
TITLE 327 WATER POLLUTION CONTROL DIVISION**FINDINGS AND DETERMINATION OF THE COMMISSIONER
PURSUANT TO [IC 13-14-9-7](#) AND SECOND NOTICE OF COMMENT PERIOD**
LSA Document #17-563**DRINKING WATER CROSS CONNECTION RULE REVISIONS****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to update the cross connection requirements at [327 IAC 8-10](#). The purpose of this notice is to seek public comment on the draft rule, including suggestions for specific language to be included in the rule. 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 8-10](#).

AUTHORITY: [IC 13-14-8](#); [IC 13-14-9-7](#); [IC 13-15-1-2](#); [IC 13-15-2-1](#); [IC 13-18-3-1](#); [IC 13-18-4-1](#).

STATUTORY REQUIREMENTS

[IC 13-14-9-7](#) recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that the rulemaking policy alternatives available to IDEM are so limited that the first notice of public comment period would provide no substantial benefit to the environment or persons to be regulated or otherwise affected by the proposed rule, IDEM may forgo this comment period and proceed directly to the notice of second public comment period.

If the commissioner makes the determination of limited rulemaking policy alternatives required by [IC 13-14-9-7](#), the commissioner shall prepare written findings and include them in the second notice of public comment period published in the Indiana Register. This document constitutes the commissioner's written findings pursuant to [IC 13-14-9-7](#).

The statute provides for this shortened rulemaking process if the commissioner determines that "the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under [\[IC 13-14-9-3\]](#) . . . would provide no substantial benefit to:

- (1) the environment; or
- (2) persons to be regulated or otherwise affected by the proposed rule."

BACKGROUND

Unprotected cross connection and backflow contamination could be responsible for creating a public health risk and cause a public water system's failure to maintain the federal Safe Drinking Water Act standards. Indiana has a backflow prevention and cross control program under [327 IAC 8-10](#) that is based on federal requirements most recently updated under the Revised Total Coliform Rule and according to [IC 13-18-16-6](#) that requires a public water system to be operated to ensure safe drinking water for the public. This rulemaking, specifically, is to update information in [327 IAC 8-10](#) regarding where to find reference documents for cross connection control and to make administrative and formatting changes to conform to current rule drafting standards.

[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. This rulemaking is a revision of the existing rule language and does not create new restrictions or requirements. The existing reference materials and locations for finding them are being updated without creating new requirements.

Potential Fiscal Impact

This rulemaking is a revision of the existing rule language regarding where to find reference documents for cross connection control. It does not create new requirements or fiscal impact.

Public Participation and Work Group Information

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 MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel at (317) 232-8635 or (800) 451-6027 (in Indiana).

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 CTAP and other resources available can be found at:

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

Angela Taylor
IDEM Small Business Regulatory Coordinator/CTAP Small Business Liaison
IGCN 1316
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 233-0572 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Katelyn Colclazier
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 431-1560
kcolclazier@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), 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:

Brian Rockensuess
IDEM Small Business Assistance Program Ombudsman/Office of Government and Community Affairs
IGCN 1301
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-3386 or (800) 451-6027
brockens@idem.in.gov

FINDINGS

The commissioner of IDEM has prepared written findings regarding rulemaking on revisions to [327 IAC 8-10](#) regarding where to find reference materials. These findings are prepared under [IC 13-14-9-7](#) and are as follows:

- (1) This rulemaking revises the information at [327 IAC 8-10](#) regarding where to find reference materials about cross connection control and does not create new requirements.
- (2) I have determined that under the specific circumstances pertaining to this rule, the rulemaking policy alternatives are so limited that the public notice and comment period provided in the notice of first public comment period would provide no substantial benefit to the environment or to persons to be regulated or otherwise affected by the rule.
- (3) The draft rule is hereby incorporated into these findings.

Bruno L. Pigott
Commissioner
Indiana Department of Environmental Management

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Comments may be submitted in one of the following ways:

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

LSA Document #17-563 (Cross Connection)
MaryAnn Stevens
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue
Indianapolis, IN 46204-2251

- (2) By facsimile to (317) 233-5970. Please confirm the timely receipt of your faxed comments by calling the Rules Development Branch at (317) 232-8922.

