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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1003

AN ACT to amend the Indiana Code concerning state offices and administration.

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

SECTION 1. IC 1-1-5.5-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: **Sec. 24. (a) Except as provided in subsection (b), a SECTION of HEA 1003-2024 does not apply to an administrative proceeding or a proceeding for judicial review pending on June 30, 2024.**

(b) A SECTION of HEA 1003-2024 applies to:

(1) an administrative proceeding or a proceeding for judicial review commenced after June 30, 2024; or

(2) an administrative proceeding conducted after June 30, 2024, on remand from a court.

(c) After June 30, 2024, any reference to a duty of an ultimate authority with respect to an administrative proceeding or proceeding for judicial review shall be construed as a duty of the office of administrative legal proceedings if the office of administrative legal proceedings is the ultimate authority for that agency.

SECTION 2. IC 4-15-10.5-2, AS ADDED BY P.L.205-2019, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. This chapter does not apply to:

(1) the department of workforce development;

(2) the unemployment insurance review board of the department

of workforce development;

(3) the worker's compensation board of Indiana;

(4) the Indiana utility regulatory commission;

(5) the department of state revenue;

(6) the department of local government finance;

(7) the Indiana board of tax review;

(8) the natural resources commission;

~~(9) the office of environmental adjudication;~~

~~(10)~~ **(9)** the Indiana education employment relations board;

~~(11)~~ **(10)** the state employees appeals commission; or

~~(12)~~ **(11)** before July 1, 2022, any other agency or category of proceeding determined by the governor to be exempt from this chapter for good cause.

SECTION 3. IC 4-15-10.5-12, AS ADDED BY P.L.205-2019, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 12. (a) ~~Beginning July 1, 2020, and~~ Except as provided in sections 1 and 2 of this chapter, the office has jurisdiction over all administrative proceedings concerning agency administrative actions under:

(1) IC 4-21.5; or

(2) any other statute that requires or allows the office to take action.

~~(b) Notwithstanding anything in this chapter or any other statute to the contrary:~~

~~(1) the office shall not be considered the ultimate authority in any administrative proceeding; and~~

~~(2) a decision by the office in an administrative proceeding is not a final agency action;~~

~~unless expressly designated by the agency. This subsection may not be construed as preventing the rescission of an agency's delegation.~~

(b) Except as provided in subsection (c), the office is the ultimate authority in any administrative proceeding under its jurisdiction. Judicial review under IC 4-21.5 shall be taken directly from a final decision of the office.

(c) The office is not the ultimate authority if:

(1) a particular agency or agency action is exempted under Indiana law; or

(2) an agency is required by federal mandate, as a condition of federal funding, to conduct or render a final order in an adjudication.

SECTION 4. IC 4-21.5-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. "Agency" means any

officer, board, commission, department division, bureau, or committee of state government that is responsible for any stage of a proceeding under this article. ~~Except as provided in IC 4-21.5-7,~~ The term does not include the judicial department of state government, the legislative department of state government, or a political subdivision.

SECTION 5. IC 4-21.5-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 15. **Subject to IC 4-15-10.5-12,** "ultimate authority" means:

(1) for an administrative proceeding under the office of administrative law proceedings, the office of administrative law proceedings; or

(2) for any other purpose, an individual or panel of individuals in whom the final authority of an agency is vested by law or executive order.

SECTION 6. IC 4-21.5-3-9, AS AMENDED BY P.L.13-2021, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 9. (a) Except to the extent that a statute other than this article limits an agency's discretion to select an administrative law judge, the ultimate authority ~~for an agency~~ may:

(1) act as an administrative law judge;

(2) designate one (1) or more members of the ultimate authority (if the ultimate authority is a panel of individuals) to act as an administrative law judge; or

(3) before July 1, 2020, designate one (1) or more:

(A) attorneys licensed to practice law in Indiana; or

(B) persons who served as administrative law judges for a state agency before January 1, 2014;

to act as an administrative law judge. After June 30, 2020, the ultimate authority ~~for an agency~~ may request assignment of an administrative law judge by the office of administrative law proceedings.

A person designated under subdivision (3) is not required to be an employee of the agency. A designation under subdivision (2) or (3) may be made in advance of the commencement of any particular proceeding for a generally described class of proceedings or may be made for a particular proceeding. A general designation may provide procedures for the assignment of designated individuals to particular proceedings.

