



Reprinted
April 16, 2019

ENGROSSED HOUSE BILL No. 1278

DIGEST OF HB 1278 (Updated April 15, 2019 8:25 pm - DI 55)

Citations Affected: IC 13-11; IC 13-13; IC 13-14; IC 13-15;
IC 13-16; IC 13-17; IC 13-18; IC 13-20; IC 13-22; IC 13-23; noncode.

Synopsis: Various environmental matters. Replaces the term "wastewater management vehicle" with the term "septage management vehicle". Increases the membership of the environmental rules board (board) by adding one representative of the residential or commercial construction industry and one representative of the general public. Requires certain reports concerning public water systems to be submitted to the department of environmental management (IDEM) electronically. Eliminates record keeping requirements relating to solid waste transported outside Indiana for final disposal. Revises the law
(Continued next page)

Effective: Upon passage; July 1, 2019.

Wolkins, Errington

(SENATE SPONSORS — MESSMER, NIEMEYER, RANDOLPH LONNIE M)

January 10, 2019, read first time and referred to Committee on Environmental Affairs.
January 31, 2019, reported — Do Pass.
February 14, 2019, read second time, amended, ordered engrossed.
February 15, 2019, engrossed.
February 18, 2019, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

March 4, 2019, read first time and referred to Committee on Environmental Affairs.
April 2, 2019, amended, reported favorably — Do Pass.
April 9, 2019, read second time, amended, ordered engrossed.
April 10, 2019, engrossed.
April 11, 2019, returned to second reading.
April 15, 2019, re-read second time, amended, ordered engrossed.

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Digest Continued

concerning the assessment of the state solid waste management fee. Changes the deadline for IDEM's annual assessment of hazardous waste annual operation fees. Provides that the administrator of the underground petroleum storage tank excess liability trust fund (ELTF) is required, not more than 45 business days after a claim on the ELTF is submitted, to: (1) approve the claim; (2) notify the claimant that a correction, a clarification, or additional information is needed; or (3) deny the claim. Provides that IDEM, rather than the board, is to deposit solid waste fees in the waste facility operator trust fund. Provides for IDEM to receive payment of solid waste fees by electronic fund transfer. Authorizes the board to adopt rules that increase the amounts of environmental fees. Requires the board, in changing the amount of a fee, to take into account the cost to IDEM of amendments, modifications, and renewals of a permit, license, or approval. Provides that a fee established by the board for a type or class of permit: (1) may be set at a particular amount in consideration of the type and amount of discharge or emission to which the permit relates; and (2) may not be different in amount for public sector permit holders than for private sector permit holders unless the difference is specifically authorized by law. Requires IDEM to arrange for an independent study of certain IDEM costs and to develop other information relevant to fees. Provides that all fee amounts set forth numerically in Title 13 of the Indiana Code are minimum amounts and that the board may increase the amount of a fee even though the minimum amount of the fee is set forth numerically in Title 13. Provides that the board may not increase an environmental fee: (1) more than once in five years; or (2) by more than 10%. Requires the board to adopt rules to implement a one-time increase in fees before January 1, 2022, and provides that: (1) the pre-2022 increase in the confined feeding operation, NPDES, safe drinking water act, solid waste, and hazardous waste program fees must be calculated to cause an increase in annual aggregate fee revenue of \$3,200,000; and (2) the pre-2022 increase in the air pollution control program fees must be calculated to cause an increase in annual aggregate fee revenue of \$2,000,000. Makes conforming and technical changes.

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April 16, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1278

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

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

1 SECTION 1. IC 13-11-2-199.4 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: **Sec. 199.4. "Septage management**
4 **vehicle", for purposes of IC 13-18-12-2.2, has the meaning set forth**
5 **in IC 13-18-12-2.2(b).**

6 SECTION 2. IC 13-11-2-257.6, AS ADDED BY P.L.107-2016,
7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2019]: Sec. 257.6. "Wastewater", for purposes of
9 ~~IC 13-18-12-2.2~~, **IC 13-18**, has the meaning set forth in
10 ~~IC 13-18-12-2.2(a)(3)~~. **means liquid or water-carried wastes from**
11 **industrial, municipal, agricultural, or other sources.**

12 SECTION 3. IC 13-11-2-257.8 IS REPEALED [EFFECTIVE JULY
13 1, 2019]. ~~Sec. 257.8. "Wastewater management vehicle", for purposes~~
14 ~~of IC 13-18-12-2.2; has the meaning set forth in IC 13-18-12-2.2(b).~~

15 SECTION 4. IC 13-13-8-4, AS ADDED BY P.L.133-2012,
16 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2019]: Sec. 4. (a) The board consists of the following ~~sixteen~~

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- 1 ~~(16)~~ **eighteen (18)** members:
- 2 (1) The following ex officio members:
- 3 (A) ~~The commissioner.~~ The commissioner, or the
- 4 commissioner's designee, **who** serves as a nonvoting member
- 5 of the board.
- 6 (B) The commissioner of the state department of health.
- 7 (C) The director of the department of natural resources.
- 8 (D) The lieutenant governor.
- 9 (E) The secretary of commerce or the secretary's designee.
- 10 (2) The following ~~eleven (11)~~ **thirteen (13)** members, who shall
- 11 be appointed by the governor based on recommendations from
- 12 representative constituencies:
- 13 (A) One (1) representative of agriculture.
- 14 (B) One (1) representative of manufacturing.
- 15 (C) One (1) representative of environmental interests.
- 16 (D) One (1) representative of labor.
- 17 (E) One (1) representative of local government.
- 18 (F) One (1) representative of small business.
- 19 (G) One (1) health professional who holds a license to practice
- 20 in Indiana.
- 21 (H) One (1) representative of the solid waste management
- 22 industry.
- 23 (I) One (1) representative of a public utility that engages in the
- 24 production and transmission of electricity.
- 25 **(J) One (1) representative of the residential or commercial**
- 26 **construction industry.**
- 27 ~~(K) Two (2)~~ **Three (3)** representatives of the general public
- 28 who cannot qualify **to sit for membership** on the board under
- 29 ~~any of the other clauses in this subdivision.~~ **(A) through (J).**
- 30 (b) An individual appointed under subsection (a)(2) must possess
- 31 knowledge, experience, or education qualifying the individual to
- 32 represent the constituency the individual is being recommended to
- 33 represent.
- 34 SECTION 5. IC 13-13-8-9, AS ADDED BY P.L.133-2012,
- 35 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 36 JULY 1, 2019]: Sec. 9. ~~Eight (8)~~ **Nine (9)** members of the board, ~~five~~
- 37 ~~(5)~~ **six (6)** of whom must be appointed members of the board,
- 38 constitute a quorum. A quorum must be present to transact business at
- 39 a meeting of the board. Meetings of the board are subject to the public
- 40 meeting requirements under IC 5-14-1.5.
- 41 SECTION 6. IC 13-14-8-7, AS AMENDED BY P.L.133-2012,
- 42 SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 UPON PASSAGE]: Sec. 7. (a) Without limiting the generality of the
 2 regulatory authority of the board under this title, the board may adopt
 3 rules under IC 4-22-2 and IC 13-14-9 prescribing the following:

4 (1) Standards or requirements for discharge or emission
 5 specifying the maximum permissible short term and long term
 6 concentrations of various contaminants of the air, water, or land.

