

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 1999 General Assembly.

## SENATE ENROLLED ACT No. 431

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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:*

SECTION 1. IC 13-11-2-31.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.3. "Combined sewage", for purposes of sections 31.4 and 31.6 of this chapter and IC 13-18, refers to a combination of wastewater (including domestic, commercial, or industrial wastewater) and storm water transported in a combined sewer or combined sewer system.**

SECTION 2. IC 13-11-2-31.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.4. "Combined sewer", for purposes of sections 31.3, 31.6, and 120.5 of this chapter and IC 13-18, means a sewer that is designed, constructed, and used to receive and transport combined sewage.**

SECTION 3. IC 13-11-2-31.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.5. "Combined sewer operational plan", for purposes of IC 13-18, means a plan that contains the minimum technology controls applicable to, and requirements for operation and maintenance of, a combined sewer system:**



(1) before;  
 (2) during; and  
 (3) upon the completion of;  
 the implementation of a long term control plan.

SECTION 4. IC 13-11-2-31.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31.6. "Combined sewer system", for purposes of sections 31.3, 31.5, 43.5, 85.7, and 120.5 of this chapter and IC 13-18, means a system of combined sewers that:

- (1) is designed, constructed, and used to receive and transport combined sewage to a publicly owned wastewater treatment plant; and
- (2) may contain one (1) or more overflow points that discharge combined sewage entering the publicly owned wastewater treatment plant when the hydraulic capacity of the system or part of the system is exceeded as a result of a wet weather event.

SECTION 5. IC 13-11-2-43.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 43.5. "Control alternative", for purposes of IC 13-18, means any of the following measures, or any combination of the following measures, for the control of wet weather flows in a combined sewer system:

- (1) Source controls.
- (2) Collection system controls.
- (3) Storage technologies.
- (4) Treatment technologies.

SECTION 6. IC 13-11-2-50.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 50.5. "Degradation", for purposes of IC 13-18-3, has the meaning set forth in IC 13-18-3-2(b).

SECTION 7. IC 13-11-2-72.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 72.5. "Exceptional use water", for purposes of IC 13-18-3, has the meaning set forth in IC 13-18-3-2(c).

SECTION 8. IC 13-11-2-85.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 85.7. "First flush", for purposes of IC 13-18, means the transport of solids in a combined



sewer system that:

- (1) have settled in pipes during periods between wet weather events; and
- (2) have washed off of impermeable surfaces such as streets and parking lots during the beginning of a wet weather event.

SECTION 9. IC 13-11-2-113.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 113.5. "Knee of the curve", for purposes of IC 13-18, means the point where the incremental change in the cost of the control alternative per change in performance of the control alternative changes most rapidly.

SECTION 10. IC 13-11-2-120.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 120.5. "Long term control plan", for purposes of section 31.5 of this chapter and IC 13-18, means a plan that:

- (1) is consistent with the federal Combined Sewer Overflow Control Policy (59 Fed. Reg. 18688);
- (2) is developed in accordance with the recommendations set forth in Combined Sewer Overflows Guidance for Long-Term Control Plan (EPA 832B95002);
- (3) describes changes and improvements to be made to a combined sewer system or to a publicly owned wastewater treatment plant for the purpose of meeting the requirements of the federal Clean Water Act and state law;
- (4) is developed with public participation using a process that is designed to promote active involvement by the affected public, through opportunities to provide in the decision making to select long term control alternatives:
  - (A) information;
  - (B) opinions; and
  - (C) comments;
- (5) is submitted to the department for approval; and
- (6) does the following:
  - (A) Uses characterization, monitoring, and modeling of the combined sewer system to determine:
    - (i) the response of the combined sewer system to various precipitation events;
    - (ii) the characteristics of overflows from the combined sewer system; and
    - (iii) the water quality impacts that result from overflows from the combined sewer system.



(B) Considers the impact of combined sewer overflows on sensitive areas and gives highest priority to controlling overflows in those areas.

(C) Contains an evaluation of a reasonable range of control alternatives, taking into account expected and projected future growth.

(D) Contains cost and performance analyses of the control alternatives evaluated.

(E) Maximizes treatment of wet weather flows at a publicly owned treatment works (POTW) treatment plant.

(F) Contains a practicable implementation schedule for the selected control alternative.

