
TITLE 327 WATER POLLUTION CONTROL BOARD**FIRST NOTICE OF COMMENT PERIOD**

LSA Document #08-198

DEVELOPMENT OF AMENDMENTS AND NEW RULES CONCERNING DRINKING WATER STANDARDS, GROUND WATER RULE, LEAD AND COPPER RULE SHORT-TERM REGULATORY REVISIONS, STAGE 2 DISINFECTANTS AND DISINFECTION BYPRODUCTS RULE, AND LONG-TERM 2 ENHANCED SURFACE WATER TREATMENT RULE**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to [327 IAC 8-2](#), [327 IAC 8-2.1](#), [327 IAC 8-2.5](#), and [327 IAC 8-2.6](#) and new rules [327 IAC 8-2.3](#) and [327 IAC 8-2.6-7](#) through [327 IAC 8-2.6-22](#) concerning the adoption of federal requirements pertaining to Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2), Long-Term 2 Enhanced Surface Water Treatment Rule (LT2), Ground Water Rule (GWR), and Lead and Copper Rule Short-Term Revisions. 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 8-2-1](#); [327 IAC 8-2-5](#); [327 IAC 8-2-5.3](#); [327 IAC 8-2-8.2](#); [327 IAC 8-2-20](#); [327 IAC 8-2-30](#); [327 IAC 8-2-33](#); [327 IAC 8-2-36](#); [327 IAC 8-2-37](#); [327 IAC 8-2-38](#); [327 IAC 8-2-39](#); [327 IAC 8-2-40](#); [327 IAC 8-2-42](#); [327 IAC 8-2-43](#); [327 IAC 8-2-44](#); [327 IAC 8-2-45](#); [327 IAC 8-2-46](#); [327 IAC 8-2.1-3](#); [327 IAC 8-2.1-4](#); [327 IAC 8-2.1-8](#); [327 IAC 8-2.1-9](#); [327 IAC 8-2.1-16](#); [327 IAC 8-2.1-17](#); [327 IAC 8-2.5-2](#); [327 IAC 8-2.5-5](#); [327 IAC 8-2.5-6](#); [327 IAC 8-2.5-7](#); [327 IAC 8-2.5-9](#) and new sections [327 IAC 8-2.1-18](#); [327 IAC 8-2.3-1](#); [327 IAC 8-2.3-2](#); [327 IAC 8-2.3-3](#); [327 IAC 8-2.3-4](#); [327 IAC 8-2.3-5](#); [327 IAC 8-2.3-6](#); [327 IAC 8-2.3-7](#); [327 IAC 8-2.5-10](#); [327 IAC 8-2.5-11](#); [327 IAC 8-2.5-12](#); [327 IAC 8-2.5-13](#); [327 IAC 8-2.5-14](#); [327 IAC 8-2.5-15](#); [327 IAC 8-2.5-16](#); [327 IAC 8-2.5-17](#); [327 IAC 8-2.5-18](#); [327 IAC 8-2.5-19](#); [327 IAC 8-2.5-20](#); [327 IAC 8-2.6-7](#); [327 IAC 8-2.6-8](#); [327 IAC 8-2.6-9](#); [327 IAC 8-2.6-10](#); [327 IAC 8-2.6-11](#); [327 IAC 8-2.6-12](#); [327 IAC 8-2.6-13](#); [327 IAC 8-2.6-14](#); [327 IAC 8-2.6-15](#); [327 IAC 8-2.6-16](#); [327 IAC 8-2.6-17](#); [327 IAC 8-2.6-18](#); [327 IAC 8-2.6-19](#); [327 IAC 8-2.6-20](#); [327 IAC 8-2.6-21](#); [327 IAC 8-2.6-22](#).

AUTHORITY: [IC 13-14-8](#); [IC 13-14-9](#); [IC 13-18-3-2](#).

