

## FIRST NOTICE OF COMMENT PERIOD

LSA Document #18-365

## WASTEWATER TREATMENT PLANTS AND OPERATORS

## PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [327 IAC 5-22](#) concerning the wastewater treatment plant operator certification. These amendments are to clarify language and definitions as well as update old processes. 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 5-22](#).

**AUTHORITY:** [IC 13-14-8](#); [IC 13-18-11](#); [IC 4-21.5](#).

## SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

## Basic Purpose and Background

Wastewater treatment facilities are designed to control water pollution from homes, businesses, and industries throughout the United States. Wastewater treatment plants enhance the natural process that occurs in breaking down waste in waterways. Traditionally, the primary and secondary treatment stages involved screening, gravity settling, aeration chambers, disinfection, and sludge treatment. To provide higher quality effluent, there are advanced wastewater treatment processes used to remove additional pollutants such as ammonia and nutrients. These systems are intended to return treated wastewater back into the waterways of the state. Industrial treatment facilities are designed to remove solids, oxygen-demanding compounds, heavy metals, chemical compounds, and other toxic substances. To be effective these wastewater treatment facilities require skilled operators to run them.

In Indiana, wastewater treatment plant apprentices and operators must have a certain amount of work experience and formal education, as well as pass a competency test in order to receive a license to operate a wastewater treatment facility. These operators must also attend continuing education courses in order to maintain their licenses. There are five classifications of municipal licenses and five classifications of industrial licenses based on the type, size, and complexity of wastewater treatment plants. The certification and renewal processes for wastewater treatment plant apprentices and operators are administered by IDEM.

The 2018 legislative session passed House Enrolled Act 1233, effective on July 1, 2018, concerning various environmental matters. This bill changed the interval of renewal of the certificate of a wastewater treatment plant operator from two years to three years. The bill authorizes the environmental rules board to establish continuing education requirements and dates by which fees must be paid, and requires proof of compliance with continuing education requirements be submitted as a condition of certificate renewal for wastewater treatment plant operators. The bill also includes language for United States territories to be included in the reciprocity of educational experience for certified operators when applying for certification in Indiana.

IDEM proposes to amend [327 IAC 5-22](#) to clarify wastewater operator certification language, to update language to appropriately recognize modern, electronic systems and processes for certifications and certification renewals, and to address changes from House Enrolled Act 1233. The proposed clarifications may include the department's relationship with the professional licensing agency, definitions, plant classifications, qualifications and substitution of qualifications, and the duties of an operator. The department is also proposing to include in the rule a provision to enable an independent third party to administer examinations and to provide an exemption from certain renewal application deadlines if deployed by United States armed forces. The department proposes to extend license duration from two to three years, as well as revise required contact hours proportionally.

Further, IDEM will also review the rule to ensure typographical errors, inconsistencies, and organizational issues are clarified. The rule will also be reviewed to ensure compliance with rule drafting guidelines, and for opportunities to streamline, simplify, and clarify the language. IDEM seeks comment on the affected citations listed, including suggestions for specific language, any other provisions of Title 327 that may be affected by this rulemaking, and alternative ways to achieve the purpose of rulemaking.

## Alternatives to Be Considered Within the Rulemaking

Alternative 1. Update [327 IAC 5-22](#) to include clarification and explanation of language, update with modern processes and technologies, and make changes as required by House Enrolled Act 1233.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Do not amend existing rules.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

**Applicable Federal Law**

No applicable federal law.

**Potential Fiscal Impact**

Potential Fiscal Impact of Alternative 1. This alternative will have an overall insignificant fiscal impact. The change in certification renewals for the wastewater treatment operators from two years to three years may potentially save the regulated community money. Allowing third parties to administer continuing education courses may reduce the fees currently collected for courses by the state and will reduce the cost of conducting the courses. The inclusion of United States territories in the certification examination requirements, updated in House Enrolled Act 1233, could have potential positive fiscal impacts that will benefit the regulated community by allowing reciprocity for background educational hours in United States territories.

Potential Fiscal Impact of Alternative 2. If the department does not complete the updates and corrections, the state rules will not be in compliance with the newly passed statute and the program will continue to have outdated and potentially confusing requirements in the rule, which could result in an unnecessary cost to the regulated communities.

**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 CTAP and other resources available can be found at:

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

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Angela Taylor  
IDEM Small Business Regulatory Coordinator/CTAP Small Business Liaison  
IGCN 1316  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 233-0572 or (800) 988-7901  
[ctap@idem.in.gov](mailto:ctap@idem.in.gov)

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Katelyn Colclazier  
Small Business Ombudsman  
Indiana Economic Development Corporation  
One North Capitol, Suite 700  
Indianapolis, IN 46204  
(317) 431-1560  
[kcolclazier@iedc.in.gov](mailto:kcolclazier@iedc.in.gov)

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Matthew Guell  
IDEM Small Business Assistance Program Ombudsman/Business, Agricultural, and Legislative Liaison  
IGCN 1301  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 232-8921 or (800) 451-6027  
[mguell@idem.in.gov](mailto:mguell@idem.in.gov)

**Public Participation and Work Group Information**

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Krystal Hackney, Rules Development Branch, Office of Legal Counsel at (317) 232-3158 or (800) 451-6027 (in Indiana).

**REQUEST FOR PUBLIC COMMENTS**

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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.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:

LSA Document #18-365 Wastewater Treatment Plants and Operators  
Krystal Hackney  
Rules Development Branch  
Office of Legal Counsel  
Indiana Department of Environmental Management  
Indiana Government Center North  
100 North Senate Avenue  
Indianapolis, IN 46204-2251

- (2) By facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch at (317) 232-8922.

- (3) By electronic mail to [khackney1@idem.in.gov](mailto:khackney1@idem.in.gov). To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

- (4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

#### **COMMENT PERIOD DEADLINE**

All comments must be postmarked, faxed, or time stamped not later than September 28, 2018.

Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Krystal Hackney, Rules Development Branch, Office of Legal Counsel (317) 232-3158 or (800) 451-6027 (in Indiana).

Christine Pedersen, Section Chief  
Rules Development Branch  
Office of Legal Counsel

*Posted: 08/29/2018 by Legislative Services Agency*

An [html](#) version of this document.