

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 2016 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1495

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AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 4-23-5.5-2, AS AMENDED BY P.L.204-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) The Indiana recycling market development board is created and constitutes a public instrumentality of the state. The exercise by the board of the powers conferred by this chapter is an essential governmental function.

(b) The board consists of nine (9) members, one (1) of whom shall be the lieutenant governor or the lieutenant governor's designee and eight (8) of whom shall be appointed by the governor for four (4) year terms. The governor's appointees shall be chosen from among representatives of:

- (1) the waste management industry;
- (2) the recycling industry;
- (3) Indiana universities and colleges with expertise in recycling research and development;
- (4) industrial and commercial consumers of recycled feedstock;
- (5) environmental groups; and
- (6) private citizens with a special interest in recycling.

No more than four (4) ~~appointive~~ **appointed** members shall be of the same political party.

(c) A vacancy in the office of an ~~appointive~~ **appointed** member, other than by expiration, shall be filled in like manner as the original appointment for the remainder of the term of that retiring member.



Appointed members may be removed by the governor for cause.

(d) The board shall have seven (7) ex officio advisory members as follows:

- (1) The governor.
- (2) The director of the department of natural resources.
- (3) The commissioner of the department of environmental management.
- (4) Two (2) members from the house of representatives of opposite political parties appointed by the speaker of the house of representatives for two (2) year terms.
- (5) Two (2) members from the senate of opposite political parties appointed by the president pro tempore of the senate for two (2) year terms.

(e) The division shall serve as the staff of the board.

**(f) An ex officio advisory member identified in subsection (d) may, in writing, designate a representative to serve in an advisory capacity when the ex officio member is unable to attend a board meeting.**

SECTION 2. IC 13-11-2-172.1, AS AMENDED BY P.L.37-2012, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 172.1. "Program year", for purposes of IC 13-20.5, has the meaning set forth in ~~IC 13-20.5-1-1.~~ **IC 13-20.5-1-0.5.**

SECTION 3. IC 13-20-10-1, AS AMENDED BY P.L.199-2014, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) This chapter applies to composting (as defined in IC 13-11-2-38) of vegetative matter and other organic material.

(b) This chapter does not apply to the following:

- (1) A person who conducts a composting operation ~~at~~ **on** the person's ~~residence or farm property~~ for vegetative matter and other types of organic material that are ~~(A)~~ generated by the person's activities. ~~and~~

~~(B) stored, treated, or disposed of at the person's residence or farm.~~

- (2) A person who conducts a composting operation ~~that processes in an area of less than two thousand (2,000) pounds of vegetative matter during a year.~~ **three hundred (300) square feet.**

- (3) Temporary ~~stores~~ **storage** of vegetative matter where only an incidental amount of composting will occur before removal of the matter.

SECTION 4. IC 13-20-10-4, AS AMENDED BY P.L.199-2014, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2017]: Sec. 4. **(a)** Except as provided in sections 5 and 6 of this chapter, the active area of a composting facility ~~(1)~~ may not be located ~~(A)~~ within:

**(1)** two hundred (200) feet of a well that supplies potable water; or

~~(B)~~ **(2)** within two hundred (200) feet of a residential structure that exists at the time that the composting facility initially registers under this chapter.

**(b) A composting facility:**

~~(2)~~ **(1)** must be located outside the ten (10) year floodplain, except for a **composting** facility that is either:

(A) operated in conjunction with a publicly owned works permitted under IC 13-15-3; or

(B) designed and operated to **provide adequate controls** to prevent ground or surface water contamination in the event of a ten (10) year flood; ~~occurs;~~

~~(3)~~ **(2)** must be designed and operated to **prevent ground water and surface water contamination from:**

(A) ~~prevent compost from being placed within five (5) feet of a water table or provide adequate controls to prevent ground or surface water contamination;~~ **stormwater; and**

(B) ~~adequately control leachate runoff from the composting facility; and~~

~~(C) manage leachate that is generated by the composting facility; and~~

**(3) must not locate compost within five (5) feet of the seasonal high water table unless the composting facility provides adequate controls to prevent ground water or surface water contamination; and**

**(4) must include provide controls for the following:**

(A) Dust.

