a request under subsection (b),

the administrator shall approve the request if the claimant is in compliance with the requirements of this article and the rules adopted under this article.

(d) The attorney general shall approve or deny a request submitted under subsection (a) not later than sixty (60) days after the attorney general receives the request.

(e) Not later than seven (7) days after the attorney general has approved a request under this section, the attorney general shall forward a copy of the approved request to the auditor of state.

(f) Not later than thirty (30) days after receiving an approved request under this section, the auditor of state shall pay to the claimant that made the request the approved amount from money available in the excess liability trust fund.

(g) If the attorney general denies a request submitted under this section, the attorney general shall notify the claimant that made the request of the denial not later than ten (10) days after the request has been denied.

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.23; P.L.14-2001, SEC.16.

IC 13-23-9-4

Requests for payment from fund; appeal and review; procedure

Sec. 4. If the administrator denies a request made under section 2 or 3 of this chapter, the owner or operator who made the request may appeal the denial under IC 4-21.5 to the office of environmental adjudication under IC 4-21.5-7.

As added by P.L.1-1996, SEC.13. Amended by P.L.25-1997, SEC.15.

IC 13-23-9-5

Insufficient amount of money in fund

Sec. 5. If the amount of money in the excess liability trust fund is not sufficient to meet approved claims made against the excess liability trust fund:

(1) the state; and

(2) the excess liability trust fund;

are not liable for the claims.

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.24.

IC 13-23-9-6

Criminal penalty for application misstatement

Sec. 6. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with a request for payment from the excess liability trust fund commits a Level 6 felony.

As added by P.L.137-2007, SEC.26. Amended by P.L.158-2013, SEC.193.

IC 13-23-10
Repealed

(Repealed by P.L.14-2001, SEC.19.)

IC 13-23-11

Chapter 11. Underground Storage Tank Financial Assurance Board

IC 13-23-11-1

Creation

Sec. 1. The underground storage tank financial assurance board is created.

As added by P.L.1-1996, SEC.13.

IC 13-23-11-2

Members

Sec. 2. (a) The board consists of the following nine (9) members:

(1) The commissioner or the commissioner's designee.

(2) One (1) member nominated by the treasurer of state in consultation with the commissioner of the department of state revenue.

(3) One (1) member representing the independent petroleum wholesale distributor-marketer industry. In making this appointment, the governor may consider the recommendation of the Indiana petroleum marketers and convenience store association.

(4) One (1) member representing the petroleum refiner-supplier industry. In making this appointment, the governor may consider the recommendation of the Indiana petroleum council.

(5) One (1) member of the financial lending community who has experience with loan guaranty programs.

(6) One (1) member representing the convenience store operator industry or independent petroleum retail distributor-marketer industry. In making this appointment, the governor may consider the recommendation of the Indiana petroleum marketers and convenience store association.

(7) One (1) member representing environmental interests.

(8) One (1) member representing local government.

(9) One (1) member representing the property and casualty insurance industry.

(b) The governor shall appoint the members specified in subsection (a)(2) through (a)(9) for terms of two (2) years.

As added by P.L.1-1996, SEC.13. Amended by P.L.131-1997, SEC.4; P.L.113-2014, SEC.78.

IC 13-23-11-3

Compensation

Sec. 3. (a) Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses 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.

(b) Each member of the board who is a state employee is entitled to reimbursement for traveling expenses 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.
As added by P.L.1-1996, SEC.13.

IC 13-23-11-4
Vacancies; appointment; term

Sec. 4. (a) If an appointed member of the board is not able to serve the member's full term, the governor shall appoint an individual to serve for the remainder of the unexpired term.

(b) The term of an appointed member of the board continues until the member's successor has been appointed and qualified.
As added by P.L.1-1996, SEC.13.

IC 13-23-11-5
Officers

Sec. 5. The board, at the board's first meeting of each year, shall elect from among the board's members a chairperson and other officers necessary to transact business.
As added by P.L.1-1996, SEC.13.

IC 13-23-11-6
Quorum; meetings

Sec. 6. (a) The board must have a quorum to transact business. Five (5) members constitute a quorum.

(b) An affirmative vote of the majority of members present is required for the board to take action.

(c) The board shall meet upon:

(1) the request of the chairperson; or

(2) the written request of three (3) of the board's members.

(d) A meeting must be held not later than fourteen (14) days after a request is made.
As added by P.L.1-1996, SEC.13. Amended by P.L.131-1997, SEC.5; P.L.113-2014, SEC.79.

IC 13-23-11-7
Duties of board

Sec. 7. (a) The board shall do the following:

(1) Adopt rules under IC 4-22-2 and IC 13-14-9 necessary to carry out the duties of the board under this article.

(2) Take testimony and receive a written report at every meeting of the board from the commissioner or the commissioner's designee regarding the financial condition and operation of the excess liability trust fund including:

(A) a detailed breakdown of contractual and administrative expenses the department is claiming from the excess liability trust fund under IC 13-23-7-1(a)(4); and

(B) a claims statistics report consisting of the status and value of each claim submitted to the fund and claims payments made under IC 13-23-8-1.

The testimony and written report under this subdivision shall be provided at every meeting of the board. However, the testimony and written report are not required more than one (1) time during any thirty (30) day period.

(3) Consult with the department on administration of the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1 in developing uniform policies and procedures for revenue collection and claims administration of the fund.

(b) The department shall consult with the board on administration of the underground petroleum storage tank excess liability trust fund. The consultation must include evaluation of alternative means of administering the fund in a cost effective and efficient manner.

(c) At each meeting of the board, the department shall provide the board with a written report on the financial condition and operation of the underground petroleum storage tank trust fund established under IC 13-23-6-1.

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.19; P.L.2-1997, SEC.49; P.L.131-1997, SEC.6; P.L.25-1997, SEC.16; P.L.253-1997(ss), SEC.16; P.L.2-1998, SEC.55; P.L.63-1998, SEC.5; P.L.14-2001, SEC.17; P.L.113-2014, SEC.80.

IC 13-23-11-8
Repealed

(Repealed by P.L.25-1997, SEC.18.)

IC 13-23-12
Chapter 12. Fees

IC 13-23-12-1
Underground storage tank annual registration fee; separate compartments within tank; combination of tanks; period preceding July 1, 2014

Sec. 1. (a) Each year, if an underground storage tank has not been closed before January 1 of the year under:

(1) rules adopted under IC 13-23-1-2; or

(2) a requirement imposed by the commissioner before the adoption of rules under IC 13-23-1-2;

the owner of the underground storage tank shall pay to the department an annual registration fee.

(b) The annual registration fee required by this section is as follows:

(1) Ninety dollars ($90) for each underground petroleum storage tank.

(2) Two hundred forty-five dollars ($245) for each underground storage tank containing regulated substances other than petroleum.

(c) If an underground storage tank consists of a single tank in which there are separate compartments, a separate fee shall be paid under subsection (b) for each compartment within the single tank.

(d) If an underground storage tank consists of a combination of tanks, a separate fee shall be paid under subsection (b) for each compartment within each tank in the combination of tanks.

(e) For purposes of determining eligibility for payment of part of the liability of owners and operators of underground petroleum storage tanks under IC 13-23-8, only fees paid in 1991 or later shall be considered.

(f) The following apply to tanks that contain separate compartments and that were in use before July 1, 2014:

(1) For the period preceding July 1, 2014, the payment of a single annual fee of ninety dollars ($90) for a tank containing separate compartments shall be deemed to satisfy the requirements of subsection (b).

(2) The department shall not be required to pay any refunds to a tank owner that paid a separate fee under subsection (b) for each compartment within a tank before July 1, 2014.

As added by P.L.1-1996, SEC.13. Amended by P.L.2-1998, SEC.56; P.L.212-1999, SEC.4; P.L.6-2014, SEC.3.

IC 13-23-12-2
Payment of fee in installments

Sec. 2. If the total amount of the fees owed under this article exceed five hundred dollars ($500), the fee payer has the option of paying the annual fees in four (4) equal installment payments. The department shall establish a payment schedule to implement this section.

As added by P.L.1-1996, SEC.13. Amended by P.L.220-2014, SEC.26.

IC 13-23-12-3
Annual payment; schedule

Sec. 3. Except as provided by section 2 of this chapter, the fee required by section 1 of this chapter shall be paid annually in accordance with a payment schedule established by the department. The fee payment form provided by the department must accompany the fee payment.

As added by P.L.1-1996, SEC.13. Amended by P.L.220-2014, SEC.27.

IC 13-23-12-4
Collection and deposit of fees

Sec. 4. The department shall collect the fees paid under this chapter and deposit the fees as follows:

(1) Fees paid in connection with underground petroleum storage tanks shall be deposited in the petroleum trust fund.

(2) Fees paid in connection with underground storage tanks used to contain regulated substances other than petroleum shall be deposited in the hazardous substances response trust fund.

As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.11; P.L.2-1998, SEC.57; P.L.212-1999, SEC.5; P.L.220-2014, SEC.28.

IC 13-23-12-5
Repealed

(Repealed by P.L.220-2014, SEC.29.)

IC 13-23-12-6
Repealed

(Repealed by P.L.220-2014, SEC.30.)

IC 13-23-12-7
Repealed

(Repealed by P.L.38-2012, SEC.5.)

IC 13-23-13
Chapter 13. Corrective Actions

IC 13-23-13-0.2
Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 13-7-20-24 (before its repeal, now partly codified at section 5 of this chapter) by P.L.25-1991 apply to an action for which a final determination of liability is made after June 30, 1991.
As added by P.L.220-2011, SEC.286.

IC 13-23-13-1
Issuance of orders or corrective actions

Sec. 1. (a) The commissioner may, under rules adopted under IC 13-23-1-2:

(1) issue an order under IC 13-14-2-7 or IC 4-21.5-4; or
(2) proceed under IC 13-14-2-6;

to require the owner or operator of an underground storage tank to undertake corrective action with respect to any release of a regulated substance.

(b) If the commissioner determines that the corrective action will be done properly and promptly by the owner or operator of the underground storage tank from which the release occurs, the commissioner may enter into an agreed order with the owner or operator to implement necessary corrective action.
As added by P.L.1-1996, SEC.13.

IC 13-23-13-2
Action by commissioner

Sec. 2. The commissioner, under rules adopted under IC 13-23-1-2, may undertake corrective action with respect to any release of a regulated substance into the environment from an underground storage tank if:

(1) that action is necessary, in the judgment of the commissioner, to protect human health and the environment; and
(2) at least one (1) of the following conditions exists:
(A) A person cannot be found not later than ninety (90) days after a suspected or confirmed release is identified (or a shorter time necessary to protect human health and the environment) who is:
(i) an owner or operator of the underground storage tank;
(ii) subject to the rules concerning corrective action; and
(iii) capable of properly carrying out corrective action with respect to the release.
(B) An existing situation requires prompt action by the commissioner under this section to protect human health and the environment.
(C) The cost of corrective action at the site of an underground storage tank exceeds the amount of financial

responsibility required under IC 13-23-1-2(c)(6), IC 13-23-4-4, and IC 13-23-4-5 and, considering the class or category of underground storage tank from which the release occurred, expenditures by the state are necessary to ensure an effective corrective action.

(D) The owner or operator of the underground storage tank has failed or refused to comply with an order of the commissioner or a judgment of a court of competent jurisdiction under section 1 of this chapter to take corrective action with respect to the release.

As added by P.L.1-1996, SEC.13.

IC 13-23-13-3

Exposure assessment

Sec. 3. A corrective action undertaken or required under this chapter may include an exposure assessment. The cost of any exposure assessment undertaken under this chapter may be recovered under section 8 of this chapter as part of the costs of corrective action.

As added by P.L.1-1996, SEC.13.

IC 13-23-13-4

Priority of orders and corrective actions

Sec. 4. In:

(1) issuing orders requiring corrective action under section 1 of this chapter; or

(2) undertaking corrective action under section 2 of this chapter;

the commissioner shall give priority to releases of regulated substances from underground storage tanks that pose the greatest threat to human health and the environment.

As added by P.L.1-1996, SEC.13.

IC 13-23-13-5

Limited corrective actions; streamlined administrative procedures

Sec. 5. In issuing orders requiring corrective action under section 1 of this chapter or undertaking corrective action under section 2 of this chapter the commissioner may:

(1) require only a limited form of corrective action; and

(2) implement streamlined administrative procedures;

with respect to a release of a regulated substance from an underground storage tank that, in the judgment of the commissioner, poses little or no immediate threat to human health or to the environment.

As added by P.L.1-1996, SEC.13.

IC 13-23-13-5.5

Intentional surface spill or overfill; contribution to corrective action costs claim

Sec. 5.5. (a) Notwithstanding any other provision of this chapter, a person who is not an owner or operator of an underground storage

tank is liable to the state only for corrective action to address a surface spill or overfill of a regulated substance from the underground storage tank that is intentionally caused by the person during the delivery of the regulated substance into the underground storage tank.

(b) A person who is liable for corrective action under subsection (a) is subject to a claim for contribution to corrective action costs arising solely from the surface spill or overfill by a person described in section 8(b)(1) or 8(b)(2) of this chapter. Except as otherwise provided in subsection (c) and (d), an action for contribution under this section may be brought in the same manner and is subject to the same provisions as an action brought under section 8(b) of this chapter.

(c) Before a person brings a contribution action under this section, the person must provide written notice of intent to bring the action by certified mail to:

(1) the department; and

(2) each person allegedly responsible for the surface spill or overfill that occurred during the delivery of a regulated substance into the underground storage tank.

(d) A person that provides notice under subsection (c) may not bring a contribution action if:

(1) the department commences an administrative proceeding or a civil action concerning the alleged surface spill or overfill not later than ninety (90) days after receiving notice under subsection (c)(1); or

(2) the person who receives the notice under subsection (c)(2) agrees in writing, within ninety (90) days after receipt of the notice, to remediate the surface spill or overfill in accordance with the state's rules governing spills and overfills.

As added by P.L.212-1999, SEC.6.

IC 13-23-13-6

Uses of underground petroleum storage tank trust fund; mandatory use for corrective actions

Sec. 6. (a) Except as provided in subsection (b), the commissioner, under rules adopted under IC 13-23-1-2, may use money in the petroleum trust fund to pay the following costs and expenses associated with underground petroleum storage tanks:

(1) Costs incurred for corrective action conducted under cooperative agreements entered into between the state and the Administrator of the United States Environmental Protection Agency under Section 9003(h)(7) of the federal Solid Waste Disposal Act (42 U.S.C. 6991b(h)(7)), in accordance with the provisions of the cooperative agreements.

(2) Expenses incurred by the state for the following:

(A) Corrective actions that are ordered or undertaken under this chapter.

(B) Enforcement of this article.

(3) Expenses incurred by the state under section 8 of this

chapter in recovering the costs of corrective actions undertaken under section 2 of this chapter.

(4) Administrative expenses and personnel expenses incurred by the state in carrying out this article.

(b) Notwithstanding subsection (a), fifty percent (50%) of the fees deposited in the petroleum trust fund under IC 13-23-12-4(1) shall be used by the commissioner to pay for corrective actions:

(1) taken under this chapter that involve releases of regulated substances from underground storage tanks; and

(2) that are not eligible to receive funds from the underground petroleum storage tank excess liability trust fund under IC 13-23-7.

Not more than eleven percent (11%) of the funds expended under this subsection may be used to pay for administrative and personnel expenses incurred in carrying out this subsection.

As added by P.L.1-1996, SEC.13. Amended by P.L.220-2014, SEC.31.

IC 13-23-13-7

Use of funds for corrective actions; nonpetroleum underground storage tanks

Sec. 7. The commissioner, under rules adopted under IC 13-23-1-2, may use money in the hazardous substances response trust fund to pay the following expenses associated with underground storage tanks used to contain regulated substances other than petroleum:

(1) Expenses incurred by the state for the following:

(A) Corrective actions that are ordered or undertaken under this chapter.

(B) Enforcement of this article.

(2) Expenses incurred by the state under section 8 of this chapter in recovering the costs of corrective actions.

(3) Administrative expenses and personnel expenses incurred by the state in carrying out this article.

As added by P.L.1-1996, SEC.13.

IC 13-23-13-7.5

Recovery of certain costs

Sec. 7.5. IC 34-11-2-11.5 applies to an action brought under section 8(b) of this chapter.

As added by P.L.154-2011, SEC.1.

IC 13-23-13-8

Liability of owner or operator for costs of corrective action; subrogation; actions to recover costs

Sec. 8. (a) Except where an owner or operator can prove that a release from an underground storage tank was caused solely by:

(1) an act of God;

(2) an act of war;

(3) negligence on the part of the state or the United States

government; or

(4) any combination of the causes set forth in subdivisions (1) through (3);

the owner or operator of an underground storage tank is liable to the state for the actual costs of any corrective action taken under section 2 of this chapter or IC 13-7-20-19(b) (before its repeal) involving the underground storage tank and is responsible for undertaking any corrective action, including undertaking an exposure assessment, ordered under this chapter, IC 13-23-14-1, IC 13-7-20-19 (before its repeal), or IC 13-7-20-26 (before its repeal), or required by this title or a rule adopted under this title.

(b) A person who:

(1) pays to the state the costs described under subsection (a); or

(2) undertakes corrective action resulting from a release from an underground storage tank, regardless of whether the corrective action is undertaken voluntarily or under an order issued under this chapter, IC 13-23-14-1, IC 13-7-20-19 (before its repeal), or IC 13-7-20-26 (before its repeal);

is entitled to receive a contribution from a person who owned or operated the underground storage tank at the time the release occurred. A person who brings a successful action to receive a contribution from an owner or operator is also entitled to receive reasonable attorney's fees and court costs from the owner or operator. An action brought under this subsection may be brought in a circuit or superior court. In resolving a contribution claim, a court may allocate the cost of a corrective action among the parties to the action using equitable factors that the court determines are appropriate.

(c) Money recovered by the state under this section in connection with any corrective action undertaken with respect to a release of petroleum shall be deposited in the petroleum trust fund.

(d) Money recovered by the state under this section in connection with any corrective action undertaken with respect to a release of a regulated substance other than petroleum shall be deposited in the hazardous substances response trust fund.

(e) The state may recover corrective action costs under this section in an action commenced under IC 13-14-2-6, IC 13-14-2-7, IC 13-7-5-7 (before its repeal), or IC 13-7-5-8 (before its repeal). An action to recover corrective action costs under this section may be combined, as appropriate, with an action to enforce an order issued under section 1 of this chapter or IC 13-7-20-19(a) (before its repeal) to require corrective action not already undertaken by the commissioner.

As added by P.L.1-1996, SEC.13.

IC 13-23-13-9

Equities for recovery of costs

Sec. 9. In determining the equities for seeking the recovery of costs under section 8 of this chapter, the commissioner may consider the following:

(1) The amount of financial responsibility required to be

maintained under IC 13-23-1-2(c)(6).

(2) The factors considered in establishing that amount for underground storage tanks containing petroleum under IC 13-23-4-4.

As added by P.L.1-1996, SEC.13.

IC 13-23-13-10

Agreements to indemnify, hold harmless, or insure

Sec. 10. (a) An indemnification agreement, a hold harmless agreement, or other similar agreement or conveyance is not effective to transfer the liability imposed under section 8 of this chapter from:

(1) the owner or operator of an underground storage tank; or

(2) any person who may be liable for a release or threat of release under this article;

to any other person.

(b) This section does not bar an agreement to:

(1) insure;

(2) hold harmless; or

(3) indemnify;

a party to an agreement for any liability under this article.

As added by P.L.1-1996, SEC.13.

IC 13-23-13-11

Subrogation

Sec. 11. This chapter does not bar a cause of action that:

(1) an owner or operator;

(2) a guarantor; or

(3) any other person subject to liability under this article;

has or would have, by reason of subrogation or otherwise, against any person.

As added by P.L.1-1996, SEC.13.

IC 13-23-13-12

Duty of owner or operator to furnish information, conduct testing, or permit access; right of entry

Sec. 12. (a) For the purpose of enabling the commissioner to take or to assess the need for corrective action under this chapter or to enforce this article, an owner or operator of an underground storage tank, upon the request of an officer, an employee, or a designated representative of the department, shall do the following:

(1) Furnish information relating to the underground storage tank or associated equipment or contents.

(2) Conduct monitoring or testing of the underground storage tank, including associated equipment or contents.

(3) Conduct monitoring or testing of soils, air, surface water, or ground water surrounding the underground storage tank if:

(A) tank testing, using methods that are applicable to but not in excess of federal standards, confirms a release of regulated substance; or

(B) other evidence exists that gives cause for reasonable

suspicion that a release has occurred.

(4) Permit, at all reasonable times, the officer, employee, or designated representative to have access to and to copy all records relating to the underground storage tank.

(5) Permit the officer, employee, or designated representative to have access for corrective action.

(b) For the purposes set forth in subsection (a), an officer, an employee, or a designated representative of the department may enter at reasonable times any establishment or other place where an underground storage tank is located or where a regulated substance may be present due to a release from an underground storage tank to do the following:

(1) Inspect and obtain samples from any person of any regulated substances contained in the underground storage tank.

(2) Conduct monitoring or testing of:

(A) the underground storage tank;

(B) associated equipment or contents; or

(C) surrounding soils, air, surface water, or ground water.

(3) Take corrective action under section 2 of this chapter.

(c) Every action authorized by this section shall be commenced and completed with reasonable promptness.

As added by P.L.1-1996, SEC.13.

IC 13-23-13-13

Emergency procurement powers; actions authorized under federal law

Sec. 13. (a) This article does not bar the commissioner from using any emergency procurement powers existing under law.

(b) This article does not bar the commissioner from taking any actions authorized under Section 9003(h)(7) of the federal Solid Waste Disposal Act (42 U.S.C. 6991b(h)(7)).

As added by P.L.1-1996, SEC.13.

IC 13-23-13-14

Lenders considered to participate in management

Sec. 14. For purposes of IC 13-11-2-148(e), IC 13-11-2-150(b), and IC 13-11-2-150(c), a person that is a lender and that holds evidence of ownership primarily to protect a security interest in an underground storage tank shall be considered to participate in management (as defined in IC 13-11-2-151.2) of the underground storage tank only if, while the borrower is still in possession of the underground storage tank encumbered by the security interest, the person:

(1) exercises decision making control over the environmental compliance related to the underground storage tank such that the person has undertaken responsibility for the hazardous substance handling or disposal practices related to the underground storage tank; or

(2) exercises control at a level comparable to that of a manager of the underground storage tank such that the person has

assumed or manifested responsibility:

(A) for the overall management of the underground storage tank encompassing day to day decision making with respect to environmental compliance; or

(B) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the underground storage tank other than the function of environmental compliance.

As added by P.L.90-1998, SEC.20. Amended by P.L.159-2011, SEC.38.

IC 13-23-13-15

Limits on liability of fiduciaries

Sec. 15. (a) The liability of a fiduciary under this title for the release or threatened release of a hazardous substance at, from, or in connection with an underground storage tank held in a fiduciary capacity shall not exceed the assets held in the fiduciary capacity.

(b) Subsection (a) does not apply to the extent that a person is liable under this title independently of the person's ownership of an underground storage tank as a fiduciary or actions taken in a fiduciary capacity.

(c) Subsections (a) and (d) do not limit the liability pertaining to a release or threatened release of a hazardous substance if negligence of a fiduciary causes or contributes to the release or threatened release.

(d) A fiduciary is not liable in its personal capacity under this title for any of the following:

(1) Undertaking or directing another person to undertake a response action under 42 U.S.C. 9607(d)(1) or under the direction of an on-scene coordinator designated under the National Contingency Plan.

(2) Undertaking or directing another person to undertake other lawful means of addressing a hazardous substance in connection with the underground storage tank.

(3) Terminating the fiduciary relationship.

(4) Including in the terms of the fiduciary agreement a covenant, warranty, or other term or condition that relates to compliance with an environmental law, or monitoring, modifying, or enforcing the term or condition.

(5) Monitoring or undertaking at least one (1) inspection of the underground storage tank.

(6) Providing financial advice or other advice or counseling to other parties to the fiduciary relationship, including the settlor or beneficiary.

(7) Restructuring, renegotiating, or otherwise altering the terms and conditions of the fiduciary relationship.

(8) Administering, as a fiduciary, an underground storage tank that was contaminated before the fiduciary relationship began.

(9) Declining to take any of the actions referred to in subdivisions (2) through (8).

(e) This section does not apply to a person if the person:

(1) acts in a capacity other than:

(A) a fiduciary capacity; or

(B) a beneficiary capacity;

and, in that capacity, directly or indirectly benefits from a trust or fiduciary relationship; or

(2) is a beneficiary and a fiduciary with respect to the same fiduciary estate and, as a fiduciary, receives benefits that exceed customary or reasonable compensation and incidental benefits permitted under other applicable law.

(f) This section does not preclude a claim against the assets of the estate or trust administered by:

(1) the fiduciary; or

(2) a nonemployee agent or independent contractor retained by a fiduciary.

(g) This section does not:

(1) affect the rights, immunities, or other defenses that are available under:

(A) this title; or

(B) other law that is applicable to a person subject to this chapter; or

(2) create:

(A) any liability for a person; or

(B) a private right of action against a fiduciary or any other person.

As added by P.L.90-1998, SEC.21.

IC 13-23-13-16

Presumptions concerning a governmental unit's tank activity on a brownfield

Sec. 16. (a) A political subdivision or unit of federal or state government that acquired ownership or control of an underground storage tank on a brownfield by any of the means listed in IC 13-11-2-150(c) and IC 13-11-2-151(b) may undertake any activity in conjunction with:

(1) investigation or remediation of hazardous substances, petroleum, and other pollutants associated with a brownfield, including complying with land use restrictions and institutional controls; or

(2) monitoring or closure of an underground storage tank;

without being considered as contributing to the existing release or threatened release of a regulated substance on, in, or at the brownfield unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the political subdivision or unit of federal or state government.

(b) For purposes of subsection (a), reckless, willful, or wanton misconduct constitutes gross negligence.

As added by P.L.221-2007, SEC.15.

IC 13-23-14

Chapter 14. Enforcement and Penalties

IC 13-23-14-1

Enforcement of chapter; penalties

Sec. 1. (a) Except as provided in IC 13-23-1-4, this article shall be enforced under IC 13-30-3.

(b) Except as provided in sections 2, 3, and 4 of this chapter, violations of this article are subject to the penalties imposed by the following:

(1) IC 13-30-4.
(2) IC 13-30-5.
(3) IC 13-30-8.

In addition, a violation of this article may lead to criminal prosecution under IC 13-30-10.

As added by P.L.1-1996, SEC.13. Amended by P.L.137-2007, SEC.28; P.L.38-2012, SEC.6.

IC 13-23-14-2

Failure to notify; false information

Sec. 2. A person who violates a rule adopted under IC 13-23-1-2 by:

(1) knowingly failing to give a required notification; or
(2) submitting false information;

is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each underground storage tank for which a required notification is not given or for which false information is submitted.

As added by P.L.1-1996, SEC.13.

IC 13-23-14-3

Violation of requirements, standards, or rules of underground storage tank program; exceptions

Sec. 3. (a) Except as provided in subsection (b), a person who violates:

(1) a requirement or standard set forth in this article; or
(2) a rule adopted under IC 13-23-1-2 other than a violation described in section 2 of this chapter;

is subject to a civil penalty of not more than ten thousand dollars ($10,000) per underground storage tank for each day of violation.

(b) A person is not subject to the civil penalty described in subsection (a) if:

(1) the violation arose from an underground storage tank that is on a brownfield;
(2) the person was not the owner or operator of the underground storage tank when the violation first occurred;
(3) the person does not dispense a regulated substance into or from the underground tank:
    (A) for any purpose other than temporary or permanent closure; or
    (B) in violation of any federal, state, or local regulations; and

(4) the underground storage tank is brought into compliance with this article not later than one (1) year after the person acquired ownership of the property.

As added by P.L.1-1996, SEC.13. Amended by P.L.122-1999, SEC.2 and P.L.119-1999, SEC.14.

IC 13-23-14-4

Noncompliance with orders

Sec. 4. (a) A person who fails to comply with an order issued by the commissioner under this article or IC 13-7-20 (before its repeal) after the order becomes effective is subject to a civil penalty of not more than twenty-five thousand dollars ($25,000) for each day of continued noncompliance.

(b) It is a defense to a violation of this section due to noncompliance with an order issued under IC 13-23-1-4 that the person has not been notified that an underground storage tank that is the subject of the order is ineligible for delivery, deposit, or acceptance of a regulated substance as determined by the commissioner.

As added by P.L.1-1996, SEC.13. Amended by P.L.38-2012, SEC.7.

IC 13-23-15
Repealed
(Repealed by P.L.1-2002, SEC.172.)

IC 13-23-16

Chapter 16. Notice of Release, Spill, or Overfill

IC 13-23-16-1

Citation to rules

Sec. 1. A citation in this chapter to a rule refers to the rule as in effect on January 1, 2007.

As added by P.L.221-2007, SEC.16.

IC 13-23-16-2

Reporting of releases and spills to county health officer

Sec. 2. If the department receives a report concerning:

(1) the discovery of released regulated substances at an underground storage tank site or in the surrounding area under 329 IAC 9-4-1(1); or

(2) a spill or overfill under 329 IAC 9-4-4(a);

the department shall, not more than seven (7) days after receiving the report, provide notice of the release, spill, or overfill to the county health officer of each county in which the release, spill, or overfill occurred.

As added by P.L.221-2007, SEC.16.

IC 13-23-16-3

Notice of release of spill by county health officer

Sec. 3. Not more than seven (7) days after receiving a notice from the department under section 2 of this chapter, a county health officer shall do the following:

(1) Publish notice of the release, spill, or overfill in a newspaper of general circulation in the county health officer's county.

(2) Provide any other notice of the release, spill, or overfill the county health officer considers necessary or appropriate.

As added by P.L.221-2007, SEC.16.

IC 13-23-16-4

Information required in notice

Sec. 4. Notice provided by a county health officer under section 3 of this chapter must include:

(1) the same information reported to the department under 329 IAC 9-4-1(1) or 329 IAC 9-4-4(a); and

(2) any other information the county health officer considers necessary or appropriate.

As added by P.L.221-2007, SEC.16.

IC 13-24

ARTICLE 24. PETROLEUM

IC 13-24-1

Chapter 1. Petroleum Releases

IC 13-24-1-1

Removal or remedial actions; resolution of disputes

Sec. 1. (a) The commissioner may issue an order under:

(1) IC 13-14-2-7;

(2) IC 4-21.5-4; or

(3) IC 4-21.5-3-6;

to require an owner or operator or a responsible person to undertake removal or remedial action with respect to a release of petroleum at a petroleum facility.

(b) If the commissioner determines that the removal or remedial action will be done properly and promptly by the owner, operator, or responsible person, the commissioner may enter into an agreed order with the owner, operator, or responsible person to implement necessary removal or remedial action.

(c) If the commissioner and the owner or operator or the responsible party fail to agree on the appropriate and necessary removal or remedial action to be taken, the dispute shall be resolved under IC 4-21.5.

As added by P.L.1-1996, SEC.14.

IC 13-24-1-2

Conditions for actions; priorities; emergencies

Sec. 2. (a) Except as provided in subsection (c), the commissioner may undertake removal or remedial action with respect to a release of petroleum at a petroleum facility if:

(1) the action is necessary, in the judgment of the commissioner, to protect human health and the environment; and

(2) a person cannot be found not later than ninety (90) days after the suspected or confirmed release is identified who is:

(A) an owner or operator of the petroleum facility or a responsible person; and

(B) capable of properly carrying out removal or remedial action with respect to the release.

(b) In undertaking removal or remedial action under subsection (a), the commissioner shall give priority to releases of petroleum from a petroleum facility that pose the greatest threat to human health and the environment.

(c) The commissioner may undertake or require removal or remedial action with respect to a release of petroleum into the environment if it is determined that an emergency exists under IC 4-21.5-4.

As added by P.L.1-1996, SEC.14.

IC 13-24-1-3
Exposure assessments

Sec. 3. (a) Remedial action undertaken or required under section 1 or 2 of this chapter may include an exposure assessment.

(b) The cost of:

(1) an exposure assessment;

(2) a removal; or

(3) a remedial action;

undertaken under section 2 of this chapter may be recovered under section 4 of this chapter.

As added by P.L.1-1996, SEC.14. Amended by P.L.2-1998, SEC.58.

IC 13-24-1-4
Liability for response or remedial action costs; recovery from other responsible persons of costs paid to state; deposit of funds recovered; removal or remedial action costs; administrative costs

Sec. 4. (a) Except where an owner or operator can prove that a release from a petroleum facility was caused by:

(1) an act of God;

(2) an act of war;

(3) negligence on the part of a local government, the state government, or the federal government;

(4) except as provided in subsection (b), an act or omission of a responsible person; or

(5) a combination of the causes set forth in subdivisions (1) through (4);

the owner or operator is liable to the state for the reasonable costs of any response or remedial action taken under section 2 of this chapter involving the petroleum facility. A responsible person is liable to the state for the reasonable costs of any response or remedial action taken under section 2 of this chapter involving the petroleum facility.

(b) The owner, operator, or responsible person is entitled to all rights of the state to recover from another responsible person all or a part of the costs described in subsection (a) incurred or paid to the state by the owner, operator, or responsible person in an action brought in a circuit or superior court with jurisdiction in the county in which the release occurred.

(c) Money recovered by the state under this section in connection with a removal or remedial action undertaken with respect to a release of petroleum shall be deposited in the hazardous substances response trust fund.

(d) The state may recover removal or remedial action costs under this section as follows:

(1) Commence an action under IC 13-14-2-6 or IC 13-14-2-7.

(2) Impose a lien under IC 13-25-4-11 on the property on which the removal or the remedial action was undertaken.

(e) In an administrative action brought under this chapter, an environmental law judge shall apportion the costs of a response or a remedial action in proportion to each party's responsibility for a release.

As added by P.L.1-1996, SEC.14. Amended by P.L.25-1997, SEC.17.

IC 13-24-1-5
Agreements to indemnify, hold harmless, or insure; subrogation

Sec. 5. (a) An indemnification agreement, hold harmless agreement, or similar agreement or conveyance is not effective to transfer the liability imposed under section 4 of this chapter from:

(1) the owner or operator of a petroleum facility; or

(2) a person who may be liable for a release or threatened release under this chapter;

to another person. However, this subsection does not bar an agreement to insure, hold harmless, or indemnify a party to an agreement for any liability under this chapter.

(b) This section does not bar a cause of action that:

(1) an owner or operator;

(2) a responsible party; or

(3) another person subject to liability under this chapter;

has or would have, by reason of subrogation or otherwise, against any person.

As added by P.L.1-1996, SEC.14.

IC 13-24-1-6
Enforcement; testing; facility site right of entry; inspection; reasonable promptness

Sec. 6. (a) To allow the commissioner to take or to assess the need for removal or remedial action under section 1, 2, or 3 of this chapter or to enforce this chapter, an owner, an operator, or a responsible party of a facility, upon the request of an officer, an employee, or a designated representative of the department, shall:

(1) furnish information relating to the facility or the facility's associated equipment or contents;

(2) conduct testing of the facility or the facility's associated equipment or contents;

(3) conduct testing of:

(A) soils;

(B) air;

(C) surface water; or

(D) ground water;

surrounding the facility if the testing, using methods that are similar to but do not exceed federal standards, confirms a release of petroleum, or if other evidence exists that gives cause for reasonable suspicion that a release has occurred;

(4) allow, at reasonable times, the officer, employee, or designated representative to have access to and to copy records that relate to the release at the facility; and

(5) allow the officer, employee, or designated representative to have access for response, removal, or remedial action under section 2 of this chapter.

(b) For the reasons described under subsection (a), an officer, an employee, or a designated representative of the department may

enter, at reasonable times, a site where a facility is located or where petroleum may be present because of a release from a facility to do the following:

(1) Inspect and obtain samples of petroleum contained in the facility from any person.

(2) Conduct testing of:

(A) the facility;

(B) the facility's associated equipment or contents; or

(C) surrounding:

(i) soils;

(ii) air;

(iii) surface water; or

(iv) ground water.

(3) Take removal or remedial action under section 2 of this chapter.

(c) An action authorized under this section shall be commenced and completed with reasonable promptness.

As added by P.L.1-1996, SEC.14.

IC 13-24-1-7

Use of funds; petroleum facility expenses

Sec. 7. The commissioner may use money in the hazardous substances response trust fund to pay the following expenses associated with petroleum facilities:

(1) Expenses incurred by the state for:

(A) a removal or remedial action that is ordered or undertaken under section 2 of this chapter; and

(B) enforcement of this chapter.

(2) Expenses incurred by the state under section 4 of this chapter in recovering the costs of a removal or remedial action.

(3) Administrative expenses and personnel expenses incurred by the state in carrying out this chapter.

As added by P.L.1-1996, SEC.14.

IC 13-24-1-8

Application of IC 4-21.5 to determinations, notices, hearing, and appeal determinations

Sec. 8. IC 4-21.5 applies to:

(1) determinations;

(2) notices;

(3) hearings; and

(4) appeal determinations;

under this chapter.

As added by P.L.1-1996, SEC.14.

IC 13-24-1-9

Repealed

(Repealed by P.L.90-1998, SEC.27.)

IC 13-24-1-10

Lenders considered to participate in management

Sec. 10. A person that is a lender and that holds evidence of ownership primarily to protect a security interest in a petroleum facility may be considered to participate in the management (as defined in IC 13-11-2-151.3) of the petroleum at the petroleum facility only if, while the borrower is still in possession of the petroleum facility encumbered by the security interest, the person:

(1) exercises decision making control over the environmental compliance related to the petroleum facility such that the person has undertaken responsibility for the petroleum handling or disposal practices related to the petroleum facility; or

(2) exercises control at a level comparable to that of a manager of the petroleum facility such that the person has assumed or manifested responsibility:

(A) for the overall management of the petroleum facility encompassing day to day decision making with respect to environmental compliance; or

(B) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the petroleum facility other than the function of environmental compliance.

As added by P.L.90-1998, SEC.22.

IC 13-24-1-11

Limits on liability of fiduciaries

Sec. 11. (a) The liability of a fiduciary under this title for the release or threatened release of petroleum at, from, or in connection with a petroleum facility held in a fiduciary capacity shall not exceed the assets held in the fiduciary capacity.

(b) Subsection (a) does not apply to the extent that a person is liable under this title independently of:

(1) the person's ownership of the petroleum facility as a fiduciary; or

(2) actions taken in a fiduciary capacity.

(c) Subsections (a) and (d) do not limit the liability pertaining to a release or threatened release of petroleum if negligence of a fiduciary causes or contributes to the release or threatened release.

(d) A fiduciary is not liable in its personal capacity under this title for any of the following:

(1) Undertaking or directing another person to undertake a response action under 42 U.S.C. 9607(d)(1) or under the direction of an on-scene coordinator designated under the National Contingency Plan.

(2) Undertaking or directing another person to undertake other lawful means of addressing a hazardous substance in connection with the petroleum facility.

(3) Terminating the fiduciary relationship.

(4) Including in the terms of the fiduciary agreement a covenant, warranty, or other term or condition that relates to compliance with an environmental law, or monitoring,

modifying, or enforcing the term or condition.

(5) Monitoring or undertaking at least one (1) inspection of the petroleum facility.

(6) Providing financial advice or other advice or counseling to other parties to the fiduciary relationship, including the settlor or beneficiary.

(7) Restructuring, renegotiating, or otherwise altering the terms and conditions of the fiduciary relationship.

(8) Administering, as a fiduciary, a vessel or facility that was contaminated before the fiduciary relationship began.

(9) Declining to take any of the actions referred to in subdivisions (2) through (8).

(e) This section does not apply to a person if the person:

(1) acts in a capacity other than:

(A) a fiduciary capacity; or

(B) a beneficiary capacity;

and, in that capacity, directly or indirectly benefits from a trust or fiduciary relationship; or

(2) is a beneficiary and a fiduciary with respect to the same fiduciary estate and, as a fiduciary, receives benefits that exceed customary or reasonable compensation and incidental benefits permitted under other applicable law.

