

Updated March 21, 2023 (4:22pm)

SENATE BILL No. 414

AM041402 has been incorporated into January 31, 2023 printing.

Synopsis: Onsite sewage systems and holding tanks.

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January 31, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE BILL No. 414

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 13-11-2-7.2 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2023]: **Sec. 7.2. "Alternative residential**
- 4 **onsite sewage system", for purposes of IC 13-18-28, has the**
- 5 **meaning set forth in IC 13-18-28-1.**
- 6 SECTION 2. IC 13-11-2-25.8, AS AMENDED BY P.L.160-2021,
- 7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2023]: Sec. 25.8. (a) For purposes of IC 13-18:
- 9 (1) "Class I wetland" means an isolated wetland described by
- 10 one (1) or both of the following:
- 11 (A) At least fifty percent (50%) of the wetland has been
- 12 disturbed or affected by human activity or development by
- 13 one (1) or more of the following:
- 14 (i) Removal or replacement of the natural vegetation.

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- 1 (ii) Modification of the natural hydrology.
- 2 (B) The wetland supports only minimal wildlife, ~~or~~ aquatic
- 3 habitat, ~~or~~ **and** hydrologic function because the wetland
- 4 does not provide critical habitat for threatened or
- 5 endangered species listed in accordance with the
- 6 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
- 7 and the wetland is characterized by at least one (1) of the
- 8 following:
- 9 (i) The wetland is typified by low species diversity.
- 10 (ii) The wetland contains greater than fifty percent
- 11 (50%) areal coverage of non-native invasive species of
- 12 vegetation.
- 13 (iii) The wetland does not support significant wildlife
- 14 or aquatic habitat.
- 15 (iv) The wetland does not possess significant
- 16 hydrologic function;
- 17 (2) "Class II wetland" means an isolated wetland that supports
- 18 moderate habitat ~~or~~ **and** hydrological functions, including an
- 19 isolated wetland that is dominated by native species but is
- 20 generally without:
- 21 (A) the presence of; or
- 22 (B) habitat for;
- 23 rare, threatened, or endangered species; and
- 24 (3) "Class III wetland" means an isolated wetland:
- 25 (A) that is located in a setting undisturbed or minimally
- 26 disturbed by human activity or development and that
- 27 supports more than minimal wildlife or aquatic habitat or
- 28 hydrologic function; ~~or~~ **and**
- 29 (B) that is of one (1) of the following rare and ecologically
- 30 important types:
- 31 (i) Acid bog.
- 32 (ii) Acid seep.
- 33 (iii) Circumneutral bog.
- 34 (iv) Circumneutral seep.
- 35 (v) Cypress swamp.
- 36 (vi) Dune and swale.
- 37 (vii) Fen.
- 38 (viii) Forested fen.
- 39 (ix) Forested swamp.
- 40 (x) Marl beach.
- 41 (xi) Muck flat.
- 42 (xii) Panne.

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- 1 (xiii) Sand flat.
- 2 (xiv) Sedge meadow.
- 3 (xv) Shrub swamp.
- 4 (xvi) Sinkhole pond.
- 5 (xvii) Sinkhole swamp.
- 6 (xviii) Wet floodplain forest.
- 7 (xix) Wet prairie.
- 8 (xx) Wet sand prairie.

9 (b) For purposes of this section, a wetland ~~or setting~~ is not
 10 considered disturbed or affected as a result of an action taken after
 11 January 1, 2004, for which a permit is required under IC 13-18-22 but
 12 has not been obtained.

13 SECTION 3. IC 13-11-2-218.3 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2023]: **Sec. 218.3. "Standard septic system",**
 16 **for purposes of IC 13-18-28, has the meaning set forth in**
 17 **IC 13-18-28-2.**

18 SECTION 4. IC 13-18-12-3, AS AMENDED BY P.L.159-2011,
 19 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2023]: Sec. 3. (a) The board shall initiate, in accordance with
 21 IC 13-15, a septage management permit program for all persons who
 22 offer to perform or are performing septage management services.