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**Basic Purpose and Background**

The requirements of this rule are based on revisions and additions to the national primary drinking water regulations. The Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2) was promulgated by EPA on January 4, 2006, the Long-Term 2 Enhanced Surface Water Treatment Rule (LT2) was promulgated on January 5, 2006, the Ground Water Rule (GWR) was promulgated on November 8, 2006, and the Lead and Copper Rule Short-Term Revisions was promulgated on October 10, 2007. This rulemaking serves to incorporate those federal requirements into the Indiana Administrative Code.

The Stage 2 Rule requires community and nontransient noncommunity public water systems that deliver disinfected water to test for disinfection byproducts in their drinking water. This rule has two parts. The first part requires a study by public water systems, called an Initial Distribution System Evaluation, to determine the locations where compliance samples should be taken. The second requires monitoring for all affected systems based on the system population and source type for disinfection byproducts. This rule differs from the Stage 1 Disinfection and Disinfection Byproducts rule in that it requires public water systems to meet the Maximum Contaminant Levels at every location rather than as a system-wide average.

The Long-Term 2 Enhanced Surface Water Treatment Rule (LT2) requires public water systems using surface water or ground water under the direct influence of surface water to test their untreated water for Cryptosporidium and E. coli if they serve 10,000 or more people and E. coli only initially if they serve fewer than 10,000 people. The results of this monitoring will be used to determine if any additional treatment is required to control Cryptosporidium.

The Ground Water Rule (GWR) requires public water systems using ground water to correct significant deficiencies found during sanitary surveys. It also requires public water systems using ground water (community, nontransient noncommunity, and transient noncommunity) to test their source water for a fecal indicator after a total coliform positive distribution system sample collected under the Total Coliform Rule. If a public water system confirms that there is fecal contamination of the source water, the system will have four options: (1) correct all significant deficiencies; (2) provide an alternative source of water; (3) eliminate the source of contamination; or (4) provide treatment that reliably achieves at least 4-log treatment of viruses.

The Lead and Copper Rule (LCR) Short-Term Regulatory Revisions provides targeted changes to the lead and copper rule. Those changes are in the following areas: (1) monitoring; (2) treatment processes; (3) public

education; (4) customer awareness; and (5) lead service line replacement. These changes provide more effective protection of public health by reducing exposure to lead in drinking water. This rule becomes effective at the federal level on December 10, 2009, or when the state rule is adopted, whichever comes first.

EPA requires each state to adopt drinking water regulations that are no less stringent than the federal requirements within two years of promulgation of the federal rules. The state can request an additional two years to adopt a regulation under specific conditions, including combining multiple rules into one rulemaking.

Alternatives To Be Considered Within the Rulemaking

Alternative 1.

The only alternative is through rulemaking. These changes are federally mandated.

Alternative 2.

If Indiana does not adopt these changes EPA will take back primacy for the entire drinking water program. EPA will also take back money given to IDEM through the Environmental Performance Partnership Agreement (EnPPA) process for the Public Water Supply Supervision Program and the Drinking Water State Revolving Loan Fund (DWSRF).

Applicable Federal Law

Section 112(a) of the Safe Drinking Water Act Amendments of 1996 requires the following in order to maintain primary enforcement responsibility for regulations promulgated under the SDWA).

- States must adopt regulations that are no less stringent than the federal requirements within two years of promulgation of the federal rules.
- EPA may grant an extension of up to two years if EPA determines that the extension is necessary and justified.

Potential Fiscal Impact

EPA provided detailed fiscal impact analyses in their economic analysis of these rules. The analysis information for the Stage 2 Rule is available in the Wednesday, January 4, 2006, Federal Register, Volume 71, Number 2, page 441-472. For the LT2 Rule, the analysis is available in the Thursday, January 5, 2006, Federal Register, Volume, 71, Number 3, page 730-762. For the GWR, the analysis is available in the Wednesday, November 8, 2006, Federal Register, Volume 71, Number 216, page 65614-65642. For the LCR, the analysis is available in the Wednesday, October 10, 2007, Federal Register, Volume 72, Number 195, page 57799-57812.