7 (2) Procedures for the administration of a system of permits for:

8 (A) the discharge of any contaminants;

9 (B) the construction, installation, or modification of any:

10 (i) facility;

11 (ii) equipment; or

12 (iii) device;

13 that may be designed to control or prevent pollution; or

14 (C) the operation of any:

15 (i) facility;

16 (ii) equipment; or

17 (iii) device;

18 to control or to prevent pollution.

19 (3) Standards and conditions for the use of any fuel or vehicle
 20 determined to constitute an air pollution hazard.

21 (4) Standards for the filling or sealing of abandoned:

22 (A) water wells;

23 (B) water holes; and

24 (C) drainage holes;

25 to protect ground water against contamination.

26 (5) Alert criteria and abatement standards for pollution episodes
 27 or emergencies constituting an acute danger to health or to the
 28 environment, including priority lists for terminating activities that
 29 contribute to the hazard, whether or not the activities would meet
 30 all discharge requirements of the board under normal conditions.

31 (6) Requirements and procedures for the inspection of any
 32 equipment, facility, vehicle, vessel, or aircraft that may cause or
 33 contribute to pollution.

34 (7) Requirements and standards for equipment and procedures
 35 for:

36 (A) monitoring contaminant discharges at their sources;

37 (B) the collection of samples; and

38 (C) the collection, reporting, and retention, in accordance with
 39 record retention schedules adopted under IC 5-15-5.1, of data
 40 resulting from that monitoring.

41 (8) Standards or requirements to control:

42 (A) the discharge; or



1 (B) the pretreatment;
 2 of contaminants introduced or discharged into publicly owned
 3 treatment works.

4 **(9) Fees, in accordance with IC 13-16-1.**

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

13 SECTION 7. IC 13-15-10-3, AS AMENDED BY P.L.133-2012,
 14 SECTION 109, IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The waste facility
 16 operator trust fund is established. The ~~board~~ **department** shall deposit
 17 fees collected under this chapter in the fund.

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

20 SECTION 8. IC 13-15-10-5, AS AMENDED BY P.L.133-2012,
 21 SECTION 111, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The board shall establish
 23 by rule and cause to be collected fees for the following:

- 24 (1) Examination of applicants for certification.
 25 (2) Issuance, renewal, or transfer of a certificate.
 26 (3) Restoration of an expired certificate when that action is
 27 authorized by law.
 28 (4) Issuance of certificates by reciprocity or endorsement for
 29 out-of-state applicants.
 30 (5) Issuance of board or committee reciprocity or endorsements
 31 for resident practitioners who apply to another state for a
 32 certificate.

33 (b) A fee may not be less than fifty dollars (\$50) unless the fee is
 34 collected under a rule adopted by the board that sets a fee for
 35 miscellaneous expenses incurred by the department on behalf of ~~the~~
 36 operators ~~the board regulates~~ **regulated under rules adopted by the**
 37 **board**. The fees may not be less than are required to pay all of the
 38 costs, both direct and indirect, of the operation of the department under
 39 this chapter, **and are payable to the department in accordance with**
 40 **section 6 of this chapter.**

41 (c) A fee may not be charged to an operator employed by a solid
 42 waste facility that is wholly owned and operated by a unit of local



- 1 government.
- 2 SECTION 9. IC 13-15-10-6, AS AMENDED BY P.L.133-2012,
3 SECTION 112, IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) For the payment of fees
5 under this chapter, the **board department** shall accept **any of the**
6 **following:**
- 7 (1) Cash.
 - 8 (2) A draft.
 - 9 (3) A money order.
 - 10 (4) A cashier's, ~~check,~~ and a certified, or ~~other~~ personal check.
 - 11 (5) **An electronic fund transfer, if the department makes**
12 **payment by this means available.**
- 13 (b) If:
- 14 (1) the **board department** receives an uncertified personal check
15 for the payment of a fee; and
 - 16 (2) the check does not clear the bank;
- 17 the **board department** may void the license, registration, or certificate
18 for which the check was received.
- 19 (c) Unless designated by rule, a fee is not refundable or transferable.
- 20 SECTION 10. IC 13-15-11-1, AS AMENDED BY P.L.133-2012,
21 SECTION 113, IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The environmental
23 management permit operation fund is established for the purpose of
24 providing money for permitting and directly associated activities of the
25 following programs of the department and the board:
- 26 (1) **The** National Pollutant Discharge Elimination System
27 program.
 - 28 (2) **The** solid waste program.
 - 29 (3) **The** hazardous waste program.
 - 30 (4) **The** safe drinking water program.
- 31 (b) **Money in the fund may be used only to pay the direct and**
32 **indirect reasonable costs of the activities referred to in subsection**
33 **(a), including the following:**
- 34 (1) **The preparation of rules and guidance regarding**
35 **implementation and enforcement of the programs listed in**
36 **subsection (a)(1) through (a)(4).**
 - 37 (2) **The review of and action on:**
 - 38 (A) **permit applications;**
 - 39 (B) **permit modifications;**
 - 40 (C) **permit renewals; and**
 - 41 (D) **permit revocations;**
- 42 **under the programs listed in subsection (a)(1) through (a)(4).**



1 **(3) Implementing and enforcing the terms of a permit granted**
 2 **under any of the programs listed in subsection (a)(1) through**
 3 **(a)(4), except for court costs of enforcement actions.**

4 **(4) General administrative costs of operating the programs**
 5 **listed in subsection (a)(1) through (a)(4).**

6 SECTION 11. IC 13-15-11-2 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The
 8 department shall administer the fund. **Revenue that accrues to the**
 9 **fund is continuously appropriated to the department for the**
 10 **purpose set forth in subsection (c).**

11 (b) Expenses of administering the fund shall be paid from money in
 12 the fund.

