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HOUSE BILL No. 1355

Proposed Changes to introduced printing by AM135502

DIGEST OF PROPOSED AMENDMENT

Confined feeding operations. Replaces "preconstruction meeting" with "preapplication meeting". Provides that the department of environmental management (department) must refund the application fee in certain circumstances. Provides that certain confined feeding operations do not need to use certain equipment for solid manure produced by livestock. Prohibits the department from requiring an existing permit holder, who is applying to expand an operation, to update a previously approved facility or structure. Creates an exception regarding when certain confined feeding operations are considered a permitted use.

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 13-18-10-1.3 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2026]: Sec. 1.3. (a) An applicant may request
4 a ~~preconstruction~~ preapplication meeting with the department,
5 which requires the following:
6 (1) The applicant to submit the engineered designs of:
7 (A) a manure treatment facility;
8 (B) a control facility; or
9 (C) an animal feeding structure;
10 to the department.
11 (2) The department shall:
12 (A) review the designs; and
13 (B) schedule a ~~preconstruction~~ preapplication
14 meeting;
15 within thirty (30) days of receiving the designs from the

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applicant.

(3) The applicant and the department shall discuss the plans and specifications for the design and operation of an animal feeding structure at the ~~<preconstruction>~~[preapplication] meeting.

(4) If at a ~~<preconstruction>~~[preapplication] meeting the department requests changes to the:

(A) manure treatment facility;

(B) control facility; or

(C) animal feeding structure;

the applicant shall resubmit the necessary plans or specifications within forty-five (45) days of the ~~<preconstruction>~~[preapplication] meeting.

(5) The department shall issue a permit under section 1 of this chapter within ninety (90) days of the:

(A) ~~<preconstruction>~~[preapplication] meeting; or

(B) day the applicant submits required changes to the department under subdivision (4).

(b) If the department fails to ~~<make a determination on>~~[approve or deny] an application ~~<submitted under>~~[not more than ninety (90) days after the date on which the applicant makes a reasonable effort to provide notice under section 2(b) of this chapter, the department shall refund the fee described in] section 2 of this chapter ~~<within ninety (90) days, then the applicant's application is deemed approved and>~~[to the applicant. After the department issues the refund to the applicant,] the department shall [continue working on the application and] issue ~~<a permit under section 1 of this chapter>~~[the application as soon as possible].

SECTION 2. IC 13-18-10-2.1, AS AMENDED BY P.L.199-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 2.1. (a) The department:

(1) shall make a determination on an application submitted under section 2 of this chapter not later than ninety (90) days after the date the department receives the completed application, including all required supplemental information, unless the department and the applicant agree to a longer time; and

(2) may conduct any inquiry or investigation, consistent with the department's duties under this chapter, the department considers necessary before making a determination.

(b) If the department fails to make a determination on an application not later than ninety (90) days after the date the department



receives the completed application, the applicant may request and receive a refund of an approval application fee paid by the applicant, and the commissioner shall:

- (1) continue to review the application;
- (2) approve or deny the application as soon as practicable; and
- (3) refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(c) The commissioner may suspend the processing of an application and the ninety (90) day period described under this section if the department determines within thirty (30) days after the department receives the application that the application is incomplete and has mailed a notice of deficiency to the applicant that specifies the parts of the application that:

- (1) do not contain adequate information for the department to process the application; or
- (2) are not consistent with applicable law.

(d) The department may establish requirements in an approval regarding that part of the confined feeding operation that concerns manure handling and application to assure compliance with:

- (1) this chapter;
- (2) rules adopted under this chapter;
- (3) the water pollution control laws;
- (4) rules adopted under the water pollution control laws; and
- (5) policies and statements adopted under IC 13-14-1-11.5 relative to confined feeding operations.

(e) Subject to subsection (f), the commissioner may deny an application upon making either or both of the following findings:

- (1) A responsible party intentionally misrepresented or concealed any material fact in either or both of the following:
 - (A) An application for approval under section 1 of this chapter.
 - (B) A disclosure statement required by section 1.4 of this chapter.
- (2) An enforcement action was resolved against a responsible party as described in either or both of the following:
 - (A) Section 1.4(c)(5) of this chapter.
 - (B) Section 1.4(c)(6) of this chapter.

(f) Before making a determination to approve or deny an application, the commissioner must consider the following factors:

- (1) The nature and details of the acts attributed to the responsible party.