(f) This section does not preclude a claim against the assets of the estate or trust administered by:

(1) the fiduciary; or

(2) a nonemployee agent or independent contractor retained by a fiduciary.

(g) This section does not:

(1) affect the rights, immunities, or other defenses that are available under:

(A) this title; or

(B) other law that is applicable to a person subject to this chapter; or

(2) create:

(A) any liability for a person; or

(B) a private right of action against a fiduciary or any other person.

As added by P.L.90-1998, SEC.23.

IC 13-24-2

Chapter 2. Immunity for Oil Discharge Response Assistance

IC 13-24-2-1

Applicability of chapter

Sec. 1. This chapter does not apply to any of the following:

(1) A discharge or a threatened discharge that is not:

(A) into;

(B) on; or

(C) threatening to enter;

the navigable waters of Indiana.

(2) A person who, in providing response assistance, is grossly negligent or engages in willful or wanton misconduct.

(3) Personal injury or wrongful death.

As added by P.L.1-1996, SEC.14.

IC 13-24-2-2

Liability for oil discharge response assistance

Sec. 2. Notwithstanding any other law, except as provided in section 3 of this chapter and subject to section 4 of this chapter, a person is immune from liability under Indiana law for:

(1) removal costs incurred; or

(2) damage caused;

as a result of an act committed or omission made in the course of providing oil discharge response assistance.

As added by P.L.1-1996, SEC.14.

IC 13-24-2-3

Liability for original discharge

Sec. 3. This chapter does not affect or impair:

(1) a cause of action against; or

(2) the liability of;

any responsible party for the original discharge. The responsible party remains liable for any and all damage arising from the discharge, including damage arising from improperly provided response assistance, as otherwise provided by law.

As added by P.L.1-1996, SEC.14.

IC 13-24-2-4

Liability for oil discharge response assistance; liability for removal costs or damage

Sec. 4. A party who is a responsible party with respect to an oil discharge is, in the absence of a defense to liability for the removal costs or damage arising from the discharge, liable for removal costs or damage caused by a person who is immune from liability under section 2 of this chapter.

As added by P.L.1-1996, SEC.14.

IC 13-25

ARTICLE 25. HAZARDOUS SUBSTANCES

IC 13-25-1

Chapter 1. Indiana Emergency Response Commission

IC 13-25-1-1

Establishment

Sec. 1. The Indiana emergency response commission is established.

As added by P.L.1-1996, SEC.15.

IC 13-25-1-2

Members

Sec. 2. (a) The commission consists of the following thirteen (13) members:

(1) The commissioner or the commissioner's designee.

(2) The executive director of the department of homeland security or the executive director's designee.

(3) The superintendent of the state police department or the superintendent's designee.

(4) The state fire marshal or the state fire marshal's designee.

(5) Three (3) representatives of business and industry.

(6) Three (3) representatives of the public.

(7) Three (3) representatives of local government.

(b) The governor shall appoint the members provided for in subsection (a)(5) through (a)(7). A member appointed under this subsection serves at the pleasure of the governor.

As added by P.L.1-1996, SEC.15. Amended by P.L.1-2006, SEC.204.

IC 13-25-1-3

Compensation

Sec. 3. (a) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b).

(b) Each member of the commission is entitled to reimbursement for traveling expenses 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.

As added by P.L.1-1996, SEC.15.

IC 13-25-1-4

Officers

Sec. 4. The governor shall appoint:

(1) a chairman; and

(2) a vice chairman;

of the commission from among the members of the commission.

As added by P.L.1-1996, SEC.15.

IC 13-25-1-5
Meetings; quorum

Sec. 5. (a) The commission shall meet as follows:

(1) At least one (1) time every three (3) months.

(2) At the call of the chairman.

(b) A majority of the members constitutes a quorum for the authority to conduct business.

As added by P.L.1-1996, SEC.15.

IC 13-25-1-6
Duties of commission and local emergency planning committee

Sec. 6. (a) The commission shall do the following:

(1) Encourage and support the development of emergency planning efforts to provide:

(A) state government entities;

(B) local governments; and

(C) the public;

with information concerning potential chemical hazards in Indiana.

(2) Assist the state in complying with the requirements of SARA.

(3) Design and supervise the operation of emergency planning districts in Indiana.

(4) Gather and distribute information needed for effective emergency response planning.

(b) A local emergency planning committee shall do the following:

(1) Satisfy the requirements of SARA.

(2) Prepare and submit a roster of committee members to the commission at least one (1) time each year.

(3) Meet at least two (2) times, on separate days, every six (6) months.

(4) Prepare and submit the report required under IC 6-6-10-8.

(c) A local emergency planning committee member who is an employee of a unit (as defined in IC 36-1-2-23) may appoint a designee to act on the committee member's behalf under this chapter. An appointment under this subsection must:

(1) be in writing;

(2) specify the duration of the appointment; and

(3) be submitted to the committee at least two (2) calendar days before the first meeting that the designee attends on behalf of the member.

As added by P.L.1-1996, SEC.15. Amended by P.L.92-2001, SEC.2; P.L.26-2010, SEC.17.

IC 13-25-1-7
Assistance from public or private sources; implementation of chapter

Sec. 7. The commission may receive:

(1) appropriations;

(2) grants;

(3) donations;
(4) equipment;
(5) supplies; and
(6) services;

from a public or a private source to assist the commission in implementing this chapter.

As added by P.L.1-1996, SEC.15.

IC 13-25-2

Chapter 2. Emergency Planning and Notification

IC 13-25-2-1

Applicability of chapter

Sec. 1. Except as provided in sections 6 and 7 of this chapter, this chapter does not apply to:

(1) the transportation; or

(2) storage incident to transportation;

of any substance or chemical subject to this chapter, including the transportation and distribution of natural gas.

As added by P.L.1-1996, SEC.15. Amended by P.L.63-1996, SEC.2.

IC 13-25-2-2

Applicability of chapter; designation of additional facilities

Sec. 2. (a) A substance is subject to this chapter if the substance is on the list published under 42 U.S.C. 11002(a)(2).

(b) Except as provided in section 6 of this chapter, a facility is subject to this chapter if a substance on the list referred to in subsection (a) is present at the facility in an amount that exceeds the threshold planning quantity established for the substance.

(c) For purposes of emergency planning, the Indiana emergency response commission may designate additional facilities that are subject to this chapter if the designation is made after public notice and opportunity for comment. The commission shall notify a facility affected by a designation under this section.

As added by P.L.1-1996, SEC.15.

IC 13-25-2-3

Notice that facility is subject to requirements of chapter

Sec. 3. (a) The owner or operator of a facility subject to this chapter shall notify the commission that the facility is subject to this chapter.

(b) If:

(1) a substance on the list of substances referred to in section 2(a) of this chapter becomes present at a facility in an amount that exceeds the threshold planning quantity established for the substance; or

(2) there is a revision of the list referred to in section 2(a) of this chapter and the facility has present a substance on the revised list that exceeds the threshold planning quantity established for the substance;

the owner or operator of the facility shall notify the commission and the appropriate local emergency planning committee that the facility is subject to this chapter not later than sixty (60) days after the acquisition of the substance or the revision of the list.

As added by P.L.1-1996, SEC.15.

IC 13-25-2-4

Notice to administrator

Sec. 4. The commission shall notify the administrator of the facilities subject to this chapter by notifying the administrator of:

(1) each notification received from a facility under section 3 of this chapter; and

(2) each facility designated by the commission under section 2(c) of this chapter.

As added by P.L.1-1996, SEC.15.

IC 13-25-2-5

Local emergency plan

Sec. 5. (a) A local emergency planning committee shall complete the preparation or review and update of a local emergency plan in accordance with this section before October 17 of each year. The local emergency planning committee shall review the plan:

(1) at least one (1) time each year; and

(2) more frequently if required by a change in circumstances in the community or at a facility.

(b) A local emergency planning committee shall:

(1) evaluate the need for resources necessary to develop, implement, and exercise the local emergency plan; and

(2) make recommendations with respect to additional resources that may be required and the means for providing the additional resources.

(c) A local emergency plan must include the following:

(1) Identification of the following:

(A) Facilities subject to this chapter that are within the emergency planning district.

(B) Routes likely to be used for the transportation of substances on the list of extremely hazardous substances.

(C) Additional facilities contributing to or subjected to additional risk due to the proximity of the facilities to facilities subject to this chapter, including hospitals or natural gas facilities.

(2) Methods and procedures to be followed by facility owners and operators and local emergency and medical personnel to respond to any release of substances.

(3) Designation of a community emergency coordinator and facility emergency coordinators who shall make determinations necessary to implement the local emergency plan.

(4) Procedures providing reliable, effective, and timely notification by the facility emergency coordinators and the community emergency coordinator to:

(A) persons designated in the local emergency plan; and

(B) the public;

that a release has occurred consistent with the emergency notification requirements of section 7 of this chapter.

(5) Methods for determining the occurrence of a release and the area or population likely to be affected by the release.

(6) A description of emergency equipment and facilities in the community and at each facility in the community subject to this

chapter and an identification of the persons responsible for the equipment and facilities.

(7) Evacuation plans, including provisions for a precautionary evacuation and alternative traffic routes.

(8) Training programs, including schedules for training of local emergency response and medical personnel.

(9) Methods and schedules for exercising the emergency plan.

(d) For each facility subject to this chapter:

(1) the owner or operator of the facility shall notify:

(A) the emergency planning committee; or

(B) the commission if there is no emergency planning committee;

of a facility representative who will participate in the emergency planning process as a facility emergency coordinator;

(2) the owner or operator of the facility shall promptly inform the emergency planning committee of any relevant changes occurring at the facility as the changes occur or are expected to occur; and

(3) upon request from the emergency planning committee, the owner or operator of the facility shall promptly provide information to the emergency planning committee necessary for developing and implementing the emergency plan.

(e) After completion or update of a local emergency plan under subsection (a) for an emergency planning district, the local emergency planning committee shall submit a copy of the local emergency plan to the commission. The commission shall review the local emergency plan and make recommendations to the local emergency planning committee on revisions of the local emergency plan that may be necessary to ensure coordination of the local emergency plan with emergency response plans of other emergency planning districts. To the maximum extent practicable, the review may not delay implementation of the local emergency plan.

As added by P.L.1-1996, SEC.15.

IC 13-25-2-6

Notice of release of substances

Sec. 6. (a) This section does not apply to any release that results in exposure to persons solely within the site or sites on which a facility is located.

(b) If:

(1) a release of an extremely hazardous substance occurs from a facility at which a hazardous chemical is produced, used, or stored; and

(2) the release requires a notification under 42 U.S.C. 9603(a);

the owner or operator of the facility shall immediately provide notice as described in section 7 of this chapter.

(c) If a release of an extremely hazardous substance that is on the list referred to in section 2 of this chapter occurs from a facility at which a hazardous chemical is produced, used, or stored and the release is not subject to the notification requirements under 42 U.S.C.

9603(a), the owner or operator of the facility shall immediately provide notice as described in section 7 of this chapter if the release:

(1) is not a federally permitted release (as defined in 42 U.S.C. 9601(10));

(2) is in an amount that exceeds a quantity that the administrator has determined by regulation requires notice; and

(3) occurs in a manner that would require notification under 42 U.S.C. 9603(a).

(d) If a release of a substance that is not on the list referred to in section 2 of this chapter occurs at a facility at which a hazardous chemical is produced, used, or stored, and the release requires notification under 42 U.S.C. 9603(a), the owner or operator shall provide notice as follows:

(1) If a reportable quantity has been established for the substance under 42 U.S.C. 9602(a), the owner or operator shall provide the notice as described in section 7 of this chapter.

(2) If a reportable quantity has not been established for the substance under 42 U.S.C. 9602(a), the owner or operator shall provide the notice as described in section 7 of this chapter for any release of at least one (1) pound of the substance.

As added by P.L.1-1996, SEC.15.

IC 13-25-2-6.5

Evaluation of notification options; toll free telephone line to be provided

Sec. 6.5. (a) The department shall work with interested stakeholders, including the federal government, the general public, members of the general assembly, and businesses, to evaluate the feasibility of simplifying and expediting notification under IC 13-25-2-6. Options to be evaluated include:

(1) connecting persons required to provide notice under IC 13-25-2-6 with the National Response Center; and

(2) recommending any appropriate changes in federal law.

(b) The department shall implement an option evaluated under subsection (a) if the option:

(1) is practical to implement;

(2) is technically feasible;

(3) is economically feasible;

(4) is protective of human health and the environment; and

(5) would adequately serve persons required to provide notice under IC 13-25-2-6.

(c) The department shall provide a toll free long distance telephone line through which a person required to provide notice under IC 13-25-2-6 may contact the office described in IC 13-13-3-1 of this chapter.

As added by P.L.126-1996, SEC.5.

IC 13-25-2-7

Notice from owner or operator

Sec. 7. (a) The owner or operator of the facility shall give the

notice required by section 6 of this chapter immediately after the release to the following:

(1) The community emergency coordinator for the appropriate local emergency planning committees for any area likely to be affected by the release.

(2) The commission.

(3) The state emergency planning commission of any other state likely to be affected by the release.

(b) If a substance that is subject to the reporting requirements under this section is being transported or is being stored incident to being transported, the notice requirements of this section may be satisfied by:

(1) dialing the local 911 emergency telephone number; or

(2) if a local 911 emergency telephone number is not available, calling the telephone operator.

(c) The notice required by section 6 of this chapter must include each of the following to the extent known at the time of the notice and if no delay in responding to the emergency results:

(1) The chemical name or identity of any substance involved in the release.

(2) An indication of whether the substance is on the list referred to in section 2 of this chapter.

(3) An estimate of the quantity of any substance that was released into the environment.

(4) The time and duration of the release.

(5) The medium or media into which the release occurred.

(6) Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.

(7) Proper precautions to take as a result of the release, including evacuation, unless the information is readily available to the community emergency coordinator under the local emergency plan.

(8) The name and telephone number of persons to be contacted for additional information.

(d) As soon as practicable after a release that requires notice by section 6 of this chapter, the owner or operator shall provide written follow-up emergency notices that include and update the information required by this section, including additional information with respect to the following:

(1) Actions taken to respond to and contain the release.

(2) Any known or anticipated acute or chronic health risks associated with the release.

(3) If appropriate, advice regarding medical attention necessary for exposed individuals.

As added by P.L.1-1996, SEC.15.

IC 13-25-2-8

Material safety data sheet

Sec. 8. (a) The owner or operator of a facility that is required to

prepare or have available a material safety data sheet for a hazardous chemical under the federal Occupational Safety and Health Act (29 U.S.C. 651 through 658) and regulations adopted under the Act shall submit a material safety data sheet for each chemical or, preferably, a list of chemicals described in subsection (b) to each of the following:

(1) The appropriate local emergency planning committee.

(2) The commission.

(3) The fire department that has jurisdiction over the facility.

(b) The list of chemicals referred to in subsection (a) includes the following:

(1) A list of the hazardous chemicals for which a material safety data sheet is required under the federal Occupational Safety and Health Act (29 U.S.C. 651 through 658) and regulations adopted under the Act grouped:

(A) in categories of health and physical hazards as set forth in the federal Occupational Safety and Health Act (29 U.S.C. 651 through 658) and regulations adopted under the Act; or

(B) in other categories as the administrator may establish under 42 U.S.C. 11021.

(2) The chemical name or the common name of each chemical as provided on the material safety data sheet.

(3) Any hazardous component of each chemical as provided on the material safety data sheet.

(c) An owner or operator may meet the requirements of this section with respect to a hazardous chemical that is a mixture by doing one (1) of the following:

(1) Submitting a material safety data sheet for, or identifying on a list, each element or compound in the mixture that is a hazardous chemical. If more than one (1) mixture has the same element or compound, only one (1) material safety data sheet or one (1) listing of the element or compound is necessary.

(2) Submitting a material safety data sheet for, or identifying on a list, the mixture.

(d) If an owner or operator of a facility submits a list of chemicals under subsection (a), the owner or operator, upon request by the local emergency planning committee, shall submit the material safety data sheet for any chemical on the list to the committee.

(e) A local emergency planning committee, upon request by any person, shall make available a material safety data sheet to the person in accordance with section 14 of this chapter. If the local emergency planning committee does not have the requested material safety data sheet, the committee shall request the sheet from the facility owner or operator and then make the sheet available to the person in accordance with section 14 of this chapter.

(f) The initial material safety data sheet or list required by this section with respect to a hazardous chemical shall be provided not later than three (3) months after the date the owner or operator of a facility is required to prepare or have available a material safety data sheet for the chemical under the federal Occupational Safety and

Health Act (29 U.S.C. 651 through 658) and regulations adopted under the Act.

(g) A revised sheet shall be provided to a local emergency planning committee not later than three (3) months after the date of a discovery by an owner or operator of significant new information concerning an aspect of a hazardous chemical for which a material safety data sheet was previously submitted to the local emergency planning committee under subsection (a).

As added by P.L.1-1996, SEC.15.

IC 13-25-2-9

Emergency and hazardous chemical inventory form

Sec. 9. (a) The owner or operator of a facility that is required to prepare or have available a material safety data sheet for a hazardous chemical under the federal Occupational Safety and Health Act (29 U.S.C. 651 through 658) and regulations adopted under the Act shall prepare and submit an emergency and hazardous chemical inventory form to each of the following:

(1) The appropriate local emergency planning committee.

(2) The commission.

(3) The fire department that has jurisdiction over the facility.

(b) The inventory form containing tier I information as described in subsection (e):

(1) shall be submitted before March 1 of each year; and

(2) must contain data with respect to the preceding year;

unless an owner or operator provides, before March 1 and with respect to the same year, tier II information as described in section 10(a) of this chapter to the recipients described in subsection (a).

(c) An owner or operator may meet the requirements of this section and section 10 of this chapter with respect to a hazardous chemical that is a mixture by doing one (1) of the following:

(1) Providing information on the inventory form on each element or compound in the mixture that is a hazardous chemical. If more than one (1) mixture has the same element or compound, only one (1) listing on the inventory form for the element or compound at the facility is necessary.

(2) Providing information on the inventory form on the mixture.

(d) A hazardous chemical for which a material safety data sheet or a listing is required by section 8 of this chapter is subject to this section and section 10 of this chapter.

(e) An inventory form must contain the following tier I information in aggregate terms for hazardous chemicals in categories of health and physical hazards as set forth under the federal Occupational Safety and Health Act (29 U.S.C. 651 through 658) and regulations adopted under the Act:

(1) An estimate in ranges of the maximum amount of hazardous chemicals in each category present at the facility at any time during the preceding year.

(2) An estimate in ranges of the average daily amount of hazardous chemicals in each category present at the facility

during the preceding year.

(3) The general location of hazardous chemicals in each category.

As added by P.L.1-1996, SEC.15.

IC 13-25-2-10

Emergency and hazardous chemical inventory form; tier II information

Sec. 10. (a) An inventory form must provide the following additional tier II information for each hazardous chemical present at the facility only upon request and in accordance with subsection (b):

(1) The chemical name or the common name of the chemical as provided on the material safety data sheet.

(2) An estimate in ranges of the maximum amount of the hazardous chemical present at the facility at any time during the preceding year.

(3) An estimate in ranges of the average daily amount of the hazardous chemical present at the facility during the preceding year.

(4) A brief description of the manner of storage of the hazardous chemical.

(5) The location at the facility of the hazardous chemical.

(6) An indication of whether the owner of the facility elects to withhold location information of a specific hazardous chemical from disclosure to the public under section 14 of this chapter.

(b) Upon the request of:

(1) the commission;

(2) a local emergency planning committee; or

(3) a fire department with jurisdiction over a facility;

the owner or operator of a facility shall provide tier II information as described in subsection (a) to the person making the request. A request must be made with respect to a specific facility.

(c) A state or local official acting in the official's capacity may have access to tier II information by submitting a request to the commission or a local emergency planning committee. Upon receipt of a request for tier II information, the commission or committee shall request the facility owner or operator to provide the tier II information and make the information available to the official.

(d) A person may make a request to the commission or a local emergency planning committee for tier II information relating to the preceding year with respect to a facility. The request must be in writing and must be made with respect to a specific facility.

(e) Any tier II information that the commission or a local emergency planning committee possesses shall be made available to a person making a request under this section in accordance with section 14 of this chapter. If the commission or local emergency planning committee does not possess the tier II information requested, the commission or local emergency planning committee shall request the facility owner or operator to:

(1) provide the tier II information with respect to a hazardous

chemical that a facility has stored in an amount of at least ten thousand (10,000) pounds present at the facility at any time during the preceding year; and

(2) make the information available in accordance with section 14 of this chapter;

to the person making the request.

(f) For tier II information that is not in the possession of the commission or a local emergency planning committee with respect to a hazardous chemical that a facility has stored in an amount that is less than ten thousand (10,000) pounds at the facility at any time during the preceding year, a request from a person must include a statement specifying the general need for the information. The commission or local emergency planning committee may request the facility owner or operator for the tier II information on behalf of the person making the request. Upon receipt of any information requested on behalf of the person, the commission or local emergency planning committee shall make the information available in accordance with section 14 of this chapter to the person.

(g) The commission or a local emergency planning committee shall respond to a request for tier II information under this section not later than seven (7) days after the date the request is received.

As added by P.L.1-1996, SEC.15.

IC 13-25-2-11

Fire department; access for onsite inspection; notice of location information

Sec. 11. Upon the request of the fire department that has jurisdiction over a facility that files an inventory form under section 9 of this chapter, the owner or operator of the facility shall:

(1) allow the fire department to conduct an onsite inspection of the facility; and

(2) provide to the fire department specific location information on hazardous chemicals at the facility.

As added by P.L.1-1996, SEC.15.

IC 13-25-2-12

Permission to withhold chemical name and identity information

Sec. 12. A person required under section 5(d)(2), 5(d)(3), 8, 9, 10, or 11 of this chapter to submit information to any other person may withhold from the information the specific chemical identity, including the chemical name and other specific identification as provided in 42 U.S.C. 11042 and regulations adopted by the administrator under 42 U.S.C. 11042.

As added by P.L.1-1996, SEC.15.

IC 13-25-2-13

Duty to release chemical identity information

Sec. 13. (a) An owner or operator of a facility that is subject to the requirements of section 8, 9, 10, or 11 of this chapter shall provide the specific chemical identity, if known, of a hazardous chemical or

extremely hazardous substance to any health professional who requests the information in writing if the health professional provides a written statement of need under this section and a written confidentiality agreement under subsection (e). The written statement of need must specify that the health professional has a reasonable basis to suspect that:

(1) the information is needed for purposes of diagnosis or treatment of an individual;

(2) the individual or individuals being diagnosed or treated have been exposed to the chemical concerned; and

(3) knowledge of the specific chemical identity of the chemical will assist in diagnosis or treatment.

After receiving a written request under this subsection, the owner or operator to whom the request is made shall promptly provide the requested information to the health professional. Except as provided under subsection (e), the authority to withhold the specific chemical identity of a chemical under section 12 of this chapter when the information is a trade secret does not apply to information required to be provided under this subsection.

(b) An owner or operator of a facility that is subject to the requirements of section 8, 9, 10, or 11 of this chapter shall provide a copy of a material safety data sheet or an inventory form, including the specific chemical identity, if known, of a hazardous chemical or extremely hazardous substance to any treating physician or nurse who requests the information if the physician or nurse determines that:

(1) a medical emergency exists;

(2) the specific chemical identity of the chemical concerned is necessary for or will assist in emergency or first-aid diagnosis or treatment; and

(3) the individual or individuals being diagnosed or treated have been exposed to the chemical concerned.

Immediately after receiving a request under this subsection, the owner or operator to whom the request is made shall provide the requested information to the physician or nurse. The authority to withhold the specific chemical identity of a chemical from a material safety data sheet or an inventory form under section 12 of this chapter when the information is a trade secret does not apply to information required to be provided to a treating physician or nurse under this subsection. A written confidentiality agreement or statement of need is not required as a precondition of the disclosure. However, the owner or operator disclosing the information may require a written confidentiality agreement in accordance with subsection (e) and a statement setting forth the items listed in subdivisions (1) through (3) as soon as circumstances permit.

(c) An owner or operator of a facility subject to the requirements of section 8, 9, 10, or 11 of this chapter shall provide the specific chemical identity, if known, of a hazardous chemical or an extremely hazardous substance to any health professional, including a physician, toxicologist, or epidemiologist who:

(1) is a local government employee or a person under contract with the local government; and

(2) requests the information in writing and provides a written statement of need under subsection (d) and a written confidentiality agreement under subsection (e).

After receiving a written request under this subsection, the owner or operator to whom the request is made shall promptly provide the requested information to the local health professional. Except as provided in subsection (e), the authority to withhold the specific chemical identity of a chemical under section 12 of this chapter when the information is a trade secret does not apply to information required to be provided under this subsection.

(d) The written statement of need described in subsection (c) must describe with reasonable detail at least one (1) of the following health needs for the information:

(1) To assess exposure of persons living in a local community to the hazards of the chemical concerned.

(2) To conduct or assess sampling to determine exposure levels of various population groups.

(3) To conduct periodic medical surveillance of exposed population groups.

(4) To provide medical treatment to exposed individuals or population groups.

(5) To conduct studies to determine the health effects of exposure.

(6) To conduct studies to aid in the identification of a chemical that may reasonably be anticipated to cause an observed health effect.

(e) A person who obtains information under subsection (a) or (c) shall, in accordance with subsection (a) or (c), agree in a written confidentiality agreement that the person will not use the information for any purpose other than the health needs asserted in the statement of need, except as may otherwise be authorized by the terms of the agreement or by the person providing the information. This subsection does not preclude the parties to a confidentiality agreement from pursuing any remedy to the extent permitted by law.
As added by P.L.1-1996, SEC.15.

IC 13-25-2-14
Disclosure to general public

Sec. 14. (a) An emergency response plan, material safety data sheet, list of chemicals described in section 8(b) of this chapter, inventory form, and follow-up emergency notice shall be made available to the general public during normal working hours at the location or locations designated by the commission or local emergency planning committee, as appropriate. Upon request by an owner or operator of a facility subject to the requirements of sections 9 through 10 of this chapter, the commission and the appropriate local emergency planning committee shall withhold from disclosure under this section the location of any specific chemical required by

section 10(a) of this chapter to be contained in an inventory form as tier II information.

(b) A local emergency planning committee shall annually publish a notice in local newspapers stating that the emergency response plan, material safety data sheets, and inventory forms have been submitted under this section. The notice must:

(1) state that follow-up emergency notices may subsequently be issued; and

(2) announce that members of the public who desire to review:

(A) an emergency response plan;

(B) a material safety data sheet;

(C) an inventory form; or

(D) a follow-up notice;

may do so at the location designated under subsection (a).

As added by P.L.1-1996, SEC.15.

IC 13-25-2-15

Civil actions by persons

Sec. 15. (a) A person may commence a civil action on the person's behalf against the following:

(1) An owner or operator of a facility, for failure to do any of the following:

(A) Submit a follow-up emergency notice under section 7(d) of this chapter.

(B) Submit a material safety data sheet or a list under section 8 of this chapter.

(C) Complete and submit an inventory form under section 9 of this chapter containing tier I information as described in section 9 of this chapter unless the requirement does not apply under section 9(b) of this chapter.

(2) The commission, for failure to provide a mechanism for public availability of information in accordance with section 14 of this chapter.

(3) The commission, for failure to respond to a request for tier II information under section 10 of this chapter not later than one hundred twenty (120) days after the date the request is received.

(b) An action under subsection (a) against an owner or operator of a facility must be brought in a court having jurisdiction.

(c) A court has jurisdiction in actions brought under subsection (a) against an owner or operator of a facility to:

(1) enforce the requirement concerned; and

(2) impose any civil penalty provided for violation of the requirement.

(d) An action may not be commenced under subsection (a)(1)(A) until at least sixty (60) days after the date the plaintiff gives notice of the alleged violation to the state and the alleged violator. Notice must be given in the manner prescribed by the administrator under regulations adopted under 42 U.S.C. 11001 et seq.

(e) An action may not be commenced under subsection (a)(1)(B) or (a)(1)(C) until at least sixty (60) days after the date the plaintiff

gives notice to the commission that the plaintiff will commence the action. Notice must be given in a manner prescribed by the administrator under regulations adopted under 42 U.S.C. 11001 et seq.

(f) An action may not be commenced under subsection (a) against an owner or operator of a facility if the administrator has commenced and is diligently pursuing an administrative order or a civil action to:

(1) enforce the requirement concerned; or

(2) impose a civil penalty under 42 U.S.C. 11001 et seq.

As added by P.L.1-1996, SEC.15.

IC 13-25-2-16

Civil actions by state or unit of local government

Sec. 16. The state or a unit of local government may commence a civil action against an owner or operator of a facility for failure to do any of the following:

(1) Provide notification to the emergency response commission under section 3 of this chapter.

(2) Submit a material safety data sheet or a list under section 8 of this chapter.

(3) Make available information requested under section 8 of this chapter.

(4) Complete and submit an inventory form under section 9 of this chapter containing tier I information unless the requirement does not apply under section 9(b) of this chapter.

As added by P.L.1-1996, SEC.15.

IC 13-25-2-17

Civil actions by commission or local emergency planning committee

Sec. 17. The commission or a local emergency planning committee may commence a civil action against an owner or operator of a facility for failure to:

(1) provide information under section 5(d) of this chapter; or

(2) submit tier II information under section 10 of this chapter.

As added by P.L.1-1996, SEC.15.

IC 13-25-2-18

Costs, attorney's fees and expert witness fees; enforcement under federal or state law; intervention

Sec. 18. (a) A court, in issuing a final order in an action brought under section 15, 16, or 17 of this chapter, may award costs of litigation, including reasonable attorney's fees and expert witness fees, to the prevailing or the substantially prevailing party if the court determines that the award is appropriate.

(b) Sections 15, 16, and 17 of this chapter do not restrict or expand any right that a person may have under federal or state law to seek enforcement of a requirement or to seek other relief.

(c) In an action brought under section 15, 16, or 17 of this chapter, the state, if the state is not a party, may intervene as a matter of right.

(d) In an action brought under section 15, 16, or 17 of this chapter, a person may intervene as a matter of right if:

(1) the person has a direct interest that is or may be adversely affected by the action; and

(2) the disposition of the action may impair or impede the person's ability to protect that interest;

unless the state shows that the person's interest is adequately represented by existing parties to the action.

As added by P.L.1-1996, SEC.15.

IC 13-25-3
Repealed

(Repealed by P.L.113-2014, SEC.81.)

IC 13-25-4

Chapter 4. Hazardous Substances Response Trust Fund

IC 13-25-4-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 13-7-8.7-8(c) through IC 13-7-8.7-8(f) (before that section's repeal, now codified at section 8 of this chapter) by P.L.25-1991 apply to an action for which a final determination of liability is made after June 30, 1991.

As added by P.L.220-2011, SEC.288.

IC 13-25-4-1

Establishment; purpose

Sec. 1. (a) The hazardous substances response trust fund is established. The purpose of the fund is to accumulate and maintain a source of money for the following purposes:

(1) Financing contracts or cooperative agreements between the state and the President of the United States under Section 104 of CERCLA (42 U.S.C. 9604).

(2) Providing state assistance in the form of supplies, materials, services, and equipment to:

(A) prevent the release of a hazardous substance or contaminant; or

(B) control, contain, isolate, neutralize, remove, store, or dispose of any hazardous substance or contaminant already released into or on the air, land, or waters of Indiana.

(3) Financing response actions that are:

(A) undertaken or authorized by the commissioner with respect to sites in Indiana; and

(B) considered by the commissioner to be necessary to protect the public health or welfare or the environment from the release or threatened release of a hazardous substance or contaminant.

(4) Paying expenses related to releases of regulated substances other than petroleum from underground storage tanks under IC 13-23-13-7.

(5) Paying administrative and personnel expenses incurred by the state in responding to releases or threats of releases of hazardous substances or contaminants.

(6) Paying claims for the reimbursement of necessary response costs incurred by persons that have received preauthorization from the commissioner for reimbursement.

(7) Providing grants for household hazardous waste and conditionally exempt small quantity generator waste collection, recycling, or disposal projects under IC 13-20-20.

(8) Paying administrative and personnel expenses incurred by the department in implementing and administering household hazardous waste and conditionally exempt small quantity generator waste collection, recycling, or disposal projects under IC 13-20-20.

(9) Transferring funds to the environmental remediation revolving loan fund established by IC 13-19-5-2.

(10) Paying administrative and personnel expenses incurred by the state in evaluating proposed modifications of restrictive covenants under IC 13-14-2-9.

(b) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.1-1996, SEC.15. Amended by P.L.59-1997, SEC.14; P.L.237-1999, SEC.10; P.L.220-2014, SEC.32.

IC 13-25-4-2

Sources of fund

Sec. 2. The sources of money for the fund are the following:

(1) Fees paid under IC 13-22-12-3.5 for the disposal of hazardous waste.

(2) Any payment to the state or the fund as:

(A) reimbursement for amounts expended by the state in a response action;

(B) reimbursement of administrative and personnel expenses incurred by the state in evaluating proposed modifications of restrictive covenants under IC 13-14-2-9; or

(C) a settlement or judgment stemming from a lawsuit by the state or federal government to recover amounts expended by the state in a response action, including recoveries under section 10 of this chapter.

(3) Accrued interest and other investment earnings of the fund.

(4) Fees paid under IC 13-23-12-4(2) by owners and operators of underground storage tanks used to contain regulated substances other than petroleum.

(5) Appropriations made by the general assembly and gifts and donations from private and public entities intended for deposit in the fund.

(6) Grants and other payments made by the United States government under:

(A) the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) in relation to regulated substances other than petroleum; or

(B) CERCLA.

(7) Money received from responsible parties under agreements under section 23 of this chapter for response actions at specific sites.

As added by P.L.1-1996, SEC.15. Amended by P.L.38-2012, SEC.8; P.L.220-2014, SEC.33.

IC 13-25-4-3

Investments

Sec. 3. The treasurer of state shall invest the assets of the fund:

(1) as a whole; and

(2) in the investments that are authorized by the Constitution of the State of Indiana and state laws.

As added by P.L.1-1996, SEC.15.

IC 13-25-4-4
Annual budget; expenditures; household hazardous waste grants

Sec. 4. (a) The department shall do the following:

(1) Prepare an annual budget to provide for administrative and personnel expenses from the fund.

(2) Submit the budget to the budget committee in accordance with IC 4-12-1.

(b) The general assembly must appropriate the money in the fund to be used for administrative and personnel expenses before expenditure of the money. The commissioner shall order all other expenditures from the fund with the approval of the governor and the budget agency.

(c) Not more than four hundred fifty thousand dollars ($450,000) of the fund is available to the department each year to fund grants awarded under IC 13-20-20, exclusive of administrative and personnel expenditures authorized by section 1(a)(8) of this chapter.
As added by P.L.1-1996, SEC.15. Amended by P.L.237-1999, SEC.11.

IC 13-25-4-5
Corrective action determination; access to records

Sec. 5. (a) This section applies to the following:

(1) A person that stores, treats, or disposes of hazardous substances.

(2) If necessary to ascertain facts not available at the site or facility where the hazardous substances are located, a person that generates, transports, or otherwise handles or has handled hazardous substances.

(b) To assist in determining the need for corrective action under IC 13-22-13 or removal or remedial action under this chapter in connection with a hazardous substance, a person described in subsection (a) shall:

(1) upon request of an officer, an employee, or a designated agent of the department, furnish information relating to the hazardous substances referred to in subsection (a)(1) or (a)(2); and

(2) permit the officer, the employee, or the designated agent of the department at any reasonable time to have access to and to copy all records relating to the hazardous substances referred to in subsection (a)(1) or (a)(2).

As added by P.L.1-1996, SEC.15.

IC 13-25-4-6
Entry for inspection by agent; reasonable promptness; samples

Sec. 6. (a) For the purpose of assisting in determining the need for corrective action under IC 13-22-13 or removal or remedial action in connection with a hazardous substance under this chapter, an officer, an employee, or a designated agent of the department may:

(1) enter at reasonable times any establishment or other place:
(A) where hazardous substances are or have been generated, stored, treated, or disposed of; or
(B) from which hazardous substances have been transported; and
(2) inspect and obtain samples of:
(A) any hazardous substance;
(B) containers or labeling for hazardous substances; or
(C) soil, surface water, ground water, or other environmental media.

(b) Each inspection under subsection (a)(2) must be commenced and completed with reasonable promptness. If the officer, the employee, or the representative of the department conducting the inspection obtains any samples, before leaving the premises the officer, the employee, or the representative shall give to the owner, the operator, or the person in charge of the premises:
(1) a receipt describing the sample obtained; and
(2) if requested, a portion or a duplicate of each sample equal in volume of weight to the portion retained.

(c) If an analysis is made of samples obtained in an inspection under subsection (a)(2), a copy of the results of the analysis shall be furnished promptly to the owner, the operator, or the person in charge of the premises inspected.
As added by P.L.1-1996, SEC.15.

IC 13-25-4-7
Rules

Sec. 7. The board shall adopt rules establishing criteria for determining the commissioner's priorities in selecting hazardous substance response sites. Until these rules have been adopted, the commissioner shall give priority to those sites presenting a significant threat to public health and environment.
As added by P.L.1-1996, SEC.15. Amended by P.L.133-2012, SEC.154.

IC 13-25-4-8
Liability of a person to the state; exceptions; presumptions concerning releases

Sec. 8. (a) Except as provided in subsection (b), (c), or (d), a person that is liable under Section 107(a) of CERCLA (42 U.S.C. 9607(a)) for:
(1) the costs of removal or remedial action incurred by the commissioner consistent with the national contingency plan;
(2) the costs of any health assessment or health effects study carried out by or on behalf of the commissioner under Section 104(i) of CERCLA (42 U.S.C. 9604(i)); or
(3) damages for:
(A) injury to;
(B) destruction of; or
(C) loss of;

natural resources of Indiana;

is liable, in the same manner and to the same extent, to the state under this section.

(b) The exceptions provided by Sections 107(b), 107(q), and 107(r) of CERCLA 42 U.S.C. 9607(b), 42 U.S.C. 9607(q), and 42 U.S.C. 9607(r)) to liability otherwise imposed by Section 107(a) of CERCLA (42 U.S.C. 9607(a)) are equally applicable to any liability otherwise imposed under subsection (a).

(c) Notwithstanding any liability imposed by the environmental management laws:

(1) a lender that meets, for purposes of the determination under this section of liability for a release of hazardous substances, the exception criteria under Section 101(20)(E) of CERCLA (42 U.S.C. 9601(20)(E));

(2) a secured or unsecured creditor; or

(3) a fiduciary;

is not liable under the environmental management laws, in connection with the release or threatened release of a hazardous substance from a facility unless the lender, the fiduciary, or creditor has participated in the management of the hazardous substance at the facility.

(d) Notwithstanding any liability imposed by the environmental management laws, the liability of a fiduciary for a release or threatened release of a hazardous substance from a facility that is held by the fiduciary in its fiduciary capacity may be satisfied only from the assets held by the fiduciary in the same estate or trust as the facility that gives rise to the liability.

(e) Except as provided in subsection (g), a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government is not liable to the state under this section for costs or damages associated with the presence of a hazardous substance on, in, or at a property in which the political subdivision or unit of federal or state government acquired an interest because of:

(1) bankruptcy;

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

(7) transfer from another political subdivision or unit of federal or state government;

(8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership

or control because of the political subdivision's or unit's function as sovereign; or

(10) any other means to conduct remedial actions on a brownfield.

(f) If a transfer of an interest in property as described in subsection (e) occurs, a person who owned, operated, or otherwise controlled the property immediately before the political subdivision or unit of federal or state government acquired the interest in the property remains liable under this section:

(1) in the same manner; and

(2) to the same extent;

as the person was liable immediately before the person's interest in the property was acquired by the political subdivision or unit of federal or state government.

(g) Notwithstanding subsection (e), a political subdivision or unit of federal or state government that causes or contributes to the release or threatened release of a hazardous substance on, in, or at a property remains subject to this section:

(1) in the same manner; and

(2) to the same extent;

as a nongovernmental entity under this section.