13 **(c) Money in the fund may be used only to pay the costs**
 14 **incurred by the department in operating the permit programs**
 15 **conducted under:**

16 **(1) IC 13-18-10;**

17 **(2) IC 13-18-20;**

18 **(3) IC 13-18-20.5;**

19 **(4) IC 13-20-21; and**

20 **(5) IC 13-22-12.**

21 SECTION 12. IC 13-15-11-3 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The ~~fund~~
 23 ~~consists of~~ **sources of money for the fund are the following:**

24 **(1) The fees and delinquent charges collected under the**
 25 following:

26 **(A) IC 13-18-10;**

27 ~~(B)~~ **(B) IC 13-18-20.**

28 ~~(C)~~ **(C) IC 13-18-20.5.**

29 ~~(D)~~ **(D) IC 13-20-21.**

30 ~~(E)~~ **(E) IC 13-22-12.**

31 **(2) Appropriations from the general assembly.**

32 SECTION 13. IC 13-16-1-1, AS AMENDED BY P.L.133-2012,
 33 SECTION 114, IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to **all**
 35 fees established under this title. ~~by the board:~~

36 SECTION 14. IC 13-16-1-2, AS AMENDED BY P.L.113-2014,
 37 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 UPON PASSAGE]: Sec. 2. To establish fees or change the amount of
 39 a fee, the board shall:

40 (1) follow the procedure required for the adoption of rules; and

41 (2) take into account:

42 (A) the cost **to the department** of the issuance of a permit, ~~or~~



- 1 license, or approval;
 2 (B) the cost to the department of the performance of services
 3 in connection with the supervision, review, and other
 4 necessary activities related to the ~~area involved~~; permit,
 5 license, or approval;
 6 (C) the cost to the department of the surveillance of the
 7 activity or property covered by the license, ~~or~~ permit, or
 8 approval; and
 9 (D) the cost to the department of amendments,
 10 modifications, and renewals of a permit, license, or
 11 approval; and
 12 ~~(D)~~ (E) fees charged for equivalent permits or licenses
 13 activities in other states.

14 SECTION 15. IC 13-16-1-3, AS AMENDED BY P.L.133-2012,
 15 SECTION 115, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE UPON PASSAGE]: Sec. 3. A fee established by the
 17 board under this chapter title for a type or class of permit:

- 18 (1) may be based on the average of the costs specified in section
 19 2 of this chapter for all permits of that type or class;
 20 (2) may be set at a particular amount in consideration of the
 21 type and amount of discharge or emission to which the permit
 22 relates; and
 23 (3) may not be different in amount for public sector permit
 24 holders than for private sector permit holders, unless the
 25 difference is specifically authorized by the Indiana Code.

26 SECTION 16. IC 13-16-1-4, AS AMENDED BY P.L.133-2012,
 27 SECTION 116, IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The board shall
 29 periodically review the fees established under this chapter title. The
 30 board may set or change the amount of a fee if the board determines,
 31 based upon the factors set forth in section 2 information provided
 32 under subsections (b) and (c) and the provisions of section 3 of this
 33 chapter, that a fee is necessary or that the amount of the a fee is not
 34 appropriate.

35 (b) To assist the board in the periodic review of fees required by
 36 this section, the department shall:

- 37 (1) arrange for an independent study of the costs referred to
 38 in section 2(2)(A) through 2(2)(D) of this chapter;
 39 (2) develop information on fees charged for equivalent
 40 activities in other states, as applicable, as provided in section
 41 2(2)(E) of this chapter; and
 42 (3) periodically develop information on activities, functions,



1 and permits that have been added or eliminated since the
2 previous fee structure was adopted.

3 (c) The department shall:

4 (1) present the information described in subsection (b) to the
5 board for consideration; and

6 (2) if so directed by the board, initiate a rulemaking under
7 IC 13-14-9 to address fees.

8 SECTION 17. IC 13-16-1-5 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **Except as**
10 **provided in subsection (b)**, a fee established by the board under this
11 chapter shall be deposited in the environmental management ~~special~~
12 **permit operation** fund under ~~IC 13-14-12~~ **IC 13-15-11** when the fee
13 is collected.

14 (b) **The fee established under IC 13-17-8-3 shall be deposited in**
15 **the Title V operating permit program trust fund established by**
16 **IC 13-17-8-1 when the fee is collected.**

17 SECTION 18. IC 13-16-1-5.5 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2019]: Sec. 5.5. (a) **All fee amounts set forth**
20 **numerically in this title are minimum amounts. Even if the amount**
21 **of a fee is set forth numerically in this title, the board, under**
22 **sections 2 through 4 of this chapter and subject to section 6 of this**
23 **chapter, may increase the fee to an amount greater than the**
24 **minimum fee amount set forth numerically in this title.**

25 (b) **After the board, under subsection (a), increases the amount**
26 **of a fee to an amount greater than the minimum fee amount set**
27 **forth numerically in this title, the legislative services agency shall**
28 **prepare legislation for introduction in the regular session of the**
29 **general assembly immediately following the board's fee increase to**
30 **remove the fee amount set forth numerically in this title.**

31 SECTION 19. IC 13-16-1-6, AS AMENDED BY P.L.113-2014,
32 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 UPON PASSAGE]: Sec. 6. (a) ~~Notwithstanding sections 1 through 5~~
34 ~~of this chapter or any other law, The board or the department may not:~~
35 ~~do any of the following:~~

36 (1) ~~Except as provided in section 7 of this chapter, set or change~~
37 ~~the amount of a fee established by (A) IC 13-18-20; (B)~~
38 ~~IC 13-20-21; or (C) IC 13-22-12; under this title more than one~~

39 (1) **time in five (5) years; or**

40 (2) ~~Establish an additional fee that was not in effect on January 1,~~
41 ~~1994, concerning the following:~~

42 (A) ~~National Pollutant Discharge Elimination System~~



1 programs:
 2 ~~(B) Solid waste programs:~~
 3 ~~(C) Hazardous waste programs:~~
 4 ~~(3) (2) require payment of a fee for material used as alternate~~
 5 ~~daily cover pursuant to a permit issued by the department under~~
 6 ~~329 IAC 10-20-13.~~

7 **(b) A change in a fee established under this title may not**
 8 **increase the amount of the fee by more ten percent (10%).**

9 SECTION 20. IC 13-17-8-3, AS AMENDED BY P.L.133-2012,
 10 SECTION 122, IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE UPON PASSAGE]: Sec. 3. **In accordance with**
 12 **IC 13-16-1**, the board shall adopt fees to be collected under the
 13 operating permit program. The annual aggregate amount of fees
 14 collected under the operating permit program from all sources subject
 15 to the operating permit program must be sufficient to cover only the
 16 direct and indirect reasonable costs of the following permit program
 17 activities:

- 18 (1) Preparing rules, regulations, and guidance regarding
 19 implementation and enforcement of the program.
 20 (2) Reviewing and acting on the following:
 21 (A) An application for an operating permit.
 22 (B) An operating permit revision.
 23 (C) An operating permit renewal.
 24 (3) The general administrative cost of running the operating
 25 permit program.
 26 (4) Implementing and enforcing the terms of a permit granted
 27 under the operating permit program. However, court costs for
 28 enforcement actions are not included under this subdivision.
 29 (5) Emissions and ambient monitoring.
 30 (6) Modeling analyses and demonstrations.
 31 (7) Preparing inventories and tracking emissions.
 32 (8) Developing and administering a small business stationary
 33 source technical and environmental compliance assistance
 34 program.