(3) By electronic mail to mstevens@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 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, 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 January 5, 2018. 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 MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel, (317) 232-8635 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. [327 IAC 8-10-7](#) IS AMENDED TO READ AS FOLLOWS:

[327 IAC 8-10-7](#) Construction and installation requirements for air gaps or other devices

Authority: [IC 13-14-8](#); [IC 13-14-9](#); [IC 13-15-1-2](#); [IC 13-15-2-1](#); [IC 13-18-3-1](#); [IC 13-18-4-1](#)

Affected: [IC 13-11-2](#); [IC 13-13-5-1](#); [IC 13-18-2](#); [IC 22-13-2](#)

Sec. 7. (a) The discharge pipe of an air gap shall **must** terminate a minimum of:

(1) two (2) pipe diameters of the discharge pipe or six (6) inches, whichever is less, above the maximum recorded flood level or above the flood level rim of the receiving vessel, whichever is higher; or

(2) three (3) pipe diameters of the discharge pipe or six (6) inches, whichever is less, above the maximum recorded flood level or above the flood level rim of the receiving vessel, whichever is higher, where:

(A) a side wall, rib, or similar obstruction is spaced closer than three (3) diameters from the piping affecting the air gap; or

(B) two (2) intersecting walls are located closer than four (4) pipe diameters from the piping affecting the air gap.

(b) ~~Only those models of Double check valve assemblies, reduced pressure principle backflow preventers, and pressure vacuum breakers that have been listed by the "List of Approved Backflow Prevention Assemblies", by the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California, February 7, 2012, to be installed must be:~~

(1) **approved by the Foundation for Cross-Connection Control and Hydraulic Research***; or these

(2) acceptable under the Indiana plumbing code under the fire prevention and building safety commission rules at [675 IAC 16](#) shall be installed. [675 IAC 16-1.4](#).

(c) Reduced pressure principle backflow preventers shall **must** be installed **according to the following:**

(1) Horizontally or vertically as listed **determined** by the Foundation for ~~Cross-Connection~~ **Cross-Connection** Control and Hydraulic Research of the University of Southern California, February 7, 2012; **in accordance with the following:**

~~(1) no~~ (A) A plug or additional piping **must not be** affixed to the pressure differential relief valve port. ~~and~~

(2) (B) The pressure differential relief valve port **must be** a minimum of twelve (12) inches above floor level.

~~Additionally, the device must be installed~~

(2) At a location ~~where any~~ **that allows the following:**

(A) Leakage from the pressure differential relief valve port **will to** be noticed. ~~and that allows~~

(B) Access to the valve for **the following:**

(i) Maintenance. ~~and~~

(ii) Testing from floor level without use of a ladder or other similar temporary apparatus. ~~The device must not be installed below~~

(3) **Above** ground grade level. ~~and must not be~~

(4) **In a manner that will not** subject ~~to the device to~~ **the device to the following:**

(A) Flooding.

(B) Excessive heat. ~~or~~

(C) Freezing.

(d) All double check valve assemblies shall **must** be installed at a location that:

- (1) allows access to the device for maintenance and testing from floor level without use of a ladder or other similar temporary apparatus; and ~~that~~
- (2) will not subject the device to:
 - (A) flooding;
 - (B) excessive heat; or
 - (C) freezing.

(e) Pressure vacuum breakers and spill resistant vacuum breakers shall **must** be installed **according to the following**:

- (1) As near as possible to the irrigation facility.
- (2) At a location that allows access to the device for maintenance and testing from floor or ground level without use of a ladder or other similar temporary apparatus. ~~and~~
- (3) **In a manner** that will not subject the device to **the following**:
 - (A) Flooding.
 - (B) Excessive heat. ~~or~~
 - (C) Freezing. ~~Additionally, the device must be installed~~
- (4) Between two (2) tightly closing shutoff valves, with its center line or datum point a minimum of twelve (12) inches above:
 - (1) (A) floor level;
 - (2) (B) the highest downstream piping or shutoff valve; and
 - (3) (C) the highest downstream overflow rim or discharge point.

(f) Atmospheric vacuum breaker backsiphonage prevention assemblies must be installed **according to the following**:

- (1) At a location that allows access to the device for maintenance and testing from floor or ground level without use of a ladder or other similar apparatus. ~~and~~
- (2) **In a manner** that will not subject the device to **the following**:
 - (A) Flooding.
 - (B) Excessive heat. ~~or~~
 - (C) Freezing. ~~Additionally, the device must be installed as follows:~~
- (1) (3) **With** a minimum of six (6) inches clearance above the overflow rim or downstream piping.
- (2) ~~Absolutely no~~ (4) **Without** means of shutoff on the discharge side of vacuum breaker.
- (3) ~~Must not be~~ (5) **Without being** under continuous pressure for more than twelve (12) hours in any twenty-four (24) hour period.

