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

LSA Document #14-55

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](#) concerning land application of biosolids, industrial waste products, and pollutant-bearing water. A First Notice of Comment Period (DIN: [20080625-IR-327080434FNA](#)) was published in the Indiana Register on June 25, 2008. After discussion with interested stakeholders, it became apparent that the specific list of potential changes to [327 IAC 6.1](#) in the original First Notice of Comment Period was too narrow in scope. IDEM is withdrawing LSA Document #08-434 in a separate notice. In this notice, IDEM proposes to comprehensively review and update [327 IAC 6.1](#). 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**

The land application of waste materials such as biosolids, industrial waste products, or pollutant-bearing water, assist to fertilize plants and improve the quality of the soil by spraying, spreading on land, injecting below the land's surface, or incorporating the materials into the soil. IDEM currently requires those planning to perform these activities obtain an appropriate permit from the Land Application Program. The Land Application Program under [327 IAC 6.1](#) includes the land application of biosolids, industrial waste products, and pollutant-bearing water and the associated treatment and storage.

IDEM plans to make administrative and substantive updates to Article 6.1. IDEM will comprehensively review and update Article 6.1 to improve the permitting process and streamline the rule language to create efficiencies in the Land Application Program. Article 6.1 will be reviewed for errors, inconsistencies, organizational issues, and for any updates necessary to stay consistent with applicable federal laws and regulations. Although the Land Application Program is not a federally delegated program, consistency, where feasible, with federal requirements is convenient and cost effective for the regulated community.

IDEM is considering the following changes to Article 6.1 as part of the comprehensive review:

- Develop requirements for the beneficial reuse and land application of certain industrial waste products in accordance with [IC 13-18-12-2.5](#), effective January 1, 2013.
- Revise requirements for the marketing and distribution of gypsum and agricultural lime.
- Add stockpiling and staging to the list of requirements in the marketing and distribution user information sheet.
- Change marketing and distribution reporting to monthly instead of annually.
- Require pollutant-bearing water and marketing and distribution permits be kept on site.
- Develop pollutant-bearing water standards for nonsite specific permits to ease the regulatory burden and allow more cost effective options for smaller organizations.
- Modify the requirements for cumulative tracking of metals in pollutant-bearing water.
- Develop standards for mechanical processing where a full solid waste processing permit is not appropriate in order to ease the regulatory burden.
- Develop standards or limits for phosphorous.
- Clarify the authority to impose compliance schedules. Compliance schedules can be used as a tool to provide a transition period for the regulated community to implement new requirements, including, but not limited to, phosphorus regulations.
- Allow liming documentation for soil pH to demonstrate compliance with pH requirements.
- Reinstate salmonella testing and testing methods.
- Update sampling requirements and references, as necessary.
- Clarify sampling, source reporting, and waste criteria standards at regional biosolids facilities and processing facilities.
- Incorporate federal definitions and requirements, although not required, for consistency and convenience of the regulated community.

IDEM seeks comment on the affected citations listed, including suggestions for specific language, any other

provisions of Title 327 that may be affected by this rulemaking, and alternative ways to achieve the purpose of the rulemaking.

Alternatives to Be Considered Within the Rulemaking

Alternative 1. Make all necessary administrative and substantive changes to [327 IAC 6.1](#) including those needed to comport with [IC 13-18-12-2.5](#).

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? Some of the proposed changes could include incorporations of federal standards, such as those found in 40 CFR 257, 40 CFR 258, 40 CFR 503.
- Is this alternative imposed by federal law or is there a comparable federal law? No, federal law does not impose this alternative, although, efforts are made to stay consistent with federal requirements for the convenience of the regulated community.
- If it is a federal requirement, is it different from federal law? Federal law does not require these changes.
- If it is different, describe the differences. There will be no differences because this is not a federal requirement.

Alternative 2. Not do a rulemaking. However, the rules will be left in conflict with the terms of [IC 13-18-12-2.5](#). Additionally, any cost savings to the regulated community will not be realized.

- 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, federal law does not impose this alternative.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

- 40 CFR 257, Criteria for Classification of Solid Waste Disposal Facilities and Practices
- 40 CFR 258, Criteria for Municipal Solid Waste Landfills
- 40 CFR 503, Standards for the Use or Disposal of Sewage Sludge

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. Changes to comport with [IC 13-18-12-2.5](#) and updates necessary to stay consistent with applicable federal laws and regulations will not have any additional fiscal impact than what is currently required by federal laws and regulations, Indiana law and the existing state rules. Changes to the pollutant-bearing water standards, as well as development of mechanical processing standards will create savings for the regulated community, because more cost effective options will be available. Establishing testing requirements, such as for phosphorus or salmonella, may result in a cost to the regulated community. The regulated community would be responsible for the costs of performing the tests and may face further costs associated with limited site availability and rate of land application. Further information about these potential fiscal impacts and any others from changes to [327 IAC 6.1](#) will be determined when draft rule language is developed.

Potential Fiscal Impact of Alternative 2. There would be no fiscal impact imposed. However, not doing a rulemaking would be a missed opportunity for a positive fiscal impact to the regulated community. Additionally, the opportunity to provide clear and consistent requirements and comport with statutory changes to [IC 13-18-12-2.5](#) will not be realized.

Small Business Assistance Information

IDEM established a compliance and technical assistance program (CTAP) 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

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Jessica Faust-Hamblin
IDEM Small Business Regulatory Coordinator
MC 60-04 IGCS W041
402 West Washington Street
Indianapolis, IN 46204-2251
(317) 232-8172 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-5](#) is:

Jacob Schpok
Indiana Small Business Development Center
One North Capitol, Suite 600
Indianapolis, IN 46204
(317) 232-8805

ombudsman@osbe.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-5](#), specifically [IC 5-28-17-5\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Steven N. Howell

IDEM Small Business Assistance Program Ombudsman

MC 50-01 IGCN 1301

100 North Senate Avenue

Indianapolis, IN 46204-2251

(317) 232-8587 or (800) 451-6027

snhowell@idem.in.gov

Public Participation and Work Group Information

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Lauren Aguilar, Rules Development Branch, Office of Legal Counsel at (317) 234-8559 or (800) 451-6027 (in Indiana).

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.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:

LSA Document #14-55 Land Application

Lauren Aguilar

Rules Development Branch

Office of Legal Counsel

Indiana Department of Environmental Management

Indiana Government Center North

100 North Senate Avenue

Mail Code 65-46

Indianapolis, IN 46204-2251

- (2) By facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch at (317) 233-8903.

- (3) By electronic mail to laguilar@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the email address indicated in this notice.**

- (4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than March 28, 2014. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Lauren Aguilar, Rules Development Branch, Office of Legal Counsel (317) 234-8559 or (800) 451-6027 (in Indiana).

Nancy King, Chief
Rules Development Branch
Office of Legal Counsel

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An [html](#) version of this document.