



March 18, 2021

ENGROSSED SENATE BILL No. 271

DIGEST OF SB 271 (Updated March 15, 2021 1:24 pm - DI 55)

Citations Affected: IC 6-1.1; IC 13-11; IC 13-15; IC 13-18; IC 13-19; noncode.

Synopsis: Environmental matters. Provides that a property owner claiming the industrial waste control facility property tax exemption must: (1) provide a written statement attesting that the property claimed as exempt meets the requirements for the exemption; and (2) file the statement along with the exemption claim. Eliminates provisions under which the property owner must mail a copy of the exemption claim to the department of environmental management (department) and the assessor is required to allow the total exemption claimed by the property owner if the department does not certify its determination to the assessor within 120 days. Amends the law concerning the department's preparation of a list of impaired waters to provide for the list to be posted to the department's Internet web site instead of being published in the Indiana Register and to require that the list be made available for public comment for at least 45 days instead of at least 90
(Continued next page)

Effective: Upon passage; July 1, 2021.

Messmer, Niemeyer, Randolph Lonnie M

(HOUSE SPONSORS — AYLESWORTH, GUTWEIN)

January 11, 2021, read first time and referred to Committee on Environmental Affairs.
February 1, 2021, reported favorably — Do Pass.
February 8, 2021, read second time, amended, ordered engrossed.
February 9, 2021, engrossed. Read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

March 2, 2021, read first time and referred to Committee on Environmental Affairs.
March 16, 2021, amended, reported — Do Pass.
March 18, 2021, referred to Committee on Ways and Means pursuant to Rule 127.

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Digest Continued

days. Requires the department to establish a state permit program for the implementation of federal regulations for the disposal of coal combustion residuals in landfills and surface impoundments. Requires the environmental rules board (board) to adopt rules for the establishment of the state permit program. Requires the department, not later than May 15, 2021, to notify the United States Environmental Protection Agency of its intention to establish the state permit program and seek federal approval of the program. Establishes permit fees for the state permit program and provides for the board to review the funding of the program and potentially adjust the fee amounts every five years. Establishes the CCR program fund to receive the permit fee revenue and to pay costs incurred by the department in operating the state permit program and conducting the program funding reviews. Changes, from January 1, 2022 to January 1, 2023, the expiration date of a noncode SECTION of HEA 1278-2019 concerning the adoption of rules to increase the amounts of certain environmental fees.



March 18, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 271

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

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

- 1 SECTION 1. IC 6-1.1-10-10, AS AMENDED BY P.L.146-2008,
2 SECTION 104, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2021]: Sec. 10. (a) The owner of an industrial
4 waste control facility who wishes to obtain the exemption provided in
5 section 9 of this chapter shall file an exemption claim along with the
6 owner's annual personal property return. The claim shall describe and
7 state the assessed value of the property for which an exemption is
8 claimed.
9 (b) The owner ~~shall, by registered or certified mail, forward a copy~~
10 ~~of the exemption claim to the department of environmental~~
11 ~~management. The department shall acknowledge its receipt of the~~
12 ~~claim. must:~~
13 (1) **provide a written statement attesting that the property**
14 **claimed as exempt meets the requirements for the exemption**
15 **under section 9 of this chapter; and**
16 (2) **file the statement along with the owner's exemption claim**
17 **and annual personal property return.**

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1 (c) The ~~department of environmental management township~~
 2 **assessor (if any) or county assessor** may investigate any claim ~~The~~
 3 ~~department may also and~~ determine if the property for which the
 4 exemption is claimed is being utilized as an industrial waste control
 5 facility. ~~Within one hundred twenty (120) days after a claim is mailed~~
 6 ~~to the department, the department may certify its written determination~~
 7 ~~to the township or county assessor with whom the claim was filed. The~~
 8 **assessor may require additional documents from the property**
 9 **owner to support the owner's exemption claim.**

10 (d) ~~The A~~ determination of the department **under subsection (c)**
 11 **concerning an exemption claim** remains in effect:

12 (1) as long as the owner owns the property and uses the property
 13 as an industrial waste control facility; or

14 (2) for five (5) years;

15 whichever is less. In addition, during the five (5) years after the
 16 ~~department's~~ determination, the owner of the property must notify the
 17 ~~county assessor and the department~~ in writing if any of the property on
 18 which the ~~department's~~ determination was based is disposed of or
 19 removed from service as an industrial waste control facility.