(G) Contains a post-construction compliance monitoring program adequate to ascertain:

- (i) the effectiveness of the selected control alternative; and
- (ii) the extent to which water quality standards have been attained.

SECTION 11. IC 13-11-2-149.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 149.5. "Outstanding national resource water"**, for purposes of IC 13-18-3, has the meaning set forth in IC 13-18-3-2(d).

SECTION 12. IC 13-11-2-149.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 149.6. "Outstanding state resource water"**, for purposes of IC 13-18-3, has the meaning set forth in IC 13-18-3-2(e).

SECTION 13. IC 13-11-2-242.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 242.5. "Use attainability analysis"**, for purposes of IC 13-18, refers to a structured scientific assessment of the physical, chemical, biological, and economic factors affecting the attainment of a designated use as provided in 40 CFR 131.3(g).

SECTION 14. IC 13-11-2-265.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 265.5. "Watershed"**, for purposes of IC 13-18-3, has the meaning set forth in IC 14-8-2-310.

SECTION 15. IC 13-11-2-265.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 265.3. "Wet weather event"**,



for purposes of IC 13-18, means storm water runoff, snow melt runoff, or ice melt runoff entering a combined sewer system.

SECTION 16. IC 13-18-2-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The department shall prepare a list of impaired waters for the purpose of complying with federal regulations implementing Section 303(d) of the federal Clean Water Act (33 U.S.C. 1313(d)). In determining whether a water body is impaired, the department shall consider all existing and readily available water quality data and related information. The department, before submitting the list to the United States Environmental Protection Agency, shall:

- (1) publish the list in the Indiana Register;
- (2) make the list available for public comment for at least ninety (90) days; and
- (3) present the list to the board.

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

(b) The board shall adopt by rule the methodology to be used in identifying waters as impaired. The rule must specify the methodology and criteria for including and removing waters from the list of impaired waters.

SECTION 17. IC 13-18-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) The board may adopt rules under IC 4-22-2 that are necessary to the implementation of:

- (1) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as in effect January 1, 1988; and
- (2) the federal Safe Drinking Water Act (42 U.S.C. 300f through 300j), as in effect January 1, 1988;

except as provided in IC 14-37.

(b) "Degradation" means, with respect to a National Pollutant Discharge Elimination System permit, the following:

- (1) With respect to an outstanding national resource water, any new or increased discharge of a pollutant or a pollutant parameter, except for a short term, temporary increase.
- (2) With respect to an outstanding state resource water or an exceptional use water, any new or increased discharge of a pollutant or pollutant parameter that results in a significant lowering of water quality for that pollutant or pollutant



parameter, unless:

(A) the activity causing the increased discharge:

(i) results in an overall improvement in water quality in the outstanding state resource water or exceptional use water; and

(ii) meets the applicable requirements of 327 IAC 2-1-2(1) and (2) and 327 IAC 2-1.5-4(a) and (b); or

(B) the person proposing the increased discharge undertakes or funds a water quality improvement project in accordance with subsection (l) in the watershed of the outstanding state resource water or exceptional use water that:

(i) results in an overall improvement in water quality in the outstanding state resource water or exceptional use water; and

(ii) meets the applicable requirements of 327 IAC 2-1-2(1) and (2) and 327 IAC 2-1.5-4(a) and (b).

(c) "Exceptional use water" means any water designated as an exceptional use water by the board, regardless of when the designation occurred.

(d) "Outstanding national resource water" means a water designated as such by the general assembly after recommendations by the board and the environmental quality service council under subsections (o) and (p). The designation must describe the quality of the outstanding national resource water to serve as the benchmark of the water quality that shall be maintained and protected. Waters that may be considered for designation as outstanding national resource waters include water bodies that are recognized as:

(1) important because of protection through official action, such as:

(A) federal or state law;

(B) presidential or secretarial action;

(C) international treaty; or

(D) interstate compact;

(2) having exceptional recreational significance;

(3) having exceptional ecological significance;

(4) having other special environmental, recreational, or ecological attributes; or

(5) waters with respect to which designation as an outstanding national resource water is reasonably necessary for protection of other water bodies designated as outstanding national

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resource waters.

(e) "Outstanding state resource water" means any water designated as such by the board regardless of when the designation occurred or occurs. Waters that may be considered for designation as outstanding state resource waters include water bodies that have unique or special ecological, recreational, or aesthetic significance.