(b) If the case involves:

(1) adjudication of:

(A) air pollution control laws (as defined in IC 13-11-2-6);

(B) water pollution control laws (as defined in

IC 13-11-2-261);

(C) environmental management laws (as defined in IC 13-11-2-71); or

(D) solid waste and hazardous waste management laws under IC 13-19;

(2) rules of a board described in IC 13-14-9-1;

(3) the financial assurance board created by IC 13-23-11-1; or

(4) any agency action of the department of environmental management;

the administrative law judge assigned by the office of administrative law proceedings must meet the requirements listed under subsection (c).

(c) An administrative law judge assigned under subsection (b) must:

(1) be a citizen of Indiana;

(2) be an attorney in good standing admitted to practice in Indiana;

(3) have at least five (5) years of experience practicing environmental or administrative law;

(4) be independent of the agency;

(5) meet the qualifications specific to environmental law as determined by the office of administrative law proceedings' training program; and

(6) be one (1) of three (3) administrative law judges in the office of administrative law proceedings designated to hear environmental matters.

~~(b)~~ **(d)** ~~An agency~~ **A person** may not knowingly assign an individual to serve alone or with others as an administrative law judge who is subject to disqualification under this chapter.

~~(c)~~ **(e)** If the administrative law judge assigned to the proceeding believes that the judge's impartiality might reasonably be questioned, or believes that the judge's personal bias, prejudice, or knowledge of a disputed evidentiary fact might influence the decision, the administrative law judge shall:

(1) withdraw as the administrative law judge; or

(2) inform the parties of the potential basis for disqualification, place a brief statement of this basis on the record of the proceeding, and allow the parties an opportunity to petition for disqualification under subsection ~~(d).~~ **(f).**

~~(d)~~ **(f)** Any party to a proceeding may petition for the disqualification of an administrative law judge upon discovering facts establishing grounds for disqualification under this chapter. The

administrative law judge assigned to the proceeding shall determine whether to grant the petition, stating facts and reasons for the determination.

~~(e)~~ **(g)** If the administrative law judge ruling on the disqualification issue is not the ultimate authority, ~~for the agency,~~ the party petitioning for disqualification may petition the ultimate authority, or, if the administrative law judge is employed or contracted with the office of administrative law proceedings, the director of the office of administrative law proceedings, in writing for review of the ruling within ten (10) days after notice of the ruling is served. The ultimate authority shall:

(1) conduct proceedings described by section 28 of this chapter; or

(2) request that the director of the office of administrative law proceedings conduct proceedings described by section 28 of this chapter;

to review the petition and affirm, modify, or dissolve the ruling within thirty (30) days after the petition is filed. A determination by the ultimate authority or the director of the office of administrative law proceedings under this subsection is a final order subject to judicial review under IC 4-21.5-5.

~~(f)~~ **(h)** If a substitute is required for an administrative law judge who is disqualified or becomes unavailable for any other reason, the substitute must be appointed in accordance with subsection (a).

~~(g)~~ **(i)** Any action taken by a duly appointed substitute for a disqualified or unavailable administrative law judge is as effective as if taken by the latter.

~~(h)~~ **(j)** If there is a reasonable likelihood that the ultimate authority will be called upon to:

(1) review; or

(2) issue a final order with respect to;

a matter pending before or adjudicated by an administrative law judge, the provisions of section 11 of this chapter that apply to an administrative law judge or to a person communicating with an administrative law judge apply to a member of the ultimate authority and to a person communicating with a member of the ultimate authority.

SECTION 7. IC 4-21.5-3-10, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2024 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 10. (a) An administrative law judge is subject to disqualification for:

(1) bias, prejudice, or interest in the outcome of a proceeding;

(2) failure to dispose of the subject of a proceeding in an orderly and reasonably prompt manner after a written request by a party;

(3) unless waived or extended with the written consent of all parties or for good cause shown, failure to issue an order not later than ninety (90) days after the latest of:

(A) the filing of a motion to dismiss or a motion for summary judgment under section 23 of this chapter that is filed after June 30, 2011;

(B) the conclusion of a hearing that begins after June 30, 2011; or

(C) the completion of any schedule set for briefing or for submittal of proposed findings of fact and conclusions of law for a disposition under clauses (A) or (B); or

(4) any cause for which a judge of a court may be disqualified.