(h) Except as provided in subsection (i), a nonprofit corporation is not liable to the state under this section for costs or damages associated with the presence of a hazardous substance on, in, or at a property in which the nonprofit corporation acquired an interest to assist and support a political subdivision's revitalization and reuse of a brownfield for noncommercial purposes, including conservation, preservation, and recreation.

(i) Notwithstanding subsection (h), a nonprofit corporation that causes or contributes to a release or threatened release of a hazardous substance on, in, or at a property remains subject to this section:

(1) in the same manner; and

(2) to the same extent;

as any other nongovernmental entity under this section.

(j) A political subdivision or unit of federal or state government that establishes an exemption or defense under subsection (b) or (e) may undertake any activity related to:

(1) investigation, removal, or remedial action on a brownfield, including complying with land use restrictions and institutional controls; or

(2) monitoring or closure of an underground storage tank;

without being considered as contributing to the existing release or threatened release of hazardous substances on, in, or at the brownfield unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the political subdivision or unit of federal or state government.

(k) For purposes of subsection (j), reckless, willful, or wanton misconduct constitutes gross negligence.

As added by P.L.1-1996, SEC.15. Amended by P.L.59-1997, SEC.15; P.L.90-1998, SEC.24; P.L.25-2005, SEC.3; P.L.208-2005, SEC.13;

P.L.1-2006, SEC.205; P.L.221-2007, SEC.17; P.L.159-2011, SEC.39.

IC 13-25-4-8.2
Lenders considered to participate in management

Sec. 8.2. A person that is a lender and that holds evidence of ownership primarily to protect a security interest in a vessel or facility may be considered to participate in the management (as defined in IC 13-11-2-151.4) of the hazardous substance at the facility only if, while the borrower is still in possession of the vessel or facility encumbered by the security interest, the person:

(1) exercises decision making control over the environmental compliance related to the vessel or facility such that the person has undertaken responsibility for the hazardous substance handling or disposal practices related to the vessel or facility; or

(2) exercises control at a level comparable to that of a manager of the vessel or facility such that the person has assumed or manifested responsibility:

(A) for the overall management of the vessel or facility encompassing day to day decision making with respect to environmental compliance; or

(B) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the vessel or facility other than the function of environmental compliance.

As added by P.L.90-1998, SEC.25.

IC 13-25-4-8.4
Limits on liability of fiduciaries

Sec. 8.4. (a) The liability of a fiduciary under this title for the release or threatened release of a hazardous substance at, from, or in connection with a vessel or facility held in a fiduciary capacity shall not exceed the assets held in the fiduciary capacity.

(b) Subsection (a) does not apply to the extent that a person is liable under this title independently of the person's ownership of a vessel or facility as a fiduciary or actions taken in a fiduciary capacity.

(c) Subsections (a) and (d) do not limit the liability pertaining to a release or threatened release of a hazardous substance if negligence of a fiduciary causes or contributes to the release or threatened release.

(d) A fiduciary is not liable in its personal capacity under this title for any of the following:

(1) Undertaking or directing another person to undertake a response action under 42 U.S.C. 9607(d)(1) or under the direction of an on-scene coordinator designated under the National Contingency Plan.

(2) Undertaking or directing another person to undertake other lawful means of addressing a hazardous substance in connection with the vessel or facility.

(3) Terminating the fiduciary relationship.
(4) Including in the terms of the fiduciary agreement a covenant, warranty, or other term or condition that relates to compliance with an environmental law, or monitoring, modifying, or enforcing the term or condition.
(5) Monitoring or undertaking at least one (1) inspection of the vessel or facility.
(6) Providing financial advice or other advice or counseling to other parties to the fiduciary relationship, including the settlor or beneficiary.
(7) Restructuring, renegotiating, or otherwise altering the terms and conditions of the fiduciary relationship.
(8) Administering, as a fiduciary, a vessel or facility that was contaminated before the fiduciary relationship began.
(9) Declining to take any of the actions referred to in subdivisions (2) through (8).

(e) This section does not apply to a person if the person:
(1) acts in a capacity other than:
(A) a fiduciary capacity; or
(B) a beneficiary capacity;
and, in that capacity, directly or indirectly benefits from a trust or fiduciary relationship; or
(2) is a beneficiary and a fiduciary with respect to the same fiduciary estate and, as a fiduciary, receives benefits that exceed customary or reasonable compensation and incidental benefits permitted under other applicable law.

(f) This section does not preclude a claim against the assets of the estate or trust administered by:
(1) the fiduciary; or
(2) a nonemployee agent or independent contractor retained by a fiduciary.

(g) This section does not:
(1) affect the rights, immunities, or other defenses that are available under:
(A) this title; or
(B) other law that is applicable to a person subject to this chapter; or
(2) create:
(A) any liability for a person; or
(B) a private right of action against a fiduciary or any other person.

As added by P.L.90-1998, SEC.26.

IC 13-25-4-9
Court actions by commissioner; administrative orders

Sec. 9. (a) The commissioner may proceed in court, by appropriate action, to:
(1) compel a responsible person to undertake a removal or remedial action with respect to a release or threatened release of a hazardous substance from a facility or site in Indiana; or

(2) obtain an order to enter upon private or public property to carry out an appropriate response under the environmental management laws if the commissioner cannot identify or locate another person responsible for carrying out the response who:

(A) is willing to carry out the response and capable of doing so; or

(B) can be compelled to carry out the response under subdivision (1).

(b) The commissioner may issue an administrative order for the purpose set forth in subsection (a)(1).

As added by P.L.1-1996, SEC.15.

IC 13-25-4-10

Actions to recover costs and damages; punitive damages; deposit of recovery

Sec. 10. (a) The commissioner may proceed in the appropriate court to recover costs and damages for which a responsible person is liable to the state under any of the following:

(1) Section 107 of CERCLA (42 U.S.C. 9607).

(2) Section 8 of this chapter.

(3) This section.

(b) In addition to the recovery allowed under subsection (a) and the civil penalty provisions of IC 13-30-4-1 and IC 13-30-4-2, a person that:

(1) is liable for a release or threat of release of a hazardous substance; and

(2) fails, without sufficient cause, to properly provide removal or remedial action upon order of a court under section 9 of this chapter;

is liable for punitive damages.

(c) The commissioner may commence a civil action against a person described in subsection (b) to recover punitive damages. In the action, the commissioner may seek and the court may grant an award of punitive damages against a person described in subsection (b) for up to three hundred percent (300%) of the total costs incurred by the department as a result of that person's failure to properly provide removal or remedial action upon the order of a court. However, any recovery in the action is subject to offset by the amount of any civil penalty paid by the person under IC 13-30-4-1 and IC 13-30-4-2 based upon the release, the threatened release, or the person's failure to properly provide removal or remedial action.

(d) Costs, damages, and punitive damages awarded under this section shall be deposited in the fund.

As added by P.L.1-1996, SEC.15.

IC 13-25-4-11

Lien; amount

Sec. 11. After a response is initiated under:

(1) section 9 of this chapter; or

(2) IC 13-24-1;

the state may impose a lien on the property on which the response is undertaken. The lien may secure the payment to the state of an amount of money equal to the amount expended from the fund under section 1(a)(3) of this chapter to finance the response.
As added by P.L.1-1996, SEC.15.

IC 13-25-4-12
Lien; perfection

Sec. 12. For a lien arising under section 11 of this chapter to be perfected, notice of the lien must be filed in the office of the county recorder of the county in which the real property subject to the lien is located. Before notice of a lien may be filed in the office of the county recorder, the department shall provide notice of the intention to file the lien as provided by section 19 of this chapter.
As added by P.L.1-1996, SEC.15.

IC 13-25-4-13
Lien; notification of owner

Sec. 13. The department shall provide notice of the filing of a lien to the owner of the property if the owner can be identified. If the owner of record cannot be identified, the department shall notify the tenant or other person having control of the property.
As added by P.L.1-1996, SEC.15.

IC 13-25-4-14
Lien; recording

Sec. 14. When a notice of a lien arising under section 11 of this chapter is presented to the county recorder for filing, the county recorder shall enter the lien appropriately in the entry book and in the miscellaneous record. The entries made under this section must show the following:

(1) The date of filing.
(2) The book and page number or instrument number.
(3) The name of the person named in the notice.
(4) A legal description of the property if appropriate.
(5) A serial number or other identifying number given in the notice.

As added by P.L.1-1996, SEC.15.

IC 13-25-4-15
Lien; discharge; release

Sec. 15. (a) Subject to subsection (b), when a certificate of discharge of a lien arising under section 11 of this chapter or IC 13-7-8.7-10.7 (before its repeal) is:

(1) issued by an employee or a designated agent of the department; and
(2) presented for filing in the office of the county recorder of the county where the notice of lien was filed;

the county recorder shall record the certificate of discharge as a release of the lien.

(b) To be recorded under this section, the certificate must refer to the county recorder's book and page number or instrument number under which the lien was recorded.
As added by P.L.1-1996, SEC.15.

IC 13-25-4-16
Lien; release; recording

Sec. 16. When recording a release of a lien under section 15 of this chapter, the county recorder shall inscribe, in the margin of each entry made to record the lien under section 14 of this chapter, a reference to the place where the release is recorded.
As added by P.L.1-1996, SEC.15.

IC 13-25-4-17
Lien; discharge and satisfaction

Sec. 17. Upon:

(1) the recording of the certificate of discharge as a release under section 15 of this chapter; and

(2) the inscribing of the references to the release under section 16 of this chapter;

a certificate of discharge of a lien arising under section 11 of this chapter operates as a full discharge and satisfaction of the lien unless the references to the release inscribed under section 15 of this chapter specifically note the release as a partial lien release.
As added by P.L.1-1996, SEC.15.

IC 13-25-4-18
Lien; duration

Sec. 18. A lien created under section 11 of this chapter or IC 13-7-8.7-10.7 (before its repeal) continues until the earlier of the following:

(1) The full discharge and satisfaction of the lien.

(2) The expiration of a ten (10) year period from the date of the creation of the lien unless an action to foreclose the lien is pending.

As added by P.L.1-1996, SEC.15.

IC 13-25-4-19
Notice of intent to impose lien

Sec. 19. (a) At least thirty (30) days before notice of a lien arising under this chapter may be filed under section 12 of this chapter, the department must send a written notice:

(1) to the owner of the real property that would be subject to the lien; or

(2) if the owner of record cannot be identified, to the tenant or other person having control of the real property;

of the date on which the state intends to impose a lien under section 11 of this chapter.

(b) The department shall provide the county recorder of the county in which the real property that would be subject to the lien is located

with a copy of the written notice described in subsection (a).
As added by P.L.1-1996, SEC.15.

IC 13-25-4-20
Request for and conduct of hearing

Sec. 20. (a) Before the date on which the state intends to impose a lien on real property under section 11 of this chapter, the owner of the real property may request that a hearing be conducted under IC 4-21.5. A hearing conducted under this section and IC 4-21.5 shall be limited to determining if there is probable cause to believe that:

(1) a removal or a remedial action was conducted on the real property under:

(A) this chapter; or

(B) IC 13-24-1; and

(2) if the removal or the remedial action was conducted under this chapter, the owner of the real property would be subject to liability under 42 U.S.C. 9607 (Section 107 of the federal Comprehensive Environmental Response, Compensation, and Liability Act).

(b) For the purposes of a hearing conducted under this section and IC 4-21.5, an environmental law judge is the ultimate authority.
As added by P.L.1-1996, SEC.15.

IC 13-25-4-21
Effect of request for hearing

Sec. 21. If an owner requests a hearing under section 20 of this chapter, the state may not impose a lien on the owner's real property under section 11 of this chapter until the commissioner determines after the hearing that there is probable cause to believe that:

(1) a removal or a remedial action was conducted on the real property under this chapter or IC 13-24-1; and

(2) if the removal or the remedial action was conducted under this chapter, the owner of the real property would be subject to liability under 42 U.S.C. 9607 (Section 107 of the federal Comprehensive Environmental Response, Compensation, and Liability Act).

As added by P.L.1-1996, SEC.15.

IC 13-25-4-22
Retrieval of copy of written notice from county recorder

Sec. 22. If the department provides a county recorder with a copy of a written notice under section 19(b) of this chapter, the department shall retrieve the copy of the written notice from the county recorder on the date a lien is imposed on the real property described in the written notice. However:

(1) if:

(A) a hearing is not held under section 20 of this chapter and IC 4-21.5; and

(B) a lien is not imposed:

(i) on the real property described in the notice; and

(ii) by the date indicated in the notice;

the department shall retrieve the copy of the notice on the day after the date the lien was to be imposed on the real property; or

(2) if:

(A) a hearing is held under section 20 of this chapter and IC 4-21.5; and

(B) a lien is not imposed on the real property described in the notice;

the department shall retrieve the copy of the notice on the day after the date the commissioner determines that a lien may not be imposed on the real property.

As added by P.L.1-1996, SEC.15.

IC 13-25-4-23

Agreements for removal and remedial action

Sec. 23. (a) The commissioner may enter into an agreement with one (1) or more potentially responsible persons concerning removal and remedial action at a site in Indiana. An agreement entered into under this section may call for one (1) or more parties, at the party's own expense, to conduct any response action at a site if the commissioner determines that the action called for in the agreement will be performed properly.

(b) An agreement entered into under this section may provide that the commissioner will:

(1) reimburse one (1) or more parties for certain costs of the actions that those parties have agreed to perform under the agreement; or

(2) perform a part of the response action called for in the agreement.

Money from the fund may be used for the reimbursement. An agreement may provide for the commissioner to pay interest on the principal amount to be reimbursed. Money from the fund may be used to pay the interest.

(c) The commissioner may not enter into an agreement subject to subsection (b) if, in the commissioner's opinion, there is not a reasonable likelihood of recovering:

(1) the amount of the reimbursement agreed to under subsection (b); and

(2) other costs incurred by the department in the response action;

unless the commissioner determines that the agreement is nonetheless in the public interest.

(d) After entering into an agreement that provides for reimbursement under subsection (b), the commissioner shall make every reasonable effort to recover the amount of the reimbursement under section 10 of this chapter from persons other than the parties.

(e) An agreement entered into under this section may be established:

(1) in an administrative order issued by the commissioner; or

(2) by a consent decree entered in an appropriate court.

As added by P.L.1-1996, SEC.15.

IC 13-25-4-24
Contaminated property; restrictive covenants

Sec. 24. (a) This section applies to real property that is:

(1) the site of an existing or former hazardous waste facility that is or was subject to regulation under:

(A) IC 13-22-2 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14; or

(B) Subchapter III of the federal Solid Waste Disposal Act (42 U.S.C. 6921 through 6939e); or

(2) a site:

(A) on which a hazardous substance has been:

(i) deposited;

(ii) stored; or

(iii) disposed of; and

(B) that is or was listed on the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) in accordance with Section 116 of CERCLA (42 U.S.C. 9616);

if more than an insignificantly small amount of a hazardous substance remains on or beneath the surface of that property after the partial or final closure of a hazardous waste facility located on the property or the completion of a remedial action on the property under CERCLA or this chapter.

(b) The owner of real property described in subsection (a) shall execute and record, in the office of the county recorder of the county in which the property is located, a restrictive covenant applying to the property if the commissioner determines that a restrictive covenant meeting the requirements set forth in subsection (c) is necessary to protect the public health or welfare or the environment from unreasonable risk of future exposure to a hazardous substance.

(c) A restrictive covenant required under this section must:

(1) to the extent feasible, describe:

(A) the identity, quantity, and location of every hazardous substance:

(i) deposited;

(ii) stored;

(iii) disposed of; or

(iv) placed;

on the property; and

(B) the extent to which each hazardous substance remains on the property; and

(2) incorporate the conditions and restrictions that the commissioner considers necessary to assure that the future use of the property will not disturb the final cover, any liners, or any components of the hazardous substance containment system on the property, or disturb the function of the monitoring system on the property, unless the commissioner finds that the disturbance:

(A) is necessary to the proposed use of the property and will

not increase the potential hazards to human health or to the environment; or

(B) is necessary to mitigate a threat to human health or to the environment.

(d) A restrictive covenant required by this section is subject to modification under IC 13-14-2-9.

As added by P.L.1-1996, SEC.15. Amended by P.L.220-2014, SEC.34.

IC 13-25-4-25

Annual report on remedial actions

Sec. 25. Before January 1 of each year, the commissioner shall make a report concerning the progress of remedial actions commenced under this chapter to the following:

(1) The governor.

(2) The standing committees of the house of representatives and the senate concerned with the environment.

(3) The board.

As added by P.L.1-1996, SEC.15.

IC 13-25-4-26

Removal or remedial actions; state or local permit

Sec. 26. A state or local permit may not be required for the part of a removal or remedial action that is conducted entirely at the site of the release or threatened release of a hazardous substance if the removal or remedial action is selected and carried out in compliance with:

(1) this chapter; and

(2) IC 13-25-5.

As added by P.L.1-1996, SEC.15.

IC 13-25-4-27

Action or claims; effect of chapter; immunity for liability for claims or contributions

Sec. 27. (a) This chapter does not affect an action or a claim, including a claim for contribution, that a person who implements or completes an approved response action has or may have against a third party.

(b) A person who implements or completes an approved response action under this chapter may not be held liable for claims or contribution concerning matters addressed in the response action.

As added by P.L.1-1996, SEC.15.

IC 13-25-4-28

Criminal penalty for application misstatement

Sec. 28. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for financial assistance from the fund commits a Level 6 felony.

As added by P.L.137-2007, SEC.29. Amended by P.L.158-2013,

SEC.194.

IC 13-25-5

Chapter 5. Voluntary Remediation of Hazardous Substances and Petroleum

IC 13-25-5-1

Intent of chapter

Sec. 1. (a) This chapter is intended to provide an alternative procedure to assure compliance with the law and to encourage the voluntary remediation of hazardous substances and petroleum.

(b) This section does not affect a person's legal obligations set forth in 42 U.S.C. 6901 et seq. regardless of a person's participation in this chapter.

As added by P.L.1-1996, SEC.15. Amended by P.L.59-1997, SEC.16.

IC 13-25-5-2

Application; confidentiality; conditions; fee

Sec. 2. (a) A person who desires to participate in the voluntary remediation program under this chapter must submit an application and a fee to the department as described under subsection (c).

(b) Except as provided under section 5(c) of this chapter, any information submitted to the division of the department responsible for reviewing and making determinations on applications under this chapter is confidential between the applicant and the department until the applicant and the commissioner sign a voluntary remediation agreement.

(c) An application submitted under this section must meet the following conditions:

(1) Be on a form provided by the department.

(2) Contain the following:

(A) General information concerning:

(i) the person;

(ii) the site; and

(iii) other background information;

as requested by the department.

(B) An environmental assessment of the actual or threatened release of the hazardous substance or petroleum at the site.

(3) Be accompanied by an application fee of one thousand dollars ($1,000). However, a political subdivision is not required to submit an application fee under this section.

(d) A fee collected under this section shall be deposited in the voluntary remediation fund established by section 21 of this chapter.

As added by P.L.1-1996, SEC.15. Amended by P.L.59-1997, SEC.17.

IC 13-25-5-3

Environmental assessment; contents

Sec. 3. An environmental assessment described under section 2(c)(2)(B) of this chapter must include the following:

(1) A legal description of the site.

(2) The physical characteristics of the site.

(3) The operational history of the site to the extent the history is

known by the applicant.

(4) Information that the applicant is aware of concerning:

(A) the nature and extent of any relevant contamination; and

(B) relevant releases;

at the site and immediately contiguous to the site.

(5) Relevant information the applicant is aware of concerning the potential for human exposure to contamination at the site.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-4

Determination of applicant eligibility

Sec. 4. Not more than thirty (30) days after receiving:

(1) an application; and

(2) an application fee;

under section 2 of this chapter, the department shall determine if the applicant is eligible to participate in the voluntary remediation program under this chapter.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-5

Rejection of application; reasons; completeness; list of information; department duties

Sec. 5. (a) The department may reject an application submitted under section 2 of this chapter only for one (1) or more of the following reasons:

(1) A state or federal enforcement action that concerns the remediation of the hazardous substance or petroleum described in the application is pending.

(2) A federal grant requires an enforcement action at the site.

(3) The condition of the hazardous substance or petroleum described in the application constitutes an imminent and substantial threat to human health or the environment.

(4) The application is not complete.

(b) If an application is rejected under subsection (a)(4), the department, not more than forty-five (45) days after the department receives the application, shall provide the applicant with a list of all information needed to make the application complete. If the department fails to comply with this subsection, the application shall be considered completed for the purposes of this chapter.

(c) If the department rejects an application, the department shall do the following:

(1) As described under IC 4-21.5-3-4(b) and IC 4-21.5-3-4(c), notify the applicant that the department rejected the application.

(2) Explain the reason the department rejected the application.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-6

Rejection of application; appeal; submission of completed application; refund

Sec. 6. (a) If an applicant's application is rejected under section 5

of this chapter, the applicant may do the following:

(1) Appeal the department's decision under IC 4-21.5.

(2) If the application is rejected because the application is not complete, submit a completed application without submitting an additional application fee.

(b) If an applicant's application is rejected and the applicant:

(1) does not appeal the rejection; or

(2) loses an appeal concerning the rejection;

the department shall refund the unexpended part of the applicant's application fee.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-7

Voluntary remediation investigation plan; voluntary remediation work plan; contents

Sec. 7. (a) If the department determines an application is eligible under section 4 of this chapter, the applicant may submit:

(1) a proposed voluntary remediation investigation plan to the department;

(2) a proposed voluntary remediation work plan to the department; or

(3) a voluntary remediation work plan for a completed remediation project to the department.

(b) A proposed voluntary remediation work plan must include the following:

(1) Detailed documentation of the investigation conducted by the applicant in preparing the proposed voluntary remediation work plan and a description of the work to be performed by the applicant to determine the nature and extent of the actual or threatened release.

(2) A proposed statement of work to accomplish the remediation in accordance with guidelines established by the department.

(3) Plans concerning the following:

(A) Quality assurance for the implementation of the proposed remediation project.

(B) Descriptions of sampling and analysis.

(C) Health and safety considerations.

(D) Community relations and community comment in planning, cleanup objectives, and implementation processes.

(E) Data management and record keeping.

(F) A proposed schedule concerning the implementation of all tasks set forth in the proposed statement of work.

(c) A voluntary remediation work plan for a completed remediation project must include the following:

(1) Detailed documentation of the investigation conducted by the applicant in preparing the proposed voluntary remediation work plan and a description of the work performed by the applicant to determine the nature and extent of the actual or threatened release.

(2) A statement of work performed to accomplish the

remediation in accordance with rules or guidelines established by the department.

(3) Plans concerning the following:

(A) Quality assurance for the implementation of and, if appropriate, plans for future oversight of the remediation project.

(B) Descriptions of sampling and analysis conducted before and after the remediation is performed.

(C) Health and safety considerations.

(D) Community comment.

(E) Data management and record keeping.

(F) Criteria used to determine remediation levels and remediation methodology.

(4) Other information the department determines is necessary to evaluate the work plan and determine if the remediation objectives have been achieved.

As added by P.L.1-1996, SEC.15. Amended by P.L.59-1997, SEC.18.

IC 13-25-5-8

Voluntary remediation agreement; contents; failure to reach accord within reasonable time after good faith negotiations

Sec. 8. (a) Before the department evaluates a proposed voluntary remediation work plan, the applicant who submitted the work plan and the commissioner must enter into a voluntary remediation agreement that sets forth the terms and conditions of the evaluation and the implementation of the work plan. A voluntary remediation agreement must include the following:

(1) Provisions for the following:

(A) A requirement that the department provide the applicant with an itemized list of estimated costs the department may incur under this chapter.

(B) The recovery of all reasonable costs that:

(i) are incurred by the department in the review and oversight of the work plan;

(ii) are attributable to the voluntary remediation agreement; and

(iii) exceed the fee submitted by the applicant under section 2 of this chapter.

(C) A schedule of payments to be made by the applicant to the department to recover the costs to the department.

(2) A mechanism to resolve disputes arising from the evaluation, analysis, and oversight of the implementation of the work plan, including any of the following:

(A) Arbitration.

(B) Adjudication under IC 4-21.5.

(C) A dispute resolution procedure provided under the Indiana Rules of Court.

(3) A provision concerning the indemnification of the parties.

(4) A provision concerning retention of records.

(5) A timetable for the department to do the following:

(A) Reasonably review and evaluate the adequacy of the work plan.

(B) Make a determination concerning the approval or rejection of the work plan.

(6) A provision concerning applicable interagency coordination.

(7) A provision specifying the proposed remediation objectives to be achieved on the site, as described in section 8.5 of this chapter.

(8) The requirement that the applicant submit to the department a proposed voluntary remediation work plan:

(A) not later than one hundred eighty (180) days after the date the voluntary remediation agreement is signed; or

(B) after a longer period if the extension is agreed to by the department and the applicant.

(9) Any other conditions considered necessary by the commissioner or the applicant concerning the effective and efficient implementation of this chapter.

(b) If an agreement is not reached between an applicant and the commissioner within a reasonable time after good faith negotiations have begun between the applicant and the commissioner:

(1) the applicant or the commissioner may withdraw from the negotiations; and

(2) the department shall refund the unexpended part of the applicant's application fee.

As added by P.L.1-1996, SEC.15. Amended by P.L.59-1997, SEC.19.

IC 13-25-5-8.5

Voluntary remediation work plan objectives; additional action to protect human health and the environment not necessary under certain circumstances; risk based remediation objectives and proposals

Sec. 8.5. (a) A voluntary remediation work plan must specify the remediation objectives for the site. Subsections (b) through (e) apply to a site regardless of whether the site was entered into the voluntary remediation program before July 1, 2009, or after June 30, 2009.

(b) The remediation objectives for each hazardous substance and any petroleum on the site shall be based on:

(1) background levels of hazardous substances and petroleum that occur naturally on the site; or

(2) an assessment of the risks pursuant to subsection (d) posed by the hazardous substance or petroleum presently found on the site taking into consideration the following:

(A) Expected future use of the site.

(B) Measurable risks to human health, natural resources, or the environment based on the:

(i) activities that take place; and

(ii) environmental impact;

on the site.

(c) If the:

(1) nature and extent of the hazardous substance or petroleum is

adequately characterized under the voluntary remediation work plan, considering the remediation objectives developed under this section; and

(2) the level of the hazardous substance or petroleum is demonstrated to be below:

(A) background levels of the hazardous substances and petroleum that occur naturally on the site; or

(B) the risk based levels developed under subsection (d);

additional action is not necessary to protect human health or the environment.

(d) Risk based remediation objectives shall be based on one (1) of the following:

(1) Levels of hazardous substances and petroleum calculated by the department using standard equations and default values for particular hazardous substances or petroleum.

(2) Levels of hazardous substances and petroleum calculated using site specific data for the default values in the department's standard equations.

(3) Levels of hazardous substances and petroleum developed based on site specific risk assessments that take into account site specific factors, including remedial measures, restrictive covenants, and environmental restrictive ordinances that:

(A) manage risk; and

(B) control completed or potential exposure pathways.

(e) The department shall consider and give effect to restrictive covenants and environmental restrictive ordinances in evaluating risk based remediation proposals.

(f) The department, or a person authorized under subsection (g), shall give written notice to a municipal corporation that the department is relying on an environmental restrictive ordinance adopted by the municipal corporation as part of a risk based remediation proposal:

(1) approved by the department; and

(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4, or IC 13-25-5.

(g) The department may delegate authority to give the written notice referred to in subsection (f) to the person who proposed the risk based remediation.

As added by P.L.59-1997, SEC.20. Amended by P.L.78-2009, SEC.18; P.L.159-2011, SEC.40.

IC 13-25-5-9

Review and evaluation; additional or corrected information

Sec. 9. (a) After the commissioner and an applicant have signed a voluntary remediation agreement described under section 8 of this chapter, the department or a person under contract with the department shall do the following:

(1) Review and evaluate the site and the affected area surrounding the site.

(2) Review and evaluate the documentation of the investigation

and feasibility study conducted by the applicant or the applicant's representative for accuracy and thoroughness.

(3) Review and evaluate the proposed voluntary remediation work plan for quality, efficiency, and safety based on guidelines established by the department.

(4) Make a recommendation to the commissioner concerning whether the commissioner should:

(A) approve;

(B) modify and approve; or

(C) reject;

the proposed voluntary remediation work plan.

(b) At any time during the evaluation of a proposed voluntary remediation work plan, the commissioner or the department may request that an applicant submit additional or corrected information to the department. An applicant may:

(1) comply with the request; or

(2) withdraw the applicant's proposed voluntary remediation work plan from consideration.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-10

Voluntary remediation work plan; approval, modification, or rejection

Sec. 10. Subject to section 11 of this chapter, after receiving a recommendation under section 9 of this chapter, the commissioner shall:

(1) approve;

(2) modify and approve; or

(3) reject;

the proposed voluntary remediation work plan.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-11

Voluntary remediation work plan; placement in public library; notice; comment period; hearing

Sec. 11. (a) Before the commissioner approves or rejects a proposed voluntary remediation work plan under section 10 of this chapter, the commissioner must:

(1) notify local government units located in a county affected by the proposed voluntary remediation work plan of the work plan;

(2) provide that a copy of the proposed voluntary remediation work plan be placed in at least one (1) public library in a county affected by the work plan; and

(3) publish a notice requesting comments concerning the proposed voluntary remediation work plan.

(b) A comment period of at least thirty (30) days must follow publication of a notice under this section. During a comment period, interested persons may do the following:

(1) Submit written comments to the commissioner concerning the proposed voluntary remediation work plan.

(2) Request a public hearing concerning the proposed voluntary remediation work plan.

(c) If the commissioner receives at least one (1) written request, the commissioner may hold a public hearing in the geographical area affected by the proposed voluntary remediation work plan on the question of whether to approve or reject the work plan. The commissioner shall consider all written comments and public testimony.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-12

Voluntary remediation work plan; rejection; notice; appeal

Sec. 12. If the commissioner rejects a proposed voluntary remediation work plan under section 10 of this chapter:

(1) the commissioner shall, under applicable provisions set forth in IC 4-21.5-3-5(b) and IC 4-21.5-3-5(c), notify the applicant and specify the reasons for rejecting the work plan; and

(2) the applicant may appeal the commissioner's decision under IC 4-21.5.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-13

Voluntary remediation work plan; approval or modification; notice

Sec. 13. If the commissioner approves or modifies and approves a proposed voluntary remediation work plan under this chapter, the commissioner shall notify the applicant in writing, under the applicable provisions set forth in IC 4-21.5-3-5(b) and IC 4-21.5-3-5(c), of the following:

(1) That the voluntary remediation work plan has been approved or modified and approved.

(2) The date:

(A) the applicant may begin implementing the work plan; and

(B) by which the work plan must be completed.

(3) The applicant's right to appeal the commissioner's decision under IC 4-21.5.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-14

Voluntary remediation work plan; implementation; notice

Sec. 14. If an applicant who submitted an approved voluntary remediation work plan desires to proceed with the implementation of the work plan, the applicant must notify the commissioner in writing not more than sixty (60) days after the work plan is approved that the applicant:

(1) intends to proceed with the implementation of the work plan; and

(2) agrees to the starting and completion dates set forth by the commissioner under section 13(2) of this chapter.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-15
Voluntary remediation work plan; implementation; reports

Sec. 15. If an applicant who submitted an approved voluntary remediation work plan proceeds with the work plan, the department or a person under contract with the department shall do the following:

(1) Oversee and review the implementation of the voluntary remediation work plan.

(2) Make regular reports to the commissioner concerning the remediation.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-16
Certificate of completion

Sec. 16. (a) If the commissioner determines that an applicant has successfully completed a voluntary remediation work plan approved under this chapter, the commissioner shall certify that the work plan has been completed by issuing the applicant a certificate of completion.

(b) The issuance of a certificate of completion under this section is a final agency action for purposes of IC 4-21.5.

(c) A person who receives a certificate under this section shall attach a copy of the certificate to the recorded deed that concerns the property on which the remediation took place.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-17
Notice of unsuccessful completion

Sec. 17. If the commissioner determines that an applicant has not successfully completed a voluntary remediation work plan approved under this chapter, the commissioner shall notify the applicant of this determination under IC 4-21.5.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-18
Covenant not to sue; conditions in covenants not to sue and certificates of completion; immunity from actions; exceptions

Sec. 18. (a) If the commissioner issues a certificate to a person under section 16 of this chapter, the governor shall also provide the person with a covenant not to sue for any liability, including future liability, or a claim resulting from or based upon the release or threatened release of a hazardous substance or petroleum that is addressed by an approved voluntary remediation work plan under this chapter.

(b) A covenant not to sue issued under this section bars suit against:

(1) a person who received the certificate of completion under section 16 of this chapter; or

(2) any other person who receives the certificate of completion:

(A) through a legal transfer of the certificate of completion; or

(B) by acquiring property to which the certificate of completion applies;

from all public or private claims arising under this title or rules adopted under this title in connection with the release or threatened release of a hazardous substance or petroleum that was the subject of the approved voluntary remediation work plan, except as provided in subsection (c).

(c) A covenant not to sue issued under this section may not apply to future liability for a condition or the extent of a condition that:

(1) was present:

(A) on property that was involved in an approved and completed voluntary remediation work plan; and

(B) at the time the commissioner issued the certificate of completion under section 16 of this chapter; and

(2) was not known to the commissioner at the time the commissioner issued the certificate of completion under section 16 of this chapter.

(d) A certificate of completion issued under section 16 of this chapter may include conditions that must be performed or maintained after issuance of the certificate.

(e) A covenant not to sue issued under this section may include conditions that must be performed or maintained after issuance of the covenant.

(f) Except as:

(1) provided under federal law; or

(2) agreed to by a federal governmental entity;

a covenant not to sue issued under this section may not release a person from liability to the federal government for claims based on federal law.

(g) After an applicant and the department have signed a voluntary remediation agreement, a person may not bring an action, including an administrative action, against the applicant or any other person proceeding under this chapter on behalf of the applicant for any cause of action arising under this title or rules adopted under this title and relating to the release or threatened release of a hazardous substance or petroleum that is the subject of the agreement. However, this section does not apply if:

(1) the applicant fails to file a proposed voluntary remediation work plan within the time period established in section 8(a)(8) of this chapter;

(2) the commissioner rejects a proposed voluntary remediation work plan submitted in good faith and the rejection is upheld in any appeal brought under section 12 of this chapter;

(3) the applicant or another person proceeding under this chapter on behalf of the applicant fails to complete a voluntary remediation in accordance with an approved voluntary remediation work plan; or

(4) the commissioner withdraws the commissioner's approval of the voluntary remediation work plan and the withdrawal is upheld in any appeal under section 19 of this chapter.

However, if the commissioner withdraws approval of the plan under section 19(a)(2) of this chapter, the commissioner may bring an action, including an administrative action, against the applicant.

(h) A person who purchases property that is the subject of a voluntary remediation agreement at the time the property is purchased may not be subject to an enforcement action to the same extent as an applicant under subsection (g).

As added by P.L.1-1996, SEC.15. Amended by P.L.59-1997, SEC.21; P.L.78-2009, SEC.19.

IC 13-25-5-19

Withdrawing commissioner's approval of voluntary remediation work plan; appeal

Sec. 19. (a) This chapter does not prohibit or limit the commissioner from withdrawing the commissioner's approval of a voluntary remediation work plan at any time during the implementation of the work plan if:

(1) the person implementing the work plan fails substantially to comply with the terms and conditions of:

(A) the voluntary remediation work plan; or

(B) a voluntary remediation agreement; or

(2) a hazardous substance or petroleum becomes an imminent and substantial threat to human health or the environment.

(b) The withdrawal of the approval of a voluntary remediation work plan may be appealed under IC 4-21.5.

As added by P.L.1-1996, SEC.15. Amended by P.L.59-1997, SEC.22.

IC 13-25-5-20

Third party actions or claims; liability for claims for contribution

Sec. 20. (a) This chapter does not affect an action or a claim, including a claim for contribution, that a person who implements or completes an approved voluntary remediation work plan has or may have against a third party.

(b) A person who implements or completes an approved voluntary remediation work plan under this chapter is not liable for claims for contribution concerning matters addressed in:

(1) the work plan; or

(2) a certificate of completion issued to the person under section 16 of this chapter.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-21

Voluntary remediation fund

Sec. 21. (a) The voluntary remediation fund is established to provide a source of money for the department to implement this chapter.

(b) The expenses of administering the fund shall be paid from the money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same

manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The sources of money for the fund are as follows:

(1) Fees paid under section 2 of this chapter.

(2) Appropriations made by the general assembly.

(3) Gifts and donations intended for deposit in the fund.

(4) Transfers under section 22 of this chapter from the environmental management special fund established by IC 13-14-12-1.

As added by P.L.1-1996, SEC.15.

IC 13-25-5-22
Repealed

(Repealed by P.L.1-2001, SEC.51.)

IC 13-25-5-23
Rules

Sec. 23. The board may adopt rules under IC 4-22-2 and IC 13-14-8 to implement this chapter. The rules may include interim or final remediation standards or provisions limiting the liability of lenders associated with persons involved in voluntary remediation projects under this chapter.

As added by P.L.1-1996, SEC.15.

IC 13-25-6

Chapter 6. Reimbursement for Hazardous Materials Emergency Action

IC 13-25-6-1

Application of chapter

Sec. 1. This chapter does not apply to an occurrence involving the release or imminent release of less than twenty-five (25) pounds of active ingredient of a substance or a combination of substances that meets all of the following conditions:

(1) Was commercially produced and sold as a fertilizer, fungicide, herbicide, or pesticide.

(2) Is, at the time of the occurrence, in the possession of an individual who acquired the substance or combination of substances with the intent to use the substance for the purpose intended by the commercial producer:

(A) in a dwelling owned or occupied by the individual;

(B) in the yard adjacent to or surrounding a dwelling owned or occupied by the individual; or

(C) on a farm owned or operated by the individual.

As added by P.L.1-1996, SEC.15.

IC 13-25-6-2

Reasonable and necessary expenses; emergency response; reimbursement

Sec. 2. The persons who are responsible parties in connection with a hazardous materials emergency shall reimburse:

(1) an emergency response agency; or

(2) the governmental entity served by an emergency response agency;

for reasonable and necessary expenses incurred by the emergency response agency in taking emergency action at or near the scene of the hazardous materials emergency.

As added by P.L.1-1996, SEC.15.

IC 13-25-6-3

Reimbursements to fire departments

Sec. 3. (a) Reimbursement is available under this chapter for expenses, except for expenses of a type that the agency normally incurs in responding to emergencies that do not involve hazardous materials, that are incurred in taking emergency action by an emergency response agency other than a fire department that is described in subsection (b).

(b) Reimbursement is available under this chapter and IC 36-8-12.2 for expenses that are incurred in taking emergency action by a fire department that:

(1) is established under IC 36-8-2-3 or IC 36-8-13-3(a)(1); and

(2) employs:

(A) both full-time paid members and volunteer members; or

(B) only full-time paid members.

As added by P.L.1-1996, SEC.15. Amended by P.L.33-2001, SEC.1.

IC 13-25-6-4
Reimbursement prohibited if expenses reimbursable by federal government

Sec. 4. Reimbursement for expenses is not available under this chapter if those expenses may be reimbursed by the federal government under Section 123 of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9623).
As added by P.L.1-1996, SEC.15.

IC 13-25-6-5
Action for reimbursement

Sec. 5. An emergency response agency or a governmental entity may obtain reimbursement under this chapter by filing an action for reimbursement in a court of general jurisdiction of:

(1) a county in which a hazardous materials emergency arose; or

(2) the county in which the unit that established the fire department is located, if the emergency response agency is a fire department that:

(A) is established by a unit under IC 36-8-2-3 or IC 36-8-13-3(a)(1); and

(B) employs:

(i) both full-time paid members and volunteer members; or

(ii) only full-time paid members.

As added by P.L.1-1996, SEC.15. Amended by P.L.33-2001, SEC.2.

