

TITLE 327 WATER POLLUTION CONTROL DIVISION

Rule Information Sheet

Drinking Water Reference Updates; Lead and Copper
LSA Document #24-428

Overview

The genesis of this rulemaking by IDEM is the approval from U.S. EPA to implement drinking water programs in Indiana under the Safe Drinking Water Act. This approval is referred to as having primacy. To maintain primacy, IDEM must meet the requirements of U.S. EPA by providing state rules that are as stringent as federal rules. This rulemaking will amend rules at 327 IAC 8 concerning updates to the lead and copper National Primary Drinking Water Regulations at 40 CFR 141, Recommended Standards for Water Works, also known as the Ten States Standards, updates to American Water Works Association (AWWA) standards, updates to the American Society for Testing and Materials (ASTM) standards, and the repeal of 327 IAC 8-2, 327 IAC 8-2.1, 327 IAC 8-2.3, 327 IAC 8-2.4, 327 IAC 8-2.5, 327 IAC 8-2.6, 327 IAC 8-3-8, and 327 IAC 8-3.5-2 for the replacement of existing federal language in the state rule with incorporation by reference of the federal rules for all drinking water standards at 327 IAC 8-2.7 and 327 IAC 8-2.8.

U.S. EPA published a final rule on January 15, 2021 (86 FR 4198), to revise the lead and copper rule at 40 CFR 141. These revisions require all community water systems to conduct lead-in-drinking-water testing and public education in schools and childcare facilities as well as providing accelerated lead service line replacements by closing existing regulatory loopholes, propelling early action, and strengthening replacement requirements. On June 16, 2021, U.S. EPA published an update to the Federal Register with the determination to delay the effective date for the Lead and Copper rules. The update delayed the effective date from January 16, 2024, to October 16, 2024, and provided two years after the federal regulations are updated and promulgated for Indiana to update the state Lead and Copper revisions (86 FR 31940).

Suggested Changes since Preliminary Adoption

While IDEM was working on this rulemaking to incorporate the LCRR, on October 30, 2024, U.S. EPA published a new final rule called the Lead and Copper Rule Improvements (LCRI) rule. The LCRI made changes to the Lead and Copper Rule and the 2021 LCRR. The compliance date for the LCRI is November 1, 2027. Originally, IDEM's intent for this rulemaking was to only update IDEM's rules to include the 2021 LCRR, not the LCRI. However, after discussions with regulated entities and U.S. EPA, IDEM is revising the Proposed Rule to be consistent with a provision in the LCRI that addresses what requirements apply to community water systems and non-transient non-community water systems between October 30, 2024, and November 1, 2027. During this period, systems will largely be complying with the Lead and Copper Rule and only a select few provisions under the 2021 LCRR. This change is the most substantive in the Revised Proposed Rule. Under the Revised Proposed Rule, systems will now only be complying with

certain portions of the LCRR. Additional changes include those made in response to comments by U.S. EPA that largely address federal citation corrections, definition clarifications, and correction to the list of exclusions to ensure consistency with the federal drinking water regulations. Lastly, IDEM has added additional flexibility to the design criteria under 327 IAC 8-3-4.

Affected Persons

This rule could affect all active public water systems and the populations those systems serve. Currently, there are 3,921 active systems, which serve a total population of 5,631,338. All public water systems have the potential to be impacted by at least one of the rule's construction standards, but not all of them. Also, this rule will impact engineering firms that design and certify plans for system construction; these firms will need to refer to and ensure compliance with the appropriate standards on their clients' behalf. An estimated 85 firms conduct this type of work in Indiana.

Reasons for the Rule

This rulemaking provides consistency between state and federal regulations so that IDEM may maintain primacy over implementation of the Safe Drinking Water Act in Indiana. In addition, incorporating by reference the federal drinking water regulations will allow for a more streamlined rule and for faster and more efficient updates when the federal rules change. Lastly, updating the AWWA and Recommended Standards for Water Works to their most recent version means the rule will no longer be out of date and will be current and consistent with what PWSs are already complying with.

Economic Impact of the Rule

The portion of this rulemaking that updates and incorporates federal requirements will not impose any compliance costs for regulated entities beyond what they are already required to comply with. This rulemaking may potentially impact current public water system providers. Impacted parties will need to update their AWWA and ASTM standards to maintain consistency with state rules. The AWWA and ASTM standards are provided by IDEM at no cost to impacted parties; however, these standards can also be purchased by impacted parties through their official websites provided in the incorporation by reference paragraphs through the state rule. There is an average associated cost ranging from \$99.00 - \$142.00 per AWWA standard purchased.

Updating the construction standards to the most current version will impose negligible cost on regulated entities because most, if not all, are already using these standards in practice. Program staff in the Office of Water Quality reached out to Indiana's American Council of Engineering Companies (ACEC), whose members include 80 engineering firms that work in the discipline of "water/wastewater supply distribution/treatment", to conduct an informal survey of its members' use of construction standards. All members that responded confirmed that they use the most current construction standards. Specifically, some firms responded that they follow the current AWWA standards. Some firms responded that they subscribe to the AWWA standards and receive all new updates through that subscription. Other firms responded that they completed comprehensive training exercises with their interns to cross reference their firm's specifications

to ensure that they are using the most current standards. Other firms responded that they reference the latest editions of the standards in their current specifications. By updating to the most current construction standards, this rule will be current and consistent with what regulated entities are already using

Scheduled Board Action and Hearings

First Public Hearing: March 12, 2025, at 1:30 p.m., at the Indiana Government Center South, 10 North Senate Avenue, Conference Center Room A, Indianapolis, Indiana, 46204.

Second Public Hearing: October 16, 2025, at 2:30 p.m., at the Indiana Government Center South, 10 North Senate Avenue, Conference Center Room A, Indianapolis, Indiana, 46204.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Krystal Hackney, Rules Development Branch, Office of Legal Counsel, at KHackney1@idem.in.gov, (317) 232-3158, (800) 451-6027 (in Indiana).