Before July 1, 2020, nothing in this subsection prohibits an individual who is an employee of an agency from serving as an administrative law judge.

(b) This subsection does not apply to a proceeding concerning a regulated occupation (as defined in IC 25-1-7-1), except for a proceeding concerning a water well driller (as described in IC 25-39-3) or an out of state mobile health care entity regulated by the Indiana department of health. An individual who is disqualified under subsection (a)(2) or (a)(3) shall provide the parties a list of at least three (3) special administrative law judges who meet the requirements of:

~~(1) IC 4-21.5-7-6, if the case is pending in the office of environmental adjudication;~~

(1) section 9(c) of this chapter, if the case involves an environmental matter described in section 9(b) of this chapter;

(2) IC 14-10-2-2, if the case is pending before the division of hearings of the natural resources commission; or

(3) subject to subsection (d), any other statute or rule governing qualification to serve an agency other than those described in subdivision (1) or (2).

Subject to subsection (c), the parties may agree to the selection of one (1) individual from the list.

(c) If the parties do not agree to the selection of an individual as provided in subsection (b) not later than ten (10) days after the parties are provided a list of judges under subsection (b), a special administrative law judge who meets the requirements of subsection (b)

shall be selected under the procedure set forth in Trial Rule 79(D). ~~79(E), or 79(F).~~

(d) This subsection applies after June 30, 2020, to an agency whose proceedings are subject to the jurisdiction of the office of administrative law proceedings. If an administrative law judge is disqualified under this section, the director of the office of administrative law proceedings shall assign another administrative law judge.

SECTION 8. IC 4-21.5-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 27. (a) If the administrative law judge is the ultimate authority for the agency, the ultimate authority's order disposing of a proceeding is a final order. If the administrative law judge is not the ultimate authority, the administrative law judge's order disposing of the proceeding becomes a final order when affirmed under section 29 of this chapter. Regardless of whether the order is final, it must comply with this section.

(b) This subsection applies only to an order not subject to subsection (c). The order must include, separately stated, findings of fact for all aspects of the order, including the remedy prescribed and, if applicable, the action taken on a petition for stay of effectiveness. Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. The order must also include a statement of the available procedures and time limit for seeking administrative review of the order (if administrative review is available) **and the procedures and time limits for seeking judicial review of the order under IC 4-21.5-5.**

(c) This subsection applies only to an order of the ultimate authority entered under IC 13, IC 14, or IC 25. The order must include separately stated findings of fact and, if a final order, conclusions of law for all aspects of the order, including the remedy prescribed and, if applicable, the action taken on a petition for stay of effectiveness. Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. Conclusions of law must consider prior final orders (other than negotiated orders) of the ultimate authority under the same or similar circumstances if those prior final orders are raised on the record in writing by a party and must state the reasons for deviations from those prior orders. The order must also include a statement of the available procedures and time limit for seeking administrative review of the order (if administrative review is available) **and the procedures and time limits for seeking judicial review of the order under IC 4-21.5-5.**

(d) Findings must be based exclusively upon the evidence of record

in the proceeding and on matters officially noticed in that proceeding. Findings must be based upon the kind of evidence that is substantial and reliable. The administrative law judge's experience, technical competence, and specialized knowledge may be used in evaluating evidence.

(e) A substitute administrative law judge may issue the order under this section upon the record that was generated by a previous administrative law judge.

(f) The administrative law judge may allow the parties a designated amount of time after conclusion of the hearing for the submission of proposed findings.

(g) An order under this section shall be issued in writing within ninety (90) days after conclusion of the hearing or after submission of proposed findings in accordance with subsection (f), unless this period is waived or extended with the written consent of all parties or for good cause shown.

(h) The administrative law judge shall have copies of the order under this section delivered to each party and to the ultimate authority ~~for the agency~~ (if it is not rendered by the ultimate authority).