20 (e) The ~~department assessor~~ may revoke a determination **made**
 21 **under subsection (c)** if the ~~department assessor~~ finds that the property
 22 is not predominantly used as an industrial waste control facility.

23 (f) The township or county assessor ~~in accord with the~~
 24 ~~determination of the department~~ shall allow or deny in whole or in part
 25 each exemption claim. ~~However, if the owner provides the assessor~~
 26 ~~with proof that a copy of the claim has been mailed to the department,~~
 27 ~~and if the department has not certified a determination to the assessor~~
 28 ~~within one hundred twenty (120) days after the claim has been mailed~~
 29 ~~to the department, the assessor shall allow the total exemption claimed~~
 30 ~~by the owner.~~

31 (g) The assessor shall reduce the assessed value of the owner's
 32 personal property for the year for which an exemption is claimed by the
 33 amount of exemption allowed.

34 SECTION 2. IC 6-1.1-10-11, AS AMENDED BY P.L.84-2016,
 35 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2021]: Sec. 11. A determination ~~by the department of~~
 37 **environmental management concerning an exemption claim** under
 38 section 10 of this chapter may be appealed by the property owner to the
 39 circuit court, superior court, or probate court of the county in which the
 40 property is located. The court shall try the appeal without a jury. Either
 41 **party the property owner or the township or county assessor** may
 42 appeal the court's decision in the same manner that other civil cases



- 1 may be appealed.
- 2 SECTION 3. IC 13-11-2-30.8, AS ADDED BY P.L.1-2017,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 30.8. "Coal combustion residuals", for
5 purposes of **IC 13-15-1-3 and IC 13-19-3-3**, has the meaning set forth
6 in IC 13-19-3-3(a).
- 7 SECTION 4. IC 13-11-2-77.8 IS ADDED TO THE INDIANA
8 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
9 **[EFFECTIVE UPON PASSAGE]: Sec. 77.8. "Federal CCR rule", for**
10 **purposes of IC 13-19-3, has the meaning set forth in**
11 **IC 13-19-3-3(b).**
- 12 SECTION 5. IC 13-11-2-87, AS AMENDED BY P.L.189-2018,
13 SECTION 110, IS AMENDED TO READ AS FOLLOWS
14 [EFFECTIVE UPON PASSAGE]: Sec. 87. (a) "Fund", for purposes of
15 IC 13-14-12, refers to the environmental management special fund.
- 16 (b) "Fund", for purposes of IC 13-15-10, refers to the waste facility
17 operator trust fund.
- 18 (c) "Fund", for purposes of IC 13-15-11, refers to the environmental
19 management permit operation fund.
- 20 (d) "Fund", for purposes of IC 13-17-6, refers to the asbestos trust
21 fund.
- 22 (e) "Fund", for purposes of IC 13-17-8, refers to the Title V
23 operating permit program trust fund.
- 24 (f) "Fund", for purposes of IC 13-18-8-5, refers to a sanitary fund.
- 25 **(g) "Fund", for purposes of IC 13-19-3-3.2, refers to the CCR**
26 **program fund.**
- 27 ~~(g)~~ **(h)** "Fund", for purposes of IC 13-20-13, refers to the waste tire
28 management fund.
- 29 ~~(h)~~ **(i)** "Fund", for purposes of IC 13-20-22, refers to the state solid
30 waste management fund.
- 31 ~~(i)~~ **(j)** "Fund", for purposes of IC 13-21-7, refers to the waste
32 management district bond fund.
- 33 ~~(j)~~ **(k)** "Fund", for purposes of IC 13-21-13-2, refers to a district
34 solid waste management fund.
- 35 ~~(k)~~ **(l)** "Fund", for purposes of IC 13-23-6, refers to the underground
36 petroleum storage tank trust fund.
- 37 ~~(l)~~ **(m)** "Fund", for purposes of IC 13-23-7 and IC 13-23-8, refers to
38 the underground petroleum storage tank excess liability trust fund (or
39 ELTF).
- 40 ~~(m)~~ **(n)** "Fund", for purposes of IC 13-25-4, refers to the hazardous
41 substances response trust fund.
- 42 ~~(n)~~ **(o)** "Fund", for purposes of IC 13-25-5, refers to the voluntary



1 remediation fund.

