
TITLE 327 WATER POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD

LSA Document #08-434

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING [327 IAC 6.1](#), THE LAND APPLICATION OF BIOSOLIDS, INDUSTRIAL WASTE PRODUCTS, AND POLLUTANT-BEARING WATER**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to [327 IAC 6.1](#), the Generation and Land Application of Biosolids, Industrial Waste Products, and Pollutant-Bearing Water. This rule will provide clarifications and consistency, relief from certain requirements, cover permitting gaps, and increase environmental protection. 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 6.1](#).**AUTHORITY:** [IC 13-14-8-1](#); [IC 13-15-1-2](#); [IC 13-15-2-1](#); [IC 13-18-3-1](#); [IC 13-18-12-4](#).**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING****Basic Purpose and Background**

After meetings with interested parties, a list of potential changes was established that would provide some regulatory relief and clarifications to the rules. Some changes may be required to provide consistency with other rules or to fill a gap in regulatory coverage. Some of the alternatives may provide increased environment protection. The following list has been provided to and discussed with the regulatory community and is being presented for comment as possible changes to [327 IAC 6.1](#):

1. Allow liming documentation for soil pH, demonstrates that the site meets the pH requirements.
2. Change marketing and distribution reporting to monthly instead of annually.
3. Require the pollutant-bearing water permits and marketing and distribution permits to be kept on site.
4. Generators of all biosolids must report amounts generated and disposed.
5. Allow compliance schedules.
6. Develop standards for processing facilities and composting facilities for marketing and distribution under a new Rule 9.
7. Update sampling references.
8. Reinstate salmonella testing with new test method.
9. Consider the beneficial reuse of alum sludges.
10. Marketing and distribution user information sheet would include information on stockpiling and staging.
11. Clarify sampling for marketing and distribution.
12. Clarify sampling, source reporting, etc., at regional biosolid facilities.
13. Evaluate well protection criteria, including well head protection areas.
14. Modifying the requirement for cumulative tracking of metals for pollutant-bearing water.
15. Add a new section for gypsum notification.
16. Review nitrogen and phosphorus application rates.
17. Typos and minor clarifications.
18. Moving and adding some sections for consistency.
19. Adding new definitions and revising current definitions.

Alternatives to Be Considered Within the Rulemaking**Alternative 1. Allow liming documentation for soil pH, demonstrates that the site meets the pH requirements.**

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 2. Change marketing and distribution reporting to monthly instead of annually.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 3. Require the pollutant-bearing water permits and market and distribution permits to be kept on site.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.

2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 4. Generators of all biosolids must report amounts generated and disposed.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 5. Allow compliance schedules.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 6. Develop standards for processing facilities and composting facilities for marketing and distribution under a new Rule 9.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 7. Update sampling references.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? Yes.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 8. Reinstate salmonella testing with new test method.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? Yes.
2. Is this alternative imposed by federal law or is there a comparable federal law? Yes.
3. If it is a federal requirement, is it different from federal law? No.
4. If it is different, describe the differences. Not applicable.

Alternative 9. Consider the beneficial reuse of alum sludges.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 10. Marketing and distribution user information sheet would include information on stockpiling and staging.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 11. Clarify sampling for marketing and distribution.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 12. Clarify sampling, source reporting, etc., at regional biosolid facilities.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? No.
4. If it is different, describe the differences. Not applicable.

Alternative 13. Evaluate well protection criteria, including wellhead protection areas.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 14. Deleting cumulative tracking of metals for pollutant-bearing water.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 15. Add a new section for gypsum notification.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 16. Review nitrogen and phosphorus application rates.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 17. Typos and minor clarifications.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 18. Moving and adding some sections for consistency.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Alternative 19. Adding new definitions and revising current definitions.

1. Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
2. Is this alternative imposed by federal law or is there a comparable federal law? No.
3. If it is a federal requirement, is it different from federal law? Not applicable.
4. If it is different, describe the differences. Not applicable.