SECTION 9. IC 4-21.5-3-27.5, AS AMENDED BY P.L.249-2023, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 27.5. **(a)** In a proceeding under this chapter concerning an agency action, the administrative law judge shall order the agency to pay the reasonable attorney's fees incurred in the proceeding by the prevailing party challenging the agency action if:

(1) the party challenging the agency action proves, by a preponderance of the evidence, that:

(A) the agency's action was frivolous or groundless; or

(B) the agency pursued the action in bad faith;

(2) the agency action was ~~based on an invalid~~ **unsupported by a statute or a valid** rule, as provided in IC 4-22-2-44; or

(3) the agency has failed to demonstrate that the agency acted within its legal authority.

(b) Except as provided in subsection (c) and subject to IC 34-52-2-1.5, in a judicial review proceeding, the court shall order the agency to pay the other party's reasonable attorney's fees if:

(1) the other party prevailed before an administrative law judge;

(2) the agency initiated the proceeding for judicial review; and

(3) the other party prevailed in the judicial review proceeding.

(c) In a judicial review proceeding, the court may not award attorney's fees against an agency under this section if:

(1) the agency's only involvement in the case resulted from the agency's role as an arbiter of the legal rights, duties, immunities, privileges, or other legal interests of two (2) or more parties; or

(2) the position of the agency as a party became unjustified as a result of an intervening change in applicable law.

SECTION 10. IC 4-21.5-3-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 29. (a) This section does not apply if the administrative law judge issuing an order under section 27 of this chapter is the ultimate authority for the agency.

(b) After an administrative law judge issues ~~an~~ **a nonfinal** order under section 27 of this chapter, the ultimate authority or its designee shall issue: ~~a final order.~~

(1) **a final order** affirming **the administrative law judge's order;**

(2) **a final order** modifying **the administrative law judge's order;** or

(3) ~~dissolving; the administrative law judge's order. The ultimate authority or its designee may remand~~ **an order remanding** the matter, with or without instructions, to an administrative law judge for further proceedings.

(c) In the absence of an objection or notice under subsection (d) or (e), ~~the ultimate authority or its designee shall affirm the order.~~ **the order is final and the agency issuing the nonfinal order shall issue a notice of final order within thirty (30) days after the deadline to file a notice under subsection (e).**

(d) To preserve an objection to an order of an administrative law judge for judicial review, a party must not be in default under this chapter and must object to the order in a writing that:

(1) identifies the basis of the objection with reasonable particularity; and

(2) is filed with the ultimate authority responsible for reviewing the order.

The written objection must be served on all parties and the agency issuing the nonfinal order within fifteen (15) days (or any longer period set by statute) after the order is served on the petitioner.

(e) Without an objection under subsection (d), the ultimate authority or its designee may serve written notice of its intent to review any issue related to the order. The notice shall be served on all parties**, the agency issuing the nonfinal order,** and all other persons described by

section 5(d) of this chapter **within sixty (60) days after the nonfinal order is served on the parties.** The notice **of intent to review** must identify the issues that the ultimate authority or its designee intends to review.

(f) A final order disposing of a proceeding or an order remanding an order to an administrative law judge for further proceedings shall be issued within sixty (60) days after the latter of:

(1) the date that the order was issued under section 27 of this chapter;

(2) the receipt of briefs; or

(3) the close of oral argument;

unless the period is waived or extended with the written consent of all parties or for good cause shown.

(g) After remand of an order under this section to an administrative law judge, the judge's order is also subject to review under this section.

SECTION 11. IC 4-21.5-3-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 31. (a) An ~~agency~~ **ultimate authority** has jurisdiction to modify a final order under this section before the earlier of the following:

(1) Thirty (30) days after the agency has served the final order under section 27, 29, or 30 of this chapter.

(2) Another agency assumes jurisdiction over the final order under section 30 of this chapter.

(3) A court assumes jurisdiction over the final order under IC 4-21.5-5.

(b) A party may petition the ultimate authority for an agency for a stay of effectiveness of a final order. The ultimate authority or its designee may, before or after the order becomes effective, stay the final order in whole or in part.

(c) A party may petition the ultimate authority for an agency for a rehearing of a final order. The ultimate authority or its designee may grant a petition for rehearing only if the petitioning party demonstrates that:

(1) the party is not in default under this chapter;

(2) newly discovered material evidence exists; and

(3) the evidence could not, by due diligence, have been discovered and produced at the hearing in the proceeding.