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

4 SECTION 6. IC 13-15-1-3, AS AMENDED BY P.L.133-2012,
5 SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 UPON PASSAGE]: Sec. 3. The board shall establish requirements for
7 the issuance of permits to control solid waste, hazardous waste, and
8 atomic radiation, including the following:

9 (1) Permits to control or limit the disposal of any contaminants
10 onto or into the land.

11 (2) Permits for the construction, installation, or modification of
12 facilities, equipment, or devices:

13 (A) to control or limit any discharge, emission, or disposal of
14 contaminants into the land; or

15 (B) for the storage, treatment, processing, transferring, or
16 disposal of solid waste or hazardous waste.

17 (3) Permits for the operation of facilities, equipment, or devices:

18 (A) to control or limit the discharge, emission, transfer, or
19 disposal of any contaminants into the land; or

20 (B) for the storage, transportation, treatment, processing,
21 transferring, or disposal of solid waste or hazardous waste.

22 **(4) Permits for the disposal of coal combustion residuals in
23 landfills and surface impoundments.**

24 SECTION 7. IC 13-18-2-3, AS AMENDED BY P.L.78-2009,
25 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2021]: Sec. 3. (a) The department shall prepare a list of
27 impaired waters for the purpose of complying with federal regulations
28 implementing Section 303(d) of the federal Clean Water Act (33
29 U.S.C. 1313(d)). In determining whether a water body is impaired, the
30 department shall consider all existing and readily available water
31 quality data and related information. The department, before submitting
32 the list to the United States Environmental Protection Agency, shall:

33 **(1) post the list to the department's Internet web site;**

34 ~~(2)~~ **(2) publish the list in the Indiana Register a link to the list
35 posted to the department's Internet web site;**

36 ~~(3)~~ **(3) make the list available for public comment for at least
37 ninety (90) forty-five (45) days; and**

38 ~~(4)~~ **(4) present provide information about the list to the board.**

39 ~~If the United States Environmental Protection Agency changes the list,
40 the board shall publish the changes in the Indiana Register and conduct
41 a public hearing within ninety (90) days after receipt of the changes.~~

42 (b) The board shall adopt a rule that:



- 1 (1) establishes the methodology to be used in identifying waters
2 as impaired; and
- 3 (2) specifies the methodology and criteria for including and
4 removing waters from the list of impaired waters.
- 5 (c) In the establishment of the total maximum daily load for a
6 surface water under Section 303(d)(1)(C) of the federal Clean Water
7 Act (33 U.S.C. 1313(d)(1)(C)), the department shall, in identifying the
8 surface water under Section 303(d)(1)(A) of the federal Clean Water
9 Act (33 U.S.C. 1313(d)(1)(A)), make every reasonable effort to identify
10 the pollutant or pollutants under consideration for the establishment of
11 the total maximum daily load.
- 12 (d) The department shall comply with subsection (e) if either of the
13 following applies:
- 14 (1) The department:
- 15 (A) is unable, in identifying the surface water as described in
16 subsection (c), to identify the pollutant or pollutants under
17 consideration for the establishment of the total maximum daily
18 load; and
- 19 (B) determines, after identifying the surface water as described
20 in subsection (c), that one (1) or more pollutants should be
21 under consideration for establishment of the total maximum
22 daily load.
- 23 (2) The department:
- 24 (A) in identifying the surface water as described in subsection
25 (c), identifies the pollutant or pollutants under consideration
26 for the establishment of the total maximum daily load; and
- 27 (B) determines, after identifying the pollutant or pollutants as
28 described in clause (A), that one (1) or more other pollutants
29 should be under consideration for establishment of the total
30 maximum daily load.
- 31 (e) The department complies with subsection (d) if the department
32 does the following before making a pollutant or pollutants the subject
33 of consideration for the establishment of the total maximum daily load:
- 34 (1) Determines and demonstrates that either or both of the
35 following apply:
- 36 (A) The surface water does not attain water quality standards
37 (as established in 327 IAC 2-1 and 327 IAC 2-1.5) due to an
38 individual pollutant, multiple pollutants, pollution, or an
39 unknown cause of impairment.
- 40 (B) The surface water:
- 41 (i) receives a thermal discharge from one (1) or more point
42 sources; and