35 SECTION 21. IC 13-17-15-4, AS ADDED BY P.L.181-2018,
 36 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2019]: Sec. 4. Drugs confiscated or collected as evidence by
 38 a law enforcement agency may be disposed of and destroyed in any of
 39 the following:

- 40 (1) Portland cement manufacturing kilns regulated under 40 CFR
 41 63, Subpart LLL.
 42 (2) Electric arc furnace steelmaking facilities regulated under:



- 1 (A) 40 CFR 60, Subpart AAa; or
- 2 (B) 40 CFR 63, Subpart YYYYYY.
- 3 (3) Integrated iron and steel manufacturing furnaces regulated
- 4 under 40 CFR 63, Subpart FFFFFF.
- 5 (4) Commercial and industrial solid waste incineration units
- 6 regulated under 40 CFR ~~63~~; **60**, Subpart CCCC or DDDD.
- 7 (5) Hazardous waste combustion units regulated under 40 CFR
- 8 63, Subpart EEE.
- 9 (6) Hospital, medical, and infectious waste incinerators regulated
- 10 under 40 CFR 60, Subpart Ce or Ec.
- 11 (7) Institutional boilers and process heaters regulated under 40
- 12 CFR 63, Subpart DDDDD.
- 13 (8) Small or large municipal waste combustion units regulated
- 14 under:
- 15 (A) 40 CFR 60, Subpart AAAA, BBBB, ~~JJ~~; Ea, Eb, or Cb; or
- 16 (B) **40 CFR 62, Subpart JJJ.**

17 SECTION 22. IC 13-18-12-2.2, AS ADDED BY P.L.107-2016,
 18 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2019]: Sec. 2.2. (a) As used in this section:

- 20 (1) "chemical toilet" has the meaning set forth in 327
- 21 IAC 7.1-2-6; **and**
- 22 (2) "sewage disposal system" has the meaning set forth in 327
- 23 IAC 7.1-2-36; **and**
- 24 (3) ~~"wastewater" has the meaning set forth in 327 IAC 7.1-2-41;~~
- 25 on February 1, 2016.

26 (b) As used in this section, ~~"wastewater "~~**septage** management
 27 vehicle" means a vehicle used for the removal of ~~wastewater~~ **septage**
 28 from sewage disposal systems.

29 (c) Notwithstanding 327 IAC 7.1-6-1, the invoice provided to a
 30 customer by the person who uses a ~~wastewater~~ **septage** management
 31 vehicle to remove ~~wastewater~~ **septage** from the customer's sewage
 32 disposal system need not show:

- 33 (1) the date on which the ~~wastewater~~ **septage** was removed from
- 34 the sewage disposal system; or
- 35 (2) the amount of ~~wastewater~~ **septage** removed from the sewage
- 36 disposal system;

37 if the sewage disposal system from which the ~~wastewater~~ **septage** is
 38 removed is a chemical toilet.

39 SECTION 23. IC 13-18-12-2.5, AS AMENDED BY P.L.133-2012,
 40 SECTION 130, IS AMENDED TO READ AS FOLLOWS
 41 [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) The department and the
 42 board may allow a person to use industrial waste products in a land



1 application operation or as ingredients in a soil amendment or soil
 2 substitute to be land applied if:

- 3 (1) the industrial waste products are not hazardous wastes;
 4 (2) the industrial waste products:
 5 (A) have a beneficial use (as defined in 327 IAC 6.1-2-6); or
 6 (B) otherwise provide a benefit to the process of creating the
 7 soil amendments or soil substitute or to the final soil
 8 amendment, soil substitute, or material to be land applied,
 9 such as bulking;
 10 (3) the finished soil amendment, soil substitute, or material to be
 11 land applied satisfies the applicable criteria in 327 IAC 6.1;
 12 (4) the finished soil amendment, soil substitute, or material to be
 13 land applied has a beneficial use;
 14 (5) the requirements of subsection (b) are satisfied; and
 15 (6) the person pays a permit fee in an amount determined by the
 16 ~~department~~ **under rules adopted by the board** that does not
 17 exceed the costs incurred by the department to issue the permit.

18 (b) The department:

- 19 (1) may allow the use of industrial waste products:
 20 (A) in a land application operation; or
 21 (B) as ingredients in a soil amendment or soil substitute to be
 22 land applied;
 23 on the same basis as other materials under the rules concerning
 24 land application and marketing and distribution permits;
 25 (2) may not:
 26 (A) discriminate against the use of industrial waste products
 27 on the basis that the industrial waste products lack biological
 28 carbon;
 29 (B) impose requirements beyond applicable criteria in 327
 30 IAC 6.1, unless additional requirements are necessary for the
 31 protection of human health and the environment;
 32 (C) require that the finished soil amendment, soil substitute, or
 33 material to be land applied must be of a particular economic
 34 value; or
 35 (D) for any pollutant that has a pollutant limit or concentration
 36 in 327 IAC 6.1, require that an industrial waste product or the
 37 finished soil amendment, soil substitute, or material to be land
 38 applied satisfies:
 39 (i) the department's ~~risk integrated system of closures~~
 40 ~~nonrule policy document;~~ **remediation closure guidance;**
 41 or
 42 (ii) any other standards other than criteria in 327 IAC 6.1;



1 (3) for any pollutant present in the industrial waste products that
 2 does not have a pollutant limit or concentration in 327 IAC 6.1,
 3 shall consider the benefits of the finished soil amendment, soil
 4 substitute, or material to be land applied as compared to the
 5 measurable risks to human health and the environment based on
 6 the anticipated use of the finished soil amendment, soil substitute,
 7 or material to be land applied; and

8 (4) shall require an application for a permit for the land
 9 application of industrial waste products to include
 10 characterization of individual industrial waste products at the
 11 point of waste generation before mixing the waste streams.

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

15 SECTION 24. IC 13-18-12-5, AS AMENDED BY P.L.37-2012,
 16 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 UPON PASSAGE]: Sec. 5. (a) ~~Subject to subsections (b) and (c)~~; The
 18 board may adopt a fee schedule for the issuance of:

19 (1) septage management permits; and

20 (2) land application site approvals;

21 under this chapter **in accordance with IC 13-16-1.**

22 ~~(b) A permit fee may not exceed one hundred dollars (\$100) per~~
 23 ~~year.~~

24 ~~(c) A land application approval fee may not exceed thirty dollars~~
 25 ~~(\$30) per year per site.~~

26 ~~(d)~~ (b) Whenever the board designates a county or city health
 27 agency as the board's agent to approve land application sites under this
 28 chapter, the county or city health agency shall collect and retain the
 29 land application approval fee.