The rehearing may be limited to the issues directly affected by the newly discovered evidence. If the rehearing is conducted by a person other than the ultimate authority, section 29 of this chapter applies to review of the order resulting from the rehearing.

(d) ~~Clerical mistakes and other errors resulting from oversight or~~

~~omission~~ **Errors** in a final order or other part of the record of a proceeding may be corrected by an ultimate authority or its designee on the motion of any party or on the motion of the ultimate authority or its designee.

(e) An action of a petitioning party or an agency under this section, ~~neither~~ **including a motion to correct error,** tolls the period in which a party may object to a second agency under section 30 of this chapter ~~nor~~ **and** tolls the period in which a party may petition for judicial review under IC 4-21.5-5. ~~However, if a rehearing is granted under subsection (c), these periods are tolled and a new period begins on the date that a new final order is served.~~ **A new period begins to run on the date a motion to correct error is denied or a new order is issued. A motion to correct error or motion for a rehearing is deemed denied thirty (30) days after it was filed if there is no ruling on the motion or no hearing is set on the motion.**

SECTION 12. IC 4-21.5-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 11. **(a)** Judicial review of disputed issues of fact must be confined to the agency record for the agency action supplemented by additional evidence taken under section 12 of this chapter. ~~The court may not try the cause de novo or substitute its judgment for that of the agency.~~ **A court is not bound by a finding of fact made by the ultimate authority if the finding of fact is not supported by the record.**

(b) The court shall decide all questions of law, including any interpretation of a federal or state constitutional provision, state statute, or agency rule, without deference to any previous interpretation made by the agency.

SECTION 13. IC 4-21.5-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 13. (a) ~~Within~~ **Not later than** thirty (30) days ~~after the filing of the petition,~~ **after receipt of the petition for judicial review served under section 8 of this chapter** or within further time allowed by the court or by other law, the ~~petitioner~~ **office or ultimate authority** shall transmit to the court the original or a certified copy of the agency record for judicial review of the agency action.

(b) ~~consisting~~ **The record consists** of:

(1) any agency documents expressing the agency action;

(2) other documents identified by the agency as having been considered by it before its action and used as a basis for its action; and

(3) any other material described in this article as the agency record for the type of agency action at issue, subject to this

section.

~~(b)~~ **(c)** An extension of time in which to file the record shall be granted by the court for good cause shown. Inability **of the office or ultimate authority** to ~~obtain~~ **compile** the record ~~from the responsible agency~~ within the time permitted by this section is good cause. ~~Failure to file the record within the time permitted by this subsection, including any extension period ordered by the court, is cause for dismissal of the petition for review by the court, on its own motion, or on petition of any party of record to the proceeding.~~

~~(c)~~ **(d)** ~~Upon a written request by the petitioner, the agency taking the action being reviewed shall prepare the agency record for the petitioner.~~ If part of the record has been preserved without a transcript, the agency shall prepare a transcript for inclusion in the record transmitted to the court, except for portions that the parties to the judicial review proceeding stipulate to omit in accordance with subsection ~~(e).~~ **(f).**

~~(d)~~ **(e)** Notwithstanding IC 5-14-3-8, the agency shall charge the petitioner with the reasonable cost of preparing any necessary copies and transcripts for transmittal to the court, unless a person files with the court, under oath and in writing, the statement described by IC 33-37-3-2.

~~(e)~~ **(f)** By stipulation of all parties to the review proceedings, the record may be shortened, summarized, or organized.

~~(f)~~ **(g)** The court may tax the cost of preparing transcripts and copies for the record:

(1) against a party to the judicial review proceeding who unreasonably refuses to stipulate to shorten, summarize, or organize the record; or

(2) in accordance with the rules governing civil actions in the courts or other law.

~~(g)~~ **(h)** Additions to the record concerning evidence received under section 12 of this chapter must be made as ordered by the court. The court may require or permit subsequent corrections or additions to the record.

SECTION 14. IC 4-21.5-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 14. (a) The burden of demonstrating the invalidity of agency action is on the party to the judicial review proceeding asserting invalidity.

(b) The validity of agency action shall be determined in accordance with the standards of review provided in this section, as applied to the agency action at the time it was taken.

(c) The court shall make findings of fact on each material issue on

which the court's decision is based.