- 1 (ii) does not have or maintain a balanced indigenous
 2 population of shellfish, fish, and wildlife.
 3 (2) ~~Publishes in the Indiana Register Posts on the department's~~
 4 **Internet web site** the determination referred to in subdivision (1).
 5 (3) Makes the determination referred to in subdivision (1)
 6 available for public comment for at least ~~ninety (90)~~ **forty-five**
 7 **(45)** days.
 8 (4) Presents the determination referred to in subdivision (1) to the
 9 commissioner for final approval after the comment period under
 10 subdivision (3).

11 SECTION 8. IC 13-19-3-1, AS AMENDED BY P.L.97-2016,
 12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 UPON PASSAGE]: Sec. 1. The board shall do the following:

- 14 (1) Except as otherwise provided in this chapter, adopt rules
 15 under IC 4-22-2 and IC 13-14-9 to regulate solid and hazardous
 16 waste and atomic radiation in Indiana, including:
 17 (A) rules necessary to implement the federal Resource
 18 Conservation and Recovery Act (42 U.S.C. 6901 et seq.), as
 19 amended; **and**
 20 (B) **rules necessary for the establishment of a state permit**
 21 **program under Section 2301 of the federal Water**
 22 **Infrastructure Improvements for the Nation Act (42 U.S.C.**
 23 **6945(d)) for the implementation in Indiana of the federal**
 24 **CCR rule.**
 25 (2) Consult with the department concerning the regulation of solid
 26 waste and hazardous waste.
 27 (3) Carry out other duties imposed by law.

28 SECTION 9. IC 13-19-3-3, AS AMENDED BY P.L.1-2017,
 29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 UPON PASSAGE]: Sec. 3. (a) As used in this section, "coal
 31 combustion residuals" means fly ash, bottom ash, boiler slag, and flue
 32 gas desulfurization materials generated from burning coal for the
 33 purpose of generating electricity by electric utilities and independent
 34 power producers.

- 35 (b) ~~Except as provided in subsection (c), the board may not adopt~~
 36 ~~rules under section † of this chapter to regulate the following:~~
 37 (†) ~~The disposal of waste indigenous to the coal mining process~~
 38 ~~and coal combustion products (as defined by ASTM E-2201-02a);~~
 39 ~~including fly ash, bottom ash, boiler slag, fluidized bed~~
 40 ~~combustion ash, or flue gas desulfurization material produced~~
 41 ~~from the combustion of coal or the cleaning of stack gases on coal~~
 42 ~~combustion units if the material:~~



