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**TITLE 327 WATER POLLUTION CONTROL DIVISION**

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**FIRST NOTICE OF COMMENT PERIOD**

LSA Document #22-387

**LEAD AND COPPER REVISIONS AND FORMAT UPDATES****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [327 IAC 8](#) concerning amendments to the lead and copper National Primary Drinking Water Regulations at 40 CFR 141 and replacement of existing federal language in the state rule with the incorporation by reference of the federal rules for all drinking water standards. 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](#).

**AUTHORITY:** [IC 13-14-8](#); [IC 13-14-9-9](#); [IC 13-18-3](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING****Basic Purpose and Background**

IDEM has approval from the United States Environmental Protection Agency (U.S. EPA) to implement drinking water programs in Indiana under the Safe Drinking Water Act (SDWA). 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 Indiana's drinking water standards at [327 IAC 8](#) to incorporate by reference federal rules at 40 CFR 141 to replace existing federal language in the state rule, repeal repetitive language, and update the lead and copper requirements to be consistent with the most recent changes in federal rules. 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 child care 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).

The incorporation by reference of 40 CFR 141 does not change the standards that are referenced throughout the state rule. Incorporating by reference the federal requirements ensures consistency and allows for quicker updates if the federal rules change. Currently, Indiana's drinking water standards at [327 IAC 8](#) contain full text language directly taken from the federal requirements in 40 CFR 141.

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 the rulemaking.

**Alternatives to Be Considered Within the Rulemaking**

Alternative 1. Incorporate by reference the current version of 40 CFR 141 and update the Lead and Copper rule to reflect the most recent federal revisions.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? Yes.
- Is this alternative imposed by federal law or is there a comparable federal law? Yes.
- If it is a federal requirement, is it different from federal law? No.
- 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**

The Safe Drinking Water Act authorizes U.S. EPA to set national health-based standards for drinking water to protect against both naturally occurring and manmade contaminants that may be found in drinking water. U.S. EPA and IDEM work together to make sure that these standards are met.

For this rulemaking, IDEM plans to incorporate by reference the National Primary Drinking Water Regulations at 40 CFR 141. U.S. EPA most recently updated 40 CFR 141 in the Federal Register at 86 FR 4198, on January 15, 2021, with the lead and copper regulation updates. U.S. EPA published an update to the Federal Register on

June 16, 2021, to delay the effective date from January 16, 2024, to October 16, 2024. States must adopt regulations that are no less stringent than the federal requirements within two years of promulgation of the federal rules.

### **Potential Fiscal Impact**

Potential Fiscal Impact of Alternative 1. This alternative would have no fiscal impact beyond what is federally required.

Potential Fiscal Impact of Alternative 2. This alternative would have no fiscal impact. If the state does not amend the existing rules, the regulations between state and federal rules will be inconsistent and confusing.

### **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:

Kari Clevenger  
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:

Matthew Jaworowski  
Small Business Ombudsman  
Indiana Economic Development Corporation  
One North Capitol, Suite 700  
Indianapolis, IN 46204  
(317) 650-0126  
[majaworowski@iedc.in.gov](mailto:majaworowski@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:

Drake Abramson  
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  
[dabramso@idem.in.gov](mailto:dabramso@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 [khackney1@idem.in.gov](mailto:khackney1@idem.in.gov), (317) 232-3158, or (800) 451-6027 (in Indiana).

### **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.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:  
LSA Document #22-387 Lead and Copper Revisions and Format Updates  
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 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.**

Contact Karla Kindrick at [kkindric@idem.in.gov](mailto:kkindric@idem.in.gov) or (317) 232-8922 if another method of submitting comments within the comment period is desired. 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 or time stamped not later than January 27, 2023.

Additional information regarding this action may be obtained from Krystal Hackney, Rules Development Branch, Office of Legal Counsel, [khackney1@idem.in.gov](mailto:khackney1@idem.in.gov), (317) 232-3158, or (800) 451-6027 (in Indiana).

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

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