IC 13-26

ARTICLE 26. REGIONAL WATER, SEWAGE, AND SOLID WASTE DISTRICTS

IC 13-26-1

Chapter 1. Purposes of Regional Districts

IC 13-26-1-1

Water supply; collection, treatment, disposal of sewage, solid waste, and refuse

Sec. 1. Any area may be established as a regional water, sewage, or solid waste district under this article for one (1) or more of the following purposes:

(1) To provide a water supply for domestic, industrial, and public use to users inside and outside the district.

(2) To provide for the collection, treatment, and disposal of sewage inside and outside the district.

(3) To provide for the collection, treatment, and disposal of solid waste and refuse inside and outside the district.

As added by P.L.1-1996, SEC.16.

IC 13-26-1-2

Petition to increase board of trustees membership, add to, modify or abandon purposes or plan

Sec. 2. (a) At any time after the creation of a district, the district, after motion by the district's board, may file a petition with the department requesting the approval of the department permitting the district to:

(1) increase or add to the district's purposes or modify the district plan approved by the department;

(2) abandon or surrender all or part of a purpose or plan approved by the department; or

(3) subject to IC 13-26-4-1, increase the number of persons serving on the board of trustees.

(b) The department may:

(1) approve;

(2) modify and approve; or

(3) reject;

a request received under this section.

As added by P.L.1-1996, SEC.16. Amended by P.L.101-2003, SEC.1.

IC 13-26-2

Chapter 2. Establishment of Regional Districts

IC 13-26-2-1

Petitions to organize district

Sec. 1. The establishment of a regional district may be initiated only by a petition filed with the department. A copy of the petition shall also be filed not later than ten (10) days after the filing with the department in the office of the executive of each governmental entity having territory within the proposed district.

As added by P.L.1-1996, SEC.16. Amended by P.L.133-1997, SEC.1.

IC 13-26-2-2

Petitions; filing

Sec. 2. (a) The petition may be filed by any representative of one (1) or more eligible entities involved after being authorized by the fiscal body of the petitioning eligible entity or entities included in the plan of the proposed district.

(b) If the proposed district includes:

(1) a state park or recreational area, forest land, or a reservoir; or

(2) land owned, leased, or controlled by the department of natural resources;

the petition may be joined or filed by any representative of that department after having been authorized by the natural resources commission, with the approval of the executive of the county containing the territory of the district.

As added by P.L.1-1996, SEC.16. Amended by P.L.133-1997, SEC.2.

IC 13-26-2-2.5

Petitions; notice

Sec. 2.5. (a) Before a representative may file a petition to establish a district, the representative must provide notice to all owners of property to be served by the proposed district that is the subject of the petition.

(b) Notice under subsection (a) must be provided as follows:

(1) Beginning at least thirty (30) days before the date on which a public meeting under subsection (c) is scheduled, by publication of notice one (1) time each week for three (3) consecutive weeks in at least two (2) newspapers of general circulation in each of the counties, in whole or in part, in the proposed district. If there is only one (1) newspaper of general circulation in a county, a single publication each week for three (3) consecutive weeks satisfies the requirement of this subdivision.

(2) Beginning at least fourteen (14) days before the date on which a public meeting under subsection (c) is scheduled, by:

(A) first class United States mail, postage prepaid, mailed to each freeholder within the proposed district; and

(B) broadcasting at least three (3) public service

announcements each day for fourteen (14) days on at least two (2) radio stations operating in each of the counties, in whole or in part, in the proposed district.

(c) After providing notice under subsection (b), a representative that seeks to file a petition to establish a district must conduct a public meeting to discuss and receive comments on the proposed district.

(d) A representative may not file a petition to establish a district:

(1) more than one hundred eighty (180) or less than sixty (60) days after providing notice under subsection (b); or

(2) less than thirty (30) days after a meeting held under subsection (c).

As added by P.L.97-2012, SEC.4. Amended by P.L.292-2013, SEC.4.

IC 13-26-2-3

Petitions; contents

Sec. 3. A petition to establish a district under this chapter must state the following:

(1) The proposed name of the district.

(2) The place in which the district's principal office is to be located.

(3) The following information:

(A) The need for the proposed district.

(B) The purpose to be accomplished.

(C) How the district will be conducive to the public health, safety, convenience, or welfare, including a specific statement of how:

(i) water supply, for a water district;

(ii) sewage collection, disposal, and treatment, for a sewage district; or

(iii) solid waste disposal, recovery, or treatment, for a solid waste district;

is currently being provided.

(D) Whether there is any outstanding indebtedness for the purpose proposed in the proposed district, including a statement as to how the current situation creates or adds to pollution or health hazards or impedes development in the area.

(4) An accurate description of the territory to be included in the district, which does not have to be given by metes and bounds or by legal subdivisions. The territory does not have to be contiguous, but the territory must be so situated that the public health, safety, convenience, or welfare will be promoted by the establishment as a single district of the territory described.

(5) The petitioner's recommendations on:

(A) the manner of selection;

(B) the number; and

(C) the term, not exceeding four (4) years;

of the members of the board of trustees.

(6) The plan for financing the cost of the operations of the

district until the district is in receipt of revenue from the district's operations or proceeds from the sale of bonds.

(7) Estimates of the following:

(A) The costs of accomplishing the purpose of the district.

(B) The costs of operating and maintaining the works.

(C) The sources of the funding of these costs.

(D) The rates and charges that will be required.

(E) The median income for households in the proposed district based on the most recent federal decennial census.

(8) A summary of alternatives to creating the district.

As added by P.L.1-1996, SEC.16. Amended by P.L.97-2012, SEC.5.

IC 13-26-2-3.5

Petition opposing establishment of proposed district

Sec. 3.5. Not more than one hundred eighty (180) days after the date a petition is filed with the department under section 1 of this chapter to establish a regional district, if another petition is filed with the department that is signed by a majority of the owners of property that would be served by the proposed district and indicating that the owners of the property are opposed to the establishment of the proposed district, the department shall declare that the petition filed under section 1 of this chapter to establish the regional district:

(1) is void; and

(2) is not a sufficient petition for purposes of section 5 of this chapter.

As added by P.L.292-2013, SEC.5.

IC 13-26-2-4

Petitions; determination of compliance

Sec. 4. Upon the filing of a petition to establish a district under this chapter, the department shall determine whether the petition complies with the requirements of this chapter as to form and content. The department:

(1) may not declare a petition void because of alleged defects; and

(2) may, in subsequent proceedings at any time, permit the petition to be amended in form or substance.

As added by P.L.1-1996, SEC.16.

IC 13-26-2-5

Petitions; hearing officer; appointment

Sec. 5. Upon the determination of the department that a sufficient petition has been filed in accordance with this chapter, the commissioner shall appoint a hearing officer, who does not have to be a state employee. If the hearing officer is not a full-time state employee, the hearing officer is entitled to be paid reasonable:

(1) expenses; and

(2) per diem;

for each day or part of a day in actual attendance at a meeting or hearing or in performance of duties. The reasonable per diem and

expenses are valid claims against the department.
As added by P.L.1-1996, SEC.16.

IC 13-26-2-6
Notice and hearing

Sec. 6. (a) Except as provided in section 9 of this chapter, the hearing officer shall fix a time and place inside or within ten (10) miles of the proposed district for the hearing on any matter for which a hearing is authorized under this chapter.

(b) The hearing officer shall make a reasonable effort to provide notice of the hearing as follows:

(1) By publication of notice two (2) times each week for two (2) consecutive weeks in at least two (2) newspapers of general circulation in each of the counties, in whole or in part, in the district. The publication of notice must, at a minimum, include a legal notice and a prominently displayed three (3) inches by five (5) inches advertisement.

(2) By United States mail sent at least two (2) weeks before the hearing to the following:

(A) The fiscal and executive bodies of each county with territory in the proposed district.

(B) The executive of all other eligible entities with territory in the proposed district.

(C) The state and any of its agencies owning, controlling, or leasing land within the proposed district, excluding highways and public thoroughfares owned or controlled by the Indiana department of transportation.

(D) Each sewage disposal company holding a certificate of territorial authority under IC 8-1-2-89 respecting territory in the proposed district.

(3) By making a reasonable effort to provide notice of the hearing by regular United States mail, postage prepaid, mailed at least two (2) weeks before the hearing to each freeholder within the proposed district.

(4) By including the date on which the hearing is to be held and a brief description of:

(A) the subject of the petition, including a description of the general boundaries of the area to be included in the proposed district; and

(B) the locations where copies of the petition are available for viewing.

As added by P.L.1-1996, SEC.16. Amended by P.L.106-2000, SEC.1; P.L.1-2001, SEC.22; P.L.263-2013, SEC.7.

IC 13-26-2-7
Objection; opportunity to be heard

Sec. 7. A person or an eligible entity that resides or lies in or partially resides or lies in an area affected by the establishment of a district:

(1) may, on or before the date set for the cause to be heard, file

a written objection to the granting of the requests made in the petition; and

(2) may be heard at the hearing.

As added by P.L.1-1996, SEC.16.

IC 13-26-2-8

Findings and recommendations

Sec. 8. (a) After the hearing on the petition for the establishment of the proposed district, which may be adjourned periodically, the hearing officer shall make findings on the petition and other relevant facts and recommendations as to whether:

(1) the petition should be:

(A) approved;

(B) approved with modifications; or

(C) denied; and

(2) a district should be established.

(b) If the recommendation is in the affirmative, the recommendation must also include recommendations on:

(1) the manner of the selection or appointment;

(2) the number; and

(3) the terms;

of the board.

(c) The description of the territory to be included in a district may not include territory in a municipality that has, by ordinance or resolution filed with the department, exercised the option not to be included in the district.

As added by P.L.1-1996, SEC.16.

IC 13-26-2-9

Waiver of notice and hearing requirement

Sec. 9. (a) If the department of natural resources has filed a petition, the commissioner may waive the requirement for notice and hearing provided in section 6 of this chapter.

(b) If the commissioner waives the notice and hearing requirement, the hearing officer shall give written notice in the manner provided under section 6(b)(2) or 6(b)(3) of this chapter. Each recipient of notice has thirty (30) days from the mailing of the notice within which to file objections or material with the hearing officer.

(c) The hearing officer shall then proceed to make findings and recommendations as provided in section 8 of this chapter, based upon any material:

(1) received by the hearing officer; or

(2) obtained at the hearing officer's discretion through the hearing officer's own investigation.

As added by P.L.1-1996, SEC.16. Amended by P.L.263-2013, SEC.8.

IC 13-26-2-10

Order

Sec. 10. (a) If the commissioner determines that the findings show

that the establishment of a recommended district:

(1) complies with the conditions of this chapter for establishment of a district; and

(2) appears capable of accomplishing the purpose or purposes in an economically feasible manner;

the commissioner shall issue an order directing that the district be established as an independent municipal corporation with a name and for the purposes designated in the order.

(b) An order must do the following:

(1) Provide for the selection or appointment and terms of offices, not to exceed four (4) years, of the board.

(2) Provide requirements for sufficient bond for all officers, trustees, or employees having power to dispense money of the district.

(3) If an eligible entity with territory in the district has a public water or solid waste sewer system, contain provisions protecting the investments of the entities and protecting the rights of the holders of bonds or other obligations issued to provide money for the system.

(4) Direct the district to file a detailed plan for the initial project of the district not later than nine (9) months after the date of the preliminary order or within a further time that the department from time to time orders.

As added by P.L.1-1996, SEC.16.

IC 13-26-2-11
Order; review

Sec. 11. An order for the establishment of a district is subject to review as provided in IC 4-21.5-5.

As added by P.L.1-1996, SEC.16.

IC 13-26-3

Chapter 3. Districts Established Under Prior Law

IC 13-26-3-1

Effect

Sec. 1. (a) A district established in accordance with IC 19-3-1 (before its repeal) by an order of the court before February 17, 1972, as a special district for any purpose provided in:

(1) IC 13-3-2 (before its repeal); or

(2) this article;

is considered to be a district under this article.

(b) Orders of the court and acts of the board of directors are valid if permitted by this article. The district shall function as a district the same as if the district were established under this article.

As added by P.L.1-1996, SEC.16.

IC 13-26-4

Chapter 4. Board of Trustees of Regional Districts

IC 13-26-4-1

Members

Sec. 1. The board of trustees of a district is the governing body of the district. A board may consist of:

(1) three (3);
(2) five (5);
(3) seven (7);
(4) nine (9);
(5) eleven (11); or
(6) thirteen (13);

trustees.

As added by P.L.1-1996, SEC.16. Amended by P.L.101-2003, SEC.2.

IC 13-26-4-2

Elections; vacancies

Sec. 2. An order establishing a district may provide for the board to be elected by the voters in the district from districts or wards or from the district at large. Elections and provisions for filling vacancies must be in accordance with IC 3, with the commissioner or the commissioner's designees performing the functions of the election officials.

As added by P.L.1-1996, SEC.16.

IC 13-26-4-3

Appointments

Sec. 3. Instead of electing the board, an order establishing a district may provide for appointments to the board by the elected executive or legislative officers of the eligible entities having territory in the district.

As added by P.L.1-1996, SEC.16.

IC 13-26-4-4

Number of trustees; appointments by the governor or commissioner of the department of correction

Sec. 4. (a) If:

(1) a district will include territory in more than one (1) county;
(2) a county executive has filed a petition for a district including territory owned, leased, or controlled by the department of natural resources; or
(3) the department of natural resources has filed a petition;

the order establishing the district may provide that the governor appoints any number of trustees, but less than one-half (1/2) of the total.

(b) If a district contains or a proposed district will contain a state correctional facility, the department, when:

(1) issuing an order establishing the district under IC 13-26-2-10; or

(2) approving or modifying a petition filed by the district's board of trustees under IC 13-26-1-2;

may allow for the appointment of one (1) member of the board of trustees of the district by the commissioner of the department of correction.

As added by P.L.1-1996, SEC.16. Amended by P.L.101-2003, SEC.3.

IC 13-26-4-5

Number of trustees; sewage treatment in cooperation with municipality

Sec. 5. If a plan also contemplates that sewage treatment for the district will be provided in cooperation with a municipality, the order must provide that:

(1) at least one (1) trustee shall be appointed by the executive of the municipality; and

(2) at least:

(A) one (1) trustee shall be appointed by the fiscal body; and

(B) one (1) trustee shall be appointed by the executive;

of the county having the largest amount of territory in the district.

As added by P.L.1-1996, SEC.16.

IC 13-26-4-6

Residency

Sec. 6. (a) This section does not apply to a district described in section 6.1 of this chapter.

(b) Except as provided in subsection (c)(5), an appointed trustee does not have to be a resident of the district.

(c) An appointed trustee must:

(1) own real property within the district;

(2) be a trustee appointed under section 4 or 5 of this chapter;

(3) be an elected official who represents a political subdivision that has territory in the district;

(4) be a ratepayer of the district; or

(5) with respect to a district in which a majority of ratepayers and property owners are not individuals, be an individual who is registered to vote at an address that is located in the district.

As added by P.L.1-1996, SEC.16. Amended by P.L.97-2012, SEC.6; P.L.179-2013, SEC.1; P.L.292-2013, SEC.6; P.L.211-2014, SEC.1.

IC 13-26-4-6.1

Members; district established in response to agreed order

Sec. 6.1. (a) This section applies to a district that is:

(1) a countywide district; and

(2) established in response to an agreed order entered into after December 31, 1982, by the department and the executive and fiscal bodies of the county.

(b) Not later than December 31, 2012, the parties to an agreed order described in subsection (a)(2) shall amend the agreed

order to provide for the appointment of trustees as follows:

(1) Beginning July 1, 2013, at least one (1) appointed trustee must reside in the geographic area that is the subject of the department investigation resulting in the agreed order.

(2) Beginning July 1, 2013, an appointed trustee may not be served by a municipal sewer system.

(3) Beginning July 1, 2013, at least one (1) appointed trustee must be an elected official who represents a political subdivision that has territory in the district.

As added by P.L.97-2012, SEC.7. Amended by P.L.139-2012, SEC.4.

IC 13-26-4-7
Compensation and expenses of trustees

Sec. 7. (a) Except as provided in subsection (b), the board of a district may provide for the payment of not more than fifty dollars ($50) per day to members of the board for each day or major part of a day devoted to the work of the district.

(b) This subsection applies only to a regional water and sewage district that:

(1) is located in more than one (1) county; and

(2) was formed in 1975 by order of the stream pollution control board of the state of Indiana (which was succeeded in 1986 by the water pollution control board, which was established by IC 13-18-1, before its repeal).

The board of a district may provide for the payment of not more than one hundred twenty-five dollars ($125) per day to members of the board for each day or major part of a day devoted to the work of the district.

(c) Members of the board are entitled to receive an amount for travel expenses equal to the amount paid to state employees for expenses incurred in the performance of their duties.

(d) Payments made to board members under subsections (a), (b), and (c) shall be made from the general fund of the district.

As added by P.L.1-1996, SEC.16. Amended by P.L.179-2013, SEC.2; P.L.113-2014, SEC.82.

IC 13-26-4-8
Public meetings or hearings

Sec. 8. (a) When the board of a district conducts a public hearing or meeting, the board shall allow any person an opportunity to be heard:

(1) in the presence of others who are present to testify; and

(2) in accordance with subsection (b).

(b) The board may limit testimony at a public hearing or meeting to a reasonable time stated at the opening of the public hearing or meeting.

As added by P.L.97-2012, SEC.8.

IC 13-26-5

Chapter 5. Powers and Duties of Regional Districts

IC 13-26-5-1

Prerequisites to exercising rights, powers, and duties

Sec. 1. Upon:

(1) the declaration of the commissioner organizing a district;

(2) the qualification of the board; and

(3) the election of a president, a treasurer, and a secretary;

the district may exercise in the district's own name, as a municipal corporation, all the rights, powers, and duties conferred upon the district by this article.

As added by P.L.1-1996, SEC.16.

IC 13-26-5-2

Powers

Sec. 2. A district may do the following:

(1) Sue or be sued.

(2) Make contracts in the exercise of the rights, powers, and duties conferred upon the district.

(3) Adopt and alter a seal and use the seal by causing the seal to be impressed, affixed, reproduced, or otherwise used. However, the failure to affix a seal does not affect the validity of an instrument.

(4) Adopt, amend, and repeal the following:

(A) Bylaws for the administration of the district's affairs.

(B) Rules and regulations for the following:

(i) The control of the administration and operation of the district's service and facilities.

(ii) The exercise of all of the district's rights of ownership.

(5) Construct, acquire, lease, operate, or manage works and obtain rights, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property, whether real, personal, or mixed, of a person or an eligible entity.

(6) Assume in whole or in part any liability or obligation of:

(A) a person;

(B) a nonprofit water, sewage, or solid waste project system; or

(C) an eligible entity;

including a pledge of part or all of the net revenues of a works to the debt service on outstanding bonds of an entity in whole or in part in the district and including a right on the part of the district to indemnify and protect a contracting party from loss or liability by reason of the failure of the district to perform an agreement assumed by the district or to act or discharge an obligation.

(7) Fix, alter, charge, and collect reasonable rates and other charges in the area served by the district's facilities to every person whose premises are, whether directly or indirectly, supplied with water or provided with sewage or solid waste

services by the facilities for the purpose of providing for the following:

(A) The payment of the expenses of the district.

(B) The construction, acquisition, improvement, extension, repair, maintenance, and operation of the district's facilities and properties.

(C) The payment of principal or interest on the district's obligations.

(D) To fulfill the terms of agreements made with:

(i) the purchasers or holders of any obligations; or

(ii) a person or an eligible entity.

(8) Except as provided in sections 2.5 and 2.6 of this chapter, require connection to the district's sewer system of property producing sewage or similar waste, and require the discontinuance of use of privies, cesspools, septic tanks, and similar structures if:

(A) there is an available sanitary sewer within three hundred (300) feet of:

(i) the property line, if the property is adjacent to a body of water, including a lake, river, or reservoir;

(ii) any part of a subdivision, or land that is divided or proposed to be divided into lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale; or

(iii) for all other properties, the improvement or other structure from which the sewage or similar waste is discharged;

(B) the district has given written notice by certified mail to the property owner at the address of the property at least ninety (90) days before a date for connection to be stated in the notice; and

(C) if the property is located outside the district's territory:

(i) the district has obtained and provided to the property owner (along with the notice required by clause (B)) a letter of recommendation from the local health department that there is a possible threat to the public's health; and

(ii) if the property is also located within the extraterritorial jurisdiction of a municipal sewage works under IC 36-9-23 or a public sanitation department under IC 36-9-25, the municipal works board or department of public sanitation has acknowledged in writing that the property is within the municipal sewage works or department of public sanitation's extraterritorial jurisdiction, but the municipal works board or department of public sanitation is unable to provide sewer service.

However, a district may not require the owner of a property described in this subdivision to connect to the district's sewer system if the property is already connected to a sewer system that has received an NPDES permit and has been determined to

be functioning satisfactorily.
(9) Provide by ordinance for a reasonable penalty, not to exceed one hundred dollars ($100) per day, for failure to connect and also apply to the circuit or superior court of the county in which the property is located for an order to force connection, with the cost of the action, including reasonable attorney's fees of the district, to be assessed by the court against the property owner in the action.
(10) Refuse the services of the district's facilities if the rates or other charges are not paid by the user.
(11) Control and supervise all property, works, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property rights and interests conveyed, delivered, transferred, or assigned to the district.
(12) Construct, acquire by purchase or otherwise, operate, lease, preserve, and maintain works considered necessary to accomplish the purposes of the district's establishment within or outside the district and enter into contracts for the operation of works owned, leased, or held by another entity, whether public or private.
(13) Hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease as lessee or lessor, use, and sell interests in real and personal property or franchises within or outside the district for:

(A) the location or protection of works;

(B) the relocation of buildings, structures, and improvements situated on land required by the district or for any other necessary purpose; or

(C) obtaining or storing material to be used in constructing and maintaining the works.

(14) Upon consent of two-thirds (2/3) of the members of the board, merge or combine with another district into a single district on terms so that the surviving district:

(A) is possessed of all rights, franchises, and authority of the constituent districts; and

(B) is subject to all the liabilities, obligations, and duties of each of the constituent districts, with all rights of creditors of the constituent districts being preserved unimpaired.

(15) Provide by agreement with another eligible entity for the joint construction of works the district is authorized to construct if the construction is for the district's own benefit and that of the other entity. For this purpose the cooperating entities may jointly appropriate land either within or outside their respective borders if all subsequent proceedings, actions, powers, liabilities, rights, and duties are those set forth by statute.
(16) Enter into contracts with a person, an eligible entity, the state, or the United States to provide services to the contracting party for any of the following:

(A) The distribution or purification of water.

(B) The collection or treatment of sanitary sewage.

(C) The collection, disposal, or recovery of solid waste.

(17) Make provision for, contract for, or sell the district's byproducts or waste.

(18) Exercise the power of eminent domain, including for purposes of siting sewer or water utility infrastructure, but only after the district attempts to use existing public rights-of-way or easements.

(19) Remove or change the location of a fence, building, railroad, canal, or other structure or improvement located within or outside the district. If:

(A) it is not feasible or economical to move the building, structure, or improvement situated in or upon land acquired; and

(B) the cost is determined by the board to be less than that of purchase or condemnation;

the district may acquire land and construct, acquire, or install buildings, structures, or improvements similar in purpose to be exchanged for the buildings, structures, or improvements under contracts entered into between the owner and the district.

(20) Employ consulting engineers, superintendents, managers, and other engineering, construction, and accounting experts, attorneys, bond counsel, employees, and agents that are necessary for the accomplishment of the district's purpose and fix their compensation.

(21) Procure insurance against loss to the district by reason of damages to the district's properties, works, or improvements resulting from fire, theft, accident, or other casualty or because of the liability of the district for damages to persons or property occurring in the operations of the district's works and improvements or the conduct of the district's activities.

(22) Exercise the powers of the district without obtaining the consent of other eligible entities. However, the district shall:

(A) restore or repair all public or private property damaged in carrying out the powers of the district and place the property in the property's original condition as nearly as practicable; or

(B) pay adequate compensation for the property.

(23) Dispose of, by public or private sale or lease, real or personal property determined by the board to be no longer necessary or needed for the operation or purposes of the district.

As added by P.L.1-1996, SEC.16. Amended by P.L.193-2001, SEC.2; P.L.221-2007, SEC.18; P.L.1-2009, SEC.110; P.L.97-2012, SEC.9; P.L.178-2013, SEC.2.

IC 13-26-5-2.5

Septic tank soil absorption system exemption

Sec. 2.5. (a) As used in this section, "septic tank soil absorption system" has the meaning set forth in IC 13-11-2-199.5.

(b) Subject to subsection (d), a property owner is exempt from the requirement to connect to a district's sewer system and to discontinue

use of a septic tank soil absorption system if the following conditions are met:

(1) The property owner's septic tank soil absorption system was new at the time of installation and was approved in writing by the local health department.

(2) The property owner, at the property owner's own expense, obtains a written determination from the local health department or the department's designee that the septic tank soil absorption system is not failing. The local health department or the department's designee shall provide the owner with a written determination not later than sixty (60) days after receipt of the owner's request. If the local health department or the department's designee fails to provide a written determination within the time established in this subdivision, the owner, at the owner's expense, may obtain a written determination from a qualified inspector. If the local health department or the department's designee determines that a septic tank soil absorption system is failing, the property owner may appeal the determination to the board of the local health department. The decision of the board is final and binding.

(3) The property owner provides the district with:

(A) the written notification of potential qualification for the exemption described in subsection (f); and

(B) the written determination described in subdivision (2);

within the time limits set forth in subsection (f).

(c) If a property owner, within the time allowed under subsection (f), notifies a district in writing that the property owner qualifies for the exemption under this section, the district shall, until the property owner's eligibility for an exemption under this section is determined, suspend the requirement that the property owner discontinue use of a septic tank soil absorption system and connect to the district's sewer system.

(d) A property owner who qualifies for the exemption provided under this section may not be required to connect to the district's sewer system for a period of ten (10) years beginning on the date the new septic tank soil absorption system was installed. A property owner may apply for two (2) five (5) year extensions of the exemption provided under this section by following the procedures set forth in subsections (b) and (c). If ownership of an exempt property is transferred during a valid exemption period, including during an extension of an initial exemption:

(1) the exemption applies to the subsequent owner of the property for the remainder of the exemption period during which the transfer occurred; and

(2) the subsequent owner may apply for any remaining extensions.

However, the total period during which a property may be exempt from the requirement to connect to a district's sewer system under this section may not exceed twenty (20) years, regardless of ownership of the property.

(e) A district that has filed plans with the department to create or expand a sewage district shall, within ten (10) days after filing the plans, provide written notice to affected property owners:

(1) that the property owner may be required to discontinue the use of a septic tank soil absorption system;

(2) that the property owner may qualify for an exemption from the requirement to discontinue the use of the septic tank soil absorption system; and

(3) of the procedures to claim an exemption.

(f) To qualify for an exemption under this section, a property owner must:

(1) within sixty (60) days after the date of the written notice given to the property owner under subsection (e), notify the district in writing that the property owner qualifies for the exemption under this section; and

(2) within one hundred twenty (120) days after the district receives the written notice provided under subdivision (1), provide the district with the written determination required under subsection (b)(2).

(g) When a property owner who qualifies for an exemption under this section subsequently discontinues use of the property owner's septic tank soil absorption system and connects to the district's sewer system, the property owner may be required to pay only the following to connect to the sewer system:

(1) The connection fee the property owner would have paid if the property owner connected to the sewer system on the first date the property owner could have connected to the sewer system.

(2) Any additional costs:

(A) considered necessary by; and

(B) supported by documentary evidence provided by;

the district.

(h) A property owner who connects to a district's sewer system may provide, at the owner's expense, labor, equipment, materials, or any combination of labor, equipment, and materials from any source to accomplish the connection to the sewer system, subject to inspection and approval by the board or a designee of the board.

(i) This section does not affect the authority of the state department of health, a local health department, or a county health officer with respect to a septic tank soil absorption system.

(j) For purposes of this section, a septic tank soil absorption system is "failing" if one (1) or more of the following apply:

(1) The system refuses to accept sewage at the rate of design application and interferes with the normal use of plumbing fixtures.

(2) Effluent discharge exceeds the absorptive capacity of the soil into which the system discharges, resulting in ponding, seepage, or other discharge of the effluent to the ground surface or to surface waters.

(3) Effluent discharged from the system contaminates a potable

water supply, ground water, or surface waters.

(k) As used in this section, "qualified inspector" means any of the following:

(1) An employee of a local health department who is designated by the local health department as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.

(2) An individual who is certified by the Indiana Onsite Wastewater Professionals Association as an onsite sewage system installer or inspector.

(3) An individual listed by the state department of health or a local health department with jurisdiction over the service area of the property inspected as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.

As added by P.L.193-2001, SEC.3. Amended by P.L.1-2002, SEC.67; P.L.123-2011, SEC.1; P.L.97-2012, SEC.10; P.L.292-2013, SEC.7.

IC 13-26-5-2.6

Large parcel exemption

Sec. 2.6. A district may not require the owner of a property described in section 2(8) of this chapter to connect to the district's sewer system if:

(1) the property is located on at least ten (10) acres;

(2) the owner can demonstrate the availability of at least two (2) areas on the property for the collection and treatment of sewage that will protect human health and the environment;

(3) the waste stream from the property is limited to domestic sewage from a residence or business;

(4) the system used to collect and treat the domestic sewage has a maximum design flow of seven hundred fifty (750) gallons per day; and

(5) the owner, at the owner's expense, obtains and provides to the district a certification from the local health department or the department's designee that the system is functioning satisfactorily.

As added by P.L.97-2012, SEC.11.

IC 13-26-5-3

Rules and resolutions of board; legislative and administrative acts

Sec. 3. (a) The board may by rules and resolutions provide the following:

(1) The procedure for the board's actions.

(2) The manner of selection of the board's president, treasurer, and secretary and other officers or employees of the district, including the titles, terms of office, compensation, duties, number, and qualifications.

(3) Any other lawful subject necessary to the operation of the district and the exercise of the power granted.

(b) The board must adopt an ordinance by a majority vote to take

action of a legislative nature. Proposed ordinances may be read by title only unless a trustee requests a reading in full.

(c) A majority of the board or the officers of the board or employees of the district that are authorized by the board may take action of an administrative or executive nature.

As added by P.L.1-1996, SEC.16.

IC 13-26-5-4

Rules; establishment and enforcement

Sec. 4. (a) The board may adopt and enforce rules for the following purposes:

(1) To accomplish the purpose of a district.

(2) To protect the works, improvements, and properties, both real and personal, that the district owns.

(3) To secure the best results from the construction, operation, and maintenance of works, improvements, and properties.

(4) To prevent damage by the misuse of the works, improvements, or properties by:

(A) the pollution or misuse of the waters in the district or of the sewerage system; or

(B) the improper disposal of solid waste.

(b) The board may adopt and enforce rules under subsection (a) that are necessary and advisable to do the following:

(1) Protect and preserve the works, improvements, and properties owned or controlled by the district, prescribe the manner of use by any person, and preserve order in and adjacent to the works.

(2) Prescribe the manner:

(A) in which ditches, sewers, pipelines, or other works should be adjusted to or connected with the works of the district; and

(B) of waste disposal in the district.

(3) Prescribe the permissible uses of the water supply and the manner of distribution and prevent the pollution or unnecessary waste of the water supply.

(4) Prohibit or regulate the discharge into the sewers of the district of liquid or solid waste detrimental to the works and improvements.

(c) Rules must be:

(1) consistent with:

(A) statutes; and

(B) the rules of the environmental rules board; and

(2) maintained and open to inspection in the office of the district.

(d) The board may enforce by injunction or other legal remedy rules adopted under this section. The board may remove a harmful or improper construction or obstruction or may close an opening or connection made improperly or in violation of the rules. A person that willfully fails to comply with the rules is liable for damage caused by the failure and for the cost of restoring or replacing

construction damaged.
As added by P.L.1-1996, SEC.16. Amended by P.L.113-2014, SEC.83.

IC 13-26-5-5
Contracts for purchases of supplies, materials, or labor

Sec. 5. The board or an officer or employee designated by the board may contract for the following:

(1) The purchase of supplies in accordance with IC 5-22.

(2) Labor for a work in accordance with IC 36-1-12.

As added by P.L.1-1996, SEC.16. Amended by P.L.49-1997, SEC.48.

IC 13-26-5-6
Eminent domain

Sec. 6. (a) Subject to subsections (b) and (c), the board may condemn for the use of the district public or private land, easements, rights, rights-of-way, franchises, or other property within or outside the district required by the district for the accomplishment of the district's purposes according to the statutory procedure for the appropriation of land or other property taken by an eligible entity.

(b) The power of condemnation by a district under this article may not be exercised against a sewage disposal company holding a certificate of territorial authority under IC 8-1-2-89 until the expiration of twelve (12) years after the granting of the certificate of territorial authority.

(c) If the board of a regional sewage district exercises eminent domain to acquire an easement or right-of-way within or outside the district required by the district for the accomplishment of the district's purposes, the easement or right-of-way may not exceed fifty (50) feet in width.

As added by P.L.1-1996, SEC.16. Amended by P.L.123-2011, SEC.2.

IC 13-26-5-6.5
Notice; proposed extension of service

Sec. 6.5. A district that intends to extend service within its territory shall provide notice to all owners of property to be served by the proposed extension of service in the following manner not later than sixty (60) days from the date of the decision to extend service:

(1) By publication of notice one (1) time each week for three (3) consecutive weeks in at least two (2) newspapers of general circulation in each of the counties, in whole or in part, of the district affected by the proposed extension of service. If there is only one (1) newspaper of general circulation in a county, a single publication each week for three (3) consecutive weeks satisfies the requirement of this subdivision.

(2) By United States mail, postage prepaid, mailed to each freeholder within the territory to which the district proposes to extend service.

As added by P.L.292-2013, SEC.8.

IC 13-26-5-7

Contracts for water supply, sewage treatment, or solid waste disposition; issuance of bonds

Sec. 7. (a) Exclusive of building a sewage treatment plant, solid waste disposal or recovery system, or installing a supply of water, a district that desires to own, acquire, construct, equip, improve, enlarge, extend, operate, and maintain a works may proceed under this article if the district first contracts for:

(1) a supply of water;

(2) the required treatment of the sewage emanating from the district's works; or

(3) the disposition of solid waste generated within the district.

(b) A governmental or private body owning and operating facilities for water supply, sewage, or solid waste disposal, recovery, or treatment may contract to supply water or treat all or part of the sewage and solid waste of a district. The contracts:

(1) must be authorized by ordinance; and

(2) are subject to approval by the department.

(c) All bonds issued under this article or IC 13-3-2 (before its repeal) by a district contracting for:

(1) water supply;

(2) sewage or solid waste disposal; or

(3) recovery treatment service;

under this section are payable before the expiration date of the contract and districts may contract for the term of the bonds, including a term or terms beyond the last maturity of the bonds.

As added by P.L.1-1996, SEC.16.

IC 13-26-5-8

Limitations on contracts

Sec. 8. A district may make contracts or incur obligations only if the contracts or obligations are payable solely from:

(1) the money provided under this article; or

(2) federal, state, or other grants or contributions.

As added by P.L.1-1996, SEC.16.

IC 13-26-5-9

Disbursal of money for district purposes; electronic funds transfers; advance claim payments; board preapproval and review required

Sec. 9. (a) As used in this section, "electronic funds transfer" means a transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, a telephone, a computer, magnetic tape, or other electronic means to order, instruct, or authorize a financial institution to debit or credit an account.

(b) A board may adopt an ordinance allowing money to be disbursed for lawful district purposes under this section.

(c) As part of an ordinance adopted under subsection (b), or by a separate ordinance adopted by the board, the board may authorize the

district to do one (1) or both of the following through an electronic funds transfer method of payment:

(1) Pay claims owed by the district.

(2) Receive payments owed to the district.

If the board adopts an ordinance to grant the district the authority described in subdivision (1), the district may pay money from its funds by electronic funds transfer. However, the authority granted to a district by this subsection does not affect the rights, liabilities, or responsibilities of participants in an electronic fund transfer under the federal Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), and a regional district that pays a claim by electronic funds transfer shall comply with all other requirements for the payment of claims by the regional district.

(d) Notwithstanding IC 5-11-10, with the prior written approval of the board, the fiscal officer of the district may make claim payments in advance of board allowance for the following kinds of expenses if the board has adopted an ordinance under subsection (b):

(1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.

(2) License or permit fees.

(3) Insurance premiums.

(4) Utility payments or utility connection charges.

(5) General grant programs for which advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.

(6) Grants of state funds authorized by statute.

(7) Maintenance or service agreements.

(8) Leases or rental agreements.

(9) Bond or coupon payments.

(10) Payroll.

(11) State or federal taxes.

(12) Expenses that must be paid because of emergency circumstances.

(13) Expenses described in an ordinance.

(e) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the fiscal officer of the district.

(f) The board shall review and allow a claim paid under subsection (d) at the board's next regular or special meeting following the preapproved payment of the expense.

As added by P.L.78-2009, SEC.20. Amended by P.L.71-2011, SEC.1.

IC 13-26-6
Chapter 6. District Plan

IC 13-26-6-1
Contents

Sec. 1. A district plan for the operation of the district must include:

(1) engineering reports;
(2) plans and specifications; and
(3) a feasibility study in a form that the department requires.

As added by P.L.1-1996, SEC.16.

IC 13-26-6-2
Approval; authorization to proceed

Sec. 2. If the department approves a district plan, the department shall authorize the district to proceed.

As added by P.L.1-1996, SEC.16.

IC 13-26-6-3
Denial; revisions

Sec. 3. If the department disapproves a district plan, the department may recommend revisions and authorize the district to proceed with a revised plan.

As added by P.L.1-1996, SEC.16.

IC 13-26-6-4
Dissolution of district; distribution of assets

Sec. 4. If:

(1) the department determines that the project or operation of the district is not economically feasible, fair, or reasonable; or
(2) the district fails to file a plan for the operation of the district within the time prescribed by the department;

the department may declare the district dissolved and enter an order for the distribution of all assets owned by the district after the payment of liabilities.

As added by P.L.1-1996, SEC.16.

IC 13-26-7

Chapter 7. Payment of District Expenses

IC 13-26-7-1

Records

Sec. 1. Each district must keep proper records showing the district's finances.

As added by P.L.1-1996, SEC.16.

IC 13-26-7-2

Advancement of money

Sec. 2. A local, state, or federal agency or person may advance or give a district money to be used by the district for the following purposes:

(1) The preparation of a plan for the operation of the district.

(2) Other purposes of the district until the district is in receipt of revenue from its operations or proceeds from the sale of bonds.

As added by P.L.1-1996, SEC.16.

IC 13-26-7-3

Repayment of money

Sec. 3. When a district receives revenue for its operations or proceeds from the sale of bonds, the district shall repay any money advanced to the advancing agency in the manner agreed.

As added by P.L.1-1996, SEC.16.

IC 13-26-7-4

Dissolution of district; interest in assets; limitations

Sec. 4. If the commissioner orders a district dissolved as permitted in IC 13-26-6-4, the interest an entity has in the assets of the district is limited to those assets remaining after the payment of all other liabilities of the district.

As added by P.L.1-1996, SEC.16.

IC 13-26-8

Chapter 8. Addition of Territory to Regional Districts

IC 13-26-8-1

Applications by eligible entities to be included in district; procedure

Sec. 1. After the establishment of a district, an eligible entity whose territory is not wholly included within the district may file an application with the district setting forth the following:

(1) A general description of the territory the eligible entity desires to have included in the district.

(2) The necessity for the inclusion of the territory in the district.

(3) That inclusion of the territory in the district will be conducive to the public health, safety, convenience, or welfare.

(4) That it will be practical and feasible for the territory to be included in the district.

As added by P.L.1-1996, SEC.16.

IC 13-26-8-2

Approval of application

Sec. 2. If an application is approved by a majority of the board, the territory described in the application becomes part of the district. The district shall then notify the department of the inclusion of the additional territory in the district.

As added by P.L.1-1996, SEC.16.