30 SECTION 25. IC 13-18-16-7 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) A person
 32 responsible for the operation of public water systems shall submit:

33 (1) samples of water for analysis; and

34 (2) reports of operation pertaining to the sanitary quality,
 35 chemical quality, or adequacy of water supplied by those systems;
 36 that the commissioner requests. The operator certified under
 37 IC 13-18-11 must verify under oath the reports of operation.

38 (b) **The reports submitted to the department under subsection**
 39 **(a)(2) shall be submitted electronically unless the commissioner**
 40 **authorizes another method of submitting the reports.**

41 SECTION 26. IC 13-18-20-11.5 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. (a) In



1 addition to the fee under section 12 of this chapter, when a person files
2 a notice of intent with the department concerning:

3 (1) an initial; or

4 (2) the renewal of a;

5 general NPDES permit for a CAFO; the person must remit a permit fee
6 of one hundred dollars (\$100) to the department.

7 (b) In addition to the fee under section 12 of this chapter, when a
8 person files an application with the department concerning:

9 (1) an initial NPDES permit for a CAFO; or

10 (2) the renewal of an individual NPDES permit for a CAFO;

11 the person must remit a permit fee of two hundred fifty dollars (\$250)
12 to the department.

13 (c) (b) If a person is subject to a fee for a CAFO under this section,
14 no other fee under this chapter applies to the CAFO other than the fee
15 under section 12 of this chapter.

16 SECTION 27. IC 13-20-3-2 IS REPEALED [EFFECTIVE JULY 1,
17 2019]. Sec. 2: (a) A solid waste hauler that collects solid waste in
18 Indiana and takes the solid waste to a transfer station or final disposal
19 facility outside Indiana shall maintain records for at least one (1) year
20 that identify, for each shipment, the county and state of origin of the
21 largest part of the solid waste by volume:

22 (b) Each solid waste hauler who is required to maintain records
23 under subsection (a) shall file quarterly reports with the department
24 that:

25 (1) state the location of each out-of-state transfer station or final
26 disposal facility; and

27 (2) identify the volume of solid waste from each county and state
28 taken to the transfer station or final disposal facility during the
29 reporting period.

30 SECTION 28. IC 13-20-3-3 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. A hauler that:

32 (1) is required to make a certification or report under section 1 or
33 2 of this chapter concerning the origin of the solid waste; and

34 (2) did not collect the solid waste at the point of origin;

35 may satisfy the requirements of ~~sections~~ **section 1 and 2** of this chapter
36 concerning a certification or report of origin of the solid waste by
37 presenting a certification from the owner or operator of the facility at
38 which the solid waste was picked up that indicates the county and state
39 of origin of the largest part of the solid waste. The department shall
40 establish procedures that allow the use of average figures in making the
41 certification.

42 SECTION 29. IC 13-20-3-4 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. The requirements of
 2 ~~sections section 1 and 2~~ of this chapter do not apply to haulers and
 3 owners or operators engaged in transporting or disposing of solid waste
 4 that is:

- 5 (1) generated by a person; and
 6 (2) disposed of at a site that is:
 7 (A) owned by the person; and
 8 (B) limited, for the purposes of the disposal of solid waste, to
 9 use by the person for the disposal of solid waste generated by
 10 the person.

11 SECTION 30. IC 13-20-22-1, AS AMENDED BY P.L.220-2014,
 12 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2019]: Sec. 1. (a) A fee is imposed on the disposal or
 14 incineration of solid waste in a final disposal facility in Indiana. Except
 15 as provided in section 14 of this chapter, the amount of the fee is as
 16 follows:

17 (1) For solid waste generated in Indiana, ~~and delivered to a final~~
 18 ~~disposal facility in a motor vehicle having a registered gross~~
 19 ~~vehicle weight greater than nine thousand (9,000) pounds, fifty~~
 20 cents (\$0.50) a ton.

21 (2) For solid waste generated outside Indiana: ~~and delivered to a~~
 22 ~~final disposal facility in a motor vehicle having a registered gross~~
 23 ~~vehicle weight greater than nine thousand (9,000) pounds:~~

24 (A) fifty cents (\$0.50) a ton; and

25 (B) if the board has adopted rules under subsection ~~(e)~~; ~~(b)~~, an
 26 additional amount imposed under the rules.

27 ~~(3) For solid waste generated in Indiana or outside Indiana and~~
 28 ~~delivered to a final disposal facility in:~~

29 ~~(A) a motor vehicle having a registered gross vehicle weight~~
 30 ~~of not more than nine thousand (9,000) pounds; or~~

31 ~~(B) a passenger motor vehicle (as defined in IC 9-13-2-123);~~
 32 ~~fifty cents (\$0.50) for each load delivered by the motor vehicle.~~

33 (b) The board may adopt rules to establish and impose a fee on the
 34 disposal or incineration of solid waste that is:

35 (1) generated outside Indiana; and

36 (2) disposed of or incinerated in a final disposal facility in
 37 Indiana.

38 If rules are adopted under this subsection, the fee shall be set at an
 39 amount necessary to offset the costs incurred by the state or a county,
 40 municipality, or township that can be attributed to the importation of
 41 the solid waste into Indiana and the presence of the solid waste in
 42 Indiana.



1 (c) Revenue from fees collected under subsection (a)(1) and
 2 (a)(2)(A) shall be deposited in the state solid waste management fund
 3 established by section 2 of this chapter. Revenue from fees collected
 4 under subsection (a)(2)(B) shall be deposited in the hazardous
 5 substances response trust fund established by IC 13-25-4-1, except that
 6 any part of the revenue that the board finds is necessary to offset costs
 7 incurred by counties, municipalities, and townships shall be distributed
 8 to solid waste management districts pro rata on the basis of the district's
 9 population.

10 (d) (c) If solid waste has been subject to a fee under this section, the
 11 total amount of the fee paid shall be credited against any other fee to
 12 which the solid waste may later be subject under this section.

13 (e) (d) A fee may not be imposed upon material used as alternate
 14 daily cover pursuant to a permit issued by the department under 329
 15 IAC 10-20-13.

16 SECTION 31. IC 13-20-22-12, AS AMENDED BY P.L.220-2014,
 17 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2019]: Sec. 12. ~~Each month~~ The department shall deposit the
 19 following **on a quarterly basis**:

20 (1) Not less than fifty percent (50%) of the revenue from the fee
 21 imposed under section 1(a)(1) of this chapter into the Indiana
 22 recycling promotion and assistance fund established ~~in~~ **by**
 23 IC 4-23-5.5-14.

24 (2) Not more than fifty percent (50%) of the revenue from the fee
 25 imposed under section 1(a)(1) of this chapter into the **state solid**
 26 **waste management fund established by section 2 of this**
 27 **chapter.**

28 (3) The revenue from the fee imposed under section 1(a)(2) of
 29 this chapter into the hazardous substance response trust fund
 30 established by IC 13-25-4-1.