***A list of approved backflow prevention assemblies may be obtained from the Foundation for Cross-Connection Control and Hydraulic Research at <http://fccchr.usc.edu/list.html> or is available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**

(Water Pollution Control Division; [327 IAC 8-10-7](#); filed Sep 24, 1987, 3:00 p.m.: 11 IR 717; filed Mar 31, 1999, 1:50 p.m.: 22 IR 2518; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: [20071219-IR-327070553BFA](#); filed Nov 13, 2012, 11:39 a.m.: [20121212-IR-327100414FRA](#); readopted filed Jul 29, 2013, 9:21 a.m.: [20130828-IR-327130176BFA](#); errata filed Jul 31, 2017, 11:06 a.m.: [20170809-IR-327170349ACA](#); errata filed Sep 22, 2017, 11:46 a.m.: [20171004-IR-327170437ACA](#))

SECTION 2. [327 IAC 8-10-11](#) IS AMENDED TO READ AS FOLLOWS:

[327 IAC 8-10-11](#) Registration of inspectors; list of registered inspectors; list of approved devices

Authority: [IC 13-14-8](#); [IC 13-14-9](#); [IC 13-15-1-2](#); [IC 13-15-2-1](#); [IC 13-18-3-1](#); [IC 13-18-4-1](#)

Affected: [IC 4-21.5](#); [IC 13-11-2](#); [IC 13-13-5-1](#); [IC 13-18-2](#); [IC 13-18-11-8](#)

Sec. 11. (a) Upon reviewing and finding the information certified by the training provider acceptable, the commissioner shall issue a registration number to each person whose training provider has certified that the applicant has met the following requirements of education and examination:

- (1) The information supplied by the applicant must be reviewed and acceptable to the training provider.

(2) Each applicant ~~must~~ **shall** attend forty (40) hours of education and successfully complete a written and oral examination for cross connection device inspectors administered by a training provider.

(b) The commissioner may revoke the registration of any cross connection control inspector, following a hearing under [IC 4-21.5](#), ~~when~~ **if** it is found that the inspector has violated:

- (1) any of the provisions set out in this rule; or
- (2) [IC 13-18-11-8](#).

(c) The commissioner shall maintain a list entitled "Indiana Registered Cross Connection Control Device Inspectors, All Inspectors", which is comprised of cross connection control device inspectors registered in Indiana.

(d) The commissioner shall maintain a list entitled "Indiana Registered Cross Connection Control Device Inspectors, Active Inspectors", which is comprised of cross connection control device inspectors:

- (1) that are registered in Indiana in accordance with subsection (a); and
- (2) who have requested their inclusion on this list in writing to the commissioner during the previous two (2) years.

~~(e) The commissioner shall maintain a list entitled "List of Approved Backflow Prevention Assemblies, February 7, 2012, by the Foundation for Cross Connection Control and Hydraulic Research, University of Southern California", which is comprised of a listing of cross connection control devices from the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California.~~

~~(f)~~ **(e)** The commissioner shall make the following lists as described in this section **subsections (c) and (d)** available to the public upon request.

- ~~(1) Indiana Registered Cross Connection Control Device Inspectors, All Inspectors.~~
- ~~(2) Indiana Registered Cross Connection Control Device Inspectors, Active Inspectors.~~
- ~~(3) List of Approved Backflow Prevention Assemblies, February 7, 2012, Foundation for Cross Connection Control and Hydraulic Research, University of Southern California.~~

(Water Pollution Control Division; [327 IAC 8-10-11](#); filed Sep 24, 1987, 3:00 p.m.: 11 IR 718; filed Mar 31, 1999, 1:50 p.m.: 22 IR 2519; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: [20071219-IR-327070553BFA](#); filed Nov 13, 2012, 11:39 a.m.: [20121212-IR-327100414FRA](#); readopted filed Jul 29, 2013, 9:21 a.m.: [20130828-IR-327130176BFA](#))

SECTION 3. [327 IAC 8-10-12](#) IS AMENDED TO READ AS FOLLOWS:

[327 IAC 8-10-12](#) Approval of an organization as a training provider of cross connection control device inspectors; record keeping

Authority: [IC 13-13-5-1](#); [IC 13-14-8](#); [IC 13-14-9](#); [IC 13-15-1-2](#); [IC 13-15-2-1](#); [IC 13-18](#)
Affected: [IC 4-21.5](#); [IC 13-11-2](#); [IC 13-18-11-8](#)

Sec. 12. (a) The commissioner shall approve an organization as a training provider of cross connection control device inspectors if the training provider's proposed course meets the following requirements:

- (1) The proposed course instruction and examination have a total duration of at least forty (40) hours.
- (2) The proposed course deals with matters directly related to the cross connection control devices that include ~~but are not limited to~~, the following:

(A) Cross connection:

- (i) identification;
- (ii) degree of hazard;
- (iii) prevention;
- (iv) control devices; and
- (v) practices.

