

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE ENROLLED ACT No. 217

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 13-11-2-241 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 241. (a) "Underground storage tank", for purposes of section 161 of this chapter and IC 13-23, means one (1) tank or a combination of tanks: ~~including underground pipes connected to the tank or combination of tanks:~~

- (1) that is used to contain an accumulation of regulated substances; and
- (2) the volume of which, including the volume of the underground connected pipes **described in subsection (b)**, is at least ten percent (10%) beneath the surface of the ground.

(b) If:

- (1) a single tank; or**
- (2) a combination of tanks;**

constitutes an underground storage tank under subsection (a), any underground pipes that are connected to the single tank or combination of tanks are also part of the underground storage tank.

(c) The term defined in subsection (a) includes a single tank:

- (1) that meets the definition set forth in subsection (a); and**
- (2) in which there are separate compartments.**

~~(b)~~ **(d) The term does not include any of the following:**

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- (1) A farm or residential tank with a capacity of not more than one thousand one hundred (1,100) gallons that is used for storing motor fuel for noncommercial purposes.
- (2) A tank used for storing heating oil for consumptive use on the premises on which the tank is stored.
- (3) A septic tank.
- (4) A pipeline facility, including gathering lines, that:
 - (A) is regulated under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.);
 - (B) is regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 60101 et seq.); or
 - (C) is an intrastate pipeline facility regulated under state laws comparable to the laws identified in clauses (A) through (B).
- (5) A surface impoundment, pit, pond, or lagoon.
- (6) A stormwater or wastewater collection system.
- (7) A flow-through process tank.
- (8) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.
- (9) A storage tank situated in an underground area such as:
 - (A) a basement;
 - (B) a cellar;
 - (C) a mineworking;
 - (D) a drift;
 - (E) a shaft; or
 - (F) a tunnel;
 if the storage tank is situated upon or above the surface of the floor.
- (10) Any other tank exempted by a rule adopted by the solid waste management board in accordance with regulations adopted by the Administrator of the United States Environmental Protection Agency.
- (11) A pipe connected to a tank described in subdivisions (1) through (10).

SECTION 2. IC 13-23-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. The provisions of ~~IC 13-11-2-241(b)(10)~~ **IC 13-11-2-241(d)(10)** and sections 1(6) and 5(c) of this chapter requiring the concurrence of the Administrator of the United States Environmental Protection Agency for an action of the board or commissioner to be effective are nullified if the Administrator grants to the commissioner, under the program approved under Section 9004 of the federal Solid Waste Disposal Act, as amended (42 U.S.C. 6991c, as amended), the authority to take the action without the



Administrator's specific concurrence.

SECTION 3. IC 13-23-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) Each year, ~~the owner of~~ if an underground storage tank ~~that~~ has not been closed before ~~July~~ **January** 1 of ~~any~~ **the** year under:

- (1) rules adopted under IC 13-23-1-2; or
- (2) a requirement imposed by the commissioner before the adoption of rules under IC 13-23-1-2;

the owner of the underground storage tank shall pay to the department ~~of state revenue~~ an annual registration fee.

(b) The annual registration fee required by this section is as follows:

- (1) Ninety dollars (\$90) for each underground petroleum storage tank.
- (2) Two hundred forty-five dollars (\$245) for each underground storage tank containing regulated substances other than petroleum.

(c) If an underground storage tank consists of a single tank in which there are separate compartments, a separate fee shall be paid under subsection (b) for each compartment within the single tank.

~~(c)~~ **(d)** If an underground storage tank consists of a combination of tanks, a separate fee shall be paid **under subsection (b) for each compartment within each tank in the combination of tanks.**

(e) For purposes of determining eligibility for payment of part of the liability of owners and operators of underground petroleum storage tanks under IC 13-23-8, only fees paid in 1991 or later shall be considered.

(f) The following apply to tanks that contain separate compartments and that were in use before July 1, 2014:

- (1) For the period preceding July 1, 2014, the payment of a single annual fee of ninety dollars (\$90) for a tank containing separate compartments shall be deemed to satisfy the requirements of subsection (b).**
- (2) The department shall not be required to pay any refunds to a tank owner that paid a separate fee under subsection (b) for each compartment within a tank before July 1, 2014.**

SECTION 4. IC 36-9-27-53.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 53.5. (a) A county surveyor or board planning to perform a project for the reconstruction or maintenance of a regulated drain under ~~IC 36-9-27~~ **this chapter** that:

- (1) is subject to regulation under:

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(A) IC 14-26-5; or

(B) IC 14-28-1; or

(2) requires an individual permit under Section 404 of the federal Clean Water Act (33 U.S.C. 1344);

shall request ~~an onsite field~~ a review of the project through a written notification ~~of to~~ the division of water of the department of natural resources (referred to as "the division" in this section). **The notification may include a request to schedule an onsite field review of the project.**

(b) **If an onsite field review is requested**, not more than fourteen (14) days after it receives a ~~notification~~ **the request** under subsection (a), the division shall contact the county surveyor or the designee of the county surveyor and the department of environmental management to establish a date, time, and location for the onsite field review.

(c) ~~The~~ **If an onsite field review is scheduled**, it shall be conducted by a team consisting of:

(1) one (1) or more representatives of the county;

(2) one (1) or more representatives of the department of natural resources, including an engineer from the division of water;

(3) one (1) or more representatives of the department of environmental management; and

(4) if applicable, representatives of the local soil and water conservation district.

(d) Not more than thirty (30) calendar days after the completion of ~~an onsite field~~ a review under this section, the division shall provide the county surveyor with a written summary of the review. The summary must contain the following:

(1) A narrative and map defining the project location.

(2) A description of the proposed work.

(3) A list of conditions that:

(A) the department of natural resources would place on a permit to mitigate any unreasonable or detrimental effects that may occur as a result of the proposed work;

(B) the department of environmental management would place on a certification to comply with Section 401 of the federal Clean Water Act (33 U.S.C. 1341), if it is possible to ensure compliance with Section 401 by placing conditions on the certification; or

(C) both departments referred to in this subdivision would place on a permit or certification.

(e) The department of natural resources may not require or recommend the following as conditions for a permit for a project for



the reconstruction or maintenance of a regulated drain:

- (1) Deed restrictions in connection with the proposed work.
- (2) Conservation easements in connection with the proposed work.
- (3) Tree planting or tree retention within the easement of the regulated drain, if:
 - (A) the project involves construction on only one (1) side of the drain;
 - (B) vegetation on the opposite overbank will not be disturbed; and
 - (C) the board agrees to establish a suitably sized vegetated filter strip consisting of grasses and legumes along the side of the drain on which the construction will occur.

(f) For the purposes of subsection (e)(3), a project involves construction on only one (1) side of a regulated drain if the work is limited to the entire area:

- (1) below the top of the banks; and
- (2) within the drainage easement on one (1) side;

of the stream or open drain.

(g) A county surveyor or board that is aggrieved by the permit conditions disclosed under subsection (d)(3) has the right to enter into further negotiations with the department of natural resources and the department of environmental management in order to obtain a mutually agreeable set of permit conditions.

(h) If the permit conditions disclosed under subsection (d)(3) concerning a project for the reconstruction or maintenance of a regulated drain are acceptable to the county surveyor and board, the conditions:

- (1) are binding upon the department of natural resources; and
- (2) may not be changed by the department of natural resources.

However, subdivisions (1) and (2) cease to apply to the permit conditions disclosed under subsection (d)(3) concerning a project if an application for a permit for the project is not submitted within two (2) years after the onsite field review.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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