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TITLE 327 WATER POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD

#04-13(WPCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING DRINKING WATER STANDARDS, SPECIFICALLY CONCERNING RADIONUCLIDES, LONG TERM 1 ENHANCED SURFACE WATER TREATMENT, ARSENIC, MINOR CORRECTIONS TO INTERIM ENHANCED SURFACE WATER TREATMENT; DISINFECTANTS AND DISINFECTION BYPRODUCTS; LEAD AND COPPER; PUBLIC NOTIFICATION AND ANALYTICAL METHODS FOR PUBLIC DRINKING WATER SYSTEMS

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to 327 IAC 8-2 concerning radionuclides, long term 1 enhanced surface water treatment, arsenic, minor corrections to interim enhanced surface water treatment, disinfectants and disinfection byproducts, lead and copper, public notification, and analytical methods for public drinking water systems. 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 8-2.

AUTHORITY: IC 13-13-5-1; IC 13-14-8-1; IC 13-14-8-2; IC 13-18-3-2; IC 13-18-16-9.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

On December 7, 2000, U.S. EPA published National Drinking Water Regulations for radionuclides. Amendments to existing Indiana drinking water rules would not change existing IDEM standards for radionuclides but would add a standard for uranium which currently is not regulated. The amendments would also change existing IDEM requirements for monitoring, reporting, and public notification for radionuclides in drinking water. The purpose of these rule changes is to reduce cancer and toxicity risks from radioactive constituents in drinking water, and the changes affect only community public drinking water systems.

On January 22, 2001, U.S. EPA published National Drinking Water Regulations for arsenic. Amendments to existing Indiana drinking water rules would require community and nontransient noncommunity public drinking water systems to comply with an arsenic standard more stringent than presently exists in rule. Only community systems are currently required to comply with the existing standard. These changes would reduce cancer and toxicity risks from arsenic in drinking water. Additionally, the amendments would clarify monitoring and compliance requirements for chemical contaminants that are detected in samples from public drinking water systems.

On January 14, 2002, U.S. EPA published National Drinking Water Regulations for Long Term 1 Enhanced Surface Water Treatment. Amendments to existing Indiana drinking water rules would make changes to the Indiana surface water treatment rule as published April 12, 1993. These changes would affect all public drinking water systems using surface water and serving fewer than ten thousand (10,000) people. The changes are very similar to the changes recently adopted in the interim enhanced surface water treatment rule for surface water systems serving ten thousand (10,000) people or more. The intended effect of the rule is to strengthen microbial protection, including provisions specifically to address *Cryptosporidium*, and to address risk trade-offs with disinfection byproducts.

This rulemaking will also include revisions to correct minor errors in the following: (1) the existing interim enhanced surface water treatment rule; (2) the stage 1 disinfection and disinfection byproducts rule; (3) the lead and copper rule; (4) the drinking water public notification rule; and (5) analytical methods.

Alternatives To Be Considered Within the Rulemaking

IDEM has primary enforcement responsibility, or primacy, for implementation of U.S. EPA regulations for public drinking water systems in Indiana. The federal Safe Drinking Water Act (SDWA) allows states to obtain primacy from U.S. EPA for implementation of these regulations. However, primacy states must adopt and enforce regulations that are at least as stringent as U.S. EPA regulations. Additionally, the SDWA requires that primacy states adopt each new regulation within a defined time period or

risk losing primacy for all SDWA regulations.

IDEM is not proposing to consider alternatives that are different or impose additional requirements beyond the corresponding federal regulations for each of the rule subjects that are part of this rulemaking.

Applicable Federal Law

The applicable federal law is 42 U.S.C. s/s 300f et seq., Safety of Public Water Systems (also known as the Safe Drinking Water Act). The law gives the U.S. EPA responsibility for implementation of the SDWA. The federal law and regulations allow consideration of alternative proposals by states, but alternative proposals must be at least as stringent as U.S. EPA regulations.

Potential Fiscal Impact

Fiscal impact analyses developed by the U.S. EPA for the new regulations that Indiana must adopt in order to maintain primacy for the drinking water program may be found in the Federal Register as indicated below:

1. Radionuclides rule: Federal Register: December 7, 2000, Volume 65, Number 236, Part II, Pages 76733-76737.

2. Arsenic rule: Federal Register: January 22, 2001, Volume 66, Number 14, Part VIII, Pages 6975-7066.

3. Long term 1 enhanced surface water treatment rule (LT1ESWTR): Federal Register: January 14, 2002, Volume 67, Number 9, Part II, Pages 1822-1827.

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 necessary, please contact MaryAnn Stevens, Rules Section, Office of Water Quality at (317) 232-8635 or (800) 451-6021 (in Indiana).

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:

#04-13(WPCB) Amendments to Drinking Water Standards

MaryAnn Stevens, Senior Rulewriter

Rules Section

Office of Water Quality

Indiana Department of Environmental Management

P.O. Box 6015

Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the twelfth floor reception desk, Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Room 1255, Indianapolis, Indiana. Comments also may be submitted by facsimile to (317) 232-8406, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Office of Water Quality, Rules Section at (317) 233-8903. Please note it is not necessary to follow a faxed comment letter with another sent through the postal system.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by March 1, 2004.

Additional information regarding this rulemaking action may be obtained from MaryAnn Stevens, Rules Section, Office of Water Quality, (317) 232-8635 or technical information concerning drinking water standards may be obtained from Al Lao, Drinking Water Branch, (317) 308-3283 or (800) 451-6027 (in Indiana).

Tim Method
Deputy Commissioner
Indiana Department of Environmental Management