(B) Odor.

(C) Noise.

**(c) If compost material that contains food waste is present in a composting facility, the composting facility must provide controls for vectors and pathogens in addition to the controls required by subsection (b)(4).**

SECTION 5. IC 13-20.5-1-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 0.5. As used in this chapter, "program year" means a calendar year.**

SECTION 6. IC 13-20.5-1-1, AS AMENDED BY P.L.37-2012,



SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) "Program year", for purposes of this chapter, means a calendar year.

~~(b)~~ **(a)** A manufacturer of video display devices **that are** sold or offered for sale to households as of January 1 2010; **of a program year** shall submit a registration to the department not later than ~~(1) April March 1 2010; for the of that~~ program year. **that begins on April 1;** 2010; and

~~(2)~~ each immediately succeeding January 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that January 1.

~~(c)~~ A manufacturer that begins to sell or offer for sale video display devices to households after 2009 and before April 1, 2010; shall submit a registration to the department not later than:

~~(1)~~ April 20, 2010; for the program year that begins on April 1, 2010; and

~~(2)~~ each immediately succeeding January 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that January 1.

~~(d)~~ **(b)** A manufacturer **of video display devices** that begins to sell or offer **begin to be sold or offered** for sale video display devices to households after ~~March 31, 2010; January 1 of a program year~~ shall submit a registration to the department not later than:

(1) twenty (20) days after the date **on which the manufacturer's video display devices manufacturer begins to sell begin to be sold or offer offered** for sale, ~~the video display devices~~ for the program year in which the ~~manufacturer begins to sell or offer for sale the manufacturer's~~ video display devices **begin to be sold or offered for sale to households;** and

(2) ~~each immediately for~~ succeeding January 1 ~~on program years in~~ which the manufacturer continues as a manufacturer of video display devices **that are** sold or offered for sale to households, ~~for the program year that begins on that January 1. on the date specified in subsection (a).~~

~~(e)~~ **(c)** A registration submitted under this section must include the following:

(1) A list of the brands of video display devices **of the manufacturer that are** offered for sale in Indiana, ~~by the manufacturer;~~ regardless of whether the manufacturer owns or licenses the brand.



(2) The name, address, and contact information of a person responsible for ensuring compliance with this article. The department shall post the contact information provided by each manufacturer **under this subdivision** on an Internet web site.

(3) A certification that the manufacturer or the manufacturer's agent has complied and will continue to comply with the requirements of this article.

(4) An estimate, based on national sales data, of the total weight in pounds of the manufacturer's video display devices **that have been** sold to households during the most recent twelve (12) months:

(A) that precede the date of registration; and

(B) for which that data is available.

(5) A demonstration of how the manufacturer plans, in the program year for which the registration is submitted, to meet the recycling goal stated in IC 13-20.5-4-1.

(6) A statement that discloses whether:

(A) any video display devices ~~sold by~~ of the manufacturer **that have been sold** to households exceed the maximum concentration values established:

(i) for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (pbbs), and polybrominated diphenyl ethers (pbdes); and

(ii) under the directive restricting the use of certain hazardous substances in electrical and electronic equipment (RoHS Directive) 2002/95/EC of the European Parliament and Council, as amended; or

(B) the manufacturer has received an exemption from any of the maximum concentration values under the RoHS Directive that has been approved and published by the European Commission.

⊕ (d) A manufacturer shall update the manufacturer's registration under this section not more than ten (10) days after the date **on which** the manufacturer changes the brand or brands of video display devices **of the manufacturer sells or offers that are sold or offered** for sale to households.

SECTION 7. IC 13-20.5-1-4, AS AMENDED BY P.L.37-2012, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) ~~After 2009~~, A person may not operate as a collector of covered electronic devices from covered entities unless the person:

(1) has submitted to the department a completed registration form



as required by 329 IAC 16-5-1; and

(2) otherwise complies with 329 IAC 16.

(b) A registration submitted under this section:

(1) is effective upon receipt by the department; and

(2) must be submitted **for a program year** not later than ~~November~~ **March 1** ~~for of the next~~ program year.