Applicable Federal Law

United States Environmental Protection Rules found at 40 CFR 257 and 40 CFR 503 are applicable to this rulemaking. The federal rules address the land application of biosolids and industrial waste products.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. This alternative will have a fiscal impact of approximately \$0.

Potential Fiscal Impact of Alternative 2. The record keeping requirement is necessary to the applicable federal law and will have the following impact: 1-2 hours of employee time per year per facility × approximately \$50 per hour employee time × 50 facilities × 7 years of the effective time of the rule for a total of \$17,500-\$35,000.

Potential Fiscal Impact of Alternative 3. This alternative will have a fiscal impact of approximately \$0.

Potential Fiscal Impact of Alternative 4. The fiscal impact is unknown at this time but input from the regulated community would be helpful.

Potential Fiscal Impact of Alternative 5. This alternative will have a fiscal impact of approximately \$0.

Potential Fiscal Impact of Alternative 6. This alternative will save \$14,500 for 100 facilities per year.

Potential Fiscal Impact of Alternative 7. This alternative will have a fiscal impact of approximately \$0.

Potential Fiscal Impact of Alternative 8. This alternative will have a fiscal impact of approximately \$0.

Potential Fiscal Impact of Alternative 9. This alternative will lead to an unquantifiable savings.

Potential Fiscal Impact of Alternative 10. This alternative will have a fiscal impact of approximately \$0.

Potential Fiscal Impact of Alternative 11. This alternative will have a fiscal impact of approximately \$0.

Potential Fiscal Impact of Alternative 12. This alternative will have a fiscal impact of approximately \$0.

Potential Fiscal Impact of Alternative 13. This alternative will have a fiscal impact of approximately \$0.

Potential Fiscal Impact of Alternative 14. This alternative will have a minimal savings of 2 hours of employee time multiplied by 250 facilities for a total of \$25,000 per year.

Potential Fiscal Impact of Alternative 15. This alternative will have a fiscal impact of approximately \$0.

Potential Fiscal Impact of Alternative 16. This alternative will have a fiscal impact of approximately \$200,000-\$300,000 per year × 7 years effective time of the rule.

Potential Fiscal Impact of Alternative 17. This alternative will have a fiscal impact of approximately \$0.

Potential Fiscal Impact of Alternative 18. This alternative will have a fiscal impact of approximately \$0.

Potential Fiscal Impact of Alternative 19. This alternative will have a fiscal impact of approximately \$0.

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:
MC 60-04

IDEM Compliance and Technical Assistance Program
W-041 OPPTA
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-1191
clowry@idem.in.gov

The Small Business Assistance Program Ombudsman is:

MC 50-01
Megan Tretter
IDEM Small Business Assistance Program Ombudsman
IGCN 130
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-3386
mtretter@idem.in.gov

Public Participation and Workgroup Information

Several external subgroups have been established to discuss issues involved in this rulemaking. The workgroup is made up of IDEM staff and a cross-section of stakeholders.

If you wish to provide comments to the workgroup on the rulemaking, attend meetings, or have suggestions related to the workgroup process, please contact Lynn West, Rules, Planning, and Outreach Section, Office of Land Quality at (317) 232-3593 or (800) 451-6027 (in Indiana). Please provide your name, phone number and e-mail address, if applicable, where you can be contacted. The public is also encouraged to submit comments and questions to members of the workgroup who represent their particular interests in the rulemaking.

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:

#08-434 (WPCB) (Land Application Change Rule)

MC 45-61

Janet Pittman

Rules, Planning, and Outreach Section

Office of Land Quality, Eleventh Floor

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, IN 46204-2251.

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

Comments may be submitted by facsimile at the IDEM fax number: (317) 232-3403, 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, Outreach, and Planning Section at (317) 232-8922.

COMMENT PERIOD DEADLINE

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

Additional information regarding this action may be obtained from Lynn West, Rules, Outreach, and Planning Section, Office of Land Quality, (317) 232-3593 or (800) 451-6027 (in Indiana).

Bruce H Palin
Assistant Commissioner
Office of Land Quality

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