IC 13-26-8-3

Denial of application; petition; procedure

Sec. 3. (a) If an application fails to receive the approval of a majority of the board not later than sixty (60) days after the filing of the application with the district, the entity filing the application may file a petition with the department as described in IC 13-26-2 requesting the order of the department to include the territory described in the application within the district.

(b) Upon the filing of a petition, the department shall proceed in the same manner that is set forth in IC 13-26-2, IC 13-26-4, IC 13-26-6, and IC 13-26-7.

As added by P.L.1-1996, SEC.16.

IC 13-26-8-4

Addition of territory to regional sewage or solid waste district other than at request of eligible entity

Sec. 4. (a) This section applies to the addition of territory to a regional sewage or solid waste district other than at the request of an eligible entity described in section 1 of this chapter. This section does not apply to a regional water district.

(b) To add territory to a district already established, the board must file with the department a motion adopted by the board requesting the addition of territory to the district.

(c) Except as provided under subsections (d) and (e), if a motion

is filed with the department under subsection (b):

(1) the same procedure must be used to add territory to the district as is provided for the establishment of a district under IC 13-26-2; and

(2) the department shall proceed in the same manner that is set forth in IC 13-26-2, IC 13-26-4, IC 13-26-6, and IC 13-26-7.

(d) Not more than one hundred eighty (180) days after the date a motion is filed with the department under subsection (b) to add territory to a district already established, if a petition is filed with the department that is signed by a majority of the freeholders within the area proposed to be added and indicating that the freeholders are opposed to the addition of the area by the district:

(1) the department may not proceed under subsection (c); and

(2) the territory may not be added to the district.

(e) For purposes of subsection (c):

(1) the commissioner is not required to appoint a hearing officer under IC 13-26-2-5;

(2) the board shall:

(A) provide the notice of; and

(B) conduct;

the hearing required under IC 13-26-2-6; and

(3) instead of making findings and recommendations under IC 13-26-2-8, the board shall submit documentary evidence to the commissioner to prove the:

(A) notice was provided; and

(B) hearing was conducted;

by the board as required under subdivision (2).

As added by P.L.123-2011, SEC.3. Amended by P.L.292-2013, SEC.9.

IC 13-26-9

Chapter 9. Territorial Authority of Sewage Disposal Companies

IC 13-26-9-1

Effect of chapter

Sec. 1. This article does not limit the following:

(1) The formation and operation under IC 8-1-2-89 of a sewage disposal company to provide sewage disposal service to a territory lying in the territory of a district.

(2) The granting of a certificate of territorial authority under IC 8-1-2-89 encompassing a part of the territory within the district.

As added by P.L.1-1996, SEC.16.

IC 13-26-9-2

Certificates; conditions

Sec. 2. The granting of a certificate of territorial authority to a sewage disposal company under IC 8-1-2-89 for a territory lying in the territory of a district may be conditioned upon the following requirements:

(1) That the sewage disposal company connect the company's collection system to the collection system of a district when the district has extended to within three hundred (300) feet of the territorial area of the sewage disposal company a system sufficient to provide reasonable and adequate service to the territorial area.

(2) That the sewage disposal company contribute the company's collection system to the district instead of all connection charges that could otherwise be imposed under this article upon:

(A) the sewage disposal company; or

(B) those parcels and lots served by the collection system of the sewage disposal company that have been contributed by the company to the district.

As added by P.L.1-1996, SEC.16.

IC 13-26-9-3

Exemption from certain ordinances and rules

Sec. 3. A sewage disposal company that is subject to the jurisdiction of the Indiana utility regulatory commission under IC 8-1-2-89, and all of the territory lying in the area to which the company holds a certificate of territorial authority, is exempt from all ordinances and rules adopted by the board, except those ordinances and rules pertaining to maintenance and operation, until:

(1) the connection is made to the sewerage system of the district; and

(2) the district begins to provide service within the area covered by the certificate of territorial authority.

As added by P.L.1-1996, SEC.16.

IC 13-26-10
Chapter 10. Bonds

IC 13-26-10-1
Issuance of revenue bonds

Sec. 1. A district may obtain money for the payment of the costs of the works or an improvement, enlargement, or extension of the works by the issuance of revenue bonds of the district. The principal and interest of the revenue bonds must be paid solely from the net revenues of the works.

As added by P.L.1-1996, SEC.16.

IC 13-26-10-2
Loans from federal government

Sec. 2. A district obtaining a loan from the federal government or an agency of the federal government may issue obligations under this article to the federal government or agency to evidence the indebtedness without advertising for or receiving bids. The obligations:

(1) are payable solely from the net revenues of the works; and

(2) may be made of equal priority or subordinate to other revenue bonds issued or to be issued under this article or IC 13-3-2 (before its repeal).

As added by P.L.1-1996, SEC.16.

IC 13-26-10-3
Revenue bonds

Sec. 3. Revenue bonds may:

(1) bear interest, at a rate or rates not exceeding the maximum determined by the board, that is payable or accretes as determined by the board;

(2) mature at a time or times to be determined by ordinance; and

(3) be made redeemable before maturity at the option of the district, to be exercised by the board, at not more than the par value and a premium not exceeding five percent (5%) under terms and conditions that are fixed by the ordinance authorizing the issuance of the bonds.

As added by P.L.1-1996, SEC.16. Amended by P.L.53-2004, SEC.2.

IC 13-26-10-4
Revenue bonds; principal and interest

Sec. 4. The principal and interest of revenue bonds may be made payable in any lawful medium. The ordinance must do the following:

(1) Determine the form of the bonds, including the interest coupons, if any, to be attached.

(2) Fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which may be any bank or trust company within or outside Indiana.

As added by P.L.1-1996, SEC.16.

IC 13-26-10-5
Revenue bonds; terms

Sec. 5. (a) The revenue bonds must contain a statement on the face of the bonds that the district is not obligated to pay the bonds or the interest on the bonds except from the special fund provided from the net revenues of the works.

(b) All bonds are negotiable instruments.

(c) The bonds and interest are exempt from all state, county, and municipal taxation.

(d) The bonds may be registered in the name of the owner:

(1) as to principal alone; or

(2) as to both principal and interest.

Fully registered bonds may be made convertible to coupon bonds at the option of the registered owner.

As added by P.L.1-1996, SEC.16.

IC 13-26-10-6
Execution and attestation of bonds

Sec. 6. The:

(1) president of the board shall execute; and

(2) secretary of the board shall attest;

the bonds and coupons. The coupons must bear facsimile signature.

As added by P.L.1-1996, SEC.16.

IC 13-26-10-7
Revenue bonds; sale procedure

Sec. 7. (a) Subject to subsection (b), the treasurer of the district shall sell the revenue bonds in a manner and at a price that is determined to be in the best interests of the district.

(b) If the bonds are sold at public sale, the bonds shall be sold in accordance with IC 5-1-11 as IC 5-1-11 applies to counties.

As added by P.L.1-1996, SEC.16.

IC 13-26-10-8
Revenue bonds; disposition of proceeds

Sec. 8. (a) A surplus of revenue bond proceeds over the cost of the works shall be paid into the sinking fund provided by this article.

(b) If the proceeds of the bonds, by error of calculation or otherwise, are less than the cost of the works, additional bonds may in the same manner be issued to provide the amount of the deficit. Unless otherwise provided in:

(1) the ordinance authorizing the issuance of the bonds first issued; or

(2) the trust indenture authorized by this article or IC 13-3-2 (before its repeal);

the additional bonds are considered to be of the same issue and are entitled to payment from the same fund, without preference or priority of the bonds first issued.

As added by P.L.1-1996, SEC.16.

IC 13-26-10-9
Temporary revenue bonds

Sec. 9. Before the preparation of the definite revenue bonds, temporary revenue bonds under the same restrictions may be issued with or without coupons, exchangeable for definite revenue bonds upon the issuance of the latter.
As added by P.L.1-1996, SEC.16.

IC 13-26-10-10
Loans from federal or state agency

Sec. 10. The fund to finance the construction of any of the self-liquidating works authorized by this article may be obtained from a federal or state agency.
As added by P.L.1-1996, SEC.16.

IC 13-26-10-11
Action to contest validity of bonds

Sec. 11. An action to contest the validity of bonds issued under this article or IC 13-3-2 (before its repeal) must be brought not later than ten (10) days after the advertised sale date of the bonds.
As added by P.L.1-1996, SEC.16.

IC 13-26-10-12
Issuance of additional bonds

Sec. 12. Subject to an ordinance or trust indenture pertaining to outstanding bonds, additional bonds payable from the revenues of the works may be authorized and issued in accordance with this article for the purpose of improving, enlarging, or extending works acquired or constructed under this article or IC 13-3-2 (before its repeal).
As added by P.L.1-1996, SEC.16.

IC 13-26-10-13
Trust indenture to secure bonds

Sec. 13. The board may secure the revenue bonds by a trust indenture by and between the district and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside Indiana. However, a trust indenture may not convey or mortgage all or any part of the works.
As added by P.L.1-1996, SEC.16.

IC 13-26-10-14
Contents of ordinance authorizing revenue bonds

Sec. 14. The ordinance authorizing the revenue bonds and fixing the details of the revenue bonds may provide that the trust indenture contain reasonable and lawful provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the district and the board in relation to the following:

(1) The construction or acquisition of the works.

(2) The improvement, operation, repair, and maintenance of the

works.

(3) The issuance of bonds, including the custody, safeguarding, and application of all money.

As added by P.L.1-1996, SEC.16.

IC 13-26-10-15

Ordinance authorizing revenue bonds

Sec. 15. The ordinance may also provide that the works shall be contracted for, constructed, and paid for under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, successors, assigns, or nominees. The original bond purchasers, successors, assigns, or nominees may be given the right to require that the security given by:

(1) contractors; and

(2) any depository of the proceeds of bonds or revenues of the works or other money pertaining to the works;

be satisfactory to the purchasers, successors, assigns, or nominees.

As added by P.L.1-1996, SEC.16.

IC 13-26-10-16

Trust indenture; rights and remedies of bondholder and trustee

Sec. 16. The trust indenture may set forth the rights and remedies of the bondholders or trustee, restricting the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations.

As added by P.L.1-1996, SEC.16.

IC 13-26-10-17

Payment of bond sale proceeds and revenue of works

Sec. 17. Unless this article otherwise provides, the board may provide by ordinance or in the trust indenture for the payment of:

(1) the proceeds of the sale of the bonds; and

(2) the revenues of the works;

to the officer, board, or depository that the board determines for the custody of the money and for the method of disbursement, with safeguards and restrictions that the board determines.

As added by P.L.1-1996, SEC.16.

IC 13-26-10-18

Sinking fund for payment of bonds

Sec. 18. (a) At or before the time of issuance of the revenue bonds, the board shall by ordinance create a sinking fund for the payment of the following:

(1) The bonds.

(2) The interest on the bonds.

(3) The charges of banks or trust companies for making payment of the bonds or interest.

(b) The board shall set aside and pledge the net revenues of the works remaining after the payment of the reasonable expense of

operation, repair, and maintenance of the works for payment of the:

(1) principal of and interest on all bonds payable from the revenues of the works, to the extent necessary for that purpose; and

(2) necessary fiscal agency charges for paying the principal and interest of the bonds.

(c) The ordinance may also provide for the accumulation of reasonable reserves in the sinking fund:

(1) as a margin for safety and a protection against default; and

(2) for the payment of premiums upon bonds retired by call or purchase as provided by this article.

As added by P.L.1-1996, SEC.16.

IC 13-26-10-19

Rights of revenue bondholders

Sec. 19. (a) The holder of revenue bonds or attached coupons and the trustee, if any, except to the extent the rights given may be restricted by the ordinance authorizing issuance of the bonds or by the trust indenture, may, by civil action, protect and enforce rights granted:

(1) by this article or IC 13-3-2 (before its repeal); or

(2) under the ordinance or trust indenture;

to be performed by the district issuing the bonds or by the board or any officer, including the making and collecting of reasonable and sufficient charges and rates for services provided by the works.

(b) If there is failure to pay the principal or interest on any of the revenue bonds on the date named for payment, and upon application by a bondholder or a trustee, any court having jurisdiction to appoint receivers shall appoint a receiver to administer the works on behalf of the district and the bondholders or trustee. A receiver may do the following:

(1) Charge and collect rates sufficient to provide for the payment of the expenses of operation, repair, and maintenance.

(2) Pay any revenue bonds and interest outstanding.

(3) Apply the revenues in conformity with this article and the ordinance or trust indenture.

As added by P.L.1-1996, SEC.16.

IC 13-26-11

Chapter 11. Rates and Charges

IC 13-26-11-1

Waterworks

Sec. 1. The rates and charges for a waterworks may be determined based on the following:

(1) A flat charge for each connection.

(2) The amount of water consumed.

(3) The size of the meter or connection.

(4) Whether the property served has been or will be required to pay separately for the cost of any of the facilities of the works.

(5) A combination of these or other factors that the board determines is necessary to establish just and equitable rates and charges.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-2

Sewage works; campgrounds; youth camps

Sec. 2. (a) Except as provided in subsection (b), the rates or charges for a sewage works may be determined based on a combination of the following factors:

(1) A flat charge for each connection. If a board uses a flat charge as a factor to determine a rate or charge for a sewage works, the board must:

(A) prepare a concise written statement that summarizes the calculations and processes used to determine the amount of the flat charge; and

(B) provide a copy of the written statement to each person who:

(i) is required to pay the rate or charge; and

(ii) requests a paper copy of the summary.

(2) The amount of water used on the premises.

(3) The number and size of water outlets on the premises.

(4) The amount, strength, or character of sewage discharged into the sewers.

(5) The size of sewer connections.

(6) Whether the property served has been or will be required to pay separately for the cost of any of the facilities of the works.

(7) A combination of these or other factors that the board determines is necessary to establish nondiscriminatory, just, and equitable rates or charges.

(b) A campground or youth camp may be billed for sewage service at a flat rate or by installing, at the campground's or youth camp's expense, a meter to measure the actual amount of sewage discharged by the campground or youth camp into the sewers. If a campground or youth camp elects to be billed by use of a meter:

(1) the rate charged by a board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and

(2) the amount charged by a board for the campground's or youth camp's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the actual amount that would be charged for the sewage discharged during the month by the campground or youth camp as measured by the meter.

(c) If a campground or youth camp does not install a meter under subsection (b) and is billed for sewage service at a flat rate, for a calendar year beginning after December 31, 2004:

(1) each campsite at the campground may not equal more than one-third (1/3) of one (1) resident equivalent unit; and

(2) each bed at the youth camp may not equal more than one-eighth (1/8) of one (1) residential equivalent unit.

The basic monthly charge for the campground's or youth camp's sewage service must be equal to the number of the campground's or youth camp's resident equivalent units multiplied by the rate charged by the board for a resident unit.

(d) The board may impose additional charges on a campground or youth camp under subsections (b) and (c) if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground or youth camp, including, but not limited to:

(1) the installation of:

(A) oversized pipe; or

(B) any other unique equipment;

necessary to provide sewage service for the campground or youth camp; and

(2) concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards.

As added by P.L.1-1996, SEC.16. Amended by P.L.239-2003, SEC.1; P.L.189-2005, SEC.5; P.L.97-2012, SEC.12.

IC 13-26-11-2.1

Campground rates; appeal to utility regulatory commission

Sec. 2.1. (a) As used in this section, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) This section applies to an owner or operator of a campground described in section 2(b) or 2(c) of this chapter who disputes:

(1) that the campground is being billed at rates charged to residential customers for equivalent usage as required by section 2(b)(1) of this chapter;

(2) the number of resident equivalent units determined for the campground under section 2(c) of this chapter; or

(3) that any additional charges imposed on the campground under section 2(d) of this chapter are reasonable or nondiscriminatory.

(c) If an owner or operator:

(1) makes a good faith attempt to resolve a disputed matter described in subsection (b)(1) through (b)(3) through:

(A) any grievance or complaint procedure prescribed by the

board; or

(B) other negotiations with the board; and

(2) is dissatisfied with the board's proposed disposition of the matter;

the owner or operator may file with the commission a written request for review of the disputed matter and the board's proposed disposition of the matter to be conducted by the commission's appeals division established under IC 8-1-2-34.5(b). The owner or operator must file a request under this section with the commission and the board not later than seven (7) days after receiving notice of the board's proposed disposition of the matter.

(d) The commission's appeals division shall provide an informal review of the disputed matter. The review must include a prompt and thorough investigation of the dispute. Upon request by either party, or on the division's own motion, the division shall require the parties to attend a conference on the matter at a date, time, and place determined by the division.

(e) In any case in which the basic monthly charge for a campground's sewage service is in dispute, the owner or operator shall pay, on any disputed bill issued while a review under this section is pending, the basic monthly charge billed during the year immediately preceding the year in which the first disputed bill is issued. If the basic monthly charge paid while the review is pending exceeds any monthly charge determined by the commission in a decision issued under subsection (f), the board shall refund or credit the excess amount paid to the owner or operator. If the basic monthly charge paid while the review is pending is less than any monthly charge determined by the appeals division or commission in a decision issued under subsection (f), the owner or operator shall pay the board the difference owed.

(f) After conducting the review required under subsection (d), the appeals division shall issue a written decision resolving the disputed matter. The division shall send a copy of the decision to:

(1) the owner or operator of the campground; and

(2) the board;

by United States mail. Not later than seven (7) days after receiving the written decision of the appeals division, either party may make a written request for the dispute to be formally docketed as a proceeding before the commission. Subject to the right of either party to an appeal under IC 8-1-3, the decision of the commission is final.

(g) The commission shall maintain a record of all requests for a review made under this section. The record must include:

(1) a copy of the appeals division's and commission's decision under subsection (f) for each dispute filed; and

(2) any other documents filed with the appeals division or commission under this section.

The record must be made available for public inspection and copying in the office of the commission during regular business hours under IC 5-14-3.

(h) The right of a campground owner or operator to request a

review under this section is in addition to the right of the campground owner or operator to file a petition under section 15 of this chapter as a freeholder of the district.

(i) The commission may adopt rules under IC 4-22-2 to implement this section.

As added by P.L.189-2005, SEC.6.

IC 13-26-11-3

Solid waste disposal

Sec. 3. The rates or charges for solid waste disposal and recovery systems may be determined based on the following:

(1) A flat charge for each residence or building in use in the district.

(2) On the weight of the refuse received.

(3) On the hazardous character of the waste received.

(4) On a combination of the weight and hazardous character of the waste received.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-4

Services of water, sewer, or solid waste disposal

Sec. 4. The rates and charges for services of a water, sewer, or solid waste disposal or recovery system do not have to be uniform throughout the district or for all users. The board may exercise reasonable discretion in:

(1) adopting different schedules of rates and charges; or

(2) making classifications in schedules of rates and charges:

(A) based upon variations in the costs of furnishing the services, including capital expenditures required, to various classes of users or to various locations in the district; or

(B) where there are variations in the number of users in various locations in the district.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-5

Billing and collection

Sec. 5. A district may bill and collect rates and charges for the services to be provided after the contract for construction of a sewage works has been let and actual work commenced in an amount sufficient to meet the interest on the revenue bonds and other expenses payable before the completion of the works.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-6

Sewage works beneficial to lots, land, or buildings

Sec. 6. Unless the board finds and directs otherwise, the sewage works are considered to benefit every:

(1) lot;

(2) parcel of land; or

(3) building;

connected or to be connected under the terms of an ordinance requiring connections with the sewer system of the district as a result of construction work under the contract. The rates or charges shall be billed and collected accordingly.
As added by P.L.1-1996, SEC.16.

IC 13-26-11-7
Connection charges; liens

Sec. 7. (a) If a district constructs sewers or water mains as a part of the construction of the works that are suitable for use as a local or lateral sewer or main by abutting or adjoining property, the district may charge for the connection on the basis of the pro rata cost of construction of a local or lateral sewer or water main sufficient to serve the property.

(b) Each property owner must agree to pay for the connection in making an application for service. If payment is not made as agreed, the payment constitutes a lien on the property for which the connection is made.

(c) The proceeds of the connection charges may be handled as:

(1) net revenues of the works; or

(2) payments toward the cost of construction or future improvements.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-8
Rates and charges

Sec. 8. (a) The board shall, by ordinance, establish just and equitable rates or charges for the use of and the service provided by a works. The rates or charges are payable by the owner of each lot, parcel of land, or building that:

(1) is connected with and uses a works; or

(2) in any way uses or is served by a works.

(b) Subject to section 15 of this chapter, the board may periodically change and readjust the rates or charges as provided in this article.
As added by P.L.1-1996, SEC.16. Amended by P.L.221-2007, SEC.19.

IC 13-26-11-9
Equitable rates; determination

Sec. 9. (a) Just and equitable rates and charges are those that produce sufficient revenue to:

(1) pay all expenses incident to the operation of the works, including maintenance cost, operating charges, upkeep, repairs, and interest charges on bonds or other obligations;

(2) provide the sinking fund for the liquidation of bonds or other evidence of indebtedness and reserves against default in the payment of interest and principal of bonds; and

(3) provide adequate money to be used as working capital, as well as money for making improvements, additions, extensions,

and replacements.

(b) Rates and charges too low to meet the financial requirements described in subsection (a) are unlawful. The initial rates and charges established after notice and hearing under this article are prima facie just and equitable.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-10

Revenue of works

Sec. 10. Revenue collected under sections 8 through 14 of this chapter is revenue of the works.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-11

Public hearing

Sec. 11. The initial rates or charges may be established only after a public hearing at which all:

(1) the users of the works and owners of property served or to be served; and

(2) others interested;

have an opportunity to be heard concerning the proposed rates or charges.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-12

Notice

Sec. 12. After introduction of the ordinance initially fixing rates or charges but before the ordinance is finally adopted, notice of the hearing setting forth the proposed schedule of the rates or charges must be given by publication one (1) time each week for two (2) weeks in a newspaper of general circulation in each of the counties with territory in the district. The last publication must be at least seven (7) days before the date fixed in the notice for the hearing. The hearing may be adjourned as necessary.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-13

Ordinance establishing rates and charges; schedule; notice; objections; hearing; appeal

Sec. 13. (a) The ordinance establishing the initial rates or charges, either as:

(1) originally introduced; or

(2) modified and amended;

shall be passed and put into effect after the hearing.

(b) A copy of the schedule of the rates and charges established must be:

(1) kept on file in the office of the district; and

(2) open to public inspection.

(c) Whenever the board acts under section 8(b) of this chapter, to change or readjust the rates and charges, the board shall mail, either

separately or along with a periodic billing statement, a notice of the new rates and charges to each user affected by the change or readjustment. In the case of a sewage district, if the change or readjustment increases the rates and charges by the amount specified in section 15(c) of this chapter, the notice required by this subsection:

(1) must include a statement of a ratepayer's rights under section 15 of this chapter; and

(2) shall be mailed within the time specified in section 15(c) of this chapter.

(d) Following the passage of an ordinance under subsection (a), the lesser of fifty (50) or ten percent (10%) of the ratepayers of the district may file a written petition objecting to the initial rates and charges of the district. A petition filed under this subsection must:

(1) contain the name and address of each petitioner;

(2) be filed with a member of the district authority, in the county where at least one (1) petitioner resides, not later than thirty (30) days after the district adopts the ordinance; and

(3) set forth the grounds for the ratepayers' objection.

(e) The district authority shall set the matter for public hearing not less than ten (10) business days but not later than twenty (20) business days after the petition has been filed. The district authority shall send notice of the hearing by certified mail to the district and the first listed petitioner and publish the notice of the hearing in a newspaper of general circulation in each county in the district.

(f) Upon the date fixed in the notice, the district authority shall hear the evidence produced and determine the following:

(1) Whether the board of trustees of the district, in adopting the ordinance establishing sewer rates and charges, followed the procedure required by this chapter.

(2) Whether the sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

(g) After the district authority hears the evidence produced and makes the determinations set forth in subsection (f), the district authority, by a majority vote, shall:

(1) sustain the ordinance establishing the rates and charges;

(2) sustain the petition; or

(3) make any other ruling appropriate in the matter, subject to the standards set forth in section 9 of this chapter.

(h) The order of the district authority may be appealed by the district or a petitioner to the circuit court of the county in which the district is located. The court shall try the appeal without a jury and shall determine one (1) or both of the following:

(1) Whether the board of trustees of the district, in adopting the ordinance establishing sewer rates and charges, followed the procedure required by this chapter.

(2) Whether the sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

Either party may appeal the circuit court's decision in the same

manner that other civil cases may be appealed.
As added by P.L.1-1996, SEC.16. Amended by P.L.123-2011, SEC.4; P.L.97-2012, SEC.13.

IC 13-26-11-14
Extension of rates and charges to cover additional premises; changes or readjustments

Sec. 14. (a) The rates or charges established for a class of users of property served shall be extended to cover any additional premises served after the rates or charges are established that are in the same class, without the necessity of hearing or notice.

(b) Subject to section 15 of this chapter, a change or readjustment of the rates or charges may be made in the same manner as the rates or charges were originally established.
As added by P.L.1-1996, SEC.16. Amended by P.L.221-2007, SEC.20.

IC 13-26-11-15
Regional sewage district authority; membership; notice of rate increase; objecting petition; public hearing; order and appeal

Sec. 15. (a) A district authority is established in each regional sewage district established under this article. A district authority:

(1) must consist of an odd number of members;
(2) must consist of at least three (3) members; and
(3) may not include as a member any person who serves on the board of trustees of the district.

(b) The district authority of a regional sewage district consists of the following members:

(1) In the case of a regional sewage district located in one (1) county, the following members:
(A) If no members of the county executive are trustees of the regional sewage district, the county executive of the county.
(B) If:
(i) one (1) or more members of the county executive are trustees of the regional sewage district; and
(ii) no members of the county fiscal body are trustees of the regional sewage district;
the members of the county fiscal body.
(C) If the regional sewage district's board of trustees consists of one (1) or more members of the county executive and one (1) or more members of the county fiscal body, three (3) members appointed as follows:
(i) Two (2) members appointed by the county executive. If not all of the members of the county executive are trustees of the district, the county executive may appoint either or both of the two (2) members required by this item from among the county executive's own membership, subject to subsection (a)(3).
(ii) One (1) member appointed by the county fiscal body. If not all of the members of the county fiscal body are

trustees of the district, the county fiscal body may appoint the member required by this item from among the county fiscal body's own membership, subject to subsection (a)(3).

(2) In the case of a regional sewage district located in more than one (1) county, the following members:

(A) If:

(i) an odd number of counties are part of the regional sewage district; and

(ii) each county in the district has at least one (1) county executive member who is not a trustee of the regional sewage district;

one (1) county executive member, appointed by that member's county executive, from each county in which the district is located, subject to subsection (a)(3).

(B) If an even number of counties are part of the regional sewage district, the following members:

(i) Two (2) county executive members, appointed by those members' county executive, from the county that has the largest number of customers served by the district's sewer system. However, if the county that has the largest number of customers served by the district's sewer system does not have at least two (2) members of its executive who are not also trustees of the district, the county executive of that county may appoint one (1) or more of the members required by this item from outside the county executive's own membership in order to comply with subsection (a)(3).

(ii) One (1) county executive member, appointed by that member's county executive, from each county, other than the county described in item (i), in which the district is located. However, if a county described in this item does not have at least one (1) member of its executive who is not also a trustee of the district, the county executive of that county may appoint the member required by this item from outside the county executive's own membership in order to comply with subsection (a)(3).

(C) If an odd number of counties are part of the regional sewage district and an odd number of those counties in the district do not have at least one (1) county executive member who is not also a trustee of the district, the following members:

(i) One (1) county executive member, appointed by that member's county executive, from each county that has at least one (1) county executive member who is not also a trustee of the district, subject to subsection (a)(3).

(ii) One (1) member appointed by the county executive of each county that does not have at least one (1) county executive member who is not also a trustee of the district. A member appointed under this item must be appointed from outside the appointing county executive's own

membership, subject to subsection (a)(3).

(c) If a district adopts an ordinance increasing sewer rates and charges at a rate that is greater than five percent (5%) per year, as calculated from the rates and charges in effect from the date of the district's last rate increase, the district shall mail, either separately or along with a periodic billing statement, a notice of the new rates and charges to each user of the sewer system who is affected by the increase. The notice:

(1) shall be mailed not later than seven (7) days after the district adopts the ordinance increasing the rates and charges; and

(2) must include a statement of a ratepayer's rights under this section.

(d) If subsection (c) applies, fifty (50) ratepayers of the district or ten percent (10%) of the district's ratepayers, whichever is fewer, may file a written petition objecting to the rates and charges of the district. A petition filed under this subsection must:

(1) contain the name and address of each petitioner;

(2) be filed with a member of the district authority, in the county where at least one (1) petitioner resides, not later than thirty (30) days after the district adopts the ordinance establishing the rates and charges; and

(3) set forth the grounds for the ratepayers' objection.

If a petition meeting the requirements of this subsection is filed, the district authority shall investigate and conduct a public hearing on the petition. If more than one (1) petition concerning a particular increase in rates and charges is filed, the district authority shall consider the objections set forth in all the petitions at the same public hearing.

(e) The district authority shall set the matter for public hearing not less than ten (10) business days but not later than twenty (20) business days after the petition has been filed. The district authority shall send notice of the hearing by certified mail to the district and the first listed petitioner and publish the notice of the hearing in a newspaper of general circulation in each county in the district.

(f) Upon the date fixed in the notice, the district authority shall hear the evidence produced and determine the following:

(1) Whether the board of trustees of the district, in adopting the ordinance increasing sewer rates and charges, followed the procedure required by this chapter.

(2) Whether the increased sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

(g) After the district authority hears the evidence produced and makes the determinations set forth in subsection (f), the district authority, by a majority vote, shall:

(1) sustain the ordinance establishing the rates and charges;

(2) sustain the petition; or

(3) make any other ruling appropriate in the matter, subject to the standards set forth in section 9 of this chapter.

(h) The order of the district authority may be appealed by the

district or a petitioner to the circuit court of the county in which the district is located. The court shall try the appeal without a jury and shall determine one (1) or both of the following:

(1) Whether the board of trustees of the district, in adopting the ordinance increasing sewer rates and charges, followed the procedure required by this chapter.

(2) Whether the increased sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

Either party may appeal the circuit court's decision in the same manner that other civil cases may be appealed.

As added by P.L.193-2001, SEC.4. Amended by P.L.1-2002, SEC.68; P.L.221-2007, SEC.21; P.L.71-2011, SEC.2; P.L.97-2012, SEC.14.

IC 13-26-12
Repealed

(Repealed by P.L.131-2005, SEC.9.)

IC 13-26-13
Repealed

(Repealed by P.L.131-2005, SEC.9.)

IC 13-26-14

Chapter 14. Foreclosure of Liens

IC 13-26-14-1

Additional or alternative remedy for collection of rates or charges

Sec. 1. A district may, as an additional or alternative remedy, foreclose a lien established by this article as a means of collection of rates or charges, including the penalty on the rates or charges.

As added by P.L.1-1996, SEC.16.

IC 13-26-14-2

Recovery by district

Sec. 2. (a) In all actions brought to foreclose the liens, the district is entitled to recover the following:

(1) The amount of the rates or charges.

(2) The penalty on the rates or charges.

(3) A reasonable attorney's fee.

(b) The court shall order that the sale be made without relief from valuation or appraisement statutes.

As added by P.L.1-1996, SEC.16.

IC 13-26-14-3

Applicability of other rights and laws

Sec. 3. Except as otherwise provided by this article, in all actions to foreclose the liens:

(1) the laws concerning municipal public improvement assessments; and

(2) the rights, remedies, procedure, and relief granted the parties to the action;

apply.

As added by P.L.1-1996, SEC.16.

IC 13-26-14-4

Liens for unpaid rates, fees, or charges

Sec. 4. Rates, fees, or charges made, assessed, or established by the district are a lien, in the same manner established under IC 36-9-23 for municipal sewage works, on a lot, parcel of land, or building that is connected with or uses the works of the district. Liens under this chapter:

(1) attach;

(2) are recorded;

(3) are subject to the same penalties, interest, and reasonable attorney's fees on recovery; and

(4) shall be collected and enforced;

in substantially the same manner as provided in IC 36-9-23-31 through IC 36-9-23-34. A lien under this chapter that is the only lien on a property may not be foreclosed.

As added by P.L.131-2005, SEC.4. Amended by P.L.71-2011, SEC.3; P.L.97-2012, SEC.15.

IC 13-27

ARTICLE 27. INDUSTRIAL POLLUTION PREVENTION AND SAFE MATERIALS

IC 13-27-1

Repealed

(Repealed by P.L.124-1997, SEC.23.)

IC 13-27-2

Chapter 2. Division of Pollution Prevention and Technical Assistance

IC 13-27-2-1

Establishment

Sec. 1. A division of pollution prevention is established within the department.

As added by P.L.1-1996, SEC.17.

IC 13-27-2-2

Assistant commissioner; appointment

Sec. 2. The commissioner shall appoint an assistant commissioner to head the division.

As added by P.L.1-1996, SEC.17.

IC 13-27-2-3

Employees; hiring

Sec. 3. The commissioner shall hire employees of the division.

As added by P.L.1-1996, SEC.17.

IC 13-27-2-4

Liaison advisory panels; appointment; reimbursement for expenses

Sec. 4. (a) The commissioner may appoint liaison advisory panels to assist the division in the functions of the division. Individual panels must include members representing different areas of interest in and potential support of pollution prevention and environmentally related technical assistance, including the following:

(1) Industry.

(2) Education.

(3) Environmental and public interest groups.

(4) State government.

(5) Local government officials associated with state programs for pollution prevention.

(6) Organized labor.

(b) A member of a liaison advisory panel is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as 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.

As added by P.L.1-1996, SEC.17.

IC 13-27-2-5

Duties of commissioner and assistant commissioner

Sec. 5. The commissioner and the assistant commissioner, through coordinated effort, shall do the following:

(1) Periodically review state environmental programs and projects for their ability and progress in promoting multimedia

industrial pollution prevention.

(2) Assist the division of air, the division of water, and the division of solid and hazardous waste management in identifying, within planned and existing regulatory programs of the department, obstacles to pollution prevention and opportunities to promote and assist in pollution prevention, including the following:

(A) Encouraging regulatory flexibility to afford businesses the opportunity to develop or implement pollution prevention technologies and practices.

(B) Performing pollution prevention impact analyses of administrative rules before proposed rules are published and before final adoption.

(C) Exploring permanent funding for the program.

(3) Promote increased coordination between the divisions of the department and between the department and other governmental regulatory programs with responsibilities and duties relating to toxic materials and environmental wastes, including, to the fullest extent possible, the following:

(A) Joint planning processes.

(B) Joint research and studies.

(C) Joint public hearings.

(D) Joint hazard assessments.

(E) Joint environmental and workplace impact statements.

(F) Joint pollution prevention impact analyses for existing and proposed administrative rules.

(4) Develop policies and programs to reduce the following by means of industrial pollution prevention:

(A) Generation of municipal wastes.

(B) Generation of household hazardous wastes and pollutants.

(C) Use of toxic materials in consumer products.

(5) Provide general information about, and actively publicize the advantages of and developments in, pollution prevention and the requirements of this article.

(6) Assist businesses that seek information, guidance, planning assistance, or recommendations for pollution prevention by providing technical information to those businesses at production or commercial locations.

(7) Work with existing environmental regulatory programs to make use of existing information gathering systems that may assist the division in assessing the progress of pollution prevention statewide.

(8) Grant or deny applications for pollution prevention grants under section 10 of this chapter.

(9) Provide source reduction and recycling technical assistance and administer the Indiana recycling grants program established under IC 13-20-22-2.

As added by P.L.1-1996, SEC.17. Amended by P.L.2-1997, SEC.50.

IC 13-27-2-6
Assistance to other governmental regulatory programs

Sec. 6. The division shall assist other governmental regulatory programs in devising:

(1) standards;
(2) administrative rules; and
(3) permits;

based on goals and principles of pollution prevention.
As added by P.L.1-1996, SEC.17.

IC 13-27-2-7
Unified reporting and permitting authority

Sec. 7. To facilitate the use and coordination of reporting requirements, the commissioner may seek unified reporting and permitting authority from the United States Environmental Protection Agency with respect to federal toxic material, waste management, and pollution control laws and regulations in effect on January 1, 1990, including the following:

(1) The federal Clean Air Act (42 U.S.C. 7401 et seq.).
(2) The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).
(3) The federal Toxic or Hazardous Substance Control Act (15 U.S.C. 2601 et seq.).
(4) The federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).
(5) The federal Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.).

As added by P.L.1-1996, SEC.17.

IC 13-27-2-8
Repealed

(Repealed by P.L.37-2012, SEC.55.)

IC 13-27-2-9
Information clearinghouse for pollution prevention; purpose; data

Sec. 9. (a) To:

(1) promote pollution prevention statewide by all industries and companies; and
(2) assist in obtaining information on the progress of multimedia reduction of environmental wastes and related environmental policies and programs;

the commissioner shall establish and operate a state information clearinghouse for pollution prevention.

(b) The commissioner shall use the clearinghouse established under this section to do the following:

(1) Collect and compile the following:
    (A) Information from organizations receiving grants under this article.
    (B) Information from the published technical literature.
(2) Mount active outreach and educational programs to further

the development and adoption of principles and techniques of pollution prevention.

(c) The clearinghouse established under this section must include data on the operation and effectiveness of industry pollution prevention programs. The division shall permit and facilitate free use of this data by businesses, governmental agencies, and the general public. A business may not be required to submit information of a proprietary nature to the clearinghouse or to a governmental program funded under this article.

(d) The division shall provide information for the clearinghouse established under this section.

As added by P.L.1-1996, SEC.17. Amended by P.L.124-1997, SEC.18.

IC 13-27-2-10

Grants; purpose

Sec. 10. (a) The commissioner may award grants to support and sustain pollution prevention, including clean manufacturing through reductions in the use of toxic materials in production and commerce.

(b) Subject to subsection (a), the commissioner may award grants for any purpose the commissioner considers appropriate, including the following:

(1) Grants to nonprofit organizations to establish free or low cost technical assistance programs.

(2) Grants to assist:

(A) trade associations that represent manufacturers;

(B) business organizations;

(C) labor organizations; and

(D) educational institutions;

in developing training materials and making those training materials available to workers for in-plant use that will foster clean manufacturing.

(3) Grants to assist:

(A) industry;

(B) business organizations;

(C) educational institutions;

(D) labor organizations; and

(E) local units of government;

in establishing programs or materials to train and assist personnel in developing methods to measure and plan for pollution prevention.

(4) Grants to assist industry or business organizations, local units of government, and educational institutions in creating programs to train and certify:

(A) environmental auditors;

(B) engineers; and

(C) industrial hygienists;

to identify, evaluate, and implement pollution prevention measures and alternatives in audits, plans, and programs.

(5) Grants to any organization for generic research and

development, pilot tests, and demonstration projects that:

(A) involve commonly used manufacturing processes or materials; and

(B) will produce results that will be of use to manufacturers other than manufacturers that may be involved in the research and development, pilot tests, or demonstration projects.

(c) The commissioner may require that a grantee provide matching money for a grant awarded under this section.

(d) Grant money awarded under this section may not be spent for capital improvements or equipment.

(e) The money for grants awarded under this section must come from money appropriated to the department for the purposes of this section.

As added by P.L.1-1996, SEC.17. Amended by P.L.124-1997, SEC.19; P.L.104-1998, SEC.5; P.L.37-2012, SEC.56.

IC 13-27-2-11
Pilot projects

Sec. 11. The division shall sponsor pilot projects to develop and demonstrate innovative techniques for clean manufacturing. The results of pilot projects sponsored under this section shall be made available for use by the public. However, information about a pilot project that is considered proprietary by a manufacturer involved in the pilot project may not be disclosed to the public.

As added by P.L.1-1996, SEC.17. Amended by P.L.124-1997, SEC.20; P.L.37-2012, SEC.57.

IC 13-27-2-12
Education and training programs

Sec. 12. The commissioner may provide for the establishment of education and training programs in pollution prevention techniques at schools and universities in Indiana.

As added by P.L.1-1996, SEC.17.