For the Stage 2 Rule, EPA estimates total annualized costs of the rule at a three percent discount rate (given in 2003 dollars) ranging from \$56.24 million/year to \$102.22 million/year (with a 90% confidence limit). These estimates are for the entire nation. Costs would be higher for surface water systems than they are for ground water systems. The estimate of mean annual household cost increase for all systems is \$0.62. The median household cost increase for all plants is \$0.03. However, for plants that need to add treatment to meet the rule, the mean annual household cost increase is \$5.53 and the median is \$0.80. EPA also estimates the state implementation costs at \$221,575 per state.

The LT2ESWTR will result in increased costs to public water systems and states. The average annualized present value costs of the LT2ESWTR are estimated to range from \$92 to \$133 million (using a three percent discount rate). Public water systems will bear approximately 99% of this total cost with states incurring the remaining one percent. The average annual household cost is estimated to be \$1.67 to \$2.59 per year, with 96% to 98% of households experiencing annual costs of less than \$12 per year.

The estimated mean annualized present value costs of the GWR are \$61.8 million (three percent discount rate) and \$62.3 million (seven percent discount rate). As a whole, EPA estimates that households subject to the rule will face minimal increases in their annual costs. Approximately 66% of the households potentially affected by the rule are customers of systems that serve at least 10,000 people. Households served by small systems that take corrective action will face the greatest increase in annual costs. If one assumes that all costs are passed to consumers, the annual household costs for community water systems (including those who do not add treatment) range from \$0.21 to \$16.52. Annual household costs for the subset of community water systems that take corrective action range from \$0.45 to \$52.38.

The LCR Total Annual Direct Costs for the regulatory changes range from \$5.89 million to \$6.35 million. Of that, \$5.418 million to \$5.677 million are direct costs to systems and \$471,000 to \$657,000 are annual direct costs to the states. These values are for the entire country. Small system estimated annual costs are \$3.755 million. The estimated annual compliance cost for all small systems covered by the final rule changes is \$55 per system in annual costs. EPA also expects that all systems will incur a \$138 one-time implementation cost. The additional annual costs could be as low as \$0 per year or as high as \$2,743 per year. EPA estimates that only 1.3 percent of all small systems could potentially incur all of the estimated annualized costs. The systems that do not exceed the lead action level face a maximum potential annual cost of \$220.

The Stage 2 Rule, the LT2ESWTR, and the GWR are already promulgated as federal rules with which the public water system is required to comply in the absence of state rules. The LCR becomes effective when state rules are promulgated or two years after federal promulgation, whichever comes first. Therefore, although all these rules pose a significant fiscal impact, the state rulemaking does not have any additional fiscal impact beyond what is required by the federal rule.

Small Business Assistance Information

IDEM 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.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Stacey Pfeffer
IDEM Compliance and Technical Assistance Program - OPPTA
MC60-04 IGCS W-041
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8172 or (800) 988-7901
ctap@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Megan Tretter
IDEM Small Business Assistance Program Ombudsman
MC 50-01-IGCN 1307
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-3386 or (800) 451-6027
mtretter@idem.in.gov

Public Participation and Workgroup Information

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Lawrence Wu, Rules Section, Office of Water Quality at (317) 234-1805 or (800) 451-6027 (in Indiana).

STATUTORY AND REGULATORY REQUIREMENTS

[IC 13-14-8-4](#) requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM 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.

Mailed comments should be addressed to:

#08-198(WPCB) Drinking Water Standards (2006 and 2007 Federal Rulemaking)
Lawrence Wu
Rules Development Section
MC 65-40 IGCN 1255
Office of Water Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204-2251.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the twelfth floor reception desk, Office of Water Quality, Indiana Government Center-North, Room N1255, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 232-8406, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-8903. Please note it is not necessary to follow a faxed comment letter with a copy of the letter submitted through the postal system.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by April 25, 2008.

Additional information regarding this action may be obtained from Stacy Jones, Drinking Water Branch, Office of Water Quality, (317) 308-3292 or (800) 451-6027 (in Indiana).

Bruno Pigott
Assistant Commissioner
Office of Water Quality

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