23 (b) **A permit from the department may not be required for the**
 24 **ownership or operation of one (1) or more holding tanks described**
 25 **in IC 16-41-25-9 in which septage originating from a residential or**
 26 **commercial source is held until it is removed and transported from**
 27 **the site of the holding tanks by septage management vehicles.**
 28 **However:**

29 (1) **the board may adopt rules under IC 4-22-2 and**
 30 **IC 13-14-9; or**

31 (2) **the department may establish guidelines;**
 32 **concerning the reports to be provided to the department by local**
 33 **health departments under IC 16-41-25-9(h). The rules or guidelines**
 34 **may specify the content to be included in the reports and the**
 35 **frequency at which the reports must be provided.**

36 SECTION 5. IC 13-18-28 IS ADDED TO THE INDIANA CODE
 37 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 38 UPON PASSAGE]:

39 **Chapter 28. Alternative Residential Onsite Sewage Systems**

40 **Sec. 1. As used in this chapter, "alternative residential onsite**
 41 **sewage system" means a system that:**

- 42 (1) **is designed for the collection, storage, treatment, and**

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- 1 disposal of sewage from the dwelling of one (1) or two (2)
 2 families;
 3 (2) is installed in a place that, because of soil type, space
 4 restrictions, or another reason, is not suitable for a standard
 5 septic system;
 6 (3) is a replacement for a standard septic system that was in
 7 place in the same site but did not function properly;
 8 (4) is based on a design or plan approved by the National
 9 Sanitation Foundation;
 10 (5) employs advanced treatment components not used in
 11 standard septic systems, including a disinfection component
 12 that uses chlorine, ultraviolet light, or ozone to reduce the
 13 concentration of the pathogenic constituents of the effluent
 14 to an acceptable level before it is discharged;
 15 (6) discharges the treated effluent above ground; and
 16 (7) because of its design and components, requires more
 17 frequent testing and maintenance than a standard septic
 18 system.

19 **Sec. 2.** As used in this chapter, "standard septic system" means
 20 a system that:

- 21 (1) is designed for the treatment and disposal of wastewater
 22 from a residence; and
 23 (2) consists of:
 24 (A) a septic tank in which organic matter is digested;
 25 and
 26 (B) a drainfield in which the effluent is slowly released
 27 into the soil.

28 **Sec. 3.** (a) The environmental rules board shall, under
 29 IC 4-22-2 and IC 13-14-9, adopt rules, including emergency rules
 30 adopted in the manner provided by IC 4-22-2-37.1, concerning
 31 alternative residential onsite sewage systems. Notwithstanding
 32 IC 4-22-2-37.1(g), the emergency rules that are adopted under this
 33 subsection and in the manner provided by IC 4-22-2-37.1 expire on
 34 the date on which rules that supersede the emergency rules are
 35 adopted by the board under this subsection and IC 4-22-2-24
 36 through IC 4-22-2-36.

- 37 (b) The rules adopted under this section must establish:
 38 (1) standards and specifications for alternative residential
 39 onsite sewage systems;
 40 (2) effluent limitations for alternative residential onsite
 41 sewage systems that are necessary to ensure that the effluent
 42 discharged from those systems does not pose an

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- 1 unreasonable risk to human health or the environment;
- 2 **(3) minimum qualifications for individuals or entities that**
- 3 **install and maintain alternative residential onsite sewage**
- 4 **systems, including the requirement that the individuals**
- 5 **receive training provided or approved by a manufacturer of**
- 6 **alternative residential onsite sewage systems or of**
- 7 **components used in alternative residential onsite sewage**
- 8 **systems; and**
- 9 **(4) requirements for the inspection, maintenance, testing,**
- 10 **service, and repair of alternative residential onsite sewage**
- 11 **systems, including:**
 - 12 **(A) the establishment or adoption of mandatory**
 - 13 **inspection and maintenance procedures;**
 - 14 **(B) requirements as to when and how often the**
 - 15 **mandatory inspection and maintenance procedures**
 - 16 **must be performed;**
 - 17 **(C) a requirement that effluent discharged from an**
 - 18 **alternative residential onsite sewage system be:**
 - 19 **(i) sampled at least once every three (3) months;**
 - 20 **and**
 - 21 **(ii) tested in a laboratory approved by the**
 - 22 **department under the rules to ensure that the**
 - 23 **effluent complies with the effluent limitations**
 - 24 **established under subdivision (2); and**
 - 25 **(D) a requirement that the service or repair of an**
 - 26 **alternative residential onsite sewage system, if needed,**
 - 27 **be performed by an individual or entity meeting the**
 - 28 **qualifications established by the board in the rules.**

29 **Sec. 4. Not more than sixty (60) days after the rules adopted**
 30 **under section 3 of this chapter take effect, the commissioner or the**
 31 **department shall issue a National Pollution Discharge Elimination**
 32 **System general permit in accordance with 40 CFR 122.26 that**
 33 **authorizes the installation and use of alternative residential onsite**
 34 **sewage systems.**