31 SECTION 32. IC 13-22-12-6 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. Hazardous waste
 33 annual operation fees begin accruing January 1 each year. The
 34 department shall assess the fees not later than ~~January~~ **June** 15 of that
 35 year.

36 SECTION 33. IC 13-23-8-4, AS AMENDED BY P.L.96-2016,
 37 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2019]: Sec. 4. (a) The administrator shall pay ELTF claims
 39 that are:

40 (1) for costs related to eligible releases;

41 (2) submitted by eligible parties; and

42 (3) submitted in accordance with IC 13-23-8 and IC 13-23-9.



1 (b) An eligible party may assign the right to receive payment of an
2 ELTF claim to another person.

3 (c) **Not more than forty-five (45) business days after an ELTF**
4 **claim is submitted, the administrator shall do one (1) of the**
5 **following:**

6 (1) **Approve the ELTF claim and, under IC 13-23-9-2(c),**
7 **forward the ELTF claim to the auditor of state for payment.**

8 (2) **Send to the claimant a written notice that:**

9 (A) **states that a correction, a clarification, or additional**
10 **information is needed before the ELTF claim can be**
11 **approved; and**

12 (B) **provides a clear explanation:**

13 (i) **of the correction, clarification, or additional**
14 **information that is needed; and**

15 (ii) **of why it is needed.**

16 (3) **Deny the claim and provide the claimant with a statement**
17 **of the reasons for the denial under IC 13-23-9-2(b).**

18 SECTION 34. [EFFECTIVE UPON PASSAGE] (a) **The**
19 **environmental rules board shall, before January 1, 2022, adopt**
20 **rules under IC 4-22-2 and IC 13-14-9 to increase the amount of the**
21 **fees referred to in subsections (c) and (d). The fee increase under**
22 **this SECTION shall be in accordance with IC 13-16-1, as amended**
23 **by this act, except as provided in subsection (e).**

24 (b) **The board shall increase the fees referred to in subsections**
25 **(c) and (d) only one (1) time under this SECTION.**

26 (c) **The board shall increase the fees established by:**

27 (1) **IC 13-18-10;**

28 (2) **IC 13-18-20;**

29 (3) **IC 13-18-20.5;**

30 (4) **IC 13-20-21; and**

31 (5) **IC 13-22-12;**

32 **to the extent calculated to cause annual aggregate fee revenue after**
33 **the fee increase under this subsection to be three million two**
34 **hundred thousand dollars (\$3,200,000) greater than the aggregate**
35 **fee revenue actually received in the year immediately preceding the**
36 **fee increase under this subsection from the fees established by the**
37 **statutes listed in subdivisions (1) through (5).**

38 (d) **The board shall increase the fees established by IC 13-17-8**
39 **to the extent calculated to cause annual aggregate fee revenue after**
40 **the fee increase under this subsection to be two million dollars**
41 **(\$2,000,000) greater than the aggregate fee revenue actually**
42 **received from the fees established by IC 13-17-8 in the year**



1 **immediately preceding the fee increase under this subsection. The**
2 **fee increase under this subsection shall occur in accordance with**
3 **the requirements of 326 IAC 2-1.1-7(b)(1) and 326 IAC 2-7-19.**
4 **(e) Notwithstanding IC 13-16-1-6(b), as added by this act, a fee**
5 **may be increased under this SECTION by more than ten percent**
6 **(10%).**
7 **(f) This SECTION expires on the earlier of the following:**
8 **(1) The effective date of the rules adopted under this**
9 **SECTION.**
10 **(2) January 1, 2022.**
11 **SECTION 35. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1278, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1278 as introduced.)

WOLKINS

Committee Vote: Yeas 12, Nays 0

HOUSE MOTION

Mr. Speaker: I move that House Bill 1278 be amended to read as follows:

Page 2, line 21, delete "42" and insert "**40**".

(Reference is to HB 1278 as printed February 1, 2019.)

WOLKINS

HOUSE MOTION

Mr. Speaker: I move that House Bill 1278 be amended to read as follows:

Page 5, after line 32, begin a new paragraph and insert:

"SECTION 13. IC 16-44-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019] Sec. 8. (a) The inspections and tests made by the state department under this chapter shall be conducted in accordance with the methods outlined by the American Society for Testing and Materials.

(b) The inspections and tests as to gasoline, gasohol, and kerosene must reflect the following minimum specifications necessary for the approval of the product:

(1) Gasoline or gasohol:

(A) Corrosion Test – Method ASTM D-130. A clean copper strip may not show more than extremely slight discoloration when submerged in the gasoline for three (3) hours at one hundred twenty-two (122) degrees Fahrenheit.

(B) Distillation Range – Method ASTM D-86. When the



thermometer reads one hundred sixty-seven (167) degrees Fahrenheit, not less than ten percent (10%) may be evaporated. When the thermometer reads two hundred eighty-four (284) degrees Fahrenheit, not less than fifty percent (50%) may be evaporated. When the thermometer reads three hundred ninety-two (392) degrees Fahrenheit, not less than ninety percent (90%) may be evaporated. The residue may not exceed two percent (2%). Percent evaporated is found by adding the distillation loss to the amount collected in the receiver at each specification temperature.

(C) Sulphur – Method ASTM D-1266 or D-2622. Sulphur may not exceed twenty-five hundredths of one percent (0.25%).

(D) Vapor Pressure – Method ASTM D-4953, ASTM D-5191, or any other ASTM method to determine vapor pressure approved by the United States Environmental Protection Agency. For gasoline, the Reid vapor pressure at one HUNDRED (100) degrees Fahrenheit may not exceed the following:

(i) Fifteen (15) pounds per square inch at the normal barometric pressure at the point of delivery during November, December, January, February, and March.

(ii) ~~Fourteen (14)~~ **Thirteen and five-tenths (13.5)** pounds per square inch during April and October.

(iii) Eleven and five-tenths (11.5) pounds per square inch during September 16 through September 30.

~~(iii) (iv) Twelve (12)~~ **Nine (9)** pounds per square inch during May, June, July, August, and September **1 through September 15, as regulated by the United States Environmental Protection Agency.**

(v) Compliant conventional gasoline under 326 IAC 13: Rule 3 is subject to more stringent vapor pressure requirements.

(E) For gasohol (a blend of gasoline and alcohol permitted under federal tax requirements), the vapor pressure may not exceed the following:

(i) Sixteen (16) pounds per square inch during November, December, January, February, and March.

(ii) ~~Fifteen (15)~~ **Fourteen and five-tenths (14.5)** pounds per square inch during April and October.

(iii) Twelve and five-tenths (12.5) pounds per square inch during September 16 through September 30.

~~(iii) (iv) Thirteen (13)~~ **Ten (10)** pounds per square inch



during May, June, July, August, and September **1 through September 15, as regulated by the United States Environmental Protection Agency.**

(v) Compliant conventional gasoline under 326 IAC 13: Rule 3 and federal reformulated gasoline is subject to more stringent vapor pressure requirements.

