

Document: IC 13-14-9 Notice, **Register Page Number:** 27 IR 2591

Source: May 1, 2004, Indiana Register, Volume 27, Number 8

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TITLE 327 WATER POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD

#04-106(WPCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING TRANSIENT NONCOMMUNITY PUBLIC WATER SYSTEMS

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to 327 IAC 8-3 and 327 IAC 8-3.4 concerning transient noncommunity public water systems that serve a population of two hundred fifty (250) or less and that use ground water. The proposed amendments would eliminate the requirement for professional engineer certifications on certain plans that are required as part of construction permit application, and the amendment would provide additional alternative technical standards for affected systems. The commissioner would have the option to discontinue an approved alternative standard if the system is not operated in an approved manner or otherwise violates the rule. The commissioner would also be allowed, if requested, to modify a well isolation area if certain conditions are met. In addition to these changes, IDEM proposes to make minor technical corrections to 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 8-3; 327 IAC 8-3.4-3; 327 IAC 8-3.4-27.

AUTHORITY: IC 13-14-8; IC 13-18-3; IC 13-18-16.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

The main purpose of the amendments to 327 IAC 8-3 and 327 IAC 8-3.4 is to simplify the construction permitting requirements for small systems, which will also reduce the regulatory burden on those same small water systems. The public water systems primarily affected by the proposed amendment are transient noncommunity public water systems that use wells and serve two hundred fifty (250) people or less. Approximately two thousand five hundred (2,500) systems fall into the category. Transient noncommunity public water systems are facilities with their own water supply, usually a well, and regularly serve twenty-five (25) or more people. Examples of transient noncommunity public water systems include: churches, restaurants, gas stations, campgrounds, and parks. The amendment provides regulatory relief by eliminating the requirement for a professional engineer (PE) to prepare plans and specifications and to sign and stamp permit applications for these systems as is currently required. The amendment will change the well siting requirements for transient noncommunity public water systems. The amendment will also provide for the development of alternative construction permitting approaches for transient noncommunity public water systems.

Alternatives To Be Considered Within the Rulemaking

The rulemaking will consider various approaches for ensuring the adequacy of designs without necessarily requiring a PE to approve the plans. Such approaches as preapproved designs, well driller plan preparation, and ongoing construction inspections will be considered. For alternative technical standards, lists of approved equipment, lists of preapproved construction and installation approaches, and simplified permitting requirements will be considered.

This is not an incorporation of federal standards. There are no federal standards for construction of public water systems, and there are no federal laws concerning construction.

Applicable Federal Law

There are no specific federal laws concerning construction. However, IDEM is required to maintain a program to ensure that public water systems are designed properly.

Potential Fiscal Impact

There is no information known about the potential fiscal impact. In fact, it is believed that these amendments will result in a neutral and possibly negative fiscal impact while providing some regulatory relief and still ensuring a safe and adequate supply of drinking water.

Public Participation and Workgroup Information

An external workgroup will be established to discuss issues involved in this rulemaking. The workgroup will be made up of IDEM staff and a cross section of stakeholders. Any interested party will be welcome to attend workgroup meetings. At least three (3) meetings will be held at the IDEM's Shadeland office. Mary Hollingsworth will be the contact person for the workgroup meetings.

If you wish to provide comments to the workgroup on the rulemaking, attend meetings, or have suggestions related to the workgroup process, please contact Megan Wallace, Rules Section, Office of Water Quality, (317) 233-8669 or (800) 451-6027 (in Indiana). Please provide your name, phone number, and e-mail address, if applicable, where you can be contacted. The public is also encouraged to submit comments and questions to members of the workgroup who represent their particular interests in the rulemaking.

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:

#04-106(WPCB) Amendment to Construction Rule
Lawrence Wu
Rules Section Chief
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, Indianapolis, Indiana.

Comments may be delivered 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.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by May 30, 2004.

Additional information regarding this action may be obtained from Megan Wallace, Rules Section, Office of Water Quality, (317) 233-8669 or (800) 451-6027 (in Indiana).

Tim Method
Deputy Commissioner
Indiana Department of Environmental Management