

ARTICLE 4. WASTEWATER TREATMENT FACILITIES; OVERLOAD CONDITION

Rule 1. General

327 IAC 4-1-1 Purpose

Authority: IC 13-14-8-7; IC 13-18-4-3

Affected: IC 13-18-3-1

Sec. 1. This article is promulgated in order to prevent the excessive hydraulic or organic, or both, overloading of POTWs or semipublic facilities resulting in the subsequent discharge or bypassing of insufficiently treated wastewater due to:

(1) new sewer connections to; or

(2) poor operation and maintenance of;

the facilities. (*Water Pollution Control Division; 327 IAC 4-1-1; filed Sep 24, 1987, 3:00 p.m.: 11 IR 611; filed Mar 2, 1994, 5:00 p.m.: 17 IR 1615; 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 Jan 23, 2008, 1:39 p.m.: 20080220-IR-327060096FRA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA*)

327 IAC 4-1-2 Definitions

Authority: IC 13-14-8-7; IC 13-18-4-3

Affected: IC 8-1-2-89; IC 13-11-2-265

Sec. 2. In addition to the definitions in IC 8-1-2-89, IC 13-11-2, and 327 IAC 2, the following definitions apply throughout this article:

(1) "Discharge" or "direct discharge", when used without qualification, means a discharge of a pollutant.

(2) "Discharge of a pollutant" means any addition of any pollutant, or combination of pollutants, into any waters of the state of Indiana from a point source in Indiana. The term includes, without limitation, additions of pollutants into waters of the state from the following:

(A) Surface run-off that is collected or channeled by man.

(B) Discharges through pipes, sewers, or other conveyances that do not lead to treatment works.

(3) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

(4) "Hazardous substance" means any substance designated under 40 CFR 116 under Section 311 of the Clean Water Act (CWA), 33 U.S.C. 1321.

(5) "NPDES permit" means a written authorization issued by the commissioner or the EPA to regulate the discharge of pollutants under Section 402 of the CWA, 33 U.S.C. 1342, or corresponding state law (327 IAC 5).

(6) "Person" means any of the following:

(A) An individual.

(B) A partnership.

(C) A copartnership.

(D) A firm.

(E) A company.

(F) A corporation.

(G) An association.

(H) A joint stock company.

(I) A trust.

(J) An estate.

(K) A municipal corporation.

(L) A city.

(M) A school city.

(N) A town.

- (O) A school town.
 - (P) A school district.
 - (Q) A school corporation.
 - (R) A county.
 - (S) A consolidated unit of government.
 - (T) A political subdivision.
 - (U) A state agency.
 - (V) Any other legal entity.
- (7) "Pollutant" means, but is not limited to:
- (A) dredged spoil;
 - (B) incinerator residue;
 - (C) filter backwash;
 - (D) sewage;
 - (E) garbage;
 - (F) sewage sludge;
 - (G) munitions;
 - (H) chemical wastes;
 - (I) solid wastes;
 - (J) toxic wastes;
 - (K) hazardous substances;
 - (L) biological materials;
 - (M) radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended; 42 U.S.C. 2011, et seq.);
 - (N) heat;
 - (O) wrecked or discarded equipment;
 - (P) rock;
 - (Q) sand;
 - (R) cellar dirt; and
 - (S) other industrial, municipal, and agricultural waste;
- discharged into water.
- (8) "Publicly owned treatment works" or "POTW" means a treatment works as defined by Section 212(2) of the CWA, 33 U.S.C. 1292(2), that is owned by the state or a municipality (as defined by Section 502(4) of the CWA, 33 U.S.C. 1362(4)), except that it does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. The term includes any devices and systems used in the:
- (A) storage;
 - (B) treatment;
 - (C) recycling; and
 - (D) reclamation;
- of municipal sewage or compatible industrial wastes. The term also means the municipality, as defined by Section 502(4) of the CWA, including, without limitation, a city, town, county, or other public body created by or under state law that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.
- (9) "Sanitary sewer" means a sewer that:
- (A) conveys liquid and water-carried wastes from:
 - (i) residences;
 - (ii) commercial buildings;
 - (iii) industrial plants; and
 - (iv) institutions; and
 - (B) storm, surface, and ground waters are not intentionally allowed to enter.
- (10) "Semipublic facilities" means a treatment works as defined by Section 212(2) (33 U.S.C. 1292(2)) of the CWA, 33

U.S.C. 1251, et seq., in effect on November 13, 1991, that is not a POTW, is not state or federally owned, or is not an industrial wastewater treatment plant as defined by 327 IAC 5. The term includes, but is not limited to, the following:

- (A) Rural sewage disposal services provided by sewage disposal companies as defined by IC 8-1-2-89(a)(2).
- (B) Trailer or mobile home parks.
- (C) Commercial or shopping centers.
- (D) Housing developments.
- (E) Truck stops.
- (F) Restaurants.
- (G) Schools.
- (H) Campgrounds.

(11) "Sewer" means a pipe or conduit that carries wastewater or drainage water.

