

First Regular Session 120th General Assembly (2017)

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.

SENATE ENROLLED ACT No. 421

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 IC 13-11-2-0.6 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 0-6: "Above ground storage tank", for purposes of IC 13-18-5.5, has the meaning set forth in IC 13-18-5.5-1.

SECTION 2. IC 13-11-2-2.3 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 2-3: "Agribusiness", for purposes of IC 13-18-5.5, has the meaning set forth in IC 13-18-5.5-2.

SECTION 3. IC 13-11-2-48.3 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 48-3: "Critical zone of concern", for purposes of IC 13-18-5.5, has the meaning set forth in IC 13-18-5.5-3.

SECTION 4. IC 13-11-2-55, AS AMENDED BY P.L.112-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 55. "Discharge", for purposes of IC 13-24-2, ~~and~~ IC 13-18-5.5, means any emission or spill, other than natural seepage, that is intentional or unintentional. The term includes any of the following:

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

SEA 421



SECTION 5. IC 13-11-2-57.7 IS REPEALED [EFFECTIVE JULY 1, 2017]. ~~Sec. 57.7: "Disruption", for purposes of IC 13-18-5.5, has the meaning set forth in IC 13-18-5.5-5.~~

SECTION 6. IC 13-11-2-96, AS AMENDED BY P.L.112-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 96. (a) "Hazardous material", for purposes of IC 13-18-5, means any of the following:

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

~~(b) "Hazardous material", for purposes of IC 13-18-5.5, has the meaning set forth in IC 13-18-5.5-6.~~

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

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

The term includes all of the hazardous materials identified in 49 CFR 172.101.

SECTION 7. IC 13-11-2-119.5 IS REPEALED [EFFECTIVE JULY 1, 2017]. ~~Sec. 119.5: "Liquid", for purposes of IC 13-18-5.5, has the meaning set forth in IC 13-18-5.5-7.~~

SECTION 8. IC 13-11-2-177.3, AS AMENDED BY P.L.112-2015, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 177.3. "Public water system", for purposes of this chapter, ~~IC 13-18-5.5~~; IC 13-18-11, IC 13-18-16, IC 13-18-20.5, IC 13-18-21, and other environmental management laws, has the meaning set forth in 42 U.S.C. 300f.

SECTION 9. IC 13-18-5.5 IS REPEALED [EFFECTIVE JULY 1,



2017]. (Reporting of Above Ground Storage Tanks).

SECTION 10. IC 13-18-16-7.5, AS ADDED BY P.L.112-2015, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7.5. (a) For purposes of this section, "responsible person" means the person responsible for the operation of a public water system that uses surface water as a source of drinking water.

(b) A responsible person shall do the following or ensure that the following are done:

(1) Develop, maintain, and update a surface water quality threat minimization and response plan for the public water system for which the person is responsible. A plan developed under this subdivision must include the following:

(A) An identification of critical drinking water intake facilities, including specific locations of wells, intake structures, and critical drinking water distribution infrastructure.

(B) An identification of potential threats to raw water quality.

(C) An assessment of the risks posed by potential threats identified in clause (B).

(D) A communication, education, and risk minimization plan.

(E) An incident response plan.

A plan described in this subdivision, as well as its component parts, is confidential under IC 5-14-3-4(b)(19).

(2) With respect to a plan described in subdivision (1):

(A) Submit the plan to the department when the plan is developed.

(B) Submit an updated plan to the department every five (5) years thereafter.

(c) A responsible person may gather information from potential sources of contamination for the purpose of developing or updating a surface water quality threat minimization and response plan required by subsection (b)(1). The information gathered under this subsection may be exempted from inspection and copying under IC 5-14-3-4(a)(1), IC 5-14-3-4(a)(4), IC 5-14-3-4(a)(8), and IC 5-14-3-4(b)(19), depending on the circumstances pertaining to the information.

SECTION 11. IC 13-18-16-8, AS AMENDED BY P.L.112-2015, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-9 establishing requirements for public water systems, including the following:

(1) The requirement to obtain a permit for the construction,

SEA 421



installation, or modification of facilities, equipment, or devices for any public water system.

(2) The requirement to obtain a permit for the operation of sources, facilities, equipment, or devices for any public water system.

(3) Requirements for the development of surface water quality threat minimization and response plans under section 7.5 of this chapter.

(b) The board shall adopt a permit by rule for water main extensions (as defined in 327 IAC 8-3-1) to satisfy the permit requirement in section 1(a) of this chapter.

(c) The board may adopt rules under IC 4-22-2 and IC 13-14-9 establishing requirements for the development of surface water quality threat minimization and response plans under section 7.5 of this chapter.

SECTION 12. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the interim study committee on environmental affairs established by IC 2-5-1.3-4(9).

(b) As used in this SECTION, "emergency response commission" refers to the Indiana emergency response commission established by IC 13-25-1-1.

(c) As used in this SECTION, "interim" has the meaning set forth in IC 2-5-1.3-1.

(d) As used in this SECTION, "legislative council" refers to the legislative council created by IC 2-5-1.1-1.

(e) As used in this SECTION, "local emergency planning committee" refers to a committee established under Title III of the federal Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 11001 et seq.) for a local emergency planning district.

(f) As used in this SECTION, "public water system" has the meaning set forth in IC 13-11-2-177.3.

(g) The legislative council is urged to assign to the committee for study during the 2017 interim the topic of public water supply protection, including:

(1) the potential creation of a central repository for all information about above ground storage tanks that is reported to various agencies by the owners and operators of the above ground storage tanks;

(2) the potential ability of the operators of public water systems to access the central repository described in subdivision (1) to aid in planning and threat assessment;

(3) resources available to the operators of public water



systems for developing and maintaining emergency plans for responding to threats to the drinking water supply, including the role that:

(A) the emergency response commission; and

(B) local emergency planning committees;

may play in assisting the operators of public water systems with information gathering, incident response planning, and public education and outreach; and

(4) in view of:

(A) the nature and extent of the legal requirements applying to above ground storage tanks under the various state and federal laws and regulations serving as the basis for above ground storage tanks to be exempted from reporting requirements under IC 13-18-5.5-11, as added by P.L.112-2015, SEC.10; and

(B) the exemptions from planning and disclosure requirements applying to above ground storage tanks under IC 13-18-5-2 and other state and federal laws;

whether the information available to emergency responders and environmental regulators concerning the location, capacity, and contents of above ground storage tanks is sufficient to ensure the protection of public water supplies.

(h) If the topic set forth in subsection (g) is assigned to the committee, the committee shall issue a final report to the legislative council containing the committee's findings and recommendations in an electronic format under IC 5-14-6 not later than November 1, 2017.

(i) This SECTION expires December 31, 2017.

SECTION 13. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 421

