

HOUSE BILL No. 1266

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-11-2; IC 13-18-27.

Synopsis: Sediment and erosion control in construction. Prohibits an MS4 community (a county, city, or town that administers a program under which construction plans including erosion and sediment control measures are submitted for approval) from requiring erosion and sediment control measures that are more stringent than the erosion and sediment control measures required by the administrative rule of the environmental rules board concerning storm water runoff associated with construction activity. Provides that a review authority (the department of environmental management, a soil and water conservation district, or an MS4 community) to which a construction plan is submitted must make a preliminary determination whether the construction plan is substantially complete not more than 48 hours after the submission of the construction plan. Provides that an individual who reviews and makes a conclusive determination concerning a construction plan submitted to an MS4 community must be a registered professional civil engineer, a registered architect, a registered surveyor, or an individual working under the direct supervision of a registered professional civil engineer, registered architect, or registered surveyor. Provides that if an MS4 community has made a conclusive favorable determination concerning a construction plan, the MS4 community may not order work on the construction project to stop on the grounds that the erosion and sediment control measures included in the construction plan are not adequate.

Effective: July 1, 2019.

Miller D

January 10, 2019, read first time and referred to Committee on Environmental Affairs.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1266

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 13-11-2-41.2 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: **Sec. 41.2. "Construction plan", for**
4 **purposes of IC 13-18-27, has the meaning set forth in**
5 **IC 13-18-27-2.**

6 SECTION 2. IC 13-11-2-72.6 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2019]: **Sec. 72.6. "Erosion", for purposes of**
9 **IC 13-18-27, has the meaning set forth in IC 13-18-27-3.**

10 SECTION 3. IC 13-11-2-72.7 IS ADDED TO THE INDIANA
11 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2019]: **Sec. 72.7. "Erosion and sediment**
13 **control measure", for purposes of IC 13-18-27, has the meaning set**
14 **forth in IC 13-18-27-4.**

15 SECTION 4. IC 13-11-2-130.6 IS ADDED TO THE INDIANA
16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2019]: **Sec. 130.6. "MS4 community", for**



1 purposes of IC 13-18-27, has the meaning set forth in
2 IC 13-18-27-5.

3 SECTION 5. IC 13-11-2-173.2 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2019]: **Sec. 173.2. "Project site owner", for**
6 **purposes of IC 13-18-27, has the meaning set forth in**
7 **IC 13-18-27-6.**

8 SECTION 6. IC 13-11-2-195.2 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2019]: **Sec. 195.2. "Review authority", for**
11 **purposes of IC 13-18-27, has the meaning set forth in**
12 **IC 13-18-27-7.**

13 SECTION 7. IC 13-11-2-197.8 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2019]: **Sec. 197.8. "Sedimentation", for**
16 **purposes of IC 13-18-27, has the meaning set forth in**
17 **IC 13-18-27-8.**

18 SECTION 8. IC 13-18-27 IS ADDED TO THE INDIANA CODE
19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2019]:

21 **Chapter 27. Erosion and Sediment Control in Construction**
22 **Projects**

23 **Sec. 1. As used in this chapter, "327 IAC 15-5" refers to the**
24 **administrative rule of the environmental rules board concerning**
25 **storm water runoff associated with construction activity.**

26 **Sec. 2. As used in this chapter, "construction plan" means a**
27 **written plan that:**

- 28 (1) **presents information about a construction project and**
- 29 **activities associated with the construction project;**
- 30 (2) **includes a storm water pollution prevention plan that**
- 31 **outlines how erosion and sedimentation will be controlled on**
- 32 **the site of the construction project; and**
- 33 (3) **must be submitted to a plan review authority as a**
- 34 **condition of proceeding with the construction project under**
- 35 **the general permit rule program established under 327**
- 36 **IAC 15.**

37 **Sec. 3. As used in this chapter, "erosion" means the detachment**
38 **and movement of soil, sediment, or rock fragments by water, wind,**
39 **ice, or gravity.**

40 **Sec. 4. As used in this chapter, "erosion and sediment control**
41 **measure" means a practice, or a combination of practices, to**
42 **control erosion and resulting sedimentation.**



1 **Sec. 5. As used in this chapter, "MS4 community" means a**
 2 **county, city, or town that:**

3 **(1) owns, operates, or maintains a regulated municipal**
 4 **separate storm sewer system (MS4); and**

5 **(2) administers a program under which construction plans**
 6 **relating to construction projects in locations within the**
 7 **boundaries of the MS4 community are reviewed and given a**
 8 **favorable or unfavorable determination.**