SECTION 8. IC 13-20.5-1-5, AS AMENDED BY P.L.37-2012, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) ~~After 2009~~, A person may not recycle covered electronic devices generated by covered entities unless the person:

(1) has submitted to the department a completed registration form as required by 329 IAC 16-5-1; and

(2) otherwise complies with 329 IAC 16.

(b) A registered recycler may conduct recycling activities that are consistent with this article.

(c) A registration submitted under this section:

(1) is effective upon receipt by the department; and

(2) must be submitted **for a program year** not later than ~~November~~ **March 1** ~~for of the next~~ program year.

SECTION 9. IC 13-20.5-2-1, AS AMENDED BY P.L.147-2015, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) Except as provided in subsection (g), a manufacturer that registers under IC 13-20.5-1 shall pay to the department at the time of registration an annual registration fee. The registration fee applies for the program year for which the registration is submitted to the department. The department shall deposit the fee in the electronic waste fund established by section 3 of this chapter.

(b) The registration fee for the initial program year to which the fee applies under subsection (a) is five thousand dollars (\$5,000). For each program year thereafter, the registration fee is equal to two thousand five hundred dollars (\$2,500).

(c) In addition to the registration fee under subsection (a), a manufacturer that registers under IC 13-20.5-1 and fails to meet the recycling goal under IC 13-20.5-4-1 is subject to a variable recycling fee for each program year that ends on March 31 of 2013 or December 31 of a later year. Not later than September 1, the department shall provide a statement to each manufacturer liable for the variable recycling fee that states at least the following:

(1) The amount of the fee determined under subsection (d).

(2) The method of calculation of the fee.

(3) The due date of the fee.



(4) The opportunity to petition under section 2 of this chapter. The department shall deposit the fee in the Indiana recycling promotion and assistance fund established by IC 4-23-5.5-14.

(d) The amount of the variable recycling fee, if applicable, is the amount determined in STEP FOUR of the following formula:

STEP ONE: Multiply the number of pounds of the manufacturer's video display devices sold to households during the immediately preceding program year, as reported in the manufacturer's registration for the program year under ~~IC 13-20.5-1-1(c)(4)~~, **IC 13-20.5-1-1(c)(4)**, by the proportion of sales of video display devices required to be recycled under IC 13-20.5-4-1.

STEP TWO: Subject to subsection (e), add the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under IC 13-20.5-3-1(a), to the number of recycling credits the manufacturer elects to use to calculate the variable recycling fee, as reported to the department under IC 13-20.5-3-1(b)(2).

STEP THREE: Subtract the number of pounds determined in STEP TWO from the number of pounds determined in STEP ONE.

STEP FOUR: Multiply the greater of zero (0) or the number of pounds determined in STEP THREE by the per pound cost of recycling established as follows:

(A) Forty cents (\$0.40) per pound for manufacturers that recycle less than fifty percent (50%) of the number of pounds determined in STEP ONE.

(B) Thirty cents (\$0.30) per pound for manufacturers that recycle at least fifty percent (50%) but less than ninety percent (90%) of the number of pounds determined in STEP ONE.

(C) Twenty cents (\$0.20) per pound for manufacturers that recycle at least ninety percent (90%) of the number of pounds determined in STEP ONE.

(e) The following apply to the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year for purposes of subsection (d), STEP TWO:

(1) Except as provided in subdivision (3), the number is multiplied by one and one-tenth (1.1) to the extent that the covered electronic devices were recycled in Indiana.

(2) Except as provided in subdivision (3), the number is multiplied by one and five-tenths (1.5) to the extent that the



covered electronic devices were recycled from covered entities not located in a metropolitan statistical area, as defined by the federal Office of Management and Budget.

(3) The number is multiplied by one and six-tenths (1.6) to the extent that the covered electronic devices were:

- (A) recycled from covered entities not located in a metropolitan statistical area, as defined by the federal Office of Management and Budget; and
- (B) recycled in Indiana.