- 1 (A) is not included in the definition of hazardous waste or is
 2 exempt from regulation as a hazardous waste under 42 U.S.C.
 3 6921; and
 4 (B) is disposed of at a facility regulated under IC 14-34.
- 5 (2) The use of coal combustion products (as defined by ASTM
 6 E-2201-02a); including fly ash; bottom ash; boiler slag; fluidized
 7 bed combustion ash; or flue gas desulfurization material produced
 8 from the combustion of coal or the cleaning of stack gases on coal
 9 combustion units; if the use includes one (1) of the following
 10 uses:
- 11 (A) The extraction or recovery of materials and compounds
 12 contained within coal combustion products.
 13 (B) Bottom ash as an antiskid material.
 14 (C) Raw material for manufacturing another product.
 15 (D) Mine subsidence; mine fire control; and mine sealing.
 16 (E) Structural fill when combined with cement; sand; or water
 17 to produce a controlled strength fill material.
 18 (F) A base in road construction.
 19 (G) Cover for coal processing waste disposal locations to
 20 inhibit infiltration at surface and underground mines subject
 21 to IC 14-34; so long as a demonstration is made in concurrence
 22 with the department of natural resources that the materials and
 23 methods to be employed are appropriate for the intended use.
 24 (H) Providing buffering or enhancing structural integrity for
 25 refuse piles at surface and underground mines subject to
 26 IC 14-34; so long as a demonstration is made in concurrence
 27 with the department of natural resources that the materials and
 28 methods to be employed are appropriate for the intended use.
 29 (I) Agricultural applications; when applied using appropriate
 30 agronomic amounts to improve crop or vegetative production.
- 31 **(b) As used in this section, "federal CCR rule" refers to 40 CFR**
 32 **257, Subpart D, the federal standards for the disposal of coal**
 33 **combustion residuals in landfills and surface impoundments.**
- 34 (c) The board may adopt rules under section 1(1) of this chapter that
 35 are consistent with the regulations of the United States Environmental
 36 Protection Agency concerning standards for the disposal of coal
 37 combustion residuals in landfills and surface impoundments, as set
 38 forth in 40 CFR 257.50 et seq. **the federal CCR rule.**
- 39 **(d) The department shall do the following:**
- 40 **(1) Establish a state permit program under Section 2301 of**
 41 **the federal Water Infrastructure Improvements for the**
 42 **Nation Act (42 U.S.C. 6945(d)) for the implementation in**



1 **Indiana of the federal CCR rule.**

2 **(2) Submit to the administrator of the United States**
 3 **Environmental Protection Agency under 42 U.S.C.**
 4 **6945(d)(1)(A) evidence of the state permit program.**

5 **(3) Take other necessary or appropriate actions to obtain**
 6 **approval of the state permit program.**

7 **(e) Not later than May 15, 2021, the department shall notify the**
 8 **United States Environmental Protection Agency of its intention to**
 9 **establish a state permit program described in subsection (d)(1) and**
 10 **to seek approval of the state permit program under 42 U.S.C.**
 11 **6945(d)(1).**

12 **(f) Under IC 4-22-2 and IC 13-14-9:**

13 **(1) the department shall initiate rulemaking for the**
 14 **establishment of the state permit program not more than sixty**
 15 **(60) days after the effective date of the SECTION of Senate**
 16 **Enrolled Act 271-2021 amending this section; and**

17 **(2) the board shall adopt a final rule for the establishment of**
 18 **the state permit program not more than sixteen (16) months**
 19 **after initiation of the rulemaking under subdivision (1).**

20 **(g) The state permit program established under this section**
 21 **must not establish requirements for any surface impoundment of**
 22 **coal combustion residuals unless and until the state permit**
 23 **program is approved by the administrator of the United States**
 24 **Environmental Protection Agency under 42 U.S.C. 6945(d)(1).**

25 **(h) The definitions set forth in section 257.53 of the federal CCR**
 26 **rule, as in effect January 1, 2021, apply throughout subsection (i).**

27 **(i) The department shall charge the following fees under the**
 28 **state permit program established under this section:**

29 **(1) An initial one (1) time permit fee of twenty thousand five**
 30 **hundred dollars (\$20,500) for each surface impoundment of**
 31 **coal combustion residuals regulated under the state permit**
 32 **program.**

33 **(2) An annual fee of twenty thousand five hundred dollars**
 34 **(\$20,500) for each surface impoundment of coal combustion**
 35 **residuals regulated under the state permit program that has**
 36 **not completed closure in accordance with Section 257.102 of**
 37 **the federal CCR rule. The duty to pay the fee established by**
 38 **this subdivision does not apply on an annual basis until three**
 39 **hundred sixty-five (365) days after the initial one (1) time**
 40 **permit fee established by subdivision (1) has been assessed.**

41 **(3) An annual fee of ten thousand dollars (\$10,000) for each**
 42 **surface impoundment of coal combustion residuals regulated**



1 under the state permit program that has been closed and for
 2 which post-closure care has been initiated and is still required
 3 in accordance with Section 257.104 of the federal CCR rule.
 4 The duty to pay the fee established by this subdivision does
 5 not apply on an annual basis until three hundred sixty-five
 6 (365) days after the initial one (1) time permit fee established
 7 by subdivision (1) has been assessed.