(F) After July 23, 2004, gasoline may not contain more than one-half percent (0.5%) of MTBE by volume.

(2) Kerosene:

(A) Flash Test – Method ASTM D-56. Flash point may not be lower than one hundred (100) degrees Fahrenheit.

(B) For the purpose of this chapter, any petroleum product designated by name or reference as "kerosene" must meet the federal specifications for kerosene VV-K-211d in effect on March 1, 1977.

(c) Gasoline, gasohol, and kerosene products that do not comply with the minimum specifications described in subsection (b) may not be sold, offered for sale, or used in Indiana.

(d) Petroleum products other than gasoline, gasohol, or kerosene shall be inspected and tested by the methods as are necessary to determine the contents and characteristics of the product."

(Reference is to HB 1278 as printed February 1, 2019.)

WOLKINS

COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred House Bill No. 1278, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

Page 1, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 4. IC 13-14-8-7, AS AMENDED BY P.L.133-2012, SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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:

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- (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.



(9) Fees, in accordance with IC 13-16-1.

(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.

SECTION 5. IC 13-15-10-3, AS AMENDED BY P.L.133-2012, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The waste facility operator trust fund is established. The ~~board~~ **department** 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.

SECTION 6. IC 13-15-10-5, AS AMENDED BY P.L.133-2012, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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.~~ **regulated under rules adopted by the board.** 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, **and are payable to the department in accordance with section 6 of 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.

SECTION 7. IC 13-15-10-6, AS AMENDED BY P.L.133-2012, SECTION 112, IS AMENDED TO READ AS FOLLOWS



[EFFECTIVE UPON PASSAGE]: Sec. 6. (a) For the payment of fees under this chapter, the ~~board~~ **department** shall accept **any of the following**:

- (1) Cash.
- (2) A draft.
- (3) A money order.
- (4) A cashier's, ~~check,~~ and a certified, or ~~other~~ personal check.
- (5) **An electronic fund transfer, if the department makes payment by this means available.**

(b) If:

- (1) the ~~board~~ **department** receives an uncertified personal check for the payment of a fee; and
- (2) the check does not clear the bank;

the ~~board~~ **department** 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.

SECTION 8. IC 13-15-11-1, AS AMENDED BY P.L.133-2012, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) 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) **The** National Pollutant Discharge Elimination System program.
- (2) **The** solid waste program.
- (3) **The** hazardous waste program.
- (4) **The** safe drinking water program.

(b) **Money in the fund may be used only to pay the direct and indirect reasonable costs of the activities referred to in subsection (a), including the following:**

- (1) **The preparation of rules and guidance regarding implementation and enforcement of the programs listed in subsection (a)(1) through (a)(4).**
- (2) **The review of and action on:**
 - (A) **permit applications;**
 - (B) **permit modifications;**
 - (C) **permit renewals; and**
 - (D) **permit revocations;**

under the programs listed in subsection (a)(1) through (a)(4).

- (3) **Implementing and enforcing the terms of a permit granted under any of the programs listed in subsection (a)(1) through (a)(4), except for court costs of enforcement actions.**



(4) General administrative costs of operating the programs listed in subsection (a)(1) through (a)(4).

SECTION 9. IC 13-15-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The department shall administer the fund. **Revenue that accrues to the fund is continuously appropriated to the department for the purpose set forth in subsection (c).**

(b) Expenses of administering the fund shall be paid from money in the fund.

(c) Money in the fund may be used only to pay the costs incurred by the department in operating the permit programs conducted under:

- (1) IC 13-18-10;**
- (2) IC 13-18-20;**
- (3) IC 13-18-20.5;**
- (4) IC 13-20-21; and**
- (5) IC 13-22-12.**

SECTION 10. IC 13-15-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. ~~The fund~~ **consists of sources of money for the fund are the following:**

(1) The fees and delinquent charges collected under the following:

- (A) IC 13-18-10;**
- ~~(B) IC 13-18-20.~~
- ~~(C) IC 13-18-20.5.~~
- ~~(D) IC 13-20-21.~~
- ~~(E) IC 13-22-12.~~

(2) Appropriations from the general assembly.

SECTION 11. IC 13-16-1-1, AS AMENDED BY P.L.133-2012, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to **all** fees established under this title. ~~by the board.~~

SECTION 12. IC 13-16-1-2, AS AMENDED BY P.L.113-2014, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 **to the department** of the issuance of a permit, ~~or~~ license, **or approval;**
 - (B) the cost **to the department** of the performance of services in connection with the supervision, review, and other



necessary activities related to the ~~area involved~~; **permit, license, or approval;**

(C) the cost **to the department** of the surveillance of the activity or property covered by the license, ~~or permit, or approval;~~ **and**

(D) the cost to the department of amendments, modifications, and renewals of a permit, license, or approval; and

~~(E)~~ **(E) fees charged for equivalent permits or licenses activities** in other states.

SECTION 13. IC 13-16-1-3, AS AMENDED BY P.L.133-2012, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A fee established ~~by the board~~ under this ~~chapter title~~ for a type or class of permit:

(1) may be based on the average of the costs specified in section 2 of this chapter for all permits of that type or class;

(2) may be set at a particular amount in consideration of the type and amount of discharge or emission to which the permit relates; and

(3) may not be different in amount for public sector permit holders than for private sector permit holders, unless the difference is specifically authorized by the Indiana Code.

SECTION 14. IC 13-16-1-4, AS AMENDED BY P.L.133-2012, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a)** The board shall periodically review the fees established under this ~~chapter title~~. The board may ~~set or change the amount of~~ a fee if the board determines, based upon the ~~factors set forth in section 2~~ **information provided under subsections (b) and (c) and the provisions of section 3** of this chapter, that ~~a fee is necessary or that the amount of the~~ **a fee is not appropriate.**

(b) To assist the board in the periodic review of fees required by this section, the department shall:

(1) arrange for an independent study of the costs referred to in section 2(2)(A) through 2(2)(D) of this chapter;

(2) develop information on fees charged for equivalent activities in other states, as applicable, as provided in section 2(2)(E) of this chapter; and

(3) periodically develop information on activities, functions, and permits that have been added or eliminated since the previous fee structure was adopted.

(c) The department shall:



- (1) present the information described in subsection (b) to the board for consideration; and**
- (2) if so directed by the board, initiate a rulemaking under IC 13-14-9 to address fees.**

SECTION 15. IC 13-16-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a) Except as provided in subsection (b), a fee established by the board under this chapter shall be deposited in the environmental management special permit operation fund under ~~IC 13-14-12~~ IC 13-15-11** when the fee is collected.

(b) The fee established under IC 13-17-8-3 shall be deposited in the Title V operating permit program trust fund established by IC 13-17-8-1 when the fee is collected.

