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TITLE 327 WATER POLLUTION CONTROL BOARD

CONTINUATION OF FIRST NOTICE OF COMMENT PERIOD #01-238(WPCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING THE LAND APPLICATION OF BIOSOLID, INDUSTRIAL WASTE PRODUCT, AND POLLUTANT-BEARING WATER

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules for the application of biosolids, industrial waste products, and pollutant-bearing water in 327 IAC 6.1. The purpose of this rule change is to amend and clarify sections of the article that are creating problems for the regulated community and IDEM staff. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking. In addition, this rulemaking will satisfy IC 13-14-9.5, which provides for the expiration and readoption of administrative rules. The continuation of the first notice will allow more time to receive additional comments regarding changes to this rule.

CITATIONS AFFECTED: 327 IAC 6.1.

AUTHORITY: IC 13-14-8-1; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4.

HISTORY

First Notice of Comment Period: August 1, 2001, Indiana Register (24 IR 3827).

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

The initial thirty (30) day comment period for this rule ended September 1, 2001. At that time, only one (1) public comment was received. IDEM hopes to receive additional comments regarding this rule making. IDEM will increase its outreach efforts to parties affected by this rule making. Among those efforts, a newsletter will be mailed directly to individuals and companies involved in land application of biosolids. It is imperative that affected parties have ample opportunity to suggest changes that would improve the rule.

Indiana's rules to implement IC 13-18-3 became effective June 14, 1998. Since that time, both IDEM staff and the regulated community have concluded that some inconsequential and some substantive rule changes are required. Inconsequential changes are contextual in nature and provide more clarity. The substantial changes improve and enhance the program. These changes include, but are not limited to, the following:

- In 327 IAC 6.1-2-27, the definition for "incorporated into the soil" must be amended to include some type of quantitative measurements.
 - In 327 IAC 6.1-4-6 and 327 IAC 6.1-7-5, the term "seasonal high water table" must be defined and criteria established as to when this measurement applies.
 - In 327 IAC 6.1-6, the requirement to "be dewatered" should be eliminated from the criteria necessary to be eligible for the agricultural lime substitute notification program under this rule.
 - In 327 IAC 6.1-7, some permit by rule accommodation should be made for the small quantity generator. A definition of a "small quantity generator" is also required.
 - In 327 IAC 6.1-8, additional requirements should be added to regulate storage facilities located on-site at the point of application.
- IDEM requests the submission of any comments or suggestions, including specific language that might be included in the rule.

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:

#01-238(WPCB) Land Application Rule
Marjorie Samuel
Rules, Planning and Outreach Section
Office of Land 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 eleventh floor reception desk, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana. Comments may be submitted by facsimile to (317) 232-3403. Please confirm the timely receipt of faxed comments by calling the Rules, Planning and Outreach Section at (317) 232-1655 or (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by November 1, 2001.

Additional information regarding this action may be obtained from Lou McFadden, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232-8922 or (800) 451-6027 (in Indiana).

Bruce Palin
Deputy Assistant Commissioner
Office of Land Quality