8 Fees collected under this subsection shall be deposited in the CCR
 9 program fund established by section 3.2 of this chapter.

10 (j) Not later than July 1, 2027, and before the end of each
 11 succeeding period of five (5) years, the board shall review the:

12 (1) costs to the department of operating the state permit
 13 program established under this section; and

14 (2) revenue from the fees charged under subsection (i);

15 as provided in IC 13-16-1-4. If the board determines that the
 16 revenue described in subdivision (2) is inadequate or excessive in
 17 relation to the costs described in subdivision (1), the board shall,
 18 under IC 13-16-1-2, change the amount of one (1) or more of the
 19 fees established under subsection (i).

20 SECTION 10. IC 13-19-3-3.2 IS ADDED TO THE INDIANA
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE UPON PASSAGE]: Sec. 3.2. (a) The CCR program
 23 fund is established for the purpose of paying costs incurred by the
 24 department in operating the state permit program established
 25 under section 3 of this chapter, including:

26 (1) the personnel costs incurred in employing staff needed to
 27 perform the duties associated with the state permit program;
 28 and

29 (2) the cost of conducting the funding reviews required by
 30 section 3(j) of this chapter.

31 (b) The fund shall be administered by the department.

32 (c) The expenses of administering the fund shall be paid from
 33 money in the fund.

34 (d) The fund consists of:

35 (1) money appropriated by the general assembly;

36 (2) fees collected under section 3(i) of this chapter; and

37 (3) donations, gifts, and money received from any other
 38 source, including transfers from other funds or accounts.

39 (e) The treasurer of state shall invest the money in the fund not
 40 currently needed to meet the obligations of the fund in the same
 41 manner as other public funds may be invested.

42 (f) Money in the fund at the end of a state fiscal year does not



1 **revert to the state general fund.**

2 SECTION 11. P.L.250-2019, SECTION 35, IS AMENDED TO
 3 READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: SECTION 35. (a)
 4 The environmental rules board shall, before January 1, ~~2022~~, **2023**,
 5 adopt rules under IC 4-22-2 and IC 13-14-9 to increase the amount of
 6 the fees referred to in subsections (c) and (d). The fee increase under
 7 this SECTION shall be in accordance with IC 13-16-1, as amended by
 8 this act, except as provided in subsection (e).

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

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

12 (1) IC 13-18-10;

13 (2) IC 13-18-20;

14 (3) IC 13-18-20.5;

15 (4) IC 13-20-21; and

16 (5) IC 13-22-12;

17 to the extent calculated to cause annual aggregate fee revenue after the
 18 fee increase under this subsection to be three million two hundred
 19 thousand dollars (\$3,200,000) greater than the aggregate fee revenue
 20 actually received in the year immediately preceding the fee increase
 21 under this subsection from the fees established by the statutes listed in
 22 subdivisions (1) through (5).

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

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

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

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

35 (2) January 1, ~~2022~~: **2023**.

36 SECTION 12. **An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 271, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 271 as introduced.)

MESSMER, Chairperson

Committee Vote: Yeas 8, Nays 2

SENATE MOTION

Madam President: I move that Senate Bill 271 be amended to read as follows:

Page 2, line 7, after "filed." insert "**The assessor may require additional documents from the property owner to support the owner's exemption claim.**".

(Reference is to SB 271 as printed February 2, 2021.)

TALLIAN

COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 271, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 3. IC 13-11-2-30.8, AS ADDED BY P.L.1-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30.8. "Coal combustion residuals", for purposes of **IC 13-15-1-3 and IC 13-19-3-3**, has the meaning set forth in IC 13-19-3-3(a).

SECTION 4. IC 13-11-2-77.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 77.8. "Federal CCR rule", for**

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purposes of IC 13-19-3, has the meaning set forth in IC 13-19-3-3(b).

SECTION 5. IC 13-11-2-87, AS AMENDED BY P.L.189-2018, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 87. (a) "Fund", for purposes of IC 13-14-12, refers to the environmental management special fund.

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

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

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

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

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

(g) "Fund", for purposes of IC 13-19-3-3.2, refers to the CCR program fund.