35 SECTION 6. IC 16-20-10 IS ADDED TO THE INDIANA CODE
 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2023]:

38 **Chapter 10. Alternative Residential Onsite Sewage Systems**
 39 **Sec. 1. As used in this chapter, "alternative residential onsite**
 40 **sewage system" has the meaning set forth in IC 13-18-28-1.**

41 **Sec. 2. (a) If:**
 42 **(1) an application is submitted to a local health department**

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- 1 for a permit for a residential onsite sewage system;
- 2 (2) the plans for the residential onsite sewage system:
 - 3 (A) provide for the system to be an alternative
 - 4 residential onsite sewage system; and
 - 5 (B) meet the standards and specifications for alternative
 - 6 residential onsite sewage systems established in the rules
 - 7 adopted under IC 13-18-28-3;
- 8 (3) the applicant affirms in writing that:
 - 9 (A) the alternative residential onsite sewage system will
 - 10 be installed by an individual or entity that meets the
 - 11 minimum qualifications for alternative residential onsite
 - 12 sewage system installers that are established in the rules
 - 13 adopted under IC 13-18-28-3;
 - 14 (B) the alternative residential onsite sewage system will
 - 15 be maintained:
 - 16 (i) by individuals or entities that meet the minimum
 - 17 qualifications for performers of maintenance on
 - 18 alternative residential onsite sewage systems that
 - 19 are established in the rules adopted under
 - 20 IC 13-18-28-3; and
 - 21 (ii) in accordance with the periodic maintenance
 - 22 schedule and other requirements established by the
 - 23 rules adopted under IC 13-18-28-3; and
 - 24 (C) effluent discharged from the alternative residential
 - 25 onsite sewage system will be:
 - 26 (i) sampled at least once every three (3) months;
 - 27 and
 - 28 (ii) tested in a laboratory approved by the
 - 29 department of environmental management;
 - 30 according to the rules adopted under IC 13-18-28-3;
- 31 (4) the installation and operation of the alternative
- 32 residential onsite sewage system are covered under the
- 33 general permit for the installation and use of alternative
- 34 residential onsite sewage systems that is issued under
- 35 IC 13-18-28-4; and
- 36 (5) the permit applicant has filed an affidavit concerning the
- 37 alternative residential onsite sewage system for recording in
- 38 the county recorder's office of the county as required by
- 39 section 3 of this chapter;
- 40 the local health department shall grant the permit.
- 41 Sec. 3. (a) A person applying to a local health department for
- 42 a permit for an alternative residential onsite sewage system must

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- 1 file an affidavit for recording in the county recorder's office of the
- 2 county.
- 3 (b) The affidavit filed under this section must:
- 4 (1) be filed in the deed records of the county;
- 5 (2) state that an application for an alternative residential
- 6 onsite sewage system has been submitted to the local health
- 7 department;
- 8 (3) state that the alternative residential onsite sewage system,
- 9 if constructed or installed in the property to which the
- 10 affidavit relates, will be subject to continuing inspection,
- 11 maintenance, and testing requirements under the rules of the
- 12 environmental rules board as long as the residential onsite
- 13 sewage system is in use, regardless of any transfer of
- 14 ownership of the property;
- 15 (4) clearly provide notice to any prospective transferee of the
- 16 property to which the affidavit relates that the prospective
- 17 transferee will be subject to the requirements described in
- 18 subdivision (3) after the transfer of the property to the
- 19 prospective transferee; and
- 20 (5) state that the failure of a property owner to satisfy the
- 21 continuing inspection, maintenance, and testing
- 22 requirements or to remedy a problem with the alternative
- 23 residential onsite sewage system may lead to, or may already
- 24 have been the cause of, the imposition of a lien against the
- 25 property.
- 26 (c) The owner of the property to which an affidavit recorded
- 27 under this section relates may have the affidavit removed from the
- 28 deed records of the county if:
- 29 (1) the alternative residential onsite sewage system:
- 30 (A) is not constructed or installed in the property to
- 31 which the affidavit relates; or
- 32 (B) is constructed or installed but:
- 33 (i) the alternative residential onsite sewage system
- 34 is removed from the property; or
- 35 (ii) use of the alternative residential onsite sewage
- 36 system is permanently ended; and
- 37 (2) any lien imposed against the property under section 5 of
- 38 this chapter is released and discharged.
- 39 (d) The county recorder may charge a reasonable fee for:
- 40 (1) the recording of an affidavit; and
- 41 (2) the removal of an affidavit from the deed records of the
- 42 county;

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under this section.