(f) "Watershed" has the meaning set forth in IC 14-8-2-310.

(g) The board may designate a water body as an outstanding state resource water by rule if the board determines that the water body has a unique or special ecological, recreational, or aesthetic significance.

(h) Before the board may adopt a rule designating a water body as an outstanding state resource water, the board must consider the following:

(1) Economic impact analyses, presented by any interested party, taking into account future population and economic development growth.

(2) The biological criteria scores for the water body, using factors that consider fish communities, macro invertebrate communities, and chemical quality criteria using representative biological data from the water body under consideration.

(3) The level of current urban and agricultural development in the watershed.

(4) Whether the designation of the water body as an outstanding state resource water will have a significant adverse effect on future population, development, and economic growth in the watershed, if the water body is in a watershed that has more than three percent (3%) of its land in urban land uses or serves a municipality with a population greater than five thousand (5,000).

(5) Whether the designation of the water body as an outstanding state resource water is necessary to protect the unique or special ecological, recreational, or aesthetic significance of the water body.

(i) Before the board may adopt a rule designating a water body as an outstanding state resource water, the board must make available to the public a written summary of the information considered by the board under subsections (g) and (h), including the board's conclusions concerning that information.

(j) The commissioner shall present a summary of the comments received from the comment period and information that supports

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a water body designation as an outstanding state resource water to the environmental quality service council not later than one hundred twenty (120) days after the rule regarding the designation is finally adopted by the board.

(k) Notwithstanding any other provision of this section, the designation of an outstanding state resource water in effect on January 1, 2000, remains in effect.

(l) For a water body designated as an outstanding state resource water, the board shall provide by rule procedures that will:

- (1) prevent degradation; and
- (2) allow for increases and additions in pollutant loadings from an existing or new discharge if:
  - (A) there will be an overall improvement in water quality for the outstanding state resource water as described in this section; and
  - (B) the applicable requirements of 327 IAC 2-1-2(1) and 327 IAC 2-1-2(2) and 327 IAC 2-1.5-4(a) and 327 2-1.5-4(b) are met.

(m) The procedures provided by rule under subsection (l) must include the following:

- (1) A definition of significant lowering of water quality that includes a de minimis quantity of additional pollutant load:
  - (A) for which a new or increased permit limit is required; and
  - (B) below which antidegradation implementation procedures do not apply.
- (2) Provisions allowing the permittee to choose application of one (1) of the following for each activity undertaken by the permittee that will result in a significant lowering of water quality in the outstanding state resource water or exceptional use water:
  - (A) Implementation of a water quality project in the watershed of the outstanding state resource water or the exceptional use water that will result in an overall improvement of the water quality of the outstanding state resource water or the exceptional use water.
  - (B) Payment of a fee, not to exceed five hundred thousand dollars (\$500,000) based on the type and quantity of increased pollutant loadings, to the department for deposit in the outstanding state resource water improvement fund established under section 14 of this chapter.
- (3) Criteria for the submission and timely approval of



projects described in subdivision (2)(A).

(4) A process for public input in the approval process.

(5) Use of water quality data that is less than seven (7) years old and specific to the outstanding state resource water.

(6) Criteria for using the watershed improvement fees to fund projects in the watershed that result in improvement in water quality in the outstanding state resource water or exceptional use water.

(n) For a water body designated as an outstanding state resource water after June 30, 2000, the board shall provide by rule antidegradation implementation procedures before the water body is designated in accordance with this section.

(o) A water body may be designated as an outstanding national resource water only by the general assembly after recommendations for designation are made by the board and the environmental quality service council.

(p) Before recommending the designation of an outstanding national resource water, the department shall provide for an adequate public notice and comment period regarding the designation. The commissioner shall present a summary of the comments and information received during the comment period and the department's recommendation concerning designation to the environmental quality service council not later than ninety (90) days after the end of the comment period. The council shall consider the comments, information, and recommendation received from the department, and shall convey its recommendation concerning designation to the general assembly within six (6) months after receipt.

SECTION 18. IC 13-18-3-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.3. (a) A long term control plan, upon implementation, fulfills the water quality goals of the state with respect to wet weather discharges that are a result of overflows from the combined sewer system addressed by the plan if:

- (1) the plan provides for the implementation of cost effective control alternatives that will attain water quality standards or maximize the extent to which water quality standards will be attained if they are not otherwise attainable;
- (2) the plan provides, at a minimum, for the capture for treatment of first flush;
- (3) the plan is reviewed periodically; and



- (4) additional controls are implemented as provided in section 2.4 of this chapter.