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

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

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

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

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

~~(l)~~ **(m)** "Fund", for purposes of IC 13-23-7 and IC 13-23-8, refers to the underground petroleum storage tank excess liability trust fund (or ELTF).

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

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

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

SECTION 6. IC 13-15-1-3, AS AMENDED BY P.L.133-2012, SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The board shall establish requirements for the issuance of permits to control solid waste, hazardous waste, and atomic radiation, including the following:

- (1) Permits to control or limit the disposal of any contaminants



onto or into the land.

(2) Permits for the construction, installation, or modification of facilities, equipment, or devices:

(A) to control or limit any discharge, emission, or disposal of contaminants into the land; or

(B) for the storage, treatment, processing, transferring, or disposal of solid waste or hazardous waste.

(3) Permits for the operation of facilities, equipment, or devices:

(A) to control or limit the discharge, emission, transfer, or disposal of any contaminants into the land; or

(B) for the storage, transportation, treatment, processing, transferring, or disposal of solid waste or hazardous waste.

(4) Permits for the disposal of coal combustion residuals in landfills and surface impoundments."

Page 4, after line 30, begin a new paragraph and insert:

"SECTION 8. IC 13-19-3-1, AS AMENDED BY P.L.97-2016, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The board shall do the following:

(1) Except as otherwise provided in this chapter, adopt rules under IC 4-22-2 and IC 13-14-9 to regulate solid and hazardous waste and atomic radiation in Indiana, including:

(A) rules necessary to implement the federal Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), as amended; **and**

(B) **rules necessary for the establishment of a state permit program under Section 2301 of the federal Water Infrastructure Improvements for the Nation Act (42 U.S.C. 6945(d)) for the implementation in Indiana of the federal CCR rule.**

(2) Consult with the department concerning the regulation of solid waste and hazardous waste.

(3) Carry out other duties imposed by law.

SECTION 9. IC 13-19-3-3, AS AMENDED BY P.L.1-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) As used in this section, "coal combustion residuals" means fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers.

~~(b) Except as provided in subsection (c), the board may not adopt rules under section 1 of this chapter to regulate the following:~~

~~(1) The disposal of waste indigenous to the coal mining process~~



and coal combustion products (as defined by ASTM E-2201-02a); including fly ash; bottom ash; boiler slag; fluidized bed combustion ash; or flue gas desulfurization material produced from the combustion of coal or the cleaning of stack gases on coal combustion units if the material:

(A) is not included in the definition of hazardous waste or is exempt from regulation as a hazardous waste under 42 U.S.C. 6921; and

(B) is disposed of at a facility regulated under IC 14-34.

(2) The use of coal combustion products (as defined by ASTM E-2201-02a); including fly ash; bottom ash; boiler slag; fluidized bed combustion ash; or flue gas desulfurization material produced from the combustion of coal or the cleaning of stack gases on coal combustion units; if the use includes one (1) of the following uses:

(A) The extraction or recovery of materials and compounds contained within coal combustion products.

(B) Bottom ash as an antiskid material.

(C) Raw material for manufacturing another product.

(D) Mine subsidence; mine fire control; and mine sealing.

(E) Structural fill when combined with cement; sand; or water to produce a controlled strength fill material.

(F) A base in road construction.

(G) Cover for coal processing waste disposal locations to inhibit infiltration at surface and underground mines subject to IC 14-34, so long as a demonstration is made in concurrence with the department of natural resources that the materials and methods to be employed are appropriate for the intended use.

(H) Providing buffering or enhancing structural integrity for refuse piles at surface and underground mines subject to IC 14-34, so long as a demonstration is made in concurrence with the department of natural resources that the materials and methods to be employed are appropriate for the intended use.

(I) Agricultural applications; when applied using appropriate agronomic amounts to improve crop or vegetative production.

(b) As used in this section, "federal CCR rule" refers to 40 CFR 257, Subpart D, the federal standards for the disposal of coal combustion residuals in landfills and surface impoundments.