(12) "Source" means any:

- (A) building;
- (B) structure;
- (C) facility; or
- (D) installation;

from which there is or may be a discharge of domestic sewage or other wastewater into a semipublic facility or POTW.

(13) "Wastewater" means liquid or water-carried wastes from:

- (A) industrial;
- (B) municipal;
- (C) agricultural; or
- (D) other;

sources.

(14) "Water pollution treatment/control facility" means any equipment, device, unit, or structure that is used to control, prevent, pretreat, or treat any discharge or threatened discharge of pollutants into any waters of the state of Indiana, including surface and subsurface waters and public or private sewerage systems. The term includes, but is not limited to, the following:

- (A) Treatment facilities.
- (B) Combined sewers.
- (C) Sanitary sewers.
- (D) Lift (pumping) stations.

(15) "Waters of the state of Indiana" or "waters of the state" has the meaning set forth at IC 13-11-2-265.

(Water Pollution Control Division; 327 IAC 4-1-2; filed Sep 24, 1987, 3:00 p.m.: 11 IR 611; filed Mar 2, 1994, 5:00 p.m.: 17 IR 1615; 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 Jan 23, 2008, 1:39 p.m.: 20080220-IR-327060096FRA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)

327 IAC 4-1-3 Early warning system

Authority: IC 13-14-8-7; IC 13-18-4-3

Affected: IC 13-18-3-1

Sec. 3. Whenever, in the determination of the commissioner, a semipublic facility or POTW has reached or is approaching ninety percent (90%) of its hydraulic or organic design capacity, the commissioner shall notify the semipublic facility or POTW that it may be necessary, because of such condition, to impose a sewer connection ban if action is not taken by the semipublic facility or POTW to accommodate additional flow or loading. The notification shall be:

- (1) by certified mail, return receipt requested; and
- (2) directed to the:
 - (A) principal executive officer;
 - (B) ranking elected official; or

(C) authorized agent;
of the semipublic facility or POTW.

Failure of the commissioner to provide the notification to the semipublic facility or POTW shall not preclude the imposition of a sewer connection ban as authorized by this article. (*Water Pollution Control Division; 327 IAC 4-1-3; filed Sep 24, 1987, 3:00 p.m.: 11 IR 613; filed Mar 2, 1994, 5:00 p.m.: 17 IR 1616; 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 Jan 23, 2008, 1:39 p.m.: 20080220-IR-327060096FRA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA*)

327 IAC 4-1-4 Imposition of sewer connection bans

Authority: IC 13-14-8-7; IC 13-18-4-3

Affected: IC 13-18-3-1

Sec. 4. (a) The commissioner may impose a ban on further sewer connections to the semipublic facility or POTW whenever, in the determination of the commissioner:

(1) hydraulic or organic overloading of a semipublic facility or POTW exists or is impending and the introduction into the semipublic facility or POTW of additional wastewater from new or existing sources is likely to result in the discharge or bypassing of insufficiently treated wastewater; or

(2) poor operation and maintenance practices have, or are likely to, result in the discharge or bypassing of insufficiently treated wastewater.

(b) The sewer connection ban shall prohibit the connection or introduction of additional wastewater into the semipublic facility or POTW, except as otherwise provided under this article. (*Water Pollution Control Division; 327 IAC 4-1-4; filed Sep 24, 1987, 3:00 p.m.: 11 IR 613; filed Mar 2, 1994, 5:00 p.m.: 17 IR 1617; 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 Jan 23, 2008, 1:39 p.m.: 20080220-IR-327060096FRA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA*)

327 IAC 4-1-5 Notification of imposition of sewer connection ban

Authority: IC 13-14-8; IC 13-18-4-3

Affected: IC 13-18-12

Sec. 5. (a) Whenever the commissioner has determined to impose a ban on further sewer connections to a POTW, the commissioner shall notify the principal executive officer, the ranking elected official, or the authorized agent or representative of the POTW of such determination by certified mail, return receipt requested.

(b) Whenever the commissioner has determined to impose a ban on further sewer connections to a semipublic facility, the commissioner shall notify the owner, chief executive officer, or authorized agent or representative of the semipublic facility of such determination by certified mail, return receipt requested. (*Water Pollution Control Division; 327 IAC 4-1-5; filed Sep 24, 1987, 3:00 p.m.: 11 IR 613; filed Mar 2, 1994, 5:00 p.m.: 17 IR 1617; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA*)

327 IAC 4-1-6 Grounds and procedures for obtaining waivers of sewer connection bans

Authority: IC 13-14-8-7; IC 13-18-4-3

Affected: IC 13-18-3-1

Sec. 6. (a) Requests for connections from new or existing sources to a semipublic facility or POTW where a sewer connection ban is in effect may be approved if it is determined by the commissioner that any of the following conditions exist:

(1) The:

(A) connection will eliminate an existing health hazard; and

(B) resulting public health benefit is considered to outweigh the adverse impact of any reduction in the effluent quality from the semipublic facility or POTW.

(2) A semipublic facility or POTW expansion project:

(A) is under construction; and

(B) will be completed in such time as to accommodate the new connections.

(3) An equivalent amount of infiltration or wastewater is removed from the system, thus assuring that the additional wastewater will receive treatment.