(f) A manufacturer may retain recycling credits to be added, in whole or in part, to the actual number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under IC 13-20.5-3-1(a), during any of the three (3) immediately succeeding program years. A manufacturer may sell all or any part of its recycling credits to another manufacturer, at a price negotiated by the parties, and the other manufacturer may use the credits in the same manner. ~~For purposes of this subsection, the recycling credits for the program year that begins April 1, 2010, are determined taking into account covered electronic devices that the manufacturer recycled, or arranged to have collected and recycled, both:~~

- ~~(1) in that program year; and~~
- ~~(2) after June 30, 2009, and before April 1, 2010.~~

(g) A manufacturer may not be charged a registration fee or a variable recycling fee for any year in which the combined number of video display devices produced by the manufacturer for sale to households is less than one hundred (100).

SECTION 10. IC 13-20.5-3-1, AS AMENDED BY P.L.147-2015, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) Not later than ~~June~~ **March** 1 of ~~2011~~ **and of** each ~~immediately succeeding~~ year, a manufacturer shall report to the department the total weight in pounds of covered electronic devices ~~that~~ the manufacturer:

- (1) collected from eligible entities and recycled; or
  - (2) arranged to have collected from eligible entities and recycled;
- during the program year that ~~ends ended~~ on the immediately preceding December 31.

(b) Not later than ~~June~~ **March** 1 of ~~2011~~ **and of** each ~~immediately succeeding~~ year, a manufacturer shall report the following to the department:

- (1) The number of recycling credits the manufacturer ~~has~~ purchased and sold during the program year that ~~ends ended~~ on





the immediately preceding December 31.

(2) The number of recycling credits possessed by the manufacturer that the manufacturer intends to use in the calculation of its variable recycling fee under IC 13-20.5-2-1.

(3) The number of recycling credits the manufacturer ~~retains~~ **retained** at the beginning of the ~~current~~ program year **that began on the immediately preceding January 1.**

(4) The amount in pounds of covered electronic devices ~~that~~ the manufacturer arranged for a recycler to collect and recycle **during the program year that ended on the immediately preceding December 31** and that were not converted to recycling credits.

SECTION 11. IC 13-20.5-3-2, AS AMENDED BY P.L.37-2012, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. ~~Before April 1, 2011, and~~ Not later than each ~~April March 1, thereafter,~~ a recycler of covered electronic devices shall do the following:

(1) Report to the department separately the total weight in pounds of covered electronic devices **that were:**

(A) recycled by the recycler; and

(B) taken by the recycler for final disposal;

during the **program year that ended on the immediately preceding calendar year: December 31.**

(2) Submit to the department a list of all collectors from whom the recycler received covered electronic devices **during the program year that ended on the immediately preceding December 31.**

(3) Certify that the recycler has complied with IC 13-20.5-5 and 329 IAC 16 **during the program year that ended on the immediately preceding December 31.**

SECTION 12. IC 13-20.5-3-3, AS AMENDED BY P.L.37-2012, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. ~~Before April 1, 2011, and~~ Not later than each ~~April March 1, thereafter,~~ a collector shall submit to the department a report that contains for the **program year that ended on the immediately preceding calendar year: December 31:**

(1) the total weight in pounds of covered electronic devices **that were** collected in Indiana by the collector; and

(2) a list of all recyclers to whom the collector delivered covered electronic devices.

SECTION 13. IC 13-20.5-4-1, AS AMENDED BY P.L.37-2012, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. A manufacturer shall in each of the manufacturer's program years recycle or arrange for the collection and



recycling from covered entities of an amount of covered electronic devices equal to at least sixty percent (60%) of the total weight of the manufacturer's video display devices sold to households as reported in the manufacturer's registration for the program year under ~~IC 13-20.5-1-1(c)(4)~~. **IC 13-20.5-1-1(c)(4).**

SECTION 14. IC 13-23-9-1.3, AS ADDED BY P.L.96-2016, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1.3. (a) The total amount otherwise available from the ELTF in connection with an eligible release **discovered on or after July 1, 2016**, shall be reduced by:

- (1) a deductible amount of fifteen thousand dollars (\$15,000); and
- (2) if ~~applicable~~, **any annual registration fees that were due in 2014 or a later year are not paid in full before the submittal of the initial site characterization as required by the rules adopted by the environmental rules board**, an additional amount under subsection (b).