(d) The court shall grant relief under section 15 of this chapter only if it determines that a person seeking judicial relief has been prejudiced by an agency action that is:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(4) without observance of procedure required by law; or

(5) unsupported by ~~substantial~~ **a preponderance of the** evidence.

SECTION 15. IC 4-21.5-7 IS REPEALED [EFFECTIVE JULY 1, 2024]. (Environmental Adjudication).

SECTION 16. IC 4-22-2-19.6, AS ADDED BY P.L.249-2023, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 19.6. (a) A rule adopted under this article or IC 13-14-9 that includes a fee, fine, or civil penalty must comply with this section. Subsections (b), (c), and (d) do not apply to a rule that must be adopted in a certain form to comply with federal law.

(b) For each fee, fine, or civil penalty imposed by an agency that is not set as a specific amount in a state law, a rule must describe the circumstances for which the agency will assess a fee, fine, or civil penalty and set forth the amount of the fee, fine, or civil penalty:

(1) as a specific dollar amount;

(2) under a formula by which a specific dollar amount can be reasonably calculated by persons regulated or otherwise affected by the rule; or

(3) as a range of potential dollar amounts, stating the factors that the agency will utilize to set a specific dollar amount in an individual case with sufficient certainty that a review of an agency action under IC 4-21.5 or comparable process can evaluate whether the amount was reasonable.

A rule concerning fines or civil penalties does not prohibit an agency to enter into a settlement agreement with a person against whom a fine or civil penalty is being assessed to determine the fine or civil penalty to be paid for a violation.

(c) The amount of a fee must be reasonably based on the amount necessary to carry out the purposes for which the fee is imposed.

(d) An agency setting a fine or civil penalty shall consider the following:

(1) Whether the violation has a major or minor impact on the health, safety, or welfare of a person, the health or safety of

animals or natural resources, or other facts set forth in the agency's rule.

(2) The number of previous violations committed by the offender of laws, rules, or programs administered by the agency.

(3) The need for deterrence of future violations.

(4) Whether the conduct, if proved beyond a reasonable doubt, would constitute a criminal offense, and the level of penalty set by law for the criminal offense.

(e) An agency is not liable for a fee, fine, or civil penalty that is not in conformity with this section if:

(1) the fee, fine, or civil penalty was included in a rule that became effective before January 1, 2023, and that otherwise complies with subsection (b);

(2) the fee, fine, or civil penalty was:

(A) set by an agency before January 1, 2023;

(B) reviewed by the budget committee:

(i) in the case of the department of environmental management, the boards listed in IC 13-14-9-1, ~~the office of environmental adjudication,~~ the natural resources commission, the department of natural resources, the Indiana gaming commission, and the Indiana horse racing commission, before December 31, 2023; and

(ii) in the case of an agency not described in item (i), before July 1, 2024; and

(C) included in a rule that complies with this section and becomes effective before:

(i) in the case of the department of environmental management, the boards listed in IC 13-14-9-1, ~~the office of environmental adjudication,~~ the natural resources commission, the department of natural resources, the Indiana gaming commission, and the Indiana horse racing commission, December 31, 2024; and

(ii) in the case of an agency not described in item (i), July 1, 2025; or

(3) the agency withdraws or otherwise ceases to enforce or apply the fee, fine, or civil penalty before:

(A) in the case of the department of environmental management, the boards listed in IC 13-14-9-1, ~~the office of environmental adjudication,~~ the natural resources commission, the department of natural resources, the Indiana gaming commission, and the Indiana horse racing commission, December 31, 2023; and

(B) in the case of an agency not described in clause (A), July 1, 2024.

Readoption without changes under IC 4-22-2.6 of a nonconforming fee, fine, or civil penalty that meets the requirements of subdivision (1) or (2) does not invalidate the nonconforming fee, fine, or civil penalty.

(f) Beginning January 1, 2024, an agency shall post on its website a schedule of fines and civil penalties that apply to violations of laws, rules, and requirements of federal programs administered by the agency.

SECTION 17. IC 13-14-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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.~~ **administrative law proceedings.** 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.

SECTION 18. IC 13-15-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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~~ **administrative law proceedings** and request that an ~~environmental~~ **administrative** law judge hold an adjudicatory hearing concerning the action under IC 4-21.5-3 and ~~IC 4-21.5-7.~~ **IC 4-15-10.5.**

(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.

