

**Document:** IC 13-14-9 Notice, **Register Page Number:** 29 IR 2687

**Source:** May 1, 2006, Indiana Register, Volume 29, Number 8

**Disclaimer:** This document was created from the files used to produce the official CD-ROM Indiana Register.

## **TITLE 327 WATER POLLUTION CONTROL BOARD**

### **FIRST NOTICE OF COMMENT PERIOD**

LSA Document #06-96(WPCB)

### **DEVELOPMENT OF AMENDMENTS TO RULE 327 IAC 4-1 CONCERNING SEWER BANS**

#### **PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rule 327 IAC 4-1 concerning the restriction of additional flow to overloaded wastewater treatment facilities. 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 4-1.

**AUTHORITY:** IC 13-13-5-1; IC 13-13-5-2; IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2; IC 13-18-4-3.

#### **SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

##### **Basic Purpose and Background**

This rulemaking is an outcome of recommendations by a workgroup formed in response to a petition to the Water Pollution Control Board (WPCB) by the Save Our Knobs (SOK) and Greenville Concerned Citizens (GCC) organizations who proposed amendment of 327 IAC 5-10. Among the workgroup's conclusions was a recommendation to amend 327 IAC 4-1 to restrict new connections at small wastewater treatment plants found to be discharging insufficiently treated wastewater as a result of poor operation and maintenance. The rule, 327 IAC 4-1, currently gives the Commissioner of IDEM the authority to limit new connections to wastewater treatment plants that are hydraulically or organically overloaded. IDEM proposes to amend the rule to grant the Commissioner authority to issue a sewer connection ban when a wastewater treatment plant is found to be discharging insufficiently treated wastewater as a result of poor operation and maintenance. Minor corrections to rule language and definitions will also be accomplished in this rulemaking.

##### **Alternatives To Be Considered Within the Rulemaking**

1. This rulemaking will grant the Commissioner of IDEM the authority to impose a ban on further sewer connections to a wastewater treatment facility to prevent water quality violations due to the discharge or bypassing of insufficiently treated wastewater resulting from poor maintenance and operation practices.

2. Definitions for terms defined but otherwise not used in the existing rule, including combined sewer, effluent limitation, and point source, will be deleted. The definition of water pollution treatment/control facility will be amended to agree with the definition found in 327 IAC 3.

3. In 327 IAC 4-1-3, the Commissioner is directed to notify a facility when it has reached or is approaching ninety percent (90%) of its "maximum hydraulic or organic design capacity." As the word "maximum" serves no discernible purpose and, in the absence of any known definition in this context, introduces confusion, it will be deleted.

4. The term "sewage" will be revised to "wastewater" where appropriate.

##### **Applicable Federal Law**

There is no federal law pertaining to the prevention of new connections to wastewater treatment systems.

##### **Potential Fiscal Impact**

Once a sewer ban connection has been imposed, in order for a facility to be released from the sewer connection ban, the facility will be required to improve the operation and/or maintenance deficiencies that resulted in the discharge or bypassing of insufficiently treated wastewater. As these improvements would otherwise be required by the application of already existing regulations, there is no anticipated fiscal impact to this rule.

##### **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](http://www.in.gov/idem/ctap).

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf  
IDEM Compliance and Technical Assistance Program  
OPPTA - MC60-04  
100 N. Senate Avenue, W-041  
Indianapolis, IN 46204-2251  
317-232-8578  
[selyusuf@idem.in.gov](mailto:selyusuf@idem.in.gov)

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen  
IDEM Small Business Assistance Program Ombudsman  
External Affairs - MC50-01  
100 N. Senate Avenue, IGCN 1301  
Indianapolis, IN 46204-2251  
317-234-3386  
[elevenha@idem.in.gov](mailto:elevenha@idem.in.gov)

#### **Public Participation and Workgroup Information**

The proposed amendment reflects one of the recommendations of an external workgroup formed as a result of “First Notice of Comment Period #05-51 (WPCB), Development of a New Rule concerning Operation and Maintenance of Small Wastewater Treatment Facilities” published in the Indiana Register on April 1, 2005. The workgroup was made up of IDEM staff and a cross section of stakeholders.

At this time, no workgroup is planned for this rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Rebecca Schmitt, Rules Development Section, Office of Water Quality at (317) 234-0986 or (800) 451-6027 (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:

#06-96(WPCB) [Sewer Ban]  
Rebecca Schmitt  
Rules Development Section  
Office of Water Quality  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, Indiana 46204.

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 also be submitted by facsimile at the IDEM fax number: (317) 232-8636, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Compliance Branch at (317) 233-2545.

**COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by May 31, 2006.

Additional information regarding this action may be obtained from Donald Daily, Compliance Evaluation Section, Office of Water Quality, (317) 232-8636 or (800) 451-6027 (in Indiana).

Bruno Pigott  
Assistant Commissioner  
Office of Water Quality