
TITLE 327 WATER POLLUTION CONTROL DIVISION

FIRST NOTICE OF COMMENT PERIOD

LSA Document #13-245

SATELLITE MANURE STORAGE STRUCTURES

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on new rules to [327 IAC 19](#) concerning satellite manure storage structures. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking.

CITATIONS AFFECTED: [327 IAC 19](#).

AUTHORITY: [IC 13-14-8](#); [IC 13-18-10.5](#).

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

The 2011 Indiana General Assembly passed legislation requiring that a person receive approval from IDEM prior to constructing or expanding the capacity of a satellite manure storage structure. The new law at [IC 13-18-10.5](#) also establishes the authority for the Environmental Rules Board to adopt rules regarding construction, operation, and maintenance of these structures. Prior to July 1, 2011, satellite manure storage structures were unregulated in Indiana.

A satellite manure storage structure is a building, lagoon, pad, pit, pond, or tank that is not located at a livestock or poultry production area and is designed to store at least 1,000,000 gallons of manure or 5,000 cubic yards of manure ([IC 13-11-2-196.2](#)). Recent changes in manure handling equipment and the value of manure as fertilizer have spurred interest in constructing large manure storage structures in locations closer to fields that are targeted for manure applications and in locations easily accessible to multiple sources of manure.

Indiana has regulated manure storage structures at large animal feeding operations since 1971. Under the confined feeding operation program, manure storage structures are required to meet certain standards regarding construction, operation, and maintenance to minimize leaks and seepage and prevent releases or spills of manure.

Satellite manure storage structures must be structurally sound and watertight to contain the large volume of manure to be stored. Improperly designed, constructed, or maintained structures can pose a threat to water quality and human health through spills or excessive seepage of manure that can enter underlying aquifers or surface water and contaminate drinking water supplies or destroy aquatic life. Assuring that satellite manure storage structures are designed, constructed, and maintained to prevent any harm to surface or groundwater quality will reduce the potential of any harm to human health via impaired water quality.

In this rulemaking, IDEM is proposing to add requirements for satellite manure storage structures similar to those currently established for manure storage structures at confined feeding operations in [327 IAC 19](#) to protect human health and water quality. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking.

Alternatives to Be Considered Within the Rulemaking

Alternative 1. Developing requirements for satellite manure storage structures.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law. It is a "state-only" requirement, authorized by state statute.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Not doing the rulemaking.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

There are no applicable federal laws.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. This rule would not impose any fiscal impact not already imposed through the authorizing legislation, [IC 13-18-10.5](#). Clear design and construction requirements that are consistent

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with requirements for existing manure storage structures located at confined feeding operations will streamline the construction approval process and reduce related regulatory expenses without imposing any additional costs above and beyond similar structures already in operation. Prudent construction, operation, and maintenance requirements will significantly reduce the risk of releases to the environment, which will help owners of satellite manure storage structures avoid the substantial costs of remediating a release and compensating neighbors for damages.

Potential Fiscal Impact of Alternative 2. No fiscal impact would be imposed; however, the opportunity to ease the fiscal impact of the construction approval process through rules that provide clear and consistent requirements for satellite manure storage structures will not be realized. This alternative also leaves operation and maintenance of these structures unaddressed and the risk of costly releases unmitigated.

Small Business Assistance Information

IDE� established a compliance and technical assistance (CTAP) program under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

www.in.gov/idem/ctap

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Jessica Faust-Hamblin
IDE� Small Business Regulatory Coordinator
MC 60-04 IGCS W041
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8172 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-5](#) is:

Eric P. Shields
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 234-3997
smallbizombudsman@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-5](#), specifically [IC 5-28-17-5\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Brad Baughn
IDE� Small Business Assistance Program Ombudsman
MC 50-01 IGCN 1301
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-3386 or (800) 451-6027
bbaughn@idem.in.gov

Public Participation and Work Group Information

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Lauren Aguilar, Rule Development Branch, Office of Legal Counsel at (317) 234-8559 or (800) 451-6027 (in Indiana).

REQUEST FOR PUBLIC COMMENTS

At this time, IDE� solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:

LSA Document #13-245 Satellite Manure Storage Structures
Lauren Aguilar
Rule Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management

Indiana Government Center North
100 North Senate Avenue
Mail Code 65-46
Indianapolis, IN 46204-2251

(2) By facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rule Development Branch at (317) 233-8903.

(3) By electronic mail to laguilar@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the e-mail address indicated in this notice.**

(4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than July 26, 2013. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Lauren Aguilar, Rule Development Branch, Office of Legal Counsel (317) 234-8559 or (800) 451-6027 (in Indiana).

Nancy King, Chief
Rule Development Branch
Office of Legal Counsel

Posted: 06/26/2013 by Legislative Services Agency

An [html](#) version of this document.