SECTION 19. IC 13-15-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. (a) Not later than thirty (30) days after being served a request for an adjudicatory hearing, an ~~environmental~~ **administrative** law judge under ~~IC 4-21.5-7~~ **IC 4-15-10.5** shall, if the ~~environmental~~ **administrative** 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~~ **administrative** law judge may stay the force and effect of the following:

(1) A contested permit provision.

(2) A permit term or condition the ~~environmental~~ **administrative** law judge considers inseverable from a contested permit provision.

(c) After a final hearing under this section, a final order of an ~~environmental~~ **administrative** law judge on a permit application is subject to review under IC 4-21.5-5.

SECTION 20. IC 13-15-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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~~ **administrative law proceedings** 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.

SECTION 21. IC 13-17-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7. (a) The commissioner may enter into agreed orders as provided in IC 13-30-3-6.

(b) An ~~environmental~~ **administrative** law judge under ~~IC 4-21.5-7~~ **IC 4-15-10.5** shall review orders and determinations of the commissioner.

SECTION 22. IC 13-17-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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.~~ **IC 4-15-10.5.**

SECTION 23. IC 13-18-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 4. (a) The commissioner may enter into agreed orders as provided in IC 13-30-3-6.

(b) An ~~environmental~~ **administrative** law judge under ~~IC 4-21.5-7~~ **IC 4-15-10.5** shall review orders and determinations of the commissioner.

SECTION 24. IC 13-18-11-8, AS AMENDED BY P.L.159-2011, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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.~~ **IC 4-15-10.5.**

SECTION 25. IC 13-19-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. (a) The commissioner may enter into agreed orders as provided in IC 13-30-3-6.

(b) An ~~environmental~~ **administrative** law judge under ~~IC 4-21.5-7~~ **IC 4-15-10.5** shall review orders and determinations of the commissioner.

SECTION 26. IC 13-20-13-5.5, AS AMENDED BY P.L.263-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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~~ **administrative law proceedings** under ~~IC 4-21.5-7.~~ **IC 4-15-10.5.** 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.

SECTION 27. IC 13-20-14-5.6, AS AMENDED BY P.L.263-2013, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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~~ **administrative law proceedings** under ~~IC 4-21.5-7.~~ **IC 4-15-10.5.** 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.

SECTION 28. IC 13-23-9-4, AS AMENDED BY P.L.96-2016, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 4. If the administrator denies an ELTF claim under this chapter, the claimant may appeal the denial under IC 4-21.5 to the office of ~~environmental adjudication~~ **administrative law proceedings** under ~~IC 4-21.5-7.~~ **IC 4-15-10.5.**

SECTION 29. IC 13-24-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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~~ **administrative** law judge shall apportion the costs of a response or a remedial action in proportion to each party's responsibility for a release.

SECTION 30. IC 13-25-4-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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~~ **administrative** law judge is the ultimate authority.

SECTION 31. IC 13-30-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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~~ **administrative law proceedings** under ~~IC 4-21.5-7,~~

IC 4-15-10.5; 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~~ **administrative law proceedings** established under ~~IC 4-21.5-7~~ **IC 4-15-10.5** shall review the order under IC 4-21.5.

SECTION 32. IC 13-30-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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,~~ **administrative law proceedings,** the commissioner may approve an agreed order based on the agreement.

SECTION 33. IC 13-30-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7. A final order of an ~~environmental~~ **administrative** law judge is subject to judicial review under IC 4-21.5-5.

SECTION 34. IC 14-10-2-2.5, AS ADDED BY P.L.84-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2.5. (a) A person who is the party in a hearing under this title or ~~IC 4-21.5-7~~ **IC 4-15-10.5** may move to have the:

(1) ~~environmental~~ **administrative** law judge appointed under ~~IC 4-21.5-7;~~ **IC 4-15-10.5;** or

(2) administrative law judge appointed under section 2 of this chapter;

consolidate multiple proceedings that are subject to the jurisdiction of both the office of ~~environmental adjudication~~ **administrative law proceedings** and the division of hearings.

(b) ~~The environmental law judge or the~~ **An** administrative law judge shall grant the motion made under subsection (a) if the following findings are made:

(1) The proceedings include the following:

(A) Common questions of law or fact.