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(2) The degree of culpability of the responsible party.

(3) The responsible party's cooperation with the state, federal, or foreign agencies involved in the investigation of the activities involved in actions referred to in section 1.4(c)(5) and 1.4(c)(6) of this chapter.

(4) The responsible party's dissociation from any other persons or entities convicted in a criminal enforcement action referred to in section 1.4(c)(5) and 1.4(c)(6) of this chapter.

(5) Prior or subsequent self-policing or internal education programs established by the responsible party to prevent acts, omissions, or violations referred to in section 1.4(c)(5) and 1.4(c)(6) of this chapter.

(g) Except as provided in subsection (h), in taking action under subsection (e), the commissioner must make separately stated findings of fact to support the action taken. The findings of fact must:

(1) include a statement of ultimate fact; and

(2) be accompanied by a concise statement of the underlying basic facts of record to support the findings.

(h) If the commissioner denies an application under subsection (e), the commissioner is not required to explain the extent to which any of the factors set forth in subsection (f) influenced the denial.

(i) The department may amend an approval under section 1 of this chapter or revoke an approval under section 1 of this chapter:

(1) for failure to comply with:

(A) this chapter;

(B) rules adopted under this chapter;

(C) the water pollution control laws; or

(D) rules adopted under the water pollution control laws; and

(2) as needed to prevent discharges of manure into the environment that pollute or threaten to pollute the waters of the state.

(j) The department may not require changes to the design of a confined feeding operation if the design:

(1) complies with this chapter; and

(2) is submitted and ~~endorsed~~ certified by a professional engineer registered under IC 25-31-1.

SECTION 3. IC 13-18-10-2.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 2.4. (a) Except as provided in subsection (b), the department may not require an applicant that applies for approval under section 1 of this chapter ~~is not~~**



~~required to design or install one (1) or more of the following for~~
~~for~~ [for a facility that will contain] solid manure produced from
 livestock on ~~straw pack or dry pack bedding~~:

- ~~— (1) Manure pumps;~~
- ~~— (2) Flush systems;~~
- ~~— (3) Slatted floors and gutter systems;~~
- ~~— (4) Similar devices;~~
- ~~— (b) If the straw pack or~~ dry pack bedding ~~is~~ is:

(1) strawpack; or
(2) dry pack bedding ~~is~~ is:
~~— (1) placed over a concrete manure storage pit; or~~
~~— (2) connected to a flush system;~~
~~then the applicant must install at least one (1) of the items~~
~~described in subsection (a).~~

~~SECTION 4~~ SECTION 4 ~~is~~ is:
to implement design requirements typically associated with liquid
manure.

(b) A facility that receives solid manure produced from
livestock on:

- (1) strawpack; or
 - (2) dry pack bedding;
- shall control runoff if precipitation or surface water comes in
contact with the manure.

SECTION 4. IC 13-18-10-2.5 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2026]: Sec. 2.5. The department may not
require a current permit holder that is applying to amend a permit
issued under section 1 of this chapter to update or make changes to
an existing permitted facility or structure if the new facility or
structure does not impact an existing facility or structure.

SECTION 5]. IC 13-18-10-2.8 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2026]: Sec. 2.8. The department shall:

- (1) designate an employee as the point of contact for
applicants and interested applicants to submit questions
concerning the application process described in this chapter;
and
- (2) distribute the designated employee's contact information
to all operating confined feeding operations.

SECTION ~~5~~ 6. IC 36-7-4-201.7 IS ADDED TO THE
INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2026]: Sec. 201.7. (a) As used in this section,



1 "permitted use" means a use that is approved in a zoning district
 2 without requiring a:
 3 (1) public hearing;
 4 (2) variance, special exception, contingent use, or conditional
 5 use; or
 6 (3) discretionary zoning action, other than a determination
 7 that a site plan conforms with applicable zoning regulations.
 8 (b) Notwithstanding any ordinance or regulation to the
 9 contrary, a confined feeding operation is a permitted use, if the
 10 project or development is ~~sited~~ situated on land zoned for
 11 agricultural use. However, this subsection does not apply to a
 12 project or development situated on land within:
 13 (1) a municipality; or
 14 (2) the contiguous unincorporated area within two (2) miles
 15 from the corporate boundaries of the municipality.
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