IC 13-27-2-13
Hearings; investigations; advice; assistance

Sec. 13. The commissioner may:

(1) order all hearings and investigations necessary for the administration of this article; and

(2) advise and assist other governmental units on matters of planning or program administration within the scope of the commissioner's powers, duties, and objectives under this article.

As added by P.L.1-1996, SEC.17.

IC 13-27-2-14
Repealed

(Repealed by P.L.124-1997, SEC.23.)

IC 13-27-3
Repealed

(Repealed by P.L.124-1997, SEC.23.)

IC 13-27-4
Repealed

(Repealed by P.L.124-1997, SEC.23.)

IC 13-27-5
Repealed

(Repealed by P.L.124-1997, SEC.23.)

IC 13-27-6

Chapter 6. State Report Regarding Pollution Prevention

IC 13-27-6-1

Annual report

Sec. 1. Each year the commissioner shall prepare and submit to the governor and the general assembly a report regarding the pollution prevention information gathered under this article, including:

(1) a description of the operations and activities of the programs under this article; and

(2) recommendations the commissioner has for legislative action.

A report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.

As added by P.L.1-1996, SEC.17. Amended by P.L.28-2004, SEC.124.

IC 13-27-6-2

Contents of annual report

Sec. 2. The report required by this chapter must include at least the following:

(1) A quantitative assessment of statewide pollution prevention progress among all types of industries.

(2) An identification of regulations and government policies that are inhibiting pollution prevention and opportunities in existing regulatory programs to promote and assist in pollution prevention, including reductions in the use of toxins in production and commerce.

(3) An assessment of how programs under this article have promoted and assisted pollution prevention and the costs and benefits to government and industry of those programs.

(4) A statement concerning the identification of opportunities and development of priorities for research and development in pollution prevention techniques, economic analyses, and management techniques useful in supporting pollution prevention. The state report may not include information considered by a business to be a trade secret of that business.

(5) Recommendations concerning incentives and policies needed to:

(A) encourage investment in research and development in pollution prevention; and

(B) make greater use of programs established under this article.

As added by P.L.1-1996, SEC.17.

IC 13-27-6-3

Draft report; final report

Sec. 3. (a) Before the commissioner submits a report to the governor and the general assembly under section 1 of this chapter, the commissioner shall make a draft version of the report available for at

least forty-five (45) days for comment by the:

(1) public; and

(2) liaison advisory panels established under IC 13-27-2.

(b) The final report must respond to public comments submitted during the comment period.

As added by P.L.1-1996, SEC.17.

IC 13-27-7

Chapter 7. Implementation of Pollution Prevention Programs

IC 13-27-7-1

Voluntary participation in programs

Sec. 1. Programs developed under this article are to be implemented based on voluntary participation by businesses. Except as required in rules referred to in IC 13-27-8-3(b)(5), businesses may not be required to comply with any program developed under this article.

As added by P.L.1-1996, SEC.17. Amended by P.L.100-2006, SEC.11.

IC 13-27-7-2

Binding effect of program implementing documents, manuals, and policies; prohibited activities; duties

Sec. 2. (a) Guidance documents, technical assistance manuals, and policies developed or used in implementing programs under this article are not binding on participating businesses.

(b) Subject to subsection (e), the board or the department may not do the following:

(1) Subject to IC 13-14-1-11.5, incorporate documents, manuals, or policies developed under this article into rules adopted under IC 4-22-2.

(2) Adopt rules under IC 4-22-2 requiring business implementation of pollution prevention practices or of clean manufacturing by means of any of the following:

(A) Permit conditions.

(B) Enforcement actions.

(C) Other department actions.

(c) Subsection (b) only applies to pollution prevention as defined in this title.

(d) Subsection (b) does not apply to authority granted under federal law to implement pollution prevention as defined under any of the following:

(1) Federally delegated air, water, solid waste, and other programs.

(2) Guidance documents developed to implement programs described in subdivision (1).

(3) Programs established under IC 13-20-3, IC 13-20-22, or IC 13-21.

(e) The department shall present pollution prevention as an option to businesses in any of the following:

(1) Permit conditions.

(2) Enforcement actions.

(3) Other department actions.

As added by P.L.1-1996, SEC.17. Amended by P.L.124-1997, SEC.21; P.L.261-1999, SEC.3; P.L.37-2012, SEC.58; P.L.113-2014, SEC.84.

IC 13-27-7-3

Goals of programs

Sec. 3. Programs implemented by the division:

(1) must encourage pollution prevention; and

(2) may not discourage the use of recycling or treatment techniques determined to be acceptable for pollution that has not been prevented.

As added by P.L.1-1996, SEC.17.

IC 13-27-8

Chapter 8. Environmental Performance Based Programs

IC 13-27-8-1

Department development of environmental performance based programs

Sec. 1. The department:

(1) may, to encourage continuous and sustainable environmental progress through the development and use of an environmental management system, develop and implement an environmental performance based program that:

(A) is consistent with the policies of this article; and

(B) is based on the national environmental performance track program developed by the United States Environmental Protection Agency; and

(2) may develop and implement other environmental performance based programs, including programs that promote any of the following:

(A) Pollution prevention.

(B) Waste minimization.

(C) Environmental management systems.

(D) Advanced environmental compliance.

As added by P.L.100-2006, SEC.12.

IC 13-27-8-2

Participation in program not required

Sec. 2. A person may not be required to participate in a program developed and implemented under section 1 of this chapter.

As added by P.L.100-2006, SEC.12.

IC 13-27-8-3

Program rulemaking by the boards

Sec. 3. (a) The following boards may adopt rules to implement this chapter to the extent consistent with federal law:

(1) The board.

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

(b) The rules adopted under subsection (a) may establish the following:

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

(2) Compliance methods and schedules that:

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

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

(C) include any of the following:

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

(ii) Streamlined submission requirements for permit renewals.

(iii) Prioritized applications.

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

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

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

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

(A) Continuous improvement environmental systems.

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

As added by P.L.100-2006, SEC.12. Amended by P.L.133-2012, SEC.155.

IC 13-27.5

ARTICLE 27.5. REPEALED

(Repealed by P.L.37-2012, SEC.59.)

IC 13-28

ARTICLE 28. TECHNICAL ASSISTANCE AND VOLUNTARY COMPLIANCE

IC 13-28-1

Chapter 1. Office of Voluntary Compliance

IC 13-28-1-1

Establishment

Sec. 1. An office of voluntary compliance is established within the department.

As added by P.L.1-1996, SEC.18.

IC 13-28-1-2

Purpose

Sec. 2. The purpose of the office is the following:

(1) To assist regulated entities in achieving regulatory compliance.

(2) To promote cooperation between the department and regulated entities.

As added by P.L.1-1996, SEC.18.

IC 13-28-1-3

Rules

Sec. 3. The board may adopt rules under IC 4-22-2 and IC 13-14-9 as required to implement the compliance program described in this article.

As added by P.L.1-1996, SEC.18. Amended by P.L.133-2012, SEC.156.

IC 13-28-2

Chapter 2. Voluntary Compliance Fund

IC 13-28-2-1

Establishment; purposes

Sec. 1. The voluntary compliance fund is established for the purpose of providing money for the following:

(1) Starting, operating, and staffing the office of voluntary compliance established by IC 13-28-1-1.

(2) Costs of voluntary compliance programs established under this article.

As added by P.L.1-1996, SEC.18.

IC 13-28-2-2

Administration

Sec. 2. (a) The treasurer of state shall administer the fund.

(b) Expenses of administering the fund shall be paid from money in the fund.

As added by P.L.1-1996, SEC.18.

IC 13-28-2-3

Contents of fund

Sec. 3. The fund consists of the following:

(1) Transfers under IC 13-10-1-6 (repealed) from the environmental management special fund established by IC 13-14-12-1.

(2) Appropriations made by the general assembly.

(3) Gifts and donations intended for deposit in the fund.

(4) Federal grants or money available for deposit into the fund.

As added by P.L.1-1996, SEC.18.

IC 13-28-2-4

Investments

Sec. 4. (a) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest earned from these investments shall be credited to the fund.

(b) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.1-1996, SEC.18.

IC 13-28-2-5

Appropriations

Sec. 5. Money in the fund is appropriated to the department to carry out the purposes specified in section 1 of this chapter. Money appropriated under this section is not subject to allotment by the budget agency.

As added by P.L.1-1996, SEC.18.

IC 13-28-3

Chapter 3. Technical and Compliance Assistance Program

IC 13-28-3-1

Establishment

Sec. 1. The department shall establish a technical and compliance assistance program.

As added by P.L.1-1996, SEC.18.

IC 13-28-3-2

Purposes of program

Sec. 2. (a) The assistance program established under this chapter shall do the following:

(1) Designate an individual to serve as a liaison and ombudsman to the regulated community to assist the regulated community with specific regulatory or permit matters pending with the department.

(2) Provide assistance to new and existing businesses and small municipalities in identifying:

(A) applicable environmental rules and regulations; and

(B) permit requirements;

that apply to new and existing businesses and small municipalities.

(3) Develop and distribute educational materials regarding:

(A) environmental requirements;

(B) compliance methods;

(C) voluntary environmental audits;

(D) pollution control technologies; and

(E) other compliance issues;

including standardized forms and procedures for completing permit applications.

(4) Provide public outreach and training sessions in cooperation with representatives of the business and municipal communities regarding existing and future state and federal environmental requirements.

(5) Develop and operate a clearinghouse to respond to inquiries from businesses and municipalities concerning applicable environmental rules, regulations, and requirements.

(6) Provide technical assistance concerning pollution control techniques to local and state governmental entities and businesses and distribute educational materials regarding pollution prevention developed by the pollution prevention division established by IC 13-27-2-1.

(7) Provide administrative and technical support for the compliance advisory panel established by IC 13-13-7.1-1.

(8) Conduct other activities as required to:

(A) improve regulatory compliance; and

(B) promote cooperation and assistance in meeting environmental requirements.

(b) The assistance program may establish limited onsite assistance

to provide compliance information to a small business or small municipality, subject to the confidentiality provisions of section 4 of this chapter. The assistance program may use money from the environmental management special fund to implement this subsection. The assistance program may limit the number of inspections per year and restrict onsite assistance to specific programs.

As added by P.L.1-1996, SEC.18. Amended by P.L.12-2005, SEC.5; P.L.53-2014, SEC.128.

IC 13-28-3-3

Annual report

Sec. 3. (a) The department shall prepare an annual report of the activities conducted under this chapter.

(b) The annual report must include the following:

(1) The number and types of inquiries the program received.

(2) The services provided by the program.

(c) The annual report shall be distributed to the following:

(1) The governor.

(2) The interim study committee on environmental affairs established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6.

As added by P.L.1-1996, SEC.18. Amended by P.L.53-2014, SEC.129.

IC 13-28-3-4

Confidential information

Sec. 4. Inquiries made to the program and activities and documents of the program that identify or describe an individual facility or operation are confidential, unless a clear and immediate danger to the public health or environment exists. Information concerning inquiries, activities, and documents of the program that identify or describe an individual facility or operation may not be made available for use by other divisions of the department without the consent of the person who:

(1) made the inquiry;

(2) participated in the activity; or

(3) provided the document.

As added by P.L.1-1996, SEC.18.

IC 13-28-3-5

Contracts to provide services

Sec. 5. The department may contract with another entity to provide some or all of the services required by this chapter.

As added by P.L.1-1996, SEC.18.

IC 13-28-3-6

Repealed

(Repealed by P.L.12-2005, SEC.6.)

IC 13-28-4

Chapter 4. Voluntary Environmental Audits

IC 13-28-4-1

Reports privileged

Sec. 1. (a) The privilege created by this section does not apply to criminal investigations or proceedings. Environmental audit reports are admissible in criminal investigations or proceedings.

(b) Except as provided in section 2 of this chapter, an environmental audit report:

(1) is privileged; and

(2) is not admissible as evidence in a civil or an administrative legal action, including enforcement actions under IC 13-30-3.

As added by P.L.1-1996, SEC.18. Amended by P.L.224-1999, SEC.12.

IC 13-28-4-2

Reports not privileged; civil or administrative actions

Sec. 2. (a) In a civil or an administrative proceeding, a court of record, after an in camera review, shall require disclosure of material for which the privilege described in section 1 of this chapter is asserted if the court determines that both subdivisions (1) and (2) apply:

(1) The environmental audit report was first issued after July 1, 1994.

(2) One (1) of the following applies:

(A) The privilege is asserted for a fraudulent purpose.

(B) The material is not subject to the privilege.

(C) The material is subject to the privilege and the material shows evidence of noncompliance with:

(i) this title or a rule or standard adopted by the board or one (1) of the former boards abolished by IC 13-13-8-2;

(ii) a determination, a permit, or an order issued by the commissioner under this title; or

(iii) the federal, regional, or local counterpart of item (i) or (ii);

and the person claiming the privilege did not promptly initiate and pursue appropriate efforts to achieve compliance with reasonable diligence.

(b) If the noncompliance described in subsection (a)(2)(C) constitutes a failure to obtain a required permit, the person is considered to have made appropriate efforts to achieve compliance if the person filed an application for the required permit not later than ninety (90) days after the date the person became aware of the noncompliance.

As added by P.L.1-1996, SEC.18. Amended by P.L.113-2014, SEC.85.

IC 13-28-4-3

Repealed

(Repealed by P.L.224-1999, SEC.17.)

IC 13-28-4-4
Burden of proof regarding privilege

Sec. 4. (a) A party asserting the privilege described in section 1 of this chapter has the burden of proving that the party may exercise the privilege.

(b) A party asserting the privilege described in section 1 of this chapter has the burden of establishing evidence that the person made appropriate efforts to achieve compliance as described in section 2(b) of this chapter if the evidence indicates that the person was in noncompliance as described in section 2(a)(2)(C) of this chapter.

(c) A party seeking disclosure of material in an environmental audit report under section 2(a)(2)(A) of this chapter has the burden of proving that the privilege is being asserted for a fraudulent purpose.

As added by P.L.1-1996, SEC.18. Amended by P.L.224-1999, SEC.13.

IC 13-28-4-5
Repealed

(Repealed by P.L.224-1999, SEC.17.)

IC 13-28-4-6
Disclosure limited to relevant portions of reports

Sec. 6. Upon making a determination under section 2 of this chapter, the court may compel the disclosure of only those parts of an environmental audit report that are relevant to issues in dispute in the proceeding.

As added by P.L.1-1996, SEC.18. Amended by P.L.224-1999, SEC.14.

IC 13-28-4-7
Waiver of privilege

Sec. 7. (a) Subject to subsections (b) and (c), the privilege described in section 1 of this chapter does not apply to the extent that the privilege is waived:

(1) expressly; or

(2) by implication;

by the owner or operator who prepared the environmental report or caused the report to be prepared.

(b) A party that submits an environmental audit report to the department waives any privilege to which the party would otherwise be entitled under this chapter. If the department determines under IC 5-14-3-4(a) that part of an environmental audit report is excepted from IC 5-14-3-3, then that part of the environmental audit report may not be disclosed by a public agency unless access to the report is required by a state or federal statute or is ordered by a court as provided under IC 5-14-3-4(a).

(c) When the department or a prosecuting attorney obtains,

reviews, or uses an environmental audit report in a criminal proceeding, the administrative or civil evidentiary privilege created by this chapter is not waived or eliminated for any other purpose.
As added by P.L.1-1996, SEC.18. Amended by P.L.224-1999, SEC.15.

IC 13-28-4-8
Stipulations regarding privilege

Sec. 8. The parties to a legal action may at any time stipulate to the entry of an order that directs that specific information contained in an environmental audit report is or is not subject to the privilege provided under section 1 of this chapter.
As added by P.L.1-1996, SEC.18.

IC 13-28-4-9
Applicability of privilege

Sec. 9. (a) The privilege described in section 1 of this chapter does not apply to the following:

(1) Documents, communications, data, reports, or other information that must be collected, developed, maintained, reported, or otherwise made available to a regulatory agency under:

(A) this title;

(B) a rule or standard adopted under this title;

(C) a determination, a permit, or an order made or issued by the commissioner under this title; or

(D) any other federal, state, or local law, permit, or order.

(2) Information obtained by observation, sampling, or monitoring by any regulatory agency.

(3) Information obtained from a source independent of the environmental audit.

(b) This section does not allow the regulatory agency to adopt a rule or a permit condition for the purpose of circumventing the privilege established in this chapter by requiring disclosure of a report of a voluntarily conducted audit.
As added by P.L.1-1996, SEC.18.

IC 13-28-4-10
Effect on other privileges

Sec. 10. This chapter does not limit, waive, or abrogate the scope or nature of any statutory or common law privilege, including the following:

(1) The work product doctrine.

(2) The attorney client privilege.
As added by P.L.1-1996, SEC.18.

IC 13-28-4-11
Statistics on use of reports; enforcement policy

Sec. 11. (a) The department shall maintain statistics on the use of environmental audit reports in department compliance and

enforcement activities, including statistics on:

(1) the number of times the reports are disclosed to the department;

(2) the number and types of violations disclosed to the department through the reports;

(3) the civil penalties collected for the violations; and

(4) the time necessary for the violations to be corrected.

The department shall report annually to the interim study committee on environmental affairs established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6 on the use of environmental audit reports.

(b) The department shall propose an enforcement policy, pursuant to IC 13-14-1-11.5, that provides relief from civil penalties for a voluntary disclosure that results from an internal environmental audit. In developing this enforcement policy, the department shall consider similar policies implemented by:

(1) the United States Environmental Protection Agency; and

(2) states contiguous to Indiana.

(c) The department shall report annually to the interim study committee on environmental affairs established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6 on the use and effectiveness of the enforcement policy.

As added by P.L.224-1999, SEC.16. Amended by P.L.53-2014, SEC.130.

IC 13-28-5

Chapter 5. Small Business Stationary Source Technical Assistance Program

IC 13-28-5-1

Establishment

Sec. 1. The department shall establish a small business stationary source technical assistance program as required under Section 507 of the federal Clean Air Act (42 U.S.C. 7661f).

As added by P.L.1-1996, SEC.18.

IC 13-28-5-2

Required provisions of program

Sec. 2. The program must provide the following:

(1) Education, training, and information on permit and compliance requirements of the federal Clean Air Act (42 U.S.C. 7401 et seq.).

(2) Standardized forms and procedures for completing permit applications.

(3) An ombudsman for small businesses.

As added by P.L.1-1996, SEC.18.

IC 13-28-5-3

Assistance by ombudsman

Sec. 3. The ombudsman described in section 2 of this chapter shall assist as necessary each small business that applies for assistance with the following:

(1) Specific regulatory matters pending before the department.

(2) Permit applications.

As added by P.L.1-1996, SEC.18.

IC 13-28-5-4

Technical and environmental compliance assistance program as part of technical and compliance assistance program

Sec. 4. The department may establish the technical and environmental compliance assistance program required by this chapter as part of the technical and compliance assistance program established under IC 13-28-3.

As added by P.L.1-1996, SEC.18.

IC 13-29

ARTICLE 29. INTERSTATE COMPACTS

IC 13-29-1

Chapter 1. Midwest Interstate Compact on Low-Level Radioactive Waste

IC 13-29-1-1

Policy and purpose

Sec. 1.

ARTICLE I. POLICY AND PURPOSE

There is created the Midwest Interstate Low-Level Radioactive Waste Compact.

The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b to 42 U.S.C. 2021j), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for disposing of such waste. The party states acknowledge that the Congress declared that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the disposal of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to dispose of such waste be properly provided.

a. It is the policy of the party states to enter into a regional low-level radioactive waste disposal compact for the purpose of:

1. Providing the instrument and framework for a cooperative effort;
2. Providing sufficient facilities for the proper disposal of low-level radioactive waste generated in the region;
3. Protecting the health and safety of the citizens of the region;
4. Limiting the number of facilities required to effectively and efficiently dispose of low-level radioactive waste generated in the region;
5. Encouraging source reduction and the environmentally sound treatment of waste that is generated to minimize the amount of waste to be disposed of;
6. Ensuring that the costs, expenses, liabilities, and obligations of low-level radioactive waste disposal are paid by generators and other persons who use compact facilities to dispose of their waste;
7. Ensuring that the obligations of low-level radioactive waste disposal that are the responsibility of the party states are shared equitably among them;

8. Ensuring that the party states that comply with the terms of this compact and fulfill their obligations under it share equitably in the benefits of the successful disposal of low-level radioactive waste; and

9. Ensuring the environmentally sound, economical, and secure disposal of low-level radioactive wastes.

b. Implicit in the Congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

1. expeditious enforcement of federal rules, regulations and laws;

2. imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and

3. timely inspection of their licensees to determine their compliance with these rules, regulations and laws.

As added by P.L.1-1996, SEC.19. Amended by P.L.131-1996, SEC.2.

IC 13-29-1-2
Definitions

Sec. 2.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

a. "care" means the continued observation of a facility after closing for the purposes of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and including the correction of problems which are detected as a result of that observation.

b. "close", "closed", or "closing" means that the compact facility with respect to which any of those terms is used has ceased to accept waste for disposal. "Permanently closed" means that the compact facility with respect to which the term is used has ceased to accept waste because it has operated for twenty years or a longer period of time as authorized by Article VI(i) of this compact, its capacity has been reached, the Commission has authorized it to close pursuant to Article III(h)(7) of this compact, the host state of such facility has withdrawn from the compact or had its membership revoked, or this compact has been dissolved.

c. "commission" means the Midwest Interstate Low-Level Radioactive Waste Commission.

d. "compact facility" means a waste disposal facility that is located within the region and that is established by a party state pursuant to the designation of that state as a host state by the Commission.

e. "development" includes the characterization of potential sites for a waste disposal facility, siting of such a facility, licensing of such a facility, and other actions taken by a host state prior to the commencement of construction of such a facility to fulfill its obligations as a host state.

f. "disposal," with regard to low-level radioactive waste, means the permanent isolation of that waste in accordance with the requirements established by the United States Nuclear Regulatory Commission or the licensing agreement state.

g. "disposal plan" means the plan adopted by the Commission for the disposal of waste within the region.

h. "facility" means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is or has been used for the disposal of low-level radioactive waste, which is being developed for that purpose, or upon which the construction of improvements or installation of equipment is occurring for that purpose.

i. "final decision" means a final action of the Commission determining the legal rights, duties, or privileges of any person. "Final decision" does not include preliminary, procedural, or intermediate actions by the Commission, actions regulating the internal administration of the Commission, or actions of the Commission to enter into or refrain from entering into contracts or agreements with vendors to provide goods or services to the Commission.

j. "generator" means a person who first produces low-level radioactive waste, including, without limitation, any person who does so in the course of or incident to manufacturing, power generation, processing, waste treatment, waste storage, medical diagnosis and treatment, research, or other industrial or commercial activity. If the person who first produced an item or quantity of waste cannot be identified, "generator" means the person first possessing the waste who can be identified.

k. "host state" means any state which is designated by the Commission to host a compact facility or has hosted a compact facility.

l. "long-term care" means those activities taken by a host state after a compact facility is permanently closed to ensure the protection of air, land, and water resources and the health and safety of all people who may be affected by the facility.

m. "low-level radioactive waste" or "waste" means radioactive waste that is not classified as high-level radioactive waste and that is class A, B, or C low-level radioactive waste as defined in 10 CFR 61.55, as that section existed on January 26, 1983. "Low-level radioactive waste" or "waste" does not include any such radioactive waste that is owned or generated by the United States Department of Energy; by the United States Navy as a result of the decommissioning of its vessels; or as a result of any research, development, testing, or production of any atomic weapon.

n. "operates", "operational", or "operating" means that the compact facility with respect to which any of those terms is used accepts waste for disposal.

o. "party state" means any eligible state that enacts this compact into law, pays any eligibility fee established by the Commission, and has not withdrawn from this compact or had its membership in this

compact revoked, provided that a state that has withdrawn from this compact or had its membership revoked again becomes a party state if it is readmitted to membership in this compact pursuant to Article VIII(a) of this compact. "Party state" includes any host state. "Party state" also includes any statutorily created administrative departments, agencies, or instrumentalities of a party state, but does not include municipal corporations, regional or local units of government, or other political subdivisions of a party state that are responsible for governmental activities on less than a statewide basis.

p. "person" means any individual, corporation, association, business enterprise, or other legal entity either public or private and any legal successor, representative, agent, or agency of that individual, corporation, association, business enterprise, or other legal entity. "Person" also includes the United States, states, political subdivisions of states, and any department, agency, or instrumentality of the United States or a state.

q. "region" means the area of the party states.

r. "site" means the geographic location of a facility.

s. "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

t. "storage" means the temporary holding of waste.

u. "treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.

v. "waste management", "manage waste", "management of waste", "management", or "managed" means the storage, treatment, or disposal of waste.

As added by P.L.1-1996, SEC.19. Amended by P.L.131-1996, SEC.3.

IC 13-29-1-3
The commission

Sec. 3.

ARTICLE III. THE COMMISSION

a. There is created the Midwest Interstate Low-Level Radioactive Waste Commission. The Commission consists of one voting member from each party state. The Governor of each party state shall notify the Commission in writing of its member and any alternates. An alternate may act on behalf of the member only in that member's absence. The method for selection and the expenses of each Commission member shall be the responsibility of the member's respective state.

b. Each Commission member is entitled to one vote. Except as otherwise specifically provided in this compact, an action of the Commission is binding if a majority of the total membership casts its vote in the affirmative. A party state may direct its member or alternate member of the Commission how to vote or not vote on

matters before the Commission.

c. The Commission shall elect annually from among its members a chairperson. The Commission shall adopt and publish, in convenient form, bylaws and policies which are not inconsistent with this compact, including procedures for the use of binding arbitration under Article VI(o) of this compact and procedures which substantially conform with the provisions of the Federal Administrative Procedure Act (5 U.S.C. ss. 500 to 559) in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

d. The Commission shall meet at least once annually and shall also meet upon the call of the chairperson or any other Commission member.

e. All meetings of the Commission shall be open to the public with reasonable advance notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all Commission actions and decisions shall be made in open meetings and appropriately recorded.

f. The Commission may establish advisory committees for the purpose of advising the Commission on any matters pertaining to waste management.

g. The office of the Commission shall be in a party state. The Commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall have the responsibilities and authority delegated to it by the Commission in its bylaws. The staff shall serve at the Commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the Commission.

h. The Commission may do any or all of the following:

1. Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation.

2. Review any emergency closing of a compact facility, determine the appropriateness of that closing, and take whatever lawful actions are necessary to ensure that the interests of the region are protected.

3. Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

4. Approve the disposal of naturally occurring and accelerator produced radioactive material at a compact facility. The Commission shall not approve the acceptance of such material without first making an explicit determination of the effect of the new waste stream on the compact facility's maximum

capacity. Such approval requires the affirmative vote of a majority of the Commission, including the affirmative vote of the member from the host state of the compact facility that would accept the material for disposal. Any such host state may, at any time, rescind its vote granting the approval and, thereafter, additional naturally occurring and accelerator produced radioactive material shall not be disposed of at a compact facility unless the disposal is again approved. All provisions of this compact apply to the disposal of naturally occurring and accelerator produced radioactive material that has been approved for disposal at a compact waste facility pursuant to Article III(h)(4) of this compact.

5. Enter into contracts in order to perform its duties and functions as provided in this compact.

6. When approved by the Commission, with the member from each host state in which an affected compact facility is operating or being developed or constructed voting in the affirmative, enter into agreements to do any of the following:

a. Import for disposal within the region, waste generated outside the region.

b. Export for disposal outside the region, waste generated inside the region.

c. Dispose of waste generated within the region at a facility within the region that is not a compact facility.

7. Authorize a host state to permanently close a compact facility located within its borders earlier than otherwise would be required by Article VI(i) of this compact. Such a closing requires the affirmative vote of a majority of the Commission, including the affirmative vote of the member from the state in which the affected compact facility is located.

i. The Commission shall do all of the following:

1. Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the Commission.

2. Adopt and amend, by a two-thirds vote of the membership, in accordance with the procedures and criteria developed pursuant to Article IV of this compact a regional disposal plan which designates host states for the establishment of needed compact facilities.

3. Adopt an annual budget.

4. Establish and implement a procedure for determining the capacity of a compact facility. The capacity of a compact facility shall be established as soon as reasonably practical after the host state of the facility is designated and shall not be changed thereafter without the consent of the host state. The capacity of a compact facility shall be based on the projected volume, radioactive characteristics, or both, of the waste to be disposed of at the facility during the period set forth in Article VI(i) of this compact.

5. Provide a host state with funds necessary to pay reasonable development expenses incurred by the host state after it is designated to host a compact facility.

6. Establish and implement procedures for making payments from the remedial action fund provided for in Article III(p) of this compact.

7. Establish and implement procedures to investigate any complaint joined in by two or more party states regarding another party state's performance of its obligations under this compact.

8. Adopt policies promoting source reduction and the environmentally sound treatment of waste in order to minimize the amount of waste to be disposed of at compact facilities.

9. Establish and implement procedures for obtaining information from generators regarding the volume and characteristics of waste projected to be disposed of at compact facilities and regarding generator activities with respect to source reduction, recycling, and treatment of waste.

10. Prepare annual reports regarding the volume and characteristics of waste projected to be disposed of at compact facilities.

j. Funding for the Commission shall be provided as follows:

1. When no compact facility is operating, the Commission may assess fees to be collected from generators of waste in the region. The fees shall be reasonable and equitable. The Commission shall establish and implement procedures for assessing and collecting the fees. The procedures may allow the assessing of fees against less than all generators of waste in the region; provided that if fees are assessed against less than all generators of waste in the region, generators paying the fees shall be reimbursed the amount of the fees, with reasonable interest, out of the revenues of operating compact facilities.

2. When a compact facility is operating, funding for the Commission shall be provided through a surcharge collected by the host state as part of the fee system provided for in Article VI(j) of this compact. The surcharge to be collected by the host state shall be determined by the Commission and shall be reasonable and equitable.

3. In the aggregate, the fees or surcharges, as the case may be, shall be no more than is necessary to:

a. cover the annual budget of the Commission;

b. provide a host state with the funds necessary to pay reasonable development expenses incurred by the host state after it is designated to host a compact facility;

c. provide moneys for deposit in the remedial action fund established pursuant to Article III(p) of this compact; and

d. provide moneys to be added to an inadequately funded long-term care fund as provided in Article VI(o) of this compact.

k. Financial statements of the Commission shall be prepared

according to generally accepted accounting principles. The Commission shall contract with an independent certified public accountant to annually audit its financial statements and to submit an audit report to the Commission. The audit report shall be made a part of the annual report of the Commission required by Article III of this compact.

l. The Commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States (or any subdivision or agency thereof) or interstate agency, or from any institution, person, firm, or corporation. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the Commission together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Commission.

m. The Commission is a legal entity separate and distinct from the party states. Members of the Commission and its employees are not personally liable for actions taken by them in their official capacity. The Commission is not liable or otherwise responsible for any costs, expenses, or liabilities resulting from the development, construction, operation, regulation, closing, or long-term care of any compact facility or any noncompact facility made available to the region by any contract or agreement entered into by the Commission under Article III(h)(6) of this compact. Nothing in Article III(m) of this compact relieves the Commission of its obligations under Article III of this compact or under contracts to which it is a party. Any liabilities of the Commission are not liabilities of the party states.

n. Final decisions of the Commission shall be made, and shall be subject to judicial review, in accordance with all of the following conditions:

1. Every final decision shall be made at an open meeting of the Commission. Before making a final decision, the Commission shall provide an opportunity for public comment on the matter to be decided. Each final decision shall be reduced to writing and shall set forth the Commission's reasons for making the decision.

2. Before making a final decision, the Commission may conduct an adjudicatory hearing on the proposed decision.

3. Judicial review of a final decision shall be initiated by filing a petition in the United States district court for the district in which the person seeking the review resides or in which the Commission's office is located not later than sixty days after issuance of the Commission's written decision. Concurrently with filing the petition for review with the court, the petitioner shall serve a copy of the petition on the Commission. Within five days after receiving a copy of the petition, the Commission shall mail a copy of it to each party state and to all other persons who have notified the Commission of their desire to receive copies of such petitions. Any failure of the Commission to so mail copies of the petition does not affect the jurisdiction of the

reviewing court. Except as otherwise provided in Article III(n)(3) of this compact, standing to obtain judicial review of final decisions of the Commission and the form and scope of the review are subject to and governed by 5 U.S.C.A. 706.

4. If a party state seeks judicial review of a final decision of the Commission that does any of the following, the facts shall be subject to trial de novo by the reviewing court unless trial de novo of the facts is affirmatively waived in writing by the party state:

a. Imposes financial penalties on a party state.

b. Suspends the right of a party state to have waste generated within its borders disposed of at a compact facility or at a noncompact facility made available to the region by an agreement entered into by the Commission under Article III(h)(6) of this compact.

c. Terminates the designation of a party state as a host state.

d. Revokes the membership of a party state in this compact.

e. Establishes the amounts of money that a party state that has withdrawn from this compact or had its membership in this compact revoked is required to pay under Article VIII(e) of this compact.

Any such trial de novo of the facts shall be governed by the federal Rules of Civil Procedure and the federal Rules of Evidence.

5. Preliminary, procedural, or intermediate actions by the Commission that precede a final decision are subject to review only in conjunction with review of the final decision.

6. Except as provided in Article III(n)(5) of this compact, actions of the Commission that are not final decisions are not subject to judicial review.

o. Unless approved by a majority of the Commission, with the member from each host state in which an affected compact facility is operating or is being developed or constructed voting in the affirmative, no person shall do any of the following:

1. Import waste generated outside the region for management within the region.

2. Export waste generated within the region for disposal outside the region.

3. Manage waste generated outside the region at a facility within the region.

4. Dispose of waste generated within the region at a facility within the region that is not a compact facility.

p. The Commission shall establish a remedial action fund to pay the costs of reasonable remedial actions taken by a party state if an event results from the development, construction, operation, closing, or long-term care of a compact facility that poses a threat to human health, safety, or welfare or to the environment. The amount of the remedial action fund shall be adequate to pay the costs of all reasonably foreseeable remedial actions. A party state shall notify the Commission as soon as reasonably practical after the occurrence of

any event that may require the party state to take a remedial action. The failure of a party state to so notify the Commission does not limit the rights of the party state under Article III(p) of this compact.

If the moneys in the remedial action fund are inadequate to pay the costs of reasonable remedial actions, the amount of the deficiency is a liability with respect to which generators shall provide indemnification under Article VII(g) of this compact. Generators who provide the required indemnification have the rights of contribution provided in Article VII(g) of this compact. Article III(p) of this compact applies to any remedial action taken by a party state regardless of whether the party state takes the remedial action on its own initiative or because it is required to do so by a court or regulatory agency of competent jurisdiction.

q. If the Commission makes payment from the remedial action fund provided for in Article III(p) of this compact, the Commission is entitled to obtain reimbursement under applicable rules of law from any person who is responsible for the event giving rise to the remedial action. Such reimbursement may be obtained from a party state only if the event giving rise to the remedial action resulted from the activities of that party state as a generator of waste.

r. If this compact is dissolved, all moneys held by the Commission shall be used first to pay for any ongoing or reasonably anticipated remedial actions. Any remaining moneys shall be distributed in a fair and equitable manner to those party states that have operating or closed compact facilities within their borders and shall be added to the long-term care funds maintained by those party states.

As added by P.L.1-1996, SEC.19. Amended by P.L.131-1996, SEC.4.

IC 13-29-1-4

Regional management plan

Sec. 4.

ARTICLE IV. REGIONAL DISPOSAL PLAN

The Commission shall adopt and periodically update a regional disposal plan designed to ensure the safe and efficient disposal of waste generated within the region. In adopting a regional waste disposal plan, the Commission shall do all of the following:

a. Adopt procedures for determining, consistent with considerations for public health and safety, the type and number of compact facilities which are presently necessary and which are projected to be necessary to dispose of waste generated within the region.

b. Develop and adopt procedures and criteria for identifying a party state as a host state for a compact facility. In developing these criteria, the Commission shall consider all of the following:

1. The health, safety, and welfare of the citizens of the party states.
2. The existence of compact facilities within each party state.
3. The minimization of waste transportation.
4. The volumes and types of wastes projected to be generated within each party state.

5. The environmental impacts on the air, land and water resources of the party states.

6. The economic impacts on the party states.

c. Conduct such hearings, and obtain such reports, studies, evidence and testimony required by its approved procedures prior to identifying a party state as a host state for a needed compact facility.

d. Prepare a draft disposal plan and any update thereof, including procedures, criteria, and host states, which shall be made available in a convenient form to the public for comment. Upon the request of a party state, the Commission shall conduct a public hearing in that state prior to the adoption or update of the disposal plan. The disposal plan and any update thereof shall include the Commission's response to public and party state comment.

As added by P.L.1-1996, SEC.19. Amended by P.L.131-1996, SEC.5.

IC 13-29-1-5

Rights and obligations of party states

Sec. 5.

ARTICLE V. RIGHTS AND OBLIGATIONS OF PARTY STATES

a. Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

b. Except for waste attributable to radioactive material or waste imported into the region in order to render the material or waste amenable to transportation, storage, disposal, or recovery, or in order to convert the waste or material to another usable material, or to reduce it in volume or otherwise treat it, each party state has the right to have all wastes generated within its borders disposed of at compact facilities subject to the payment of all fees established by the host state under Article VI(j) of this compact and to the provisions contained in Articles VI(l), VI(s), VIII(d), IX(d), and X of this compact. All party states have an equal right of access to any facility made available to the region by any agreement entered into by the Commission pursuant to Article III(h)(6) of this compact, subject to the provisions of Articles VI(l), VI(s), VIII(d), and X of this compact.

c. If a party state's right to have waste generated within its borders disposed of at compact facilities, or at any noncompact facility made available to the region by an agreement entered into by the Commission under Article III(h)(6) of this compact, is suspended, no waste generated within its borders by any person shall be disposed of at any such facility during the period of the suspension.

d. To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this section shall be construed to require a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission.

e. Each party state shall provide to the Commission any data and

information the Commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the Commission.

f. If, notwithstanding the sovereign immunity provision in Article VII(f)(1) and the indemnification provided for in Articles III(p), VI(o), and VII(g) of this compact, a party state incurs a cost as a result of an inadequate remedial action fund or an exhausted long-term care fund, or incurs a liability as a result of an action described in Article VII(f)(1) and not described in Article VII(f)(2) of this compact, the cost or liability shall be the pro rata obligation of each party state and each state that has withdrawn from this compact or had its membership in this compact revoked. The Commission shall determine each state's pro rata obligation in a fair and equitable manner based on the amount of waste from each such state that has been or is projected to be disposed of at the compact facility with respect to which the cost or liability to be shared was incurred. No state shall be obligated to pay the pro rata obligation of any other state.

The pro rata obligations provided for in Article V(f) of this compact do not result in the creation of state debt. Rather, the pro rata obligations are contractual obligations that shall be enforced by only the commission or an affected party state.

g. If the party states make payment pursuant to Article V(f) of this compact, the surcharge or fee provided for in Article III(j) of this compact shall be used to collect the funds necessary to reimburse the party states for those payments. The Commission shall determine the time period over which reimbursement shall take place.

As added by P.L.1-1996, SEC.19. Amended by P.L.131-1996, SEC.6.

IC 13-29-1-6

Development, operation, and closing of compact facilities

Sec. 6.