Cost effectiveness may be determined, at the option of the permit holder, by using a knee of the curve analysis.

(b) When a use attainability analysis is required for a suspension of designated uses under this chapter, the department must, to the maximum extent permitted under state or federal law:

- (1) review a use attainability analysis submitted under this chapter concurrently with a long term control plan submitted under this chapter; and
- (2) use the approved long term control plan to satisfy the requirements of the use attainability analysis.

SECTION 19. IC 13-18-3-2.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.4. (a) A permit holder shall review the feasibility of implementing additional or new control alternatives to attain water quality standards, including standards suspended under section 2.5 of this chapter. The permit holder shall conduct such a review periodically, but not less than every five (5) years after approval of the long term control plan by the department. The permit holder shall:

- (1) document to the department that the long term control plan has been reviewed;
- (2) update the long term control plan as necessary;
- (3) submit any amendments to the long term control plan to the department for approval; and
- (4) implement control alternatives determined to be cost effective.

Cost effectiveness may be determined, at the option of the permit holder, by using a knee of the curve analysis.

SECTION 20. IC 13-18-3-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) Subject to the limitations of subsection (d), designated uses and associated water quality criteria are temporarily suspended on a site specific basis, for waters affected by discharges from combined sewer overflow points listed in the National Pollutant Discharge Elimination System (NPDES) permit due to wet weather events, if:

- (1) the department has approved a long term control plan for the NPDES permit holder for the combined sewer system;
- (2) the approved long term control plan is incorporated into the permit holder's NPDES permit;



- (3) the approved long term control plan:
  - (A) satisfies the requirements of section 2.3 of this chapter; and
  - (B) specifies the designated uses and water quality standards to be suspended under this section;
- (4) the permit holder:
  - (A) has implemented the approved long term control plan; or
  - (B) is implementing the approved long term control plan in accordance with the schedule approved in the long term control plan;
- (5) the permit holder is in compliance with the requirements for the operation and maintenance of its wastewater treatment facilities and combined sewer system, including its combined sewer operational plan approved by the department; and
- (6) the provisions of 40 CFR 131.10, 40 CFR 131.20, and 40 CFR 131.21 are satisfied.

The provisions of 40 CFR 131.10 may be satisfied by including appropriate data and information in the long term control plan.

(b) Existing uses as defined in 40 CFR 131.3(e) and associated water quality criteria may be suspended only in accordance with federal law.

(c) To the extent permitted under federal law, the department shall provide a compliance schedule for attainment of water quality based limitations for discharges from combined sewer overflow points in the NPDES permit during the period when the long term control plan is being developed.

(d) A temporary suspension applies only:

- (1) to the NPDES permit holder for discharges from the permit holder's listed combined sewer overflow points; and
- (2) during the time and to the physical extent that the designated uses and water quality standards are not attained due to the discharges from the listed combined sewer overflow points, but no more than four (4) days after the date the overflow discharge ends.

(e) The board may adopt rules in accordance with IC 13-14-8 and IC 13-14-9 to amend the water quality standards to include the terms of the temporary suspension allowed by this section.

(f) The permit holder shall monitor its discharges and the water quality in the affected receiving stream periodically, but at least every three (3) years. The permit holder shall provide all such

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information to the department.

(g) In conjunction with a review of its long term control plan under section 2.4 of this chapter, the permit holder shall review information generated after the use attainability analysis was approved by the department to determine whether the conclusion of the use attainability analysis is still valid. The permit holder shall provide the results of the review to the department.

(h) A temporary suspension under this section may be authorized only to the extent allowed under federal law. If the department determines that information provided under this section demonstrates that uses being suspended are attainable, the department shall promptly notify the permit holder of its determination. A permit holder may appeal the department's determination under this section in accordance with IC 4-21.5.

(i) After the effective date of the determination under subsection (h), the long term control plan may be modified to achieve attainment of the previously suspended uses and associated water quality criteria. The compliance schedule and other provisions of the NPDES permit shall also be modified as necessary.