Sec. 4. A permit issued by a local health department for an alternative residential onsite sewage system is subject to the following conditions:

(1) The alternative residential onsite sewage system must be constructed in compliance with the rules adopted by the environmental management board under IC 13-18-28-3.

(2) The alternative residential onsite sewage system must be operated and maintained in compliance with the rules adopted by the environmental management board under IC 13-18-28-3, including the requirements of the rules concerning:

(A) mandatory inspection and maintenance; and

(B) the sampling and testing of effluent discharged from an alternative residential onsite sewage system at least once every three (3) months.

(3) If an inspection of the alternative residential onsite sewage system or the sampling and testing of effluent from the alternative residential onsite sewage system discloses that the alternative residential onsite sewage system is not in compliance with the effluent limitations established by the rules adopted by the environmental management board under IC 13-18-28-3 or is otherwise in need of maintenance or repair, the owner of the property in which the alternative residential onsite sewage system is located shall promptly have the alternative residential onsite sewage system serviced or repaired by an individual or entity qualified to perform the service or repair work under the rules adopted by the environmental management board under IC 13-18-28-3.

(4) If the property owner fails to satisfy any requirements concerning the mandatory inspection and maintenance of the alternative residential onsite sewage system, the sampling and testing of effluent from the alternative residential onsite sewage system, or the servicing or repair of the alternative residential onsite sewage system, the local health department:

(A) shall have the alternative residential onsite sewage system inspected, maintained, tested, serviced, or repaired by an individual or entity qualified to perform the inspection, maintenance, testing, service or repair work under the rules adopted by the environmental

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1 management board under IC 13-18-28-3; and
 2 (B) shall bill the property owner for the cost of the
 3 inspection, maintenance, testing, service, or repair work
 4 plus a reasonable sum to defray the expenses of the local
 5 health department in arranging for the service or repair
 6 work.

7 **Sec. 5. (a)** A local health department shall enforce payment
 8 under this section of costs accrued under section 4(4)(B) of this
 9 chapter.

10 (b) As often as the local health department determines
 11 necessary in a calendar year, the local health department shall
 12 prepare either of the following:

13 (1) A list of the costs accrued under section 4(4)(B) of this
 14 chapter that includes:

- 15 (A) the name of the owner of each lot or parcel of real
 16 property as to which costs are delinquent;
- 17 (B) a description of the lot or parcel of real property, as
 18 shown in the records of the county auditor; and
- 19 (C) the amount of the delinquent costs.

20 (2) An individual instrument for each lot or parcel of real
 21 property on which the costs accrued under section 4(4)(B) of
 22 this chapter are delinquent.

23 (c) An officer of the local health department shall record a
 24 copy of each list or each individual instrument with the county
 25 recorder. The county recorder shall charge a fee for recording the
 26 list or each individual instrument in accordance with the fee
 27 schedule established in IC 36-2-7-10. The officer shall mail by
 28 certified mail, or by another delivery service providing proof of
 29 delivery, to each property owner on the list or on an individual
 30 instrument a notice stating that a lien against the owner's property
 31 has been recorded. A service charge of five dollars (\$5), which is in
 32 addition to the recording fee charged under this subsection, shall
 33 be added to each copy of each list or instrument that is recorded
 34 under this subsection.

35 (d) Using the lists and instruments prepared under subsection
 36 (b) and recorded under subsection (c), the local health department
 37 shall, not later than ten (10) days after the list or each individual
 38 instrument is recorded under subsection (c), certify to the county
 39 auditor a list of the unpaid liens for collection with the next May
 40 installment of property taxes. The county and its officers and
 41 employees are not liable for any material error in the information
 42 on this list.

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1 (e) Upon receipt of the list under subsection (c), the county
2 auditor shall add a fifteen dollar (\$15) certification fee for each lot
3 or parcel of real property on which costs are delinquent. The fee is
4 in addition to all other fees and charges. The county auditor shall
5 immediately enter on the tax duplicate for the district the
6 delinquent costs, fees, and charges that are due not later than the
7 due date of the next May installment of property taxes. The county
8 treasurer shall include any unpaid costs, fees, and charges of each
9 lot or parcel of property at the time the next cycle's property tax
10 installment is billed.

11 (f) The local health department shall release any recorded lien
12 when the delinquent costs, fees, and charges have been fully paid.
13 The county recorder shall charge a fee for releasing the lien in
14 accordance with IC 36-2-7-10.