ARTICLE VI. DEVELOPMENT, OPERATION, AND CLOSING OF COMPACT FACILITIES

a. Any party state may volunteer to become a host state, and the Commission may designate that state as a host state.

b. If not all compact facilities required by the regional disposal plan are developed pursuant to Article VI(a) of this compact, the Commission may designate a host state.

c. After a state is designated a host state by the Commission, it is responsible for the timely development and operation of the compact facility it is designated to host. The development and operation of the compact facility shall not conflict with applicable federal and host state laws, rules, and regulations, provided that the laws, rules, and regulations of a host state and its political subdivisions shall not prevent, nor shall they be applied so as to prevent, the host state's discharge of the obligation set forth in Article VI(c) of this compact. The obligation set forth in Article VI(c) of this compact is contingent upon the discharge by the Commission of its obligation set forth in Article III(i)(5) of this compact.

d. If a party state designated as a host state fails to discharge the obligations imposed upon it by Article VI(c) of this compact, its host state designation may be terminated by a two-thirds vote of the Commission with the member from the host state of any then operating compact facility voting in the affirmative. A party state whose host state designation has been terminated has failed to fulfill its obligations as a host state and is subject to the provisions of Article VIII(d) of this compact.

e. Any party state designated as a host state may request the Commission to relieve that state of the responsibility to serve as a host state. Except as set forth in Article VI(d) of this compact, the Commission may relieve a party state of its responsibility only upon a showing by the requesting party state that, based upon criteria established by the Commission that are consistent with any applicable federal criteria, no feasible potential compact facility site exists within its borders.

A party state relieved of its host state responsibility shall repay to the Commission any funds provided to that state by the Commission for the development of a compact facility, and also shall pay to the Commission the amount the Commission determines is necessary to ensure that the Commission and the other party states do not incur financial loss as a result of the state being relieved of its host state responsibility. Any funds so paid to the Commission with respect to the financial loss of the other party states shall be distributed forthwith by the Commission to the party states that would otherwise incur the loss. In addition, until the state relieved of its responsibility is again designated as a host state and a compact facility located in that state begins operating, it shall annually pay to the Commission, for deposit in the remedial action fund, an amount the Commission determines is fair and equitable in light of the fact the state has been relieved of the responsibility to host a compact facility, but continues to enjoy the benefits of being a member of this compact.

f. The host state shall select the technology for the compact facility. If requested by the Commission, information regarding the technology selected by the host state shall be submitted to the Commission for its review. The Commission may require the host state to make changes in the technology selected by the host state if the Commission demonstrates that the changes do not decrease the protection of air, land, and water resources and the health and safety of all people who may be affected by the facility. If requested by the host state, any Commission decision requiring the host state to make changes in the technology shall be preceded by an adjudicatory hearing in which the Commission shall have the burden of proof.

g. A host state may assign to a private contractor the responsibility, in whole or in part, to develop, construct, operate, close, or provide long-term care for a compact facility. Assignment of such responsibility by a host state to a private contractor does not relieve the host state of any responsibility imposed upon it by this compact. A host state may secure indemnification from the contractor for any costs, liabilities, and expenses incurred by the host state

resulting from the development, construction, operation, closing, or long-term care of a compact facility.

h. To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the long-term care of that facility.

i. A host state shall accept waste for disposal for a period of twenty years from the date the compact facility in the host state becomes operational, or until its capacity has been reached, whichever occurs first. At any time before the compact facility closes, the host state and the Commission may enter into an agreement to extend the period during which the host state is required to accept such waste or to increase the capacity of the compact facility. Except as specifically authorized by Article VI(l)(4) of this compact, the twenty year period shall not be extended, and the capacity of the facility shall not be increased, without the consent of the affected host state and the Commission.

j. A host state shall establish a system of fees to be collected from the users of any compact facility within its borders. The fee system, and the costs paid through the system, shall be reasonable and equitable. The fee system shall be subject to the Commission's approval. The fee system shall provide the host state with sufficient revenue to pay costs associated with the compact facility including, but not limited to, operation, closing, long-term care, debt service, legal costs, local impact assistance, and local financial incentives. The fee system also shall be used to collect the surcharge provided in Article III(j)(2) of this compact. The fee system shall include incentives for source reduction and shall be based on the hazard of the waste as well as the volume.

k. A host state shall ensure that a compact facility located within its borders that is permanently closed is properly cared for so as to ensure protection of air, land, and water resources and the health and safety of all people who may be affected by the facility.

l. The development of subsequent compact facilities shall be as follows:

1. No compact facility shall begin operating until the Commission designates the host state of the next compact facility.

2. The following actions shall be taken by the state designated to host the next compact facility within the specified number of years after the compact facility it is intended to replace begins operation:

a. Within three years, enact legislation providing for the development of the next compact facility.

b. Within seven years, initiate site characterization investigations and tests to determine licensing suitability for the next compact facility.

c. Within eleven years, submit a license application for the next compact facility that the responsible licensing authority deems complete.

If a host state fails to take any of these actions within the

specified time, all waste generated by any person within that state shall be denied access to the then operating compact facility, and to any noncompact facility made available to the region by any agreement entered into by the Commission pursuant to Article III(h)(6) of this compact, until the action is taken. Denial of access may be rescinded by the Commission, with the member from the host state of the then operating compact facility voting in the affirmative. A host state that fails to take any of these actions within the specified time has failed to fulfill its obligations as a host state and is subject to the provisions of Articles VI(d) and VIII(d) of this compact.

3. Within fourteen years after any compact facility begins operating, the state designated to host the next compact facility shall have obtained a license from the responsible licensing authority to construct and operate the compact facility the state has been designated to host. If the license is not obtained within the specified time, all waste generated by any person within the state designated to host the next compact facility shall be denied access to the then operating compact facility, and to any noncompact facility made available to the region by any agreement entered into by the Commission pursuant to Article III(h)(6) of this compact, until the license is obtained. The state designated to host the next compact facility shall have failed in its obligations as a host state and shall be subject to Articles VI(d) and VIII(d) of this compact. In addition, at the sole option of the host state of the then operating compact facility, all waste generated by any person within any party state that has not fully discharged its obligations under Article VI(i) of this compact shall be denied access to the then operating compact facility, and to any noncompact facility made available to the region by any agreement entered into by the Commission pursuant to Article III(h)(6) of this compact, until the license is obtained. Denial of access may be rescinded by the Commission, with the member from the host state of the then operating compact facility voting in the affirmative.

4. If twenty years after a compact facility begins operating, the next compact facility is not ready to begin operating, the state designated to host the next compact facility shall have failed in its obligation as a host state and shall be subject to Articles VI(d) and VIII(d) of this compact. If at the time the capacity of the then operating compact facility has been reached, or twenty years after the facility began operating, whichever occurs first, the next compact facility is not ready to begin operating, the host state of the then operating compact facility, without the consent of any other party state or the Commission, may continue to operate the facility until a compact facility in the next host state is ready to begin operating. During any such period of continued operation of a compact facility, all waste generated by any person within the state designated to host the next compact facility shall be denied access to the then

operating compact facility and to any noncompact facility made available to the region by any agreement entered into by the Commission pursuant to Article III(h)(6) of this compact. In addition, during such period, at the sole option of the host state of the then operating compact facility, all waste generated by any person within any party state that has not fully discharged its obligations under Article VI(i) of this compact shall be denied access to the then operating compact facility and to any noncompact facility made available to the region by any agreement entered into by the Commission pursuant to Article III(h)(6) of this compact. Denial of access may be rescinded by the commission, with the member from the host state of the then operating compact facility voting in the affirmative. The provisions of Article VI(l)(4) of this compact shall not apply if their application is inconsistent with an agreement between the host state of the then operating compact facility and the Commission as authorized in Article VI(i) of this compact, or inconsistent with Article VI(p) or (q) of this compact.

5. During any period that access is denied for waste disposal pursuant to Article VI(l)(2), (3), or (4) of this compact, the party state designated to host the next compact disposal facility shall pay to the host state of the then operating compact facility an amount the Commission determines is reasonably necessary to ensure that the host state, or any agency or political subdivision thereof, does not incur financial loss as a result of the denial of access.

6. The Commission may modify any of the requirements contained in Articles VI(l)(2) and (3) of this compact if it finds that circumstances have changed so that the requirements are unworkable or unnecessarily rigid or no longer serve to ensure the timely development of a compact facility. The Commission may adopt such a finding by a two-thirds vote, with the member from the host state of the then operating compact facility voting in the affirmative.

m. This compact shall not prevent an emergency closing of a compact facility by a host state to protect air, land and water resources and the health and safety of all people who may be affected by the facility. A host state that has an emergency closing of a compact facility shall notify the Commission in writing within three working days of its action and shall, within thirty (30) working days of its action, demonstrate justification for the closing.

n. A party state that has fully discharged its obligations under Article VI(i) of this compact shall not again be designated a host state of a compact facility without its consent until each party state has been designated to host a compact facility and has fully discharged its obligations under Article VI(i) of this compact or has been relieved under Article VI(e) of this compact of its responsibility to serve as a host state.

o. Each host state of a compact facility shall establish a long-term care fund to pay for monitoring, security, maintenance, and repair of

the facility after it is permanently closed. The expenses of administering the long-term care fund shall be paid out of the fund. The fee system established by the host state that establishes a long-term care fund shall be used to collect moneys in amounts that are adequate to pay for all long-term care of the compact facility. The moneys shall be deposited into the long-term care fund. Except where the matter is resolved through arbitration, the amount to be collected through the fee system for deposit into the fund shall be determined through an agreement between the Commission and the host state establishing the fund. Not less than three years, nor more than five years, before the compact facility it is designated to host is scheduled to begin operating, the host state shall propose to the Commission the amount to be collected through the fee system for deposit into the fund. If, one hundred eighty days after such proposal is made to the Commission, the host state and the Commission have not agreed, either the Commission or the host state may require the matter to be decided through binding arbitration. The method of administration of the fund shall be determined by the host state establishing the long-term care fund, provided that moneys in the fund shall be used only for the purposes set forth in Article VI(o) of this compact and shall be invested in accordance with the standards applicable to trustees under the laws of the host state establishing the fund. If, after a compact facility is closed, the Commission determines the long-term care fund established with respect to that facility is not adequate to pay for all long-term care for that facility, the Commission shall collect and pay over to the host state of the closed facility, for deposit into the long-term care fund, an amount determined by the Commission to be necessary to make the amount in the fund adequate to pay for all long-term care of the facility. If a long-term care fund is exhausted and long-term care expenses for the facility with respect to which the fund was created have been reasonably incurred by the host state of the facility, those expenses are a liability with respect to which generators shall provide indemnification as provided in Article VII(g) of this compact. Generators that provide indemnification shall have contribution rights as provided in Article VII(g) of this compact.

p. A host state that withdraws from the compact or has its membership revoked shall immediately and permanently close any compact facility located within its borders, except that the Commission and a host state may enter into an agreement under which the host state may continue to operate, as a noncompact facility, a facility within its borders that, before the host state withdrew or had its membership revoked, was a compact facility.

q. If this compact is dissolved, the host state of any then operating compact facility shall immediately and permanently close the facility, provided that a host state may continue to operate a compact facility or resume operating a previously closed compact facility, as a noncompact facility, subject to all of the following requirements:

1. The host state shall pay to the other party states the portion of the funds provided to that state by the Commission for the

development, construction, operation, closing, or long-term care of a compact facility that is fair and equitable, taking into consideration the period of time the compact facility located in that state was in operation and the amount of waste disposed of at the facility, provided that a host state that has fully discharged its obligations under Article VI(i) of this compact shall not be required to make such payment.

2. The host state shall physically segregate waste disposed of at the facility after this compact is dissolved from waste disposed of at the facility before this compact is dissolved.

3. The host state shall indemnify and hold harmless the other party states from all costs, liabilities, and expenses, including reasonable attorneys' fees and expenses, caused by operating the facility after this compact is dissolved, provided that this indemnification and hold harmless obligation shall not apply to costs, liabilities, and expenses resulting from the activities of a host state as a generator of waste.

4. Moneys in the long-term care fund established by the host state that are attributable to the operation of the facility before this compact is dissolved, and investment earnings thereon, shall be used only to pay the cost of monitoring, securing, maintaining, or repairing that portion of the facility used for the disposal of waste before this compact is dissolved. Such moneys and investment earnings, and any moneys added to the long-term care fund through a distribution authorized by Article III(r) of this compact, also may be used to pay the cost of any remedial action made necessary by an event resulting from the disposal of waste at the facility before this compact is dissolved.

r. Financial statements of a compact facility shall be prepared according to generally accepted accounting principles. The Commission may require the financial statements to be audited on an annual basis by a firm of certified public accountants selected and paid by the Commission.

s. Waste may be accepted for disposal at a compact facility only if the generator of the waste has signed, and there is on file with the Commission, an agreement to provide indemnification to a party state, or employee of that state, for all of the following:

1. Any cost of a remedial action described in Article III(p) of this compact that, due to inadequacy of the remedial action fund, is not paid as set forth in that provision.

2. Any expense for long-term care described in Article VI(o) of this compact that, due to exhaustion of the long-term care fund, is not paid as set forth in that provision.

3. Any liability for damages to persons, property, or the environment incurred by a party state, or employee of that state while acting within the scope of employment, resulting from the development, construction, operation, regulation, closing, or long-term care of a compact facility, or any noncompact facility made available to the region by any agreement entered into by the Commission pursuant to Article III(h)(6) of this compact, or

any other matter arising from this compact. The agreement also shall require generators to indemnify the party state or employee against all reasonable attorney's fees and expenses incurred in defending any action for such damages. This indemnification shall not extend to liability based on any of the following:

a. The activities of the party states as generators of waste.

b. The obligations of the party states to each other and the Commission imposed by this compact or other contracts related to the disposal of waste under this compact.

c. Activities of a host state or employees thereof that are grossly negligent or willful and wanton.

The agreement shall provide that the indemnification obligation of generators shall be joint and several, except that the indemnification obligation of the party states with respect to their activities as generators of waste shall not be joint and several, but instead shall be prorated according to the amount of waste that each state had disposed of at the compact facility giving rise to the liability. Such proration shall be calculated as of the date of the event giving rise to the liability. The agreement shall be in a form approved by the Commission with the member from the host state of any then operating compact facility voting in the affirmative. Among generators there shall be rights of contribution based on equitable principles, and generators shall have rights of contribution against any other person responsible for such damages under common law, statute, rule, or regulation, provided that a party state that through its own activities did not generate any waste disposed of at the compact facility giving rise to the liability, an employee of such a party state, and the Commission shall have no such contribution obligation. The Commission may waive the requirement that the party state sign and file such an indemnification agreement as a condition to being able to dispose of waste generated as a result of the party state's activities. Such a waiver shall not relieve a party state of the indemnification obligation imposed by Article VII(g) of this compact.

As added by P.L.1-1996, SEC.19. Amended by P.L.131-1996, SEC.7.

IC 13-29-1-7

Other laws and regulations

Sec. 7.

ARTICLE VII. OTHER LAWS AND REGULATIONS

a. Nothing in this compact:

1. Abrogates or limits the applicability of any act of the Congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the Congress;

2. Prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

3. Prohibits any generator from storing or treating, on its own premises, waste generated by it within the region;

4. Affects any administrative or judicial proceeding pending on the effective date of this compact;

5. Alters the relations between and the respective internal responsibility of the government of a party state and its subdivisions;

6. Affects the generation, treatment, storage or disposal of waste generated by the atomic energy defense activities of the Secretary of the U.S. Department of Energy or successor agencies or federal research and development activities as described in 42 U.S.C. 2021;

7. Affects the rights and powers of any party state or its political subdivisions, to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders;

8. Requires a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission; or

9. Limits, expands, or otherwise affects the authority of a state to regulate low-level radioactive waste classified by any agency of the United States government as "below regulatory concern" or otherwise exempt from federal regulation.

b. If a court of the United States finally determines that a law of a party state conflicts with this compact, this compact shall prevail to the extent of the conflict. The Commission shall not commence an action seeking such a judicial determination unless commencement of the action is approved by a two-thirds vote of the membership of the Commission.

c. Except as authorized by this compact, no law, rule or regulation of a party state or of any of its subdivisions or instrumentalities may be applied in a manner which discriminates against the generators of another party state.

d. Except as provided in Articles III(m) and VII(f) of this compact, no provision of this compact shall be construed to eliminate or reduce in any way the liability or responsibility, whether arising under common law, statute, rule, or regulation, of any person for penalties, fines, or damages to persons, property, or the environment resulting from the development, construction, operation, closing, or long-term care of a compact facility, or any noncompact facility made available to the region by any agreement entered into by the Commission pursuant to Article III(h)(6) of this compact, or any other matter arising from this compact. The provisions of this compact shall not alter otherwise applicable laws relating to compensation of employees for workplace injuries.

e. Except as provided in 28 U.S.C. 1251(a), the district courts of the United States have exclusive jurisdiction to decide cases arising under this compact. Article VII(e) of this compact does not apply to proceedings within the jurisdiction of state or federal regulatory agencies nor to judicial review of proceedings before state or federal regulatory agencies. Article VII(e) of this compact shall not be construed to diminish other laws of the United States conferring jurisdiction on the courts of the United States.

f. For the purposes of activities pursuant to this compact, the sovereign immunity of party states and employees of party states shall be as follows:

1. A party state or employee thereof, while acting within the scope of employment, shall not be subject to suit or held liable for damages to persons, property, or the environment resulting from the development, construction, operation, regulation, closing, or long-term care of a compact facility, or any noncompact facility made available to the region by any agreement entered into by the Commission pursuant to Article III(h)(6) of this compact. This applies whether the claimed liability of the party state or employee is based on common law, statute, rule, or regulation.

2. The sovereign immunity granted in Article VII(f)(1) of this compact does not apply to any of the following:

a. Actions based upon the activities of the party states as generators of waste. With regard to those actions, the sovereign immunity of the party states shall not be affected by this compact.

b. Actions based on the obligations of the party states to each other and the Commission imposed by this compact, or other contracts related to the disposal of waste under this compact. With regard to those actions, the party states shall have no sovereign immunity.

c. Actions against a host state, or employee thereof, when the host state or employee acted in a grossly negligent or willful and wanton manner.

g. If in any action described in Article VII(f)(1) and not described in Article VII(f)(2) of this compact, it is determined that, notwithstanding Article VII(f)(1) of this compact, a party state, or employee of that state who acted within the scope of employment, is liable for damages or has liability for other matters arising under this compact as described in Article VI(s)(3) of this compact, the generators who caused waste to be placed at the compact facility with respect to which the liability was incurred shall indemnify the party state or employee against that liability. Those generators also shall indemnify the party state or employee against all reasonable attorney's fees and expenses incurred in defending against any such action. The indemnification obligation of generators under Article VII(g) of this compact shall be joint and several, except that the indemnification obligation of party states with respect to their activities as generators of waste shall not be joint and several, but instead shall be prorated according to the amount of waste each state has disposed of at the compact facility giving rise to the liability. Among generators, there shall be rights of contribution based upon equitable principles, and generators shall have rights of contribution against any other person responsible for such damages under common law, statute, rule, or regulation. A party state that through its own activities did not generate any waste disposed of at the compact facility giving rise to the liability, an employee of such a

party state, and the Commission shall have no contribution obligation under Article VII(g) of this compact. Article VII(g) of this compact shall not be construed as a waiver of the sovereign immunity provided for in Article VII(f)(1) of this compact.

h. The sovereign immunity of a party state provided for in Article VII(f)(1) of this compact shall not be extended to any private contractor assigned responsibilities as authorized in Article VI(g) of this compact.

As added by P.L.1-1996, SEC.19. Amended by P.L.131-1996, SEC.8.

IC 13-29-1-8

Eligible parties, withdrawal, revocation, suspension of access, entry into force, and termination

Sec. 8.

ARTICLE VIII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, SUSPENSION OF ACCESS, ENTRY INTO FORCE, AND TERMINATION

a. Any state may petition the Commission to be eligible for membership in the compact. The Commission may establish appropriate eligibility requirements. These requirements may include, but are not limited to, an eligibility fee or designation as a host state. A petitioning state becomes eligible for membership in the compact upon the approval of the Commission, including the affirmative vote of the member from each host state in which a compact facility is operating or being developed or constructed. Any state becoming eligible upon the approval of the Commission becomes a member of the compact when the state enacts this compact into law and pays the eligibility fee established by the commission.

b. The Commission is formed upon the appointment of Commission members and the tender of the membership fee payable to the Commission by three party states. The Governor of the first state to enact this compact shall convene the initial meeting of the Commission. The Commission shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall take action necessary to organize the Commission and implement the provision of this compact.

c. A party state that has fully discharged its obligations under Article VI(i) of this compact or has been relieved under Article VI(e) of this compact of its responsibilities to serve as a host state may withdraw from this compact by repealing the authorizing legislation and by receiving the unanimous consent of the Commission. Withdrawal takes effect on the date specified in the Commission resolution consenting to withdrawal. All legal rights of the withdrawn state established under this compact, including, but not limited to, the right to have waste generated within its borders disposed of at compact facilities, cease upon the effective date of withdrawal, but any legal obligations of that party state under this compact, including, but not limited to, those set forth in Article VIII(e) of this compact continue until they are fulfilled.

d. Any party state that fails to comply with the terms of this

compact or fails to fulfill its obligations may have reasonable financial penalties imposed against it, the right to have waste generated within its borders disposed of at compact facilities, or any noncompact facility made available to the region by any agreement entered into by the Commission pursuant to Article III(h)(6) of this compact suspended, or its membership in the compact revoked by a two-thirds vote of the Commission, provided that the membership of the party state designated to host the next compact facility shall not be revoked unless the member from the host state of any then operating compact facility votes in the affirmative. Revocation takes effect on the date specified in the resolution revoking the party state's membership. All legal rights of the revoked party state established under this compact, including, but not limited to, the right to have waste generated within its borders disposed of at compact facilities, cease upon the effective date of revocation, but any legal obligations of that party state under this compact, including, but not limited to, those set forth in Article VIII(e) of this compact, continue until they are fulfilled. The chairperson of the Commission shall transmit written notice of a revocation of a party state's membership in the compact, suspension of a party state's waste disposal rights, or imposition of financial penalties immediately following the vote of the Commission to the governor of the affected party state, governors of all the other party states, and the Congress of the United States.

e. A party state that withdraws from this compact or has its membership in the compact revoked before it has fully discharged its obligations under Article VI of this compact forthwith shall repay to the Commission the portion of the funds provided to that state by the Commission for the development, construction, operation, closing, or long-term care of a compact facility that the Commission determines is fair and equitable, taking into consideration the period of time the compact facility located in that host state was in operation and the amount of waste disposed of at the facility. If at any time after a compact facility begins operating, a party state withdraws from the compact or has its membership revoked, the withdrawing or revoked party state shall be obligated forthwith to pay to the Commission the amount the Commission determines would have been paid under the fee system established by the host state of the facility to dispose of at the facility the estimated volume of waste generated in the withdrawing or revoked party state that would have been disposed of at the facility from the time of withdrawal or revocation until the time the facility is closed. Any funds so paid to the Commission shall be distributed by the Commission to the persons who would have been entitled to receive the funds had they originally been paid to dispose of waste at the facility. Any person receiving such funds from the Commission shall apply the funds to the purposes to which they would have been applied had they originally been paid to dispose of waste at the compact facility. In addition, a withdrawing or revoked party state forthwith shall pay to the Commission an amount the Commission determines to be necessary to cover all other costs and damages incurred by the Commission and the remaining party states

as a result of the withdrawal or revocation. The intention of Article VIII(e) of this compact is to eliminate any decrease in revenue resulting from withdrawal of a party state or revocation of a party state's membership, to eliminate financial harm to the remaining party states, and to create an incentive for party states to continue as members of the compact and to fulfill their obligations. Article VIII(e) of this compact shall be construed and applied so as to effectuate this intention.

f. Any party state whose right to have waste generated within its borders disposed of at compact facilities is suspended by the Commission shall pay to the host state of the compact facility to which access has been suspended the amount the Commission determines is reasonably necessary to ensure that the host state, or any political subdivision thereof, does not incur financial loss as a result of the suspension of access.

g. This compact becomes effective upon enactment by at least three eligible states and consent to this compact by the Congress. The consent given to this compact by the Congress shall extend to any future admittance of new party states and to the power of the commission to regulate the shipment and disposal of waste and disposal of naturally occurring and accelerator-produced radioactive material pursuant to this compact. Amendments to this compact are effective when enacted by all party states and, if necessary, consented to by the Congress. To the extent required by Section (4)(D) of the Low-Level Radioactive Waste Policy Amendments Act of 1985, every five years after this compact has taken effect, the Congress by law may withdraw its consent.

h. The withdrawal of a party state from this compact, the suspension of waste disposal rights, the termination of a party state's designation as a host state, or the revocation of a state's membership in this compact does not affect the applicability of this compact to the remaining party states.

i. This compact may be dissolved and the obligations arising under this compact may be terminated only as follows:

1. Through unanimous agreement of all party states expressed in duly enacted legislation; or

2. Through withdrawal of consent to this compact by the Congress under Article I, Section 10 of the United States Constitution, in which case dissolution shall take place one hundred twenty days after the effective date of the withdrawal of consent.

Unless explicitly abrogated by the state legislation dissolving this compact, or if dissolution results from withdrawal of congressional consent, the limitations on the investment and use of long-term care funds in Articles VI(o) and VI(q)(4) of this compact, the contractual obligations in Article V(f) of this compact, the indemnification obligations and contribution rights in Articles VI(o), VI(s), and VII(g) of this compact, and the operation rights and indemnification and hold harmless obligations in Article VI(q) of this compact shall remain in force notwithstanding dissolution of this compact.

As added by P.L.1-1996, SEC.19. Amended by P.L.131-1996, SEC.9.

IC 13-29-1-9
Penalties and enforcement

Sec. 9.

ARTICLE IX. PENALTIES AND ENFORCEMENT

a. Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

b. The parties to this compact intend that the courts of the United States shall specifically enforce the obligations, including the obligations of party states and revoked or withdrawn party states, established by this compact.

c. The Commission, an affected party state, or both may obtain injunctive relief, recover damages, or both to prevent or remedy violations of this compact.

d. Each party state acknowledges that the transport into a host state of waste packaged or transported in violation of applicable laws, rules, and regulations may result in the imposition of sanctions by the host state which may include reasonable financial penalties assessed against any generator, transporter, or collector responsible for the violation, or suspension or revocation of access to the compact facility in the host state by any generator, transporter, or collector responsible for the violation.

e. Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

f. This compact shall not be construed to create any cause of action for any person other than a party state or the Commission. Nothing in Article IX(f) of this compact shall limit the right of judicial review set forth in Article III(n)(3) of this compact or the rights of contribution set forth in Articles III(p), VI(o), VI(s), and VII(g) of this compact.

As added by P.L.1-1996, SEC.19. Amended by P.L.131-1996, SEC.10.

IC 13-29-1-10
Severability and construction

Sec. 10.

ARTICLE X. SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable and if any provision of this compact is finally determined by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States or the application thereof to any person or circumstance is held invalid, the validity of the remainder of this compact to that person or circumstance and the applicability of the entire compact to any other person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. If any provision of

this compact imposing a financial obligation upon a party state, or a state that has withdrawn from this compact or had its membership in this compact revoked, is finally determined by a court of competent jurisdiction to be unenforceable due to the state's constitutional limitations on its ability to pay the obligation, then that state shall use its best efforts to obtain an appropriation to pay the obligation, and, if the state is a party state, its right to have waste generated within its borders disposed of at compact facilities, or any noncompact facility made available to the region by any agreement entered into by the Commission pursuant to Article III(h)(6) of this compact, shall be suspended until the appropriation is obtained.
As added by P.L.1-1996, SEC.19. Amended by P.L.131-1996, SEC.11.

IC 13-29-1-11
Commission members; appointment; tenure

Sec. 11. (a) The governor shall appoint a person to serve as the Commission member representing Indiana. The Commission member appointed by the governor serves a four (4) year term, at the pleasure of the governor.

(b) If the Commission member representing the state of Indiana:

(1) dies;
(2) resigns; or
(3) is removed from office;

before the expiration of the member's term, the governor shall appoint a new Commission member to serve the remainder of the unexpired term.

(c) The governor may appoint an alternate to act on behalf of the Commission member when the Commission member is absent.
As added by P.L.1-1996, SEC.19.

IC 13-29-1-12
Commission members; per diems and expenses

Sec. 12. (a) A Commission member or alternate appointed by the governor under section 11 of this chapter is entitled to the following:

(1) The minimum salary per diem as provided in IC 4-10-11-2.1(b) while performing duties under this chapter.
(2) Reimbursement for traveling expenses 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.

(b) Per diems and expenses under this section shall be paid from money appropriated to the department of environmental management.
As added by P.L.1-1996, SEC.19.

IC 13-29-1-13
Rules

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

As added by P.L.1-1996, SEC.19. Amended by P.L.133-2012, SEC.157.

IC 13-29-1-14
Violations; offense; penalties

Sec. 14. A person who knowingly or intentionally commits any of the violations listed in section 3(o) of this chapter commits a Level 6 felony. However, notwithstanding IC 35-50-2-7(a), a person who is convicted of a Level 6 felony under this section may, in addition to the term of imprisonment established under IC 35-50-2-7(a), be fined not more than fifty thousand dollars ($50,000) for each day of violation.

As added by P.L.1-1996, SEC.19. Amended by P.L.131-1996, SEC.12; P.L.158-2013, SEC.195.

IC 13-29-1.1
Chapter 1.1. Fees

IC 13-29-1.1-1
Application of chapter
Sec. 1. This chapter does not apply to attorney's fees.
As added by P.L.131-1996, SEC.1.

IC 13-29-1.1-2
Assessment of fee
Sec. 2. Only the midwest interstate low-level radioactive waste commission or the host state (as defined in IC 13-11-2-103) may assess a fee allowed under IC 13-29-1.
As added by P.L.131-1996, SEC.1.

IC 13-29-2

Chapter 2. Ohio River Valley Water Sanitation Compact

IC 13-29-2-1

Ratification; text of compact

Sec. 1. The following Ohio River Valley Water Sanitation Compact, which has been negotiated by representatives of the states of Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Tennessee, and West Virginia, is hereby approved, ratified, adopted, enacted into law, and entered into by the state of Indiana as a party thereto and signatory state, namely:

Whereas, A substantial part of the territory of each of the signatory states is situated within the drainage basin of the Ohio river; and

Whereas, The rapid increase in the population of the various metropolitan areas situated within the Ohio drainage basin, and the growth in industrial activity within that area, have resulted in recent years in an increasingly serious pollution of the waters and streams within the said drainage basin, constituting a grave menace to the health, welfare, and recreational facilities of the people living in such basin, and occasioning great economic loss; and

Whereas, The control of future pollution and the abatement of existing pollution in the waters of said basin are of prime importance to the people thereof, and can best be accomplished through the cooperation of the states situated therein, by and through a joint or common agency;

Now Therefore, The states of Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Tennessee, and West Virginia do hereby covenant and agree as follows:

Article 1.

Each of the signatory states pledges to each of the other signatory states faithful cooperation in the control of future pollution in and abatement of existing pollution from the rivers, streams, and waters in the Ohio river basin which flow through, into, or border upon any of such signatory states, and in order to effect such object, agrees to enact any necessary legislation to enable each such state to place and maintain the waters of said basin in a satisfactory sanitary condition, available for safe and satisfactory use as public and industrial water supplies after reasonable treatment, suitable for recreational usage, capable of maintaining fish and other aquatic life, free from unsightly or malodorous nuisances due to floating solids or sludge deposits, and adaptable to such other uses as may be legitimate.

Article 2.

The signatory states hereby create a district to be known as the "Ohio River Valley Water Sanitation District", hereinafter called the district, which shall embrace all territory within the signatory states, the water in which flows ultimately into the Ohio river, or its tributaries.

Article 3.

The signatory states hereby create the "Ohio River Valley Water

Sanitation Commission", hereinafter called the commission, which shall be a body corporate, with the powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the signatory states or by act or acts of the congress of the United States.

Article 4.

The commission shall consist of three (3) commissioners from each state, each of whom shall be a citizen of the state from which he is appointed, and three (3) commissioners representing the United States government. The commissioners from each state shall be chosen in the manner and for the terms provided by the laws of the state from which they shall be appointed, and any commissioner may be removed or suspended from office as provided by the laws of the state from which he shall be appointed. The commissioners representing the United States shall be appointed by the President of the United States, or in such other manner as may be provided by congress. The commissioners shall serve without compensation, but shall be paid their actual expenses incurred in and incident to the performance of their duties; but nothing herein shall prevent the appointment of an officer or employee of any state or of the United States government.

Article 5.

The commission shall elect from its number a chairman and vice chairman and shall appoint, and at its pleasure remove or discharge, such officers and legal, clerical, expert, and other assistants as may be required to carry the provisions of this compact into effect, and shall fix and determine their duties, qualifications, and compensation. It shall adopt a seal and suitable bylaws, and shall adopt and promulgate rules and regulations for its management and control. It may establish and maintain one (1) or more offices within the district for the transaction of its business, and may meet at any time or place. One (1) or more commissioners from a majority of the member states shall constitute a quorum for the transaction of business.

The commission shall submit to the governor of each state, at such time as he may request, a budget of its estimated expenditures for such period as may be required by the laws of such state for presentation to the legislature thereof.

The commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time to the inspection of such representatives of the respective signatory states as may be duly constituted for that purpose.

On or before the first day of December of each year, the commission shall submit to the respective governors of the signatory states a full and complete report of its activities for the preceding year.

The commission shall not incur any obligations of any kind prior to the making of appropriations adequate to meet the same; nor shall the commission pledge the credit of any of the signatory states, except by and with the authority of the legislature thereof.

Article 6.

It is recognized by the signatory states that no single standard for the treatment of sewage or industrial wastes is applicable in all parts of the district due to such variable factors as size, flow, location, character, self-purification, and usage of waters within the district. The guiding principle of this compact shall be that pollution by sewage or industrial wastes originating within a signatory state shall not injuriously affect the various uses of the interstate waters as hereinbefore defined.

All sewage from municipalities or other political subdivisions, public or private institutions, or corporations, discharged or permitted to flow into those portions of the Ohio River and its tributary waters which form boundaries between or are contiguous to two (2) or more signatory states, or which flow from one (1) signatory state into another signatory state, shall be so treated, within a time reasonable for the construction of the necessary works, as to provide for substantially complete removal of settleable solids, and the removal of not less than forty-five percent (45 percent) of the total suspended solids: Provided, That in order to protect the public health or to preserve the waters for other legitimate purposes, including those specified in Article 1, in specific instances such higher degree of treatment shall be used as may be determined to be necessary by the commission after investigation, due notice, and hearing.

All industrial wastes discharged or permitted to flow into the aforesaid waters shall be modified or treated, within a time reasonable for the construction of the necessary works, in order to protect the public health or to preserve the waters for other legitimate purposes, including those specified in Article 1, to such degree as may be determined to be necessary by the commission after investigation, due notice, and hearing.

All sewage or industrial wastes discharged or permitted to flow into tributaries of the aforesaid waters situated wholly within one (1) state shall be treated to that extent, if any, which may be necessary to maintain such waters in a sanitary and satisfactory condition at least equal to the condition of the waters of the interstate stream immediately above the confluence.

The commission is hereby authorized to adopt, prescribe, and promulgate rules, regulations, and standards for administering and enforcing the provisions of this article.

Article 7.

Nothing in this compact shall be construed to limit the powers of any signatory state, or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any signatory state, imposing additional conditions and restrictions to further lessen or prevent the pollution of waters within its jurisdiction.

Article 8.

The commission shall conduct a survey of the territory included within the district, shall study the pollution problems of the district and shall make a comprehensive report for the prevention or reduction of stream pollution therein. In preparing such report, the

commission shall confer with any national or regional planning body which may be established, and any department of the federal government authorized to deal with matters relating to the pollution problems of the district. The commission shall draft and recommend to the governors of the various signatory states uniform legislation dealing with the pollution of rivers, streams, and waters and other pollution problems within the district. The commission shall consult with and advise the various states, communities, municipalities, corporations, persons, or other entities with regard to particular problems connected with the pollution of waters, particularly with regard to the construction of plants for the disposal of sewage, industrial, and other waste. The commission shall, more than one (1) month prior to any regular meeting of the legislature of any state which is a party thereto, present to the governor of the state its recommendations relating to enactments to be made by any legislature in furthering the intents and purposes of his compact.

Article 9.

The commission may from time to time, after investigation and after a hearing, issue an order or orders upon any municipality, corporation, person, or other entity discharging sewage or industrial waste into the Ohio river or any other river, stream, or water, any part of which constitutes any part of the boundary line between any two (2) or more of the signatory states, or into any stream any part of which flows from any portion of one (1) signatory state through any portion of another signatory state. Any such order or orders may prescribe the date on or before which such discharge shall be wholly or partially discontinued, modified, or treated or otherwise disposed of. The commission shall give reasonable notice of the time and place of the hearing to the municipality, corporation, or other entity against which such order is proposed. No such order shall go into effect unless and until it receives the assent of at least a majority of the commissioners from each of not less than a majority of the signatory states; and no such order upon a municipality, corporation, person, or entity in any state shall go into effect unless and until it receives the assent of not less than a majority of the commissioners from such state.

It shall be the duty of the municipality, corporation, person, or other entity to comply with any such order issued against it or him by the commission and any court of general jurisdiction or any United States district court in any of the signatory states shall have the jurisdiction, by mandamus, injunction, specific performance, or other form of remedy, to enforce any such order against any municipality, corporation, or other entity domiciled or located within such state or whose discharge of the waste takes place within or adjoining such state, or against any employee, department, or subdivision of such municipality, corporation, person, or other entity: Provided, however, such court may review the order and affirm, reverse, or modify the same upon any of the grounds customarily applicable in proceedings for court review of administrative decisions. The commission or, at its request, the attorney general or other law enforcing official, shall

have power to institute in such court any action for the enforcement of such order.

Article 10.

The signatory states agree to appropriate for the salaries, office, and other administrative expenses, their proper proportion of the annual budget as determined by the commission and approved by the governors of the signatory states, one-half (1/2) of such amount to be prorated among the several states in proportion to their population within the district at the last preceding federal census, the other half to be prorated in proportion to their land area within the district: Provided, that the total cost to the state of Indiana be limited to the appropriation specifically mentioned in section 5 of this bill.

Article 11.

This compact shall become effective upon ratification by the legislatures of a majority of the states located within the district and upon approval by the Congress of the United States; and shall become effective as to any additional states signing thereafter at the time of such signing.

In Witness Whereof, The various signatory states have executed this compact through their respective compact commissioners.

The state of Indiana hereby consents that the state of Virginia may become a party to and a signatory state of the aforesaid compact as fully as if it had been expressly named herein.

As added by P.L.1-1996, SEC.19.

IC 13-29-2-2
"Commission" defined

Sec. 2. "Commission", for purposes of sections 5 through 7 of this chapter, refers to the Ohio River Valley Water Sanitation Commission.

As added by P.L.1-1996, SEC.19.

IC 13-29-2-3
"Commissioner" defined

Sec. 3. "Commissioner", for purposes of sections 5 through 7 of this chapter, means a member of the Ohio River Valley Water Sanitation Commission.

As added by P.L.1-1996, SEC.19.

IC 13-29-2-4
"Compact" defined

Sec. 4. "Compact", for purposes of sections 5 through 7 of this chapter, refers to the Ohio River Valley Water Sanitation Compact.

As added by P.L.1-1996, SEC.19.

IC 13-29-2-5
Commissioners

Sec. 5. (a) In pursuance of Article 4 of the Ohio River Valley Water Sanitation Compact, there are three (3) members of the Ohio River Valley Water Sanitation Commission from Indiana.

(b) The governor shall appoint two (2) commissioners, each of whom must be a resident and citizen of Indiana. The term of one (1) of the two (2) commissioners first appointed is three (3) years and the term of the other commissioner is six (6) years. The successors shall be appointed by the governor for terms of six (6) years each. Each commissioner holds office until a successor is appointed and qualified. Vacancies occurring in the office of a commissioner from any reason or cause shall be filled by appointment by the governor for the unexpired term.

(c) The third commissioner from Indiana is the commissioner of the department of environmental management ex officio. The term of the ex officio commissioner terminates at the time the individual ceases to hold the office of commissioner of the department of environmental management, and the commissioner's successors as a commissioner are the commissioner's successors as the commissioner of the department of environmental management.

(d) With the exception of the issuance of any order under Article 9 of the compact, the ex officio commissioner may delegate, from time to time, to any deputy or other subordinate in the commissioner's department or office the power to be present and participate, including voting, as the commissioner's representative or substitute at any meeting of or hearing by or other proceeding of the commission.