SECTION 21. IC 13-18-3-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The outstanding state resource water improvement fund is established. All money collected under section 2 of this chapter and any money accruing to the fund are continuously appropriated to the fund to carry out the purposes of section 2 of this chapter. Money in the fund at the end of a state fiscal year does not revert to the state general fund, unless the outstanding state resource water improvement fund is abolished.

(b) The outstanding state resource water improvement fund shall be administered as follows:

- (1) The fund may be used by the department of environmental management to fund projects that will lead to overall improvement to the water quality of the affected exceptional use water or outstanding state resource water.
- (2) The treasurer of state may invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.
- (3) Any interest received accrues to the fund.
- (4) The expenses of administering the fund shall be paid from the fund.

SECTION 22. IC 13-18-19-2 IS ADDED TO THE INDIANA



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CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE UPON PASSAGE]: **Sec. 2. (a) The department may issue National Pollutant Discharge Elimination System (NPDES) permits containing conditions that include alternate water quality based effluent limits that:**

**(1) are based on receiving water flows associated with, or characteristic of:**

**(A) wet weather events of various degrees of duration and intensity; or**

**(B) low flow stream conditions derived on a monthly, quarterly, or annual basis;**

**(2) provide increased mass limitations, concentration limitations, or mass and concentration limitations, for publicly owned treatment works (POTW) that:**

**(A) are capable of treating wastewater flows that exceed the design flow used to calculate normal water quality based effluent limitations; and**

**(B) as a result of the increased limitations, can reduce the volume of discharge of wastewater from plant bypasses or combined sewer overflows; or**

**(3) include any factor or combination of factors described in subdivisions (1) and (2).**

**(b) The department may require an applicant for an NPDES permit containing at least one (1) of the conditions described in subsection (a) to document, in a reasonable manner, stream conditions and local controls that are germane to a condition described in subsection (a) before the department issues the NPDES permit.**

**SECTION 23. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "NPDES" refers to a National Pollutant Discharge Elimination System.**

**(b) As used in this SECTION, "combined sewer" has the meaning set forth in IC 13-11-2-31.4.**

**(c) The water pollution control board established under IC 13-18-1 shall adopt a rule before September 1, 2001, establishing requirements for community notification by NPDES permit holders of the potential health impact of combined sewer overflows whenever information from any reliable source indicates that:**

**(1) a discharge or discharges from one (1) or more combined sewer overflow points is occurring; or**

**(2) there is a reasonable likelihood that a discharge or**



discharges from one (1) or more combined sewer overflow points will occur within the next twenty-four (24) hours.

(d) This SECTION expires January 1, 2002.

SECTION 24. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "combined sewer" has the meaning set forth in IC 13-11-2-31.4.

(b) As used in this SECTION, "long term control plan" has the meaning set forth in IC 13-11-2-120.5.

(c) As used in this SECTION, "use attainability analysis" has the meaning set forth in IC 13-11-2-242.5.

(d) Before October 1, 2000, the department of environmental management shall provide guidance to all combined sewer overflow communities explaining the requirement of the use attainability analysis and the long term control plan to aid communities in determining how to comply with the requirements. This guidance must clearly identify, to the extent possible, all of the appropriate data and information required by the department of environmental management for a permit holder's long term control plan that will also satisfy the requirements of a use attainability analysis. The guidance must include information regarding minimization of industrial discharges in wet weather events.

(e) The department shall report to the environmental quality service council at each meeting of the council the progress of guidance given under this SECTION.

(f) This SECTION expires January 1, 2001.

SECTION 25. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "board" refers to the water pollution control board established under IC 13-18-1.

(b) All waters designated under 327 IAC 2-1.5-19(b) as outstanding state resource waters shall be maintained and protected in their present quality in accordance with the antidegradation implementation procedures for the outstanding state resource waters established by the board for waters in the Great Lakes system. Nothing in this act except IC 13-18-3-2, as amended by this act, affects the authority of the board to amend 327 IAC 5-2-11.7. Any rule adopted by the board contrary to this standard is void.

(c) All waters designated as outstanding state resource waters under 327 IAC 2-1-2(3) and waters designated as exceptional use waters under 327 IAC 2-1-6(i) shall be maintained and protected in accordance with 327 IAC 2-1-2(1) and 327 IAC 2-1-2(2). If a



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permittee seeks a new or increased discharge for which a new or increased permit limit is required and that amounts to a significant lowering of water quality, the permittee shall demonstrate an overall improvement in water quality in the outstanding state resource water or exceptional use water, subject to:

(1) the approval of the department of environmental management; and

(2) IC 13-18-3-2(m)(2)(A) and IC 13-18-3-2(m)(2)(B), as amended by this act.

