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

LSA Document #10-403

DEVELOPMENT OF RULE AMENDMENT CONCERNING GENERAL CONSTRUCTION PERMIT FOR WATER MAINS**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on an amendment to [327 IAC 8-3.5-3](#) concerning the eligibility of a water main project funded by the drinking water state revolving fund (SRF) to receive a general construction permit. IDEM seeks comment on the affected citation listed and any other provisions of Title 327 that may be affected by this rulemaking.

CITATIONS AFFECTED: [327 IAC 8-3.5-3](#).

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

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

IDEM is initiating rulemaking to repeal [327 IAC 8-3.5-3](#)(c), the prohibition against a water main project funded in whole or in part through the state revolving fund from being eligible to receive a general construction permit. This prohibition was included in [327 IAC 8-3.5](#) since its origination in 1999, but it has since been determined by IDEM that the prohibition is not necessary because a general construction permit is considered to be satisfactory for a water main project that is funded through the state revolving fund.

Alternatives to Be Considered Within the Rulemaking**Alternative 1.**

The only option for deleting the prohibition contained in Title 327 against a water main project funded in whole or in part through the state revolving fund from being eligible to receive a general construction permit is through rulemaking.

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

Alternative 2.

Do no rulemaking and continue prohibiting a water main project funded in whole or in part through the state revolving fund from being eligible to receive a general construction permit. This alternative is not acceptable.

Applicable Federal Law

There is no applicable federal law.

Potential Fiscal Impact

Water main extension projects reviewed for funding by the SRF have ranged in cost from \$100,000 to \$100,000,000. Deleting the prohibition against a water main project funded in whole or in part through the SRF from being eligible to receive a general construction permit will cause no fiscal impact though it should lessen the work required of an applicant to fill out the state application form. The fee schedule under the general construction permit notice of intent (NOI) application for a water main extension project is based on the amount of linear feet of water main to be constructed and has the same costs per length as under the individual construction permit. However, the NOI for a general construction permit for a water main extension is a two page form (state form 49008), and it is specific to water main extension projects. The individual construction permit application form (state form 35058) for a public water system is an 11 page form that contains portions applicable to well construction, pumping facility construction, storage facility construction, chemical addition, and water treatment facility construction in addition to the portion used for the water main extension application. The fee schedule under both the general and individual construction permits is as follows:

- No fee for water main extensions under 2,500 linear feet.
- \$150 for water main extensions from 2,501 to 5,000 linear feet.
- \$250 for water main extensions from 5,001 to 10,000 linear feet.
- \$500 for water main extensions greater than 10,000 linear feet.

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:

Alison Surface, Senior Environmental Manager
IDEM Compliance and Technical Assistance Program
OPPTA - MC 60-04
100 North Senate Avenue
W041
Indianapolis, IN 46204-2251
(317) 232-8172 or (800) 988-7901
ctap@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Brad Baughn
IDEM Small Business Assistance Program Ombudsman
MC 50-01 - IGCN 1301
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-3386
bbaughn@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 please contact MaryAnn Stevens in the Office of Legal Counsel, Rules Development Branch at (317) 232-8635 or (800) 451-6027 (in Indiana). Please provide your name, phone number, and e-mail address, if applicable, where you can be contacted.

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:

#10-403 (SRF eligible permit)
MaryAnn Stevens
Mail Code 65-41
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204-2251

Hand delivered comments will be accepted by the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Room N1301, Indianapolis, Indiana. Comments also may be submitted by facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch 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 July 30, 2010.

Additional information regarding this rulemaking action may be obtained from MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel, (317) 232-8635 or (800) 451-6027 (in Indiana).

Nancy King, Chief
Rules Development Branch
Office of Legal Counsel

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