(e) The terms of each of the initial three (3) members begin at the date of the appointment of the two (2) appointive commissioners if the compact has gone into effect in accordance with Article 11 of the compact. If the compact has not gone into effect, the terms begin upon the date upon which the compact becomes effective in accordance with Article 11 of the compact.

(f) The governor may remove a commissioner from office upon charges and after a hearing but the commissioner shall be given the opportunity to be heard.

As added by P.L.1-1996, SEC.19.

IC 13-29-2-6

Members of the commission; jurisdiction of courts; enforcement actions

Sec. 6. (a) There is granted to the commission and the commissioners all the powers provided for in the compact and all the powers necessary or incidental to the carrying out of the compact in every way. All officers of the state shall do all things falling within their respective provinces and jurisdiction necessary to or incidental to the carrying out of the compact in every way. It is the policy of the state to perform and carry out the compact and to accomplish the purposes of the compact. All officers, bureaus, departments, and persons of and in the state government or administration of the state shall, at convenient times and upon request of the commission:

(1) furnish the commission with information and data possessed by any of them; and

(2) aid the commission by loan of personnel or other means

lying within their legal powers respectively.

(b) The courts of general jurisdiction of the state have the jurisdiction specified in Article 9 of the compact, and the office of the attorney general or any other law enforcing officer of the state may institute any action for the enforcement of the orders of the commission as specified in Article 9 of the compact.

As added by P.L.1-1996, SEC.19.

IC 13-29-2-7

Effect of grant of powers

Sec. 7. Any powers granted to the commission by this chapter shall be construed as in aid of and supplemental to and not as a limitation upon any of the powers vested in the commission by any of the following:

(1) Other laws of the state.

(2) The laws of any of the other states in the compact other than Indiana.

(3) The United States Congress.

(4) The terms of the compact.

As added by P.L.1-1996, SEC.19.

IC 13-30

ARTICLE 30. ENFORCEMENT AND LEGAL ACTIONS

IC 13-30-1

Chapter 1. Standing to Sue for Declaratory and Equitable Relief in the Name of the State

IC 13-30-1-1

Declaratory or equitable relief in name of state

Sec. 1. Under this chapter:

(1) the attorney general;

(2) a state, city, town, county, or local agency or officer vested with the authority to seek judicial relief;

(3) a citizen of Indiana; or

(4) a corporation, a limited liability company, a partnership, or an association maintaining an office in Indiana;

may bring an action for declaratory and equitable relief in the name of the state of Indiana against an individual, a partnership, a copartnership, a firm, a company, a corporation, a limited liability company, an association, a joint stock company, a trust, an estate, a state agency or an officer of the state, a city, a town, a county, a local governmental unit, an agency, or an official of a city, a town, a county, a local governmental unit, or an agency, or any other legal entity or their legal representative, agent, or assigns for the protection of the environment of Indiana from significant pollution, impairment, or destruction.

As added by P.L.1-1996, SEC.20.

IC 13-30-1-2

Notice

Sec. 2. (a) A citizen, a partnership, a corporation, a limited liability company, an association, or a public officer or agency, as a condition precedent to maintaining an action, must give notice in writing by registered or certified mail to:

(1) the department of natural resources;

(2) the department; and

(3) the attorney general.

(b) The attorney general shall promptly notify all state administrative agencies having jurisdiction over or control of the pollution, impairment, destruction, or protection of the environment for which relief is sought.

As added by P.L.1-1996, SEC.20.

IC 13-30-1-3

Maintenance of action; agency not required to be joined as party

Sec. 3. (a) An individual or entity that is identified in section 1(2) through 1(4) of this chapter and that brings an action under section 1 of this chapter may not maintain the action unless:

(1) none of the agencies that receives notice of the action under

section 2 of this chapter:

(A) commences an administrative proceeding or a civil action on the alleged pollution, impairment, or destruction not later than ninety (90) days after receiving notice under section 2 of this chapter; or

(B) takes steps not later than ninety (90) days after receiving notice under section 2 of this chapter to have a criminal prosecution commenced on the alleged pollution, impairment, or destruction; or

(2) the agency that commences an administrative proceeding or a civil action on the alleged pollution, impairment, or destruction does not diligently pursue the administrative proceeding or civil action after the administrative proceeding or civil action is commenced.

(b) The agency does not have to be joined as a party in an action under this section.

As added by P.L.1-1996, SEC.20.

IC 13-30-1-4

Hearing; final determination; appeal

Sec. 4. If the administrative agency that has jurisdiction and that is given notice by the attorney general under section 2 of this chapter:

(1) holds a hearing; and

(2) makes a final determination;

after receiving the notice, an appeal from the agency's action may be taken in the manner prescribed by law.

As added by P.L.1-1996, SEC.20.

IC 13-30-1-5

Intervention

Sec. 5. In an administrative, a licensing, or any other proceeding, and in an action for judicial review of an administrative, a licensing, or any other proceeding that is made available by law:

(1) the attorney general;

(2) a state, city, town, county, or local agency or officer vested with the authority to seek judicial relief;

(3) a citizen of Indiana; or

(4) a corporation, a limited liability company, a partnership, or an association maintaining an office in Indiana;

shall be permitted to intervene as a party upon the filing of a verified pleading asserting that the proceeding or action for judicial review involves conduct, programs, or products that may have the effect of significantly impairing, polluting, or destroying the environment of Indiana.

As added by P.L.1-1996, SEC.20.

IC 13-30-1-6

Consideration of impairment, pollution, or destruction of environment

Sec. 6. In the administrative, licensing, or other procedure, the

agency shall consider the alleged significant impairment, pollution, or destruction of the environment of Indiana. A program, a product, or conduct that:

(1) has; or

(2) is reasonably likely to have;

the effect of impairing, polluting, or destroying the environment may not be authorized, approved, or permitted to continue if there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare.

As added by P.L.1-1996, SEC.20.

IC 13-30-1-7

Judicial review

Sec. 7. In an action for judicial review of proceedings described in section 4 of this chapter, the court shall, in addition to other duties imposed upon the court by law, grant review of claims that the conduct, program, or product under review:

(1) has impaired, significantly polluted, or destroyed the environment of Indiana; or

(2) is reasonably likely to impair, significantly pollute, or destroy the environment of Indiana.

As added by P.L.1-1996, SEC.20.

IC 13-30-1-8

Respondent's burden

Sec. 8. (a) In an action under this chapter, whenever the petitioner has made a prima facie showing that the conduct of the respondent has or is reasonably likely to impair, pollute, or destroy the environment of Indiana, the respondent has the burden of establishing the following:

(1) If there is an applicable rule adopted by a state agency setting standards for pollution, impairment, or destruction, or for antipollution devices, the respondent has the burden of establishing compliance with the rule, which constitutes a prima facie defense to petitioner's claim.

(2) If there is not an applicable rule, the respondent has the burden of establishing that:

(A) there is no feasible and prudent alternative; and

(B) the conduct, program, or product at issue is consistent with and reasonably required for the promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of the environment from pollution, impairment, or destruction.

(b) Upon the respondent establishing the proof under subsection (a):

(1) the respondent is considered to have rebutted the prima facie showing; and

(2) the petitioner has the burden of going forward with the evidence.

As added by P.L.1-1996, SEC.20.

IC 13-30-1-9
Venue

Sec. 9. An action under this chapter must be brought in a circuit or superior court in the county in which the significant pollution, impairment, or destruction is alleged to have occurred.

As added by P.L.1-1996, SEC.20.

IC 13-30-1-10
Master or referee; appointment

Sec. 10. The court may appoint a master or referee, who must be a disinterested person and technically qualified, to take testimony and make a report to the court in the action. The costs of the master or referee may be apportioned to the parties if the interests of justice require.

As added by P.L.1-1996, SEC.20.

IC 13-30-1-11
Temporary and permanent equitable relief

Sec. 11. The court may:

(1) grant temporary and permanent equitable relief; or

(2) impose the conditions upon the respondent that are required to protect the environment of the state from pollution, impairment, and destruction.

As added by P.L.1-1996, SEC.20.

IC 13-30-1-12
Failure to intervene; effect

Sec. 12. (a) In an action in which a petitioner or an intervenor seeking judicial adjudication as provided by this chapter has failed to intervene in an administrative, a licensing, or other similar proceeding, the court may:

(1) remit the petitioner or intervenor to the proceeding for amplification of the record in the proceeding; and

(2) order the granting of intervention and the granting of review in the proceeding as provided in of this chapter.

(b) However, if:

(1) intervention was available in the proceeding; and

(2) the petitioner or intervenor seeking judicial adjudication under this chapter willfully and inexcusably refused intervention in the proceeding;

the court may dismiss the action with prejudice to the petitioner or intervenor.

As added by P.L.1-1996, SEC.20.

IC 13-30-2
Chapter 2. Prohibited Acts

IC 13-30-2-1
Specific acts prohibited

Sec. 1. A person may not do any of the following:

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

(A) the environment; or

(B) any publicly owned treatment works;

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

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

(3) Deposit any contaminants upon the land in a place and manner that creates or would create a pollution hazard that violates or would violate a rule adopted by the board.

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

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

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

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

(B) as a part of a sanitary landfill operation or other land disposal method approved by the department.

(7) Construct, install, operate, conduct, or modify, without prior approval of the department, any equipment or facility of any type that may:

(A) cause or contribute to pollution; or

(B) be designed to prevent pollution.

However, the commissioner or the board may approve experimental uses of any equipment, facility, or pollution control device that is considered necessary for the further development of the state of the art of pollution control.

(8) Conduct any salvage operation or open dump by open burning or burn, cause, or allow the burning of any solid waste in a manner that violates either:

(A) the air pollution control laws; or

(B) the rules adopted by the board.

(9) Commence construction of a proposed hazardous waste facility without having first:

(A) filed an application for; and

(B) received;

a permit from the department.

(10) Commence or engage in the operation of a hazardous waste facility without having first obtained a permit from the department.

(11) Deliver any hazardous waste to a hazardous waste facility that:

(A) is not approved; or

(B) does not hold a permit from the department.

(12) Cause or allow the transportation of a hazardous waste without a manifest if a manifest is required by law.

(13) Violate any:

(A) condition;

(B) limitation; or

(C) stipulation;

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

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

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

(B) IC 13-17-11.

(C) IC 13-18-18.

(D) IC 13-20-1.

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

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

As added by P.L.1-1996, SEC.20. Amended by P.L.133-2012, SEC.158.

IC 13-30-2-2

Offer to provide service or allocate sewer tap without capacity to do so; liability

Sec. 2. (a) A person, excluding a municipality, who owns or operates a water pollution treatment or control facility or sanitary sewer may not offer to provide service or allocate a sewer tap to a person without:

(1) having the capacity to provide the service or allocation; and

(2) reserving the capacity to provide the service or allocation;

to the property owner to whom the offer or allocation was made.

(b) A person who violates subsection (a) who:

(1) issued a written letter of intent or commitment to provide service or allocate a sewer tap to a property owner;

(2) failed to reserve the capacity to provide the service or tap; and

(3) as a result of failing to reserve that capacity, adversely affected the value of property of a property owner to whom the letter of intent was issued;

is liable for damages to the property owner.

(c) In an action brought by a property owner under this section, the damages are equal to the value of the property as the property would have appreciated in value but for the failure of the property to have been provided sewer service or a sewer tap.

(d) Notwithstanding IC 34-11-1-2, a property owner who has a continuing claim under this section may assert that claim until May 15, 1997.

As added by P.L.1-1996, SEC.20. Amended by P.L.1-1998, SEC.107.

IC 13-30-3

Chapter 3. Investigation of Violations; Administrative Proceedings and Orders

IC 13-30-3-1

Investigations; initiation

Sec. 1. The commissioner or a designated member of the staff of the department may initiate an investigation on receipt of information of an alleged violation of any of the following:

(1) Environmental management laws.

(2) Air pollution control laws.

(3) Water pollution control laws.

(4) IC 36-9-30-35.

(5) A rule or standard adopted under the following:

(A) Environmental management laws.

(B) Air pollution control laws.

(C) Water pollution control laws.

As added by P.L.1-1996, SEC.20.

IC 13-30-3-2

Procedures

Sec. 2. If an investigation discloses a possible violation, the commissioner shall proceed under:

(1) section 3 of this chapter; or

(2) first section 3 of this chapter and then section 4 of this chapter.

As added by P.L.1-1996, SEC.20.

IC 13-30-3-3

Notice of violation; offer of opportunity to enter into agreed order; failure to enter into agreed order

Sec. 3. (a) The commissioner shall:

(1) notify the alleged violator in writing that the commissioner believes a violation may exist; and

(2) offer the alleged violator an opportunity to enter into an agreed order providing for:

(A) the actions required to correct the violation; and

(B) if appropriate, the payment of a civil penalty.

(b) The commissioner is not required to extend the offer under subsection (a)(2) for more than sixty (60) days.

(c) An alleged violator may enter into an agreed order without admitting that the violation occurred.

(d) A notification under this section does not constitute a notice of violation for purposes of IC 14-34-3-3(20).

(e) If an agreed order is not entered into, the commissioner may proceed under section 4 of this chapter to issue a notice and order.

As added by P.L.1-1996, SEC.20.

IC 13-30-3-4

Notice; contents

Sec. 4. (a) The commissioner shall issue written notice to an alleged violator in accordance with IC 13-14-2-1.

(b) The notice must:

(1) specify the provision of:

(A) the environmental management laws;

(B) the air pollution control laws; or

(C) the water pollution control laws; or

(D) the rule;

allegedly being violated;

(2) include:

(A) a statement of:

(i) the manner in which; and

(ii) the extent to which;

the alleged violation exists; and

(B) an order under sections 10 through 12 of this chapter:

(i) requiring that the alleged violator take specific action to correct the violation;

(ii) assessing a civil penalty under IC 13-30-4-1, IC 13-30-4-2, and section 11 of this chapter for the violation; or

(iii) containing the substance of both item (i) and item (ii); and

(3) include a brief description of the procedure for requesting review under IC 4-21.5.

(c) A copy of the notice and order may also be sent to a local governmental unit that is a party to the action.

As added by P.L.1-1996, SEC.20. Amended by P.L.263-2013, SEC.9.

IC 13-30-3-5

Order; effective date; review

Sec. 5. (a) Except as otherwise provided in:

(1) a notice issued under section 4 of this chapter; or

(2) a law relating to emergency orders;

an order of the commissioner under this chapter takes effect twenty (20) days after the alleged violator receives the notice, unless the alleged violator requests under subsection (b) a review of the order before the twentieth day after receiving the notice.

(b) To request a review of the order, the alleged violator must:

(1) file a written request with the office of environmental adjudication under IC 4-21.5-7; and

(2) serve a copy of the request on the commissioner.

(c) If a review of an order is requested under this section, the office of environmental adjudication established under IC 4-21.5-7 shall review the order under IC 4-21.5.

As added by P.L.1-1996, SEC.20.

IC 13-30-3-6

Order; approval based on agreement before final order

Sec. 6. If an alleged violator who has requested a review of an order of the commissioner under section 5 of this chapter agrees to

resolve the controversy concerning the order in a manner satisfactory to the commissioner before a final order is issued by the office of environmental adjudication, the commissioner may approve an agreed order based on the agreement.
As added by P.L.1-1996, SEC.20.

IC 13-30-3-7
Final order; judicial review

Sec. 7. A final order of an environmental law judge is subject to judicial review under IC 4-21.5-5.
As added by P.L.1-1996, SEC.20.

IC 13-30-3-8
Private actions permitted; conditions

Sec. 8. (a) A person who has filed a complaint under IC 13-30-1 may proceed against the alleged violator if the department does not:

(1) commence:
(A) an administrative proceeding; or
(B) a civil action;
on the alleged pollution, impairment, or destruction not later than ninety (90) days after receiving notice under IC 13-30-1-2;
(2) take steps not later than ninety (90) days after receiving notice under IC 13-30-1-2 to have a criminal prosecution commenced on the alleged pollution, impairment, or destruction; or
(3) diligently pursue:
(A) an administrative proceeding; or
(B) a civil action;
concerning the alleged pollution, impairment, or destruction after the administrative proceeding or civil action is commenced.

(b) The department does not have to be joined as a party in an action under this section.
As added by P.L.1-1996, SEC.20.

IC 13-30-3-9
Hearings; complainant's burden

Sec. 9. In hearings under this chapter, the burden is on the complainant to show the alleged violation.
As added by P.L.1-1996, SEC.20.

IC 13-30-3-10
Orders; determinations

Sec. 10. In accordance with the procedure set forth in this chapter, the commissioner shall:

(1) issue and enter an order; or
(2) make any other determination;

that the commissioner considers appropriate.
As added by P.L.1-1996, SEC.20.

IC 13-30-3-11
Orders of commissioner

Sec. 11. An order of the commissioner under this chapter may do any of the following:

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

(A) Environmental management laws.

(B) Air pollution control laws.

(C) Water pollution control laws.

(D) A rule adopted by the board.

(E) A rule adopted by the underground storage tank financial assurance board created by IC 13-23-11-1.

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

(A) Environmental management laws.

(B) Air pollution control laws.

(C) Water pollution control laws.

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

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

As added by P.L.1-1996, SEC.20. Amended by P.L.133-2012, SEC.159.

IC 13-30-3-12
Performance bond; surety

Sec. 12. If an order of the commissioner allows time during which to correct a violation, the order may provide for the posting of a performance bond with surety or security acceptable to the department to assure the correction of the violation within the time prescribed in the order.

As added by P.L.1-1996, SEC.20.

IC 13-30-3-13
Landowners on whose land garbage has been dumped without consent; parties; expenses; attorney's fees

Sec. 13. (a) Except as provided in subsection (c), an enforcement action may not be taken under this chapter for a violation of IC 13-30-2-1(5) against a landowner on whose land garbage or other solid waste, except hazardous waste, has been illegally dumped without the landowner's consent unless the commissioner has made a diligent and good faith effort to identify, locate, and take enforcement action against a person who appears likely to have committed or caused the illegal dumping.

(b) A landowner described in subsection (a) who in good faith provides information to the commissioner concerning:

(1) a name;

(2) an address; or

(3) any other evidence of a responsible person's identity found

in garbage or other solid waste dumped on the landowner's land; is not liable to a person for an action taken by the commissioner against the person as a result of the information provided the landowner.

(c) The commissioner may include the owner of land on which a violation of IC 13-30-2-1(5) has apparently occurred as a party in any enforcement action against a person who allegedly committed the violation of IC 13-30-2-1(5) so that the commissioner may order the landowner to allow the alleged violator access to the land to remove and dispose of the solid waste allegedly dumped on the land in violation of IC 13-30-2-1(5).

(d) A landowner on whose land garbage or other solid waste has been illegally dumped without the landowner's consent may, in addition to any other legal or equitable remedy available to the landowner, recover from the person responsible for the illegal dumping:

(1) reasonable expenses incurred by the landowner in disposing of the garbage or other solid waste; and

(2) reasonable attorney's fees.

As added by P.L.1-1996, SEC.20.

IC 13-30-4
Chapter 4. Civil Penalties

IC 13-30-4-1
Violations

Sec. 1. (a) Subject to IC 13-14-6 and except as provided in IC 13-23-14-2 and IC 13-23-14-3, a person who violates:

(1) any provision of:
(A) environmental management laws;
(B) air pollution control laws;
(C) water pollution control laws;
(D) IC 13-18-14-1;
(E) a rule or standard adopted by the board; or
(F) a rule or standard adopted by the underground storage tank financial assurance board created by IC 13-23-11-1; or

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

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

(b) The department may:

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

As added by P.L.1-1996, SEC.20. Amended by P.L.133-2012, SEC.160.

IC 13-30-4-2
Additional civil penalty; emergency orders

Sec. 2. (a) Subject to IC 13-14-6 and except as provided in IC 13-23-14-2 and IC 13-23-14-3, a person who:

(1) is named in or directed by an emergency order under IC 13-14-10-1; and
(2) violates the order;

is liable for an additional civil penalty not to exceed five hundred dollars ($500) per hour of violation.

(b) The additional civil penalty described in subsection (a) shall be assessed in an action brought by the commissioner in any court with jurisdiction.

As added by P.L.1-1996, SEC.20.

IC 13-30-4-3
Waiver of civil penalties

Sec. 3. (a) The department may waive up to one hundred percent

(100%) of a civil penalty imposed on a business for a minor violation of:

(1) a requirement of environmental management laws;

(2) a rule adopted by the board or one (1) of the former boards abolished by IC 13-13-8-2; or

(3) any determination, permit, or order made or issued by the commissioner.

(b) The department may not waive any part of a civil penalty under this section if the violation:

(1) endangers or causes damage to public health or the environment;

(2) is intentional, willful, or criminal;

(3) is of a requirement for which the department has previously issued a notice or warning of violation, for this or a prior violation, to the business required to correct the violation; or

(4) is not corrected within ninety (90) days after the date the business required to correct the violation notifies the department of the violation under subsection (c). The department may extend the ninety (90) day period for not more than an additional ninety (90) days.

(c) To seek a waiver of a civil penalty under this section, the business required to correct the violation must submit to the department a written report of the violation for which a waiver is sought. The report must be submitted to the department before an inspection by the department that discloses the violation or the issuance of a notice or warning of violation.

(d) The board may adopt rules to implement this section.

As added by P.L.1-1996, SEC.20. Amended by P.L.123-1996, SEC.15; P.L.113-2014, SEC.86.

IC 13-30-4-4

Waiver eligibility determination by compliance assistance program

Sec. 4. To determine eligibility for a waiver under section 3 of this chapter, a business required to correct a violation may contact the technical and compliance assistance program established under IC 13-28-3. The confidentiality provision in IC 13-28-3-4 applies to the contact.

As added by P.L.1-1996, SEC.20.

IC 13-30-5
Chapter 5. Infractions

IC 13-30-5-1
Interference with department inspection or investigation

Sec. 1. Except as provided in IC 13-23-14-2 and IC 13-23-14-3, a person who obstructs, delays, resists, prevents, or interferes with:

(1) the department; and

(2) the department's personnel or designated agent;

in the performance of an inspection or investigation performed under IC 13-14-2-2 commits a Class C infraction. Each day of violation of this section constitutes a separate infraction.

As added by P.L.1-1996, SEC.20.

IC 13-30-6
Repealed

(Repealed by P.L.137-2007, SEC.37.)

IC 13-30-7

Chapter 7. Minor Violations by Certain Businesses

IC 13-30-7-1

Correction period

Sec. 1. Except as provided in sections 3 and 4 of this chapter, if:

(1) the department determines that a business has committed a minor violation:

(A) of:

(i) environmental management laws;

(ii) a rule or standard adopted by a board; or

(iii) any determination, permit, or order made or issued by the commissioner;

(B) that does not present an immediate or reasonably foreseeable danger to the public health or environment; and

(C) that does not include a violation of:

(i) a numerical limitation or a numerical standard contained in environmental management laws or a rule or standard adopted by a board applicable to a business required to correct the violation before disclosure of the violation;

(ii) a term or condition of a determination, permit, or order made or issued by the commissioner to a business required to correct the violation before disclosure of the violation, unless the term or condition incorporates a limitation, standard, work practice, or other requirement by reference and does not specify the limitation, standard, work practice, or other requirement; or

(iii) a requirement under environmental management laws or a rule adopted by a board to possess a permit;

the business required to correct the violation has not more than ninety (90) days after the date the property owner receives the written summary of the inspection under this section to correct the violation; and

(2) the:

(A) business:

(i) corrects the violation; or

(ii) commences substantial steps to correct the violation, including submitting permit applications, securing financing, or ordering equipment;

within the ninety (90) day period described in subdivision (1); or

(B) business corrects the violation within an additional ninety (90) day period under section 3 of this chapter;

the department's enforcement action is limited to the assessment of a civil penalty in an amount not to exceed five hundred dollars ($500).

As added by P.L.1-1996, SEC.20. Amended by P.L.123-1996, SEC.16.

IC 13-30-7-2
Exceptions

Sec. 2. The department may decrease the penalty provided in section 1 of this chapter based on:

(1) a good faith effort or cooperation of a business required to correct a violation before or after disclosure of the violation;

(2) the ability of a business required to correct the violation to pay the penalty;

(3) an agreement that a business required to correct a violation will offset the payment of a civil penalty by a project that:

(A) has clearly identifiable and quantifiable environmental benefits; and

(B) is not otherwise required under federal, state, or local law, rules, or regulations; or

(4) other mitigating factors within the discretion of the department.

As added by P.L.1-1996, SEC.20.

IC 13-30-7-3
Extension of correction period

Sec. 3. If:

(1) a violation under section 1 of this chapter cannot be corrected; or

(2) substantial steps to correct the violation cannot be taken;

within ninety (90) days, the department may extend the correction period for one (1) additional ninety (90) day period.

As added by P.L.1-1996, SEC.20.

IC 13-30-7-4
Applicability of chapter

Sec. 4. Section 1 of this chapter does not apply if the department determines that an alleged violation under section 1 of this chapter:

(1) is disclosed after a business receives a notice of violation from the department for an alleged violation of the same or similar requirement;

(2) is a criminal offense under environmental management laws; or

(3) is committed intentionally or knowingly.

As added by P.L.1-1996, SEC.20.

IC 13-30-7-5
Public access to reports

Sec. 5. (a) Before March 2 of each year, the department shall:

(1) file a report with the governor concerning any business required to correct a violation under section 1 of this chapter during the preceding year; and

(2) make the report available for public inspection.

(b) The report must include a summary of:

(1) violations;

(2) corrections for violations; and

(3) penalties;

imposed for each business.

As added by P.L.1-1996, SEC.20.

IC 13-30-7-6

Election to resolve enforcement action

Sec. 6. A business required to correct a violation that is subject to section 1 of this chapter may elect to resolve an enforcement action in the same manner as a business required to correct a violation that is not subject to section 1 of this chapter.

As added by P.L.1-1996, SEC.20.

IC 13-30-7-7

Rules

Sec. 7. The following shall adopt rules under IC 4-22-2 and IC 13-14-9 to administer this chapter:

(1) The board.

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

As added by P.L.1-1996, SEC.20. Amended by P.L.133-2012, SEC.161.

IC 13-30-8

Chapter 8. Forfeiture of Vehicles

IC 13-30-8-1

Forfeiture of vehicle used to illegally transport hazardous waste

Sec. 1. A vehicle that is used to transport hazardous waste in the commission of an offense described in IC 13-30-10-1.5 is subject to forfeiture under IC 34-24-1.

As added by P.L.1-1996, SEC.20. Amended by P.L.1-1998, SEC.108; P.L.137-2007, SEC.30; P.L.114-2008, SEC.24.

IC 13-30-9

Chapter 9. Environmental Legal Actions

IC 13-30-9-1

Application of chapter

Sec. 1. This chapter applies to actions brought by the state or a person. However, this chapter does not apply to an action brought by the state if the action arises from a site that:

(1) is listed on the National Priorities List for hazardous substance response sites (40 CFR 300 et seq.);

(2) scores at least twenty-five (25) under the Indiana scoring model under 329 IAC 7; or

(3) is deemed by the commissioner to pose an imminent threat to human health or the environment.

As added by P.L.59-1997, SEC.23. Amended by P.L.221-2007, SEC.22.

IC 13-30-9-2

Person who may bring action

Sec. 2. A person may, regardless of whether the person caused or contributed to the release of a hazardous substance or petroleum into the surface or subsurface soil or groundwater that poses a risk to human health and the environment, bring an environmental legal action against a person that caused or contributed to the release to recover reasonable costs of a removal or remedial action involving the hazardous substances or petroleum.

As added by P.L.59-1997, SEC.23. Amended by P.L.221-2007, SEC.23.

IC 13-30-9-2.5

Recovery of certain costs

Sec. 2.5. IC 34-11-2-11.5 applies to an environmental legal action brought under section 2 of this chapter.

As added by P.L.154-2011, SEC.2.

IC 13-30-9-3

Allocation of costs of removal or remedial action

Sec. 3. (a) In resolving an environmental legal action, a court shall allocate the costs of the removal or remedial action in proportion to the acts or omissions of each party, without regard to any theory of joint and several liability, using legal and equitable factors that the court determines are appropriate, including the following:

(1) The degree of care exercised by each party with respect to the release of the hazardous substance or petroleum caused or contributed to by each party.

(2) The amount and characteristics of the hazardous substance or petroleum that was released.

(3) The risks posed by the hazardous substance or petroleum based on the use of the site at the time the hazardous substance or petroleum was released into the environment and the cost

effectiveness of the removal or remedial action to address the risks.

(4) Whether a party's acts or omissions violated a federal, state, or local statute, rule, regulation, or ordinance.

(5) The extent to which each party exercised actual and direct managerial control over the site where the hazardous substance or petroleum was released at the time of the release.

(6) Whether an award of reasonable costs, including attorney's fees, to a party involved in the environmental legal action is appropriate.

(7) Other equitable factors, including unjust enrichment, that the court determines are appropriate.

(b) Notwithstanding subsection (a), if parties have entered into a contract that allocates the costs or responsibility for the removal or remedial action, the terms of the contract control the allocation of costs between the parties to the contract. However, the terms of a contract may not affect the recovery of costs by the state unless the state is a signatory to the contract.

As added by P.L.59-1997, SEC.23.

IC 13-30-9-4

Payment of unrecovered costs

Sec. 4. If the commissioner is not able to recover the total costs of a removal or remedial action from the responsible parties under this chapter, the unrecovered costs may be paid from the hazardous substances response trust fund established under IC 13-25-4-1.

As added by P.L.59-1997, SEC.23.

IC 13-30-9-5

Defenses

Sec. 5. A defendant in an environmental legal action may assert defenses provided by law or equity, including a defense that damages suffered by the person who brought the environmental legal action were caused in whole or in part by a nonparty.

As added by P.L.59-1997, SEC.23.

IC 13-30-9-6

Restrictions on actions involving underground storage tanks

Sec. 6. In an action to recover costs associated with a release from an underground storage tank, a person may bring the action under:

(1) this chapter; or

(2) IC 13-23-13-8.

A person may not bring the action under both this chapter and IC 13-23-13-8.

As added by P.L.59-1997, SEC.23.

IC 13-30-9-7

Immunity from actions

Sec. 7. Notwithstanding any provision of this chapter, a person that receives a covenant not sue under IC 13-25-5-18 is exempt from

suit as provided in IC 13-25-5-18.
As added by P.L.59-1997, SEC.23.

IC 13-30-9-8
Limited construction

Sec. 8. This chapter may not be construed to affect any litigation filed before February 28, 1998, under IC 13-23-13.
As added by P.L.59-1997, SEC.23.

IC 13-30-10
Chapter 10. Crimes

IC 13-30-10-0.1
Repealed
(Repealed by P.L.63-2012, SEC.17.)

IC 13-30-10-1
Criminal penalties for illegal activities concerning records, recording and monitoring devices, and testing or monitoring data; penalties apply to both electronic submissions and paper documents

Sec. 1. (a) A person who knowingly or intentionally destroys, alters, conceals, or falsely certifies a record that:

(1) is required to be maintained under the terms of a permit issued by the department; and

(2) may be used to determine the status of compliance;

commits a Class B misdemeanor.

(b) A person who knowingly or intentionally renders inaccurate or inoperative a recording device or a monitoring device required to be maintained by a permit issued by the department commits a Class B misdemeanor.

(c) A person who knowingly or intentionally falsifies testing or monitoring data required by a permit issued by the department commits a Class B misdemeanor.

(d) The penalties under this section apply regardless of whether a person uses electronic submissions or paper documents to accomplish the actions described in this section.

As added by P.L.137-2007, SEC.31. Amended by P.L.114-2008, SEC.25.

IC 13-30-10-1.5
Criminal violations and penalties

Sec. 1.5. (a) Except as provided in subsection (b), a person regulated under IC 13-22 who knowingly does any of the following commits a Class B misdemeanor:

(1) Transports hazardous waste to an unpermitted facility.

(2) Treats, stores, or disposes of hazardous waste without a permit issued by the department.

(3) Transports, treats, stores, disposes, recycles, or causes to be transported used oil regulated under 329 IAC 13 in violation of the standards established by the department for the management of used oil.

(4) Makes a false material statement or representation in any label, manifest, record, report, or other document filed or maintained under the hazardous waste or used oil standards.

(b) An offense under subsection (a) is a Level 6 felony if the offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under subsection (a) is a Level 5 felony if the offense results in the

death of another person.

(c) Before imposing sentence upon conviction of an offense under subsection (a) or (b), the court shall consider either or both of the following factors, if found by the jury or if stipulated to by the parties in a plea agreement:

(1) If the offense involves discharge of a contaminant into the environment, whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury.

(B) Serious bodily injury to an individual.

(C) The death of a vertebrate animal.

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, an at risk, or a threatened species.

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1).

(d) Notwithstanding the maximum fine under IC 35-50-3-3, the court shall order a person convicted under subsection (a) to pay a fine of at least five thousand dollars ($5,000) per day for each violation and not more than twenty-five thousand dollars ($25,000) per day for each violation.

(e) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a), the court shall order a person convicted under subsection (b) to pay:

(1) a fine of at least five thousand dollars ($5,000) and not more than fifty thousand dollars ($50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of at least five thousand dollars ($5,000) and not more than one hundred thousand dollars ($100,000) for each day of violation.

(f) Except as provided in subsection (g), a person regulated under IC 13-17 who does any of the following commits a Class C misdemeanor:

(1) Knowingly violates any applicable requirements of IC 13-17-4, IC 13-17-5, IC 13-17-6, IC 13-17-7, IC 13-17-8, IC 13-17-9, IC 13-17-10, or IC 13-17-13.

(2) Knowingly violates any air pollution registration, construction, or operating permit condition issued by the department.

(3) Knowingly violates any fee or filing requirement in IC 13-17.

(4) Knowingly makes any false material statement, representation, or certification in any form, notice, or report required by an air pollution registration, construction, or operating permit issued by the department.

(g) An offense under subsection (f) is a Level 6 felony if the offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under subsection (f) is a Level 5 felony if the offense results in the death of another person.

(h) Before imposing sentence upon conviction of an offense under subsection (f) or (g), the court shall consider either or both of the following factors, if found by the jury or if stipulated to by the parties in a plea agreement:

(1) If the offense involves discharge of a contaminant into the environment, whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury.

(B) Serious bodily injury to an individual.

(C) The death of a vertebrate animal.

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, an at risk, or a threatened species.

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1).

(i) Notwithstanding the maximum fine under IC 35-50-3-4, the court shall order a person convicted under subsection (f) to pay a fine of at least five thousand dollars ($5,000) per day for each violation and not more than twenty-five thousand dollars ($25,000) per day for each violation.

(j) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a), the court shall order a person convicted under subsection (g) to pay:

(1) a fine of at least five thousand dollars ($5,000) and not more than fifty thousand dollars ($50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of at least five thousand dollars ($5,000) and not more than one hundred thousand dollars ($100,000) for each day of violation.

(k) Except as provided in subsection (l), a person regulated under IC 13-18 who does any of the following commits a Class C misdemeanor:

(1) Willfully or recklessly violates any applicable standards or limitations of IC 13-18-3-2.4, IC 13-18-4-5, IC 13-18-8, IC 13-18-9, IC 13-18-10, IC 13-18-12, IC 13-18-14, IC 13-18-15, or IC 13-18-16.

(2) Willfully or recklessly violates any National Pollutant Discharge Elimination System permit condition issued by the department under IC 13-18-19.

(3) Willfully or recklessly violates any National Pollutant

Discharge Elimination System Permit filing requirement.

(4) Knowingly makes any false material statement, representation, or certification in any National Pollutant Discharge Elimination System Permit form or in any notice or report required by a National Pollutant Discharge Elimination System permit issued by the department.

(l) An offense under subsection (k) is a Level 6 felony if the offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under subsection (k) is a Level 5 felony if the offense results in the death of another person.

(m) Before imposing sentence upon conviction of an offense under subsection (k) or (l), the court shall consider any or a combination of the following factors, if found by the jury or if stipulated to by the parties in a plea agreement:

(1) If the offense involves discharge of a contaminant into the environment, whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury.

(B) Serious bodily injury to an individual.

(C) The death of a vertebrate animal.

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, an at risk, or a threatened species.

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1).

(3) Whether the discharge was the result of a combined sewer overflow and the person regulated had given notice of that fact to the department.

(n) Notwithstanding the maximum fine under IC 35-50-3-4, the court shall order a person convicted under subsection (k)(1), (k)(2), or (k)(3) to pay a fine of at least five thousand dollars ($5,000) a day for each violation and not more than twenty-five thousand dollars ($25,000) a day for each violation.

(o) Notwithstanding the maximum fine under IC 35-50-3-4, the court shall order a person convicted under subsection (k)(4) to pay a fine of at least five thousand dollars ($5,000) for each instance of violation and not more than ten thousand dollars ($10,000) for each instance of violation.

(p) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a), the court shall order a person convicted under subsection (l) to pay:

(1) a fine of at least five thousand dollars ($5,000) and not more than fifty thousand dollars ($50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense

under this title that may be punished as a felony, a fine of at least five thousand dollars ($5,000) and not more than one hundred thousand dollars ($100,000) for each day of violation.

(q) The penalties under this section apply regardless of whether a person uses electronic submissions or paper documents to accomplish the actions described in this section.

As added by P.L.114-2008, SEC.26. Amended by P.L.57-2009, SEC.2; P.L.158-2013, SEC.196.

IC 13-30-10-2
Repealed

(Repealed by P.L.114-2008, SEC.33.)

IC 13-30-10-3
Repealed

(Repealed by P.L.114-2008, SEC.33.)

IC 13-30-10-4
Repealed

(Repealed by P.L.114-2008, SEC.33.)

IC 13-30-10-5
Criminal penalties for violating underground storage tank laws

Sec. 5. (a) A person who:

(1) operates an underground storage tank and knowingly, intentionally, or recklessly violates:

(A) the terms of a permit issued by the department that relates to the operation of an underground storage tank; or

(B) an Indiana statute that relates to the operation of an underground storage tank; and

(2) discharges a contaminant into the environment, if the discharge results in:

(A) a substantial risk of serious bodily injury;

(B) serious bodily injury to an individual;

(C) the death of a vertebrate animal; or

(D) damage to the environment that renders the environment unfit for human or vertebrate animal life, or causes damage to an endangered, an at risk, or a threatened species;

commits a Level 6 felony. However, the offense is a Level 5 felony if it results in the death of another person.

(b) It is a defense to a prosecution under this section that the person did not know and could not reasonably have been expected to know that the substance discharged into the environment was capable of causing a result described in subsection (a)(2).

(c) Notwithstanding IC 35-50-2-6(a), IC 35-50-2-7(a), or IC 35-50-3-2, the court may order a person convicted under this section to pay:

(1) a fine of at least five thousand dollars ($5,000) and not more than fifty thousand dollars ($50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of not more than one hundred thousand dollars ($100,000) for each day of violation.

In determining the amount of a fine imposed for a violation of this section, the court shall consider any improper economic benefit, including unjust enrichment, received by the defendant as a result of the unlawful conduct.

As added by P.L.137-2007, SEC.31. Amended by P.L.158-2013, SEC.197.

IC 13-30-10-6

Criminal penalties for violating state regulated wetlands laws

Sec. 6. (a) A person who:

(1) knowingly or intentionally violates:

(A) the terms of a permit issued under IC 13-18-22 that relates to state regulated wetlands; or

(B) a statute that relates to state regulated wetlands; and

(2) causes substantial harm to a state regulated wetland;

commits a Level 6 felony.

(b) Notwithstanding IC 35-50-2-6(a), IC 35-50-2-7(a), or IC 35-50-3-2, the court may order a person convicted under this section to pay:

(1) a fine of at least five thousand dollars ($5,000) and not more than fifty thousand dollars ($50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of not more than one hundred thousand dollars ($100,000) for each day of violation.

In determining the amount of a fine imposed for a violation of this section, the court shall consider any improper economic benefit, including unjust enrichment, received by the defendant as a result of the unlawful conduct.

As added by P.L.137-2007, SEC.31. Amended by P.L.158-2013, SEC.198.