(c) The board may adopt rules under section 1(1) of this chapter that are consistent with the regulations of the United States Environmental Protection Agency concerning standards for the disposal of coal combustion residuals in landfills and surface impoundments, as set



forth in ~~40 CFR 257.50 et seq.~~ the federal CCR rule.

(d) The department shall do the following:

(1) Establish a state permit program under Section 2301 of the federal Water Infrastructure Improvements for the Nation Act (42 U.S.C. 6945(d)) for the implementation in Indiana of the federal CCR rule.

(2) Submit to the administrator of the United States Environmental Protection Agency under 42 U.S.C. 6945(d)(1)(A) evidence of the state permit program.

(3) Take other necessary or appropriate actions to obtain approval of the state permit program.

(e) Not later than May 15, 2021, the department shall notify the United States Environmental Protection Agency of its intention to establish a state permit program described in subsection (d)(1) and to seek approval of the state permit program under 42 U.S.C. 6945(d)(1).

(f) Under IC 4-22-2 and IC 13-14-9:

(1) the department shall initiate rulemaking for the establishment of the state permit program not more than sixty (60) days after the effective date of the SECTION of Senate Enrolled Act 271-2021 amending this section; and

(2) the board shall adopt a final rule for the establishment of the state permit program not more than sixteen (16) months after initiation of the rulemaking under subdivision (1).

(g) The state permit program established under this section must not establish requirements for any surface impoundment of coal combustion residuals unless and until the state permit program is approved by the administrator of the United States Environmental Protection Agency under 42 U.S.C. 6945(d)(1).

(h) The definitions set forth in section 257.53 of the federal CCR rule, as in effect January 1, 2021, apply throughout subsection (i).

(i) The department shall charge the following fees under the state permit program established under this section:

(1) An initial one (1) time permit fee of twenty thousand five hundred dollars (\$20,500) for each surface impoundment of coal combustion residuals regulated under the state permit program.

(2) An annual fee of twenty thousand five hundred dollars (\$20,500) for each surface impoundment of coal combustion residuals regulated under the state permit program that has not completed closure in accordance with Section 257.102 of the federal CCR rule. The duty to pay the fee established by



this subdivision does not apply on an annual basis until three hundred sixty-five (365) days after the initial one (1) time permit fee established by subdivision (1) has been assessed.

(3) An annual fee of ten thousand dollars (\$10,000) for each surface impoundment of coal combustion residuals regulated under the state permit program that has been closed and for which post-closure care has been initiated and is still required in accordance with Section 257.104 of the federal CCR rule. The duty to pay the fee established by this subdivision does not apply on an annual basis until three hundred sixty-five (365) days after the initial one (1) time permit fee established by subdivision (1) has been assessed.

Fees collected under this subsection shall be deposited in the CCR program fund established by section 3.2 of this chapter.

(j) Not later than July 1, 2027, and before the end of each succeeding period of five (5) years, the board shall review the:

(1) costs to the department of operating the state permit program established under this section; and

(2) revenue from the fees charged under subsection (i);

as provided in IC 13-16-1-4. If the board determines that the revenue described in subdivision (2) is inadequate or excessive in relation to the costs described in subdivision (1), the board shall, under IC 13-16-1-2, change the amount of one (1) or more of the fees established under subsection (i).

SECTION 10. IC 13-19-3-3.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.2. (a) The CCR program fund is established for the purpose of paying costs incurred by the department in operating the state permit program established under section 3 of this chapter, including:

(1) the personnel costs incurred in employing staff needed to perform the duties associated with the state permit program; and

(2) the cost of conducting the funding reviews required by section 3(j) of this chapter.

(b) The fund shall be administered by the department.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The fund consists of:

(1) money appropriated by the general assembly;

(2) fees collected under section 3(i) of this chapter; and

(3) donations, gifts, and money received from any other



source, including transfers from other funds or accounts.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 11. P.L.250-2019, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: SECTION 35. (a) The environmental rules board shall, before January 1, ~~2022~~, **2023**, 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 three million two hundred thousand dollars (\$3,200,000) 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~~, **2023**.

SECTION 12. An emergency is declared for this act."



Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 271 as reprinted February 9, 2021.)

GUTWEIN

Committee Vote: yeas 9, nays 4.