(4) The commissioner is assured that additional water pollution treatment/control facilities, such as chemical feed equipment, will be provided such that the effluent from the semipublic facility or POTW will not deteriorate beyond its present quality.

(5) Other assurances are provided that the additional wastewater to be discharged into the semipublic facility or POTW shall receive adequate treatment.

(b) Requests by POTWs for the waiver of a sewer connection ban for new or existing sources should be submitted by the principal executive officer or ranking elected official of the POTW to the commissioner. Requests by semipublic facilities for the waiver of a sewer connection ban for new or existing sources should be submitted by the owner, chief executive officer, or authorized agent or representative of the semipublic facility to the commissioner. The request for waiver of a sewer ban should contain, at a minimum, the projected:

(1) flow and pollutant loadings from the proposed connection or connections; and

(2) impact upon the semipublic facility or POTW.

(Water Pollution Control Division; 327 IAC 4-1-6; filed Sep 24, 1987, 3:00 p.m.: 11 IR 613; filed Mar 2, 1994, 5:00 p.m.: 17 IR 1617; 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 Jan 23, 2008, 1:39 p.m.: 20080220-IR-327060096FRA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)

327 IAC 4-1-7 Grounds for termination of sewer connection ban

Authority: IC 13-14-8-7; IC 13-18-4-3

Affected: IC 13-18-3-1

Sec. 7. A sewer connection ban may be terminated by the commissioner when either of the following exist:

(1) A demonstrated wastewater treatment facility improvement to meet applicable NPDES permit limitations has been completed.

(2) It is demonstrated to the satisfaction of the commissioner that an existing hydraulic/organic overloaded condition has been or will be discontinued for a continuous period of twelve (12) months from the date additional connections will be made.

(Water Pollution Control Division; 327 IAC 4-1-7; filed Sep 24, 1987, 3:00 p.m.: 11 IR 613; 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 Jan 23, 2008, 1:39 p.m.: 20080220-IR-327060096FRA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)

327 IAC 4-1-8 Exclusions from sewer connection bans

Authority: IC 13-14-8; IC 13-18-4-3

Affected: IC 13-18-12

Sec. 8. The following shall be excluded from the requirements of sewer connection bans:

(1) Single-family dwellings erected on vacant lots served by an existing sanitary sewer.

(2) Projects that possess a valid construction permit issued under 327 IAC 3-2 prior to the imposition of a sewer connection ban.

(Water Pollution Control Division; 327 IAC 4-1-8; filed Sep 24, 1987, 3:00 pm: 11 IR 613; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)

327 IAC 4-1-9 Appeals

Authority: IC 13-14-8; IC 13-18-4-3

Affected: IC 4-21.5

Sec. 9. A semipublic facility or POTW aggrieved by the imposition of a ban, denial of a sewer ban waiver, or denial of a request to terminate the ban may appeal to the board for a hearing. All hearings under this section shall be held in accordance with IC 4-21.5. (*Water Pollution Control Division; 327 IAC 4-1-9; filed Sep 24, 1987, 3:00 p.m.: 11 IR 614; filed Mar 2, 1994, 5:00 p.m.: 17 IR 1617; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA*)

327 IAC 4-1-10 Enforcement

Authority: IC 13-14-8; IC 13-18-4-3

Affected: IC 13-14-1-12; IC 13-18-3-6; IC 13-30

Sec. 10. This article may be enforced through administrative or judicial proceedings under IC 13-30-3 and the penalty provisions of IC 13-30. (*Water Pollution Control Division; 327 IAC 4-1-10; filed Sep 24, 1987, 3:00 p.m.: 11 IR 614; filed Mar 2, 1994, 5:00 p.m.: 17 IR 1617; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; errata filed Jul 31, 2017, 11:06 a.m.: 20170809-IR-327170349ACA*)

327 IAC 4-1-11 Access to information

Authority: IC 13-14-8; IC 13-14-2-2; IC 13-14-4-3

Affected: IC 13-14-2-2; IC 13-14-4-3

Sec. 11. (a) Whenever necessary to carry out the provisions of this article, any person who is or may be reasonably expected to be subject to such regulatory provisions shall:

- (1) establish and maintain records;
- (2) make reports;
- (3) install, use, and maintain monitoring equipment or methods;
- (4) sample effluents, or other material; and
- (5) provide other information;

at the locations, at the times, and in the manner the commissioner may reasonably prescribe.

(b) The commissioner, or the commissioner's authorized representative, upon presentation of proper credentials:

(1) shall have a right of entry to, upon, or through any premises, public or private, in which records, reports, monitoring equipment or methods, samples, or other information required to be maintained or provided under subsection (a) are located; and

(2) may, at reasonable times, have access to and:

- (A) copy any records;
- (B) inspect any equipment or method; or
- (C) sample any effluent or other material required under subsection (a).

(*Water Pollution Control Division; 327 IAC 4-1-11; filed Sep 24, 1987, 3:00 p.m.: 11 IR 614; filed Mar 2, 1994, 5:00 p.m.: 17 IR 1618; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA*)

*