(B) Backflow prevention assembly field test procedures and gage **gauge** accuracy verification ~~Section 9 from the "Manual of Cross Connection Control", Tenth Edition*, published October 2009.~~ by the Foundation for ~~Cross Connection~~ **Cross-Connection** Control and Hydraulic Research, University of Southern California.

(C) Cross connection control device:

- (i) inspection;

- (ii) repair; and
- (iii) maintenance.

(D) Content, intent, and related policy of this rule.

(E) Responsibilities of the:

- (i) customer;
- (ii) public water system; and
- (iii) cross connection control device inspector.

(3) ~~To teach the assigned subject~~, each instructor of the proposed course ~~must be recognized by~~ **shall:**

(A) have recognition from Indiana as a cross connection control device inspector; and

(B) be qualified by academic work or practical experience directly related to cross connection control device inspection.

~~to teach the assigned subject.~~

(4) Includes both a written and oral examinations **that are** proctored by different instructors and ~~meets~~ **meet** the following requirements:

(A) A written examination that tests the student's comprehension of the material discussed in subdivision (2).

(B) An oral examination that tests the student's ability and competency to perform **cross connection control device:**

- (i) inspections;
- (ii) test procedures specified under subdivision (2)(B); and
- (iii) troubleshooting.

~~on cross connection control devices.~~

(5) The organization submits a written request to the commissioner for approval as a training provider of cross connection control device inspectors. The request ~~shall~~ **must** contain the following:

(A) The:

- (i) name, address, and telephone number of the organization;
- (ii) name of the course;
- (iii) specific topics on which there are to be presentations;
- (iv) time devoted to each topic **identified under item (iii);** and
- (v) dates and locations where the course will be offered.

(B) All instructors':

- (i) names;
- (ii) registration numbers;
- (iii) educational backgrounds;
- (iv) professional experiences; and
- (v) current professional affiliations.

(C) Information to demonstrate fulfillment of the requirements of subdivision (2) to the satisfaction of the commissioner.

(D) A written class outline.

(b) The commissioner's approval of an organization as a training provider of cross connection control device inspectors ~~shall be~~ **is** valid for a duration of five (5) years.

(c) All training providers ~~must~~ **shall** maintain records **for five (5) years** on the following:

- (1) The dates of all courses.
- (2) The names of all individuals attending the course.
- (3) The duration of the course.
- (4) All instructors' names.
- (5) The program content.

~~These records shall be maintained for five (5) years.~~

(d) Training providers ~~must~~ **shall** submit to the commissioner a record of individuals attending courses within thirty (30) days of the conclusion of the course. These records ~~shall~~ **must** be maintained for a five (5) year period. The records ~~shall~~ **must** contain the following:

- (1) The name of the course.
- (2) The name, address, and current phone number of the individual attending the course.
- (3) The date of the course.
- (4) Performance on the written and oral examinations required by subsection (a)(4).

(e) The commissioner may revoke the approval of a training provider, following a hearing under [IC 4-21.5](#), ~~when~~ if it is found that the training provider has violated:

- (1) any of the provisions set out in the approval of the training provider's cross connection control device inspectors course; in
- (2) this rule; or
- (3) **the conditions of [IC 13-18-11-8](#).**

(Water Pollution Control Division; [327 IAC 8-10-12](#); filed Mar 31, 1999, 1:50 p.m.: 22 IR 2520; errata filed Aug 30, 1999, 12:06 p.m.: 23 IR 25; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: [20071219-IR-327070553BFA](#); filed Nov 13, 2012, 11:39 a.m.: [20121212-IR-327100414FRA](#); readopted filed Jul 29, 2013, 9:21 a.m.: [20130828-IR-327130176BFA](#))

SECTION 4. [327 IAC 8-10-13](#) IS REPEALED.

[Notice of Public Hearing](#)

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