15 (g) After certification of liens under subsection (d), the local
16 health department may not collect or accept delinquent costs, fees,
17 and charges from property owners whose property has been
18 certified to the county auditor.

19 (h) If the delinquent costs, fees, and charges are not paid, they
20 shall be collected by the county treasurer in the same way that
21 delinquent property taxes are collected.

22 (i) At the time of each semiannual tax settlement, the county
23 treasurer shall certify to the county auditor all costs, fees, and
24 charges that have been collected. The county auditor shall deduct
25 the service charges and certification fees collected by the county
26 treasurer and pay over to the officer the remaining amounts due
27 the local health department. The county treasurer shall retain the
28 service charges and certification fees that have been collected and
29 shall deposit them in the county general fund.

30 **Sec. 6. IC 16-20-9-1 does not apply to this chapter.**

31 SECTION 7. IC 16-41-25-9 IS ADDED TO THE INDIANA
32 CODE AS A NEW SECTION TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2023]: **Sec. 9. (a) As used in this section,**
34 **"septage" means human excreta, wastewater, scum, sludge, and**
35 **other content introduced through incidental or accidental seepage**
36 **that is removed from domestic septic tanks, holding tanks, privies,**
37 **seepage pits, cesspools, compost toilets, or portable sanitary units.**

38 (b) As used in this section, "septage management vehicle"
39 means a vehicle that is:

- 40 (1) used for:
41 (A) the removal of septage from holding tanks or sewage
42 disposal systems; and

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- 1 **(B) the transportation of the septage to wastewater**
 2 **treatment plants or other facilities for treatment,**
 3 **temporary storage, or disposal; and**
 4 **(2) subject to regulation under IC 13-18-12 and 327 IAC 7.1.**
 5 **(c) Septage that originates from a residential or commercial**
 6 **source may be held in one (1) or more holding tanks until it is**
 7 **removed and transported from the site of the holding tanks by a**
 8 **septage management vehicle. A holding tank to which this**
 9 **subsection applies may not have a capacity of more than ten**
 10 **thousand (10,000) gallons.**
 11 **(d) A holding tank used under this section must be:**
 12 **(1) designed and equipped so that septage can be cleanly and**
 13 **efficiently pumped from the tank into a septage management**
 14 **vehicle to be transported from the site of the tank; and**
 15 **(2) equipped with a device that will produce an audio and**
 16 **visual alarm when the septage in the tank reaches two-thirds**
 17 **(2/3) of the tank's capacity.**
 18 **(e) A holding tank described in this section may not be used to**
 19 **hold septage unless the tank owner has obtained a permit from the**
 20 **local health department of the county, city, or multiple county unit**
 21 **in which the holding tank is located. To obtain a permit, the owner**
 22 **of a holding tank must:**
 23 **(1) enter into a written contract with an operator of septage**
 24 **management vehicles providing for the removal of septage**
 25 **from the holding tank at regular intervals;**
 26 **(2) provide a copy of the contract to the local health**
 27 **department; and**
 28 **(3) commit to providing to the local health department copies**
 29 **of receipts or other records proving that the holding tank**
 30 **owner is regularly paying the septage management vehicle**
 31 **operator a fee for the removal of septage from the holding**
 32 **tank.**
 33 **(f) A permit issued to the owner of a holding tank may be**
 34 **suspended or revoked, or renewal of the permit may be denied, for:**
 35 **(1) a violation of:**
 36 **(A) this section;**
 37 **(B) a condition stated in the permit; or**
 38 **(C) a requirement established under subsection (g); or**
 39 **(2) a problem involving the holding tank or the operation of**
 40 **the holding tank that creates a risk of harm to human health**
 41 **or the environment.**
 42 **(g) The local health department of a county, city, or multiple**

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1 county unit may establish requirements:
2 (1) concerning the issuance, term, and renewal of permits
3 required under subsection (e);
4 (2) concerning the design, construction, location, and
5 operation of holding tanks described in this section; and
6 (3) determining:
7 (A) the ways in which a holding tank owner may provide
8 the proof; and
9 (B) how often the tank owner must provide the proof;
10 required under subsection (e)(3).
11 (h) In accordance with any rules or guidelines adopted under
12 IC 13-18-12-3(b), a local health department that issues permits for
13 the use of holding tanks under this section shall report to the
14 department of environmental management concerning the holding
15 tanks.
16 SECTION 8. An emergency is declared for this act.

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