(B) At least one (1) person, other than the department or the department of environmental management, who is a party to all the proceedings.

(C) Issues of water quality, water quantity, or both.

(2) Consolidation may support administrative efficiency.

(c) If a motion to consolidate proceedings has been granted under subsection (b), the hearing must be conducted by a panel that consists of at least ~~one (1) environmental law judge and one (1)~~ **two (2)**

administrative law ~~judge.~~ **judges.** The panel is the ultimate authority for matters authorized under IC 4-21.5-7-5 and this title. Any party, including the department and the department of environmental management, may petition an appropriate court for judicial review of a final determination of the panel.

(d) The office of ~~environmental adjudication~~ **administrative law proceedings** and the division of hearings shall adopt joint rules to implement this section.

SECTION 35. IC 14-34-2-2, AS AMENDED BY P.L.84-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. (a) The commission shall appoint the following:

(1) An administrative law judge to conduct proceedings under IC 4-21.5. An administrative law judge is subject to IC 14-10-2-2.

(2) A hearing officer to conduct proceedings under IC 4-22-2.

(b) An administrative law judge is the ultimate authority for the department for any administrative review proceeding under this article, except for the following:

(1) Proceedings concerning the approval or disapproval of a permit application or permit renewal under IC 14-34-4-13.

(2) Proceedings for suspension or revocation of a permit under IC 14-34-15-7.

(3) Proceedings consolidated with the office of ~~environmental adjudication~~ **administrative law proceedings** under IC 14-10-2-2.5.

(c) An order made by an administrative law judge granting or denying temporary relief from a decision of the director is a final order of the department.

(d) Judicial review of a final order made by an administrative law judge under subsection (b) or (c) or under IC 13-4.1-2-1(c) or IC 13-4.1-2-1(d) (before their repeal) may be taken under IC 4-21.5-5.

SECTION 36. IC 34-52-2-1.5, AS ADDED BY P.L.249-2023, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1.5. (a) In a proceeding **conducted** under IC 4-21.5-5, ~~to judicially review a final order made by a state agency,~~ the court shall apply the ~~same~~ standard ~~as an administrative law judge under~~ **described in** IC 4-21.5-3-27.5 regarding an order for the payment of attorney's fees.

(b) An order for the payment of attorney's fees under this section is not subject to sections 2, **3,** and 4 of this chapter.

SECTION 37. [EFFECTIVE JULY 1, 2024] **(a) As used in this SECTION, "office" means the office of environmental adjudication established under IC 4-21.5-7.**

(b) As used in this SECTION, "office of administrative law proceedings" means the office of administrative law proceedings established under IC 4-15-10.5.

(c) On July 1, 2024, all agreements and liabilities of the office are transferred to the office of administrative law proceedings, as the successor agency.

(d) On July 1, 2024, all records and property of the office, including appropriations and other funds under the control or supervision of the office, are transferred to the office of administrative law proceedings, as the successor agency.

(e) After July 1, 2024, any amounts owed to the office before July 1, 2024, are considered to be owed to the office of administrative law proceedings, as the successor agency.

(f) After July 1, 2024, a reference to the office in a statute, rule, or other document is considered a reference to the office of administrative law proceedings, as the successor agency.

(g) After July 1, 2024, a reference to an environmental law judge is considered a reference to an administrative law judge under IC 4-15-10.5.

(h) All powers, duties, agreements, and liabilities of the office with respect to bonds issued by the office in connection with any trust agreement or indenture securing those bonds are transferred to the office of administrative law proceedings, as the successor agency.

(i) The director and employees of the office on June 30, 2024, become employees of the office of administrative law proceedings on July 1, 2024, without change in compensation, seniority, or benefits, and are entitled to have their service under the office included for purposes of computing any applicable employment and retirement benefits.

(j) After July 1, 2024, all pending proceedings of the office are transferred to the office of administrative law proceedings.

(k) Until the office of administrative law proceedings adopts or amends rules related to environmental matters, the office must continue to follow and implement rules under 315 IAC.

(l) The office of administrative law proceedings must continue to index and make publicly available, in a substantially similar online searchable format, the final orders of contested appeals currently maintained by the office.

(m) This SECTION expires July 1, 2025.

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____