9 **Sec. 6. As used in this chapter, "project site owner" means the**
 10 **person required to comply with 327 IAC 15-5 or the applicable**
 11 **ordinance of an MS4 community with respect to a construction**
 12 **project. The term includes the following:**

13 **(1) A developer.**

14 **(2) A person who has financial and operational control of**
 15 **construction activities and construction project plans and**
 16 **specifications, including the ability to make modifications to**
 17 **those plans and specifications.**

18 **Sec. 7. As used in this chapter, "review authority" means any of**
 19 **the following:**

20 **(1) The department.**

21 **(2) A soil and water conservation district or another entity**
 22 **designated by the department.**

23 **(3) An MS4 community, in the case of a construction project**
 24 **in a location within the boundaries of the MS4 community.**

25 **Sec. 8. As used in this chapter, "sedimentation" means the**
 26 **settling and accumulation of unconsolidated sediment carried by**
 27 **storm water runoff.**

28 **Sec. 9. An MS4 community may not require erosion and**
 29 **sediment control measures that are more stringent than the erosion**
 30 **and sediment control measures required by 327 IAC 15 in the case**
 31 **of a construction project not within the boundaries of an MS4**
 32 **community.**

33 **Sec. 10. (a) A review authority to which a construction plan is**
 34 **submitted must make a preliminary determination whether the**
 35 **construction plan is substantially complete not more than**
 36 **forty-eight (48) hours after the submission of the construction plan.**

37 **(b) If a review authority to which a construction plan is**
 38 **submitted under subsection (a):**

39 **(1) makes a preliminary determination that the construction**
 40 **plan is substantially complete; and**

41 **(2) notifies the project site owner of its favorable preliminary**
 42 **determination;**



1 not more than forty-eight (48) hours after the submission of the
2 construction plan, the project site owner may submit a notice of
3 intent letter including the information required by 327 IAC 15-5-5
4 and, forty-eight (48) hours after submission of the notice of intent
5 letter, may begin the construction project, including the land
6 disturbing activities of the construction project.

7 (c) If a review authority to which a construction plan is
8 submitted under subsection (a) does not notify the project site
9 owner within forty-eight (48) hours after the submission of the
10 construction plan of its preliminary determination as to whether
11 the construction plan is substantially complete, the project site
12 owner may submit a notice of intent letter including the
13 information required by 327 IAC 15-5-5 and, forty-eight (48) hours
14 after submission of the notice of intent letter, may begin the
15 construction project, including the land disturbing activities of the
16 construction project.

17 (d) If a review authority to which a construction plan is
18 submitted under subsection (a) notifies the project site owner
19 within forty-eight (48) hours after the submission of the
20 construction plan of its preliminary determination that the
21 construction plan is not substantially complete, the project site
22 owner may not submit a notice of intent letter until the review
23 authority makes a conclusive favorable determination concerning
24 the construction plan under 327 IAC 15-5 or the applicable
25 ordinance of the MS4 community.

26 (e) If a review authority to which a construction plan is
27 submitted under subsection (a):

28 (1) makes a preliminary determination that the construction
29 plan is substantially complete; and

30 (2) makes a conclusive unfavorable determination concerning
31 the construction plan under 327 IAC 15-5 or the applicable
32 ordinance of the MS4 community;

33 the land disturbing activities of the construction project must stop
34 when the review authority notifies the project site owner of the
35 review authority's conclusive unfavorable determination
36 concerning the construction plan.

37 Sec. 11. An individual who reviews and makes a conclusive
38 determination concerning a construction plan submitted to an MS4
39 community must be:

40 (1) a registered professional civil engineer;

41 (2) an architect registered under IC 25-4-1;

42 (3) a surveyor registered under IC 25-21.5; or



1 **(4) an individual working under the direct supervision of an**
2 **individual described in subdivisions (1) through (3).**
3 **Sec. 12. If:**
4 **(1) an MS4 community has made a conclusive favorable**
5 **determination concerning a construction plan under the**
6 **applicable ordinance of the MS4 community; and**
7 **(2) work on the construction project has begun;**
8 **the MS4 community may not order work on the construction**
9 **project to stop on the grounds that the erosion and sediment**
10 **control measures included in the construction plan are not**
11 **adequate.**
12 **Sec. 13. The environmental rules board may adopt rules under**
13 **IC 4-22-2 and IC 13-14-9 to administer this chapter.**