SECTION 16. IC 13-16-1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5.5. **(a) All fee amounts set forth numerically in this title are minimum amounts. Even if the amount of a fee is set forth numerically in this title, the board, under sections 2 through 4 of this chapter and subject to section 6 of this chapter, may increase the fee to an amount greater than the minimum fee amount set forth numerically in this title.**

(b) After the board, under subsection (a), increases the amount of a fee to an amount greater than the minimum fee amount set forth numerically in this title, the legislative services agency shall prepare legislation for introduction in the regular session of the general assembly immediately following the board's fee increase to remove the fee amount set forth numerically in this title.

SECTION 17. IC 13-16-1-6, AS AMENDED BY P.L.113-2014, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. **(a) 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, set or change the amount of a fee established by (A) ~~IC 13-18-20~~; (B) ~~IC 13-20-21~~; or (C) ~~IC 13-22-12~~; under this title more than one (1) time in five (5) years; or**
- (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) (2) 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.

(b) A change in a fee established under this title may not increase the amount of the fee by more ten percent (10%).

SECTION 18. IC 13-17-8-3, AS AMENDED BY P.L.133-2012, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **In accordance with IC 13-16-1**, 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."

Page 3, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 20. IC 13-18-12-2.5, AS AMENDED BY P.L.133-2012, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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~~ **under rules adopted by the board** 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;~~ **remediation closure guidance;** 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.

SECTION 21. IC 13-18-12-5, AS AMENDED BY P.L.37-2012, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 **in accordance with IC 13-16-1.**

~~(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) (b) 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."~~

Page 3, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 23. IC 13-18-20-11.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 **NPDES permit for a CAFO**; 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) (b) 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."~~

Page 5, between lines 32 and 33, begin a new paragraph and insert:



"SECTION 13. IC 13-23-8-4, AS AMENDED BY P.L.96-2016, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) The administrator shall pay ELTF claims that are:

- (1) for costs related to eligible releases;
- (2) submitted by eligible parties; and
- (3) submitted in accordance with IC 13-23-8 and IC 13-23-9.

(b) An eligible party may assign the right to receive payment of an ELTF claim to another person.

(c) Not more than forty-five (45) business days after an ELTF claim is submitted, the administrator shall do one (1) of the following:

- (1) Approve the ELTF claim and, under IC 13-23-9-2(c), forward the ELTF claim to the auditor of state for payment.**
- (2) Send to the claimant a written notice that:**
 - (A) states that a correction, a clarification, or additional information is needed before the ELTF claim can be approved; and**
 - (B) provides a clear explanation:**
 - (i) of the correction, clarification, or additional information that is needed; and**
 - (ii) of why it is needed.**

(3) Deny the claim and provide the claimant with a statement of the reasons for the denial under IC 13-23-9-2(b)."

Page 7, after line 24, begin a new paragraph and insert:

"SECTION 30. [EFFECTIVE UPON PASSAGE] (a) The environmental rules board shall, before January 1, 2022, adopt rules under IC 4-22-2 and IC 13-14-9 to increase the amount of the fees referred to in subsections (c) and (d). The fee increase under this SECTION shall be in accordance with IC 13-16-1, as amended by this act, except as provided in subsection (e).

(b) The board shall increase the fees referred to in subsections (c) and (d) only one (1) time under this SECTION.

(c) The board shall increase the fees established by:

- (1) IC 13-18-10;
- (2) IC 13-18-20;
- (3) IC 13-18-20.5;
- (4) IC 13-20-21; and
- (5) IC 13-22-12;

to the extent calculated to cause annual aggregate fee revenue after the fee increase under this subsection to be two million two hundred thousand dollars (\$2,200,000) greater than the aggregate



fee revenue actually received in the year immediately preceding the fee increase under this subsection from the fees established by the statutes listed in subdivisions (1) through (5).

(d) The board shall increase the fees established by IC 13-17-8 to the extent calculated to cause annual aggregate fee revenue after the fee increase under this subsection to be two million dollars (\$2,000,000) greater than the aggregate fee revenue actually received from the fees established by IC 13-17-8 in the year immediately preceding the fee increase under this subsection. The fee increase under this subsection shall occur in accordance with the requirements of 326 IAC 2-1.1-7(b)(1) and 326 IAC 2-7-19.

(e) Notwithstanding IC 13-16-1-6(b), as added by this act, a fee may be increased under this SECTION by more than ten percent (10%).

(f) This SECTION expires on the earlier of the following:

(1) The effective date of the rules adopted under this SECTION.

(2) January 1, 2022.

SECTION 31. An emergency is declared for this act."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1278 as reprinted February 15, 2019.)

MESSMER, Chairperson

Committee Vote: Yeas 11, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1278 be amended to read as follows:

Page 1, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 4. IC 13-13-8-4, AS ADDED BY P.L.133-2012, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) The board consists of the following ~~sixteen~~ **fourteen (14)** members:

(1) The following ~~ex officio~~ members: (A) The commissioner. The commissioner, or the commissioner's designee, **who** serves as a nonvoting member of the board.

~~(B) The commissioner of the state department of health.~~

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- (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)~~ **thirteen (13)** 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) One (1) representative of the RESIDENTIAL or commercial construction industry.
~~(K) Two (2)~~ **Three (3)** representatives of the general public who cannot qualify to sit for membership on the board under any of the other clauses in this subdivision: **(A) through (J).**

(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.

SECTION 5. IC 13-13-8-5 IS REPEALED [EFFECTIVE JULY 1, 2019]. 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."

Page 17, line 24, delete "two million" and insert "**three million**".

Page 17, line 25, delete "\$2,200,000" and insert "**(\$3,200,000)**".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1278 as printed April 3, 2019.)

MESSMER



SENATE MOTION

Madam President: I move that Engrossed House Bill 1278, which is eligible for third reading, be returned to second reading for purposes of amendment.

MESSMER

 SENATE MOTION

Madam President: I move that Engrossed House Bill 1278 be amended to read as follows:

Page 2, line 1, delete "fourteen (14)" and insert "**eighteen (18)**".

Page 2, delete lines 2 through 4, begin a new line block indented and insert:

"(1) The following ex officio members:

(A) ~~The commissioner.~~ The commissioner, or the commissioner's designee, **who** serves as a nonvoting member of the board."

Page 2, reset in roman lines 5 through 8.

Page 2, delete lines 33 through 37, begin a new paragraph and insert:

"SECTION 5. IC 13-13-8-9, AS ADDED BY P.L.133-2012, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. ~~Eight (8)~~ **Nine (9)** members of the board, ~~five (5)~~ **six (6)** of whom must be appointed members of the board, constitute a quorum. A quorum must be present to transact business at a meeting of the board. Meetings of the board are subject to the public meeting requirements under IC 5-14-1.5."

Page 16, delete lines 15 through 42.

Delete page 17.

Page 18, delete lines 1 through 6.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1278 as reprinted April 10, 2019.)

MESSMER