(b) The additional amount referred to in subsection (a)(2) is the sum of:

- (1) all annual registration fees due under IC 13-23-12-1 for USTs located at the facility from which the release occurred that:
  - (A) were due in ~~1991~~ **2014** or a later year; and
  - (B) ~~were have not been paid; in the year the fees were originally due~~; plus
- (2) an additional amount of one thousand dollars (\$1,000) for each annual registration fee imposed by IC 13-23-12-1 on a UST located at the facility from which the release occurred that:
  - (A) was due in ~~1991~~ **2014** or a later year; and
  - (B) was not paid in the year the fee was originally due.

SECTION 15. IC 13-23-9-1.5, AS ADDED BY P.L.96-2016, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1.5. (a) The administrator may pay ELTF claims only for costs that:

- (1) are reasonable and cost effective; and
- (2) result from **or reimburse the claimant for** the following:
  - (A) Work performed for site characterization.
  - (B) Development and implementation of a corrective action plan that:
    - (i) is approved by the commissioner under rules adopted by the environmental rules board; and
    - (ii) has not been suspended.
  - (C) Work performed as part of an emergency response necessary to abate an immediate threat of harm to human



health, property, or the environment.

(D) Third party indemnification claims submitted in accordance with section 3 of this chapter.

(E) Reasonable attorney's fees incurred in defense of third party claims.

(F) Releases that occurred on or after April 1, 1988.

**(G) Compensation paid by the claimant to technicians for services performed in preparation of the claimant's ELTF claim.**

(b) The administrator may also pay ELTF claims for costs not described in subsection (a) if allowed under rules adopted by the financial assurance board.

SECTION 16. IC 13-23-11-2, AS AMENDED BY P.L.113-2014, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) The board consists of the following nine (9) members:

(1) The commissioner or the commissioner's designee.

(2) One (1) member nominated by the treasurer of state in consultation with the commissioner of the department of state revenue.

(3) One (1) member representing the independent petroleum wholesale distributor-marketer industry. In making this appointment, the governor may consider the recommendation of the Indiana petroleum marketers and convenience store association.

(4) One (1) member representing the petroleum refiner-supplier industry. In making this appointment, the governor may consider the recommendation of the Indiana petroleum council.

(5) One (1) member of the financial lending community who has experience with loan guaranty programs.

(6) One (1) member representing the convenience store operator industry or independent petroleum retail distributor-marketer industry. In making this appointment, the governor may consider the recommendation of the Indiana petroleum marketers and convenience store association.

(7) One (1) member representing environmental interests.

(8) One (1) member representing ~~local government.~~ **an environmental consulting firm that performs work involving underground storage tank corrective actions.**

(9) One (1) member representing the property and casualty insurance industry.

(b) The governor shall appoint the members specified in subsection



(a)(2) through (a)(9) for terms of two (2) years.

SECTION 17. IC 13-26-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) Exclusive of building a sewage treatment plant, solid waste disposal or recovery system, or installing a supply of water, a district that desires to own, acquire, construct, equip, improve, enlarge, extend, operate, and maintain a works may proceed under this article if the district first contracts for:

- (1) a supply of water;
- (2) the required treatment of the sewage emanating from the district's works; or
- (3) the disposition of solid waste generated within the district.

(b) A governmental or private body owning and operating facilities for water supply, sewage, or solid waste disposal, recovery, or treatment may contract to supply water or treat all or part of the sewage and solid waste of a district. The contracts ~~(1)~~ must be authorized by ordinance. ~~and~~

~~(2) are subject to approval by the department.~~

(c) All bonds issued under this article or IC 13-3-2 (before its repeal) by a district contracting for:

- (1) water supply;
- (2) sewage or solid waste disposal; or
- (3) recovery treatment service;

under this section are payable before the expiration date of the contract, and districts may contract for the term of the bonds, including a term or terms beyond the last maturity of the bonds.



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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