(d) Any rule adopted by the board before the effective date of this SECTION is void to the extent that it:

(1) is inconsistent with this SECTION; or

(2) requires protection of waters beyond the protection required by 327 IAC 2-1-2(1) and 327 IAC 2-1-2(2).

(e) Before January 1, 2001, the board shall amend 327 IAC 2-1-2, 327 IAC 2-1-6, and 327 IAC 2-1.5-4 to reflect this act.

(f) This SECTION expires on the earlier of:

(1) the effective date of the rule amendments adopted by the board under subsection (e); or

(2) January 1, 2001.

SECTION 26. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of environmental management.

(b) Before July 1, 2001, the department shall develop and maintain a quality assurance program plan and information management system to assess the validity and reliability of the data used in the implementation of IC 13-18-2-3, as added by this act, and IC 13-18-3-2, as amended by this act.

(c) The department:

(1) shall make data from the information management system under subsection (b) available to the public upon request; and

(2) may charge a reasonable fee to persons requesting the data.

(d) The department shall use the data from the information management system under subsection (b) to review the data as of January 1, 2002, supporting:

(1) the listing of impaired waters under IC 13-18-2-3, as added by this act; and

(2) the special designation of waters under IC 13-18-3-2, as amended by this act.

(e) Before July 1, 2000, the environmental quality service council shall appoint a water data task force to assess the program



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resource needs of the department to collect adequate physical, chemical, and biological data used by the department. The task force shall present its findings to the environmental quality service council upon completion.

(f) The water data task force appointed under subsection (e) shall include four (4) members of the general assembly, the chairperson of the environmental quality service council, and representatives of the following:

- (1) The academic community in the disciplines of biology, chemistry, and hydrology.
- (2) The department.
- (3) The department of natural resources.
- (4) The United States Geological Survey.
- (5) Private chemical water testing laboratories.
- (6) Industry.
- (7) Agriculture.
- (8) Environmental advocacy organizations.
- (9) General citizens.
- (10) Municipalities.
- (11) The water pollution control board.
- (12) Local public health officials.
- (13) The state department of health.
- (14) The United States Fish and Wildlife Service.

(g) This SECTION expires October 1, 2002.

SECTION 27. [EFFECTIVE UPON PASSAGE] (a) Until October 1, 2002, the following apply to a water body designated before October 1, 2002, as an exceptional use water:

- (1) The water body is subject to the overall water quality improvement provisions of IC 13-18-3-2(l), as added by this act.
- (2) The water body is not subject to a standard of having its water quality maintained and protected without degradation consistent with the provisions of this act.

(b) Before October 1, 2002, the water pollution control board established under IC 13-18-1 shall:

- (1) determine whether, effective October 1, 2002, to designate as an outstanding state water each water designated before October 1, 2002, as an exceptional use water under 327 IAC 2-1-11; and
- (2) complete rulemaking to make any designation determined under subdivision (1).

(c) This SECTION expires January 1, 2003.



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**SECTION 28. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "board" refers to the water pollution control board established under IC 13-18-1.**

**(b) Before October 1, 2003, the board shall establish policies and rules to govern the implementation of total maximum daily load requirements of Section 303(d) of the Clean Water Act, 33 U.S.C. 1313(d).**

**(c) Before July 1, 2000, the department shall appoint a working group of stakeholders with respect to the implementation of maximum daily load requirements as described in subsection (b). The working group shall consider and make recommendations to the department of environmental management and the board on identification of issues, the development of policy options, policy adoption, and rulemaking. The working group must include representatives from:**

- (1) the general public;**
- (2) municipalities;**
- (3) industry;**
- (4) business;**
- (5) agriculture;**
- (6) environmental advocacy groups; and**
- (7) others with a high level of expertise in the subject area to be considered by the working group.**

**(d) The working group appointed under subsection (c) must also include the following members:**

- (1) a representative of the environmental quality service council;**
- (2) a technical secretary; and**
- (3) a member of the board.**

**(e) This SECTION expires October 1, 2003.**

**SECTION 29. An emergency is declared for this act.**

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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