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

### **FIRST NOTICE OF COMMENT PERIOD** #04-293(WPCB)

## **DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING THE STATE REVOLVING FUND (SRF) LOAN PROGRAMS**

### **PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules 327 IAC 13, concerning the wastewater state revolving fund loan, and 327 IAC 14, concerning the drinking water state revolving fund loan programs. 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 13; 327 IAC 14.

**AUTHORITY:** IC 13-14-8; IC 13-14-9; IC 13-18-3; IC 13-18-13; IC 13-18-21.

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

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

The purpose of this rulemaking is to remove inconsistencies within 327 IAC 13 and 327 IAC 14, both internally and as they relate to each other. This rulemaking also will streamline the wastewater and the drinking water state revolving fund loan programs. This will make them more efficient and easier for participating entities to comply with, thus enabling additional wastewater and drinking water projects to be financed and constructed. This rulemaking will also serve to enable the refinancing of loans, which is not an option with the current rules but is expressly permitted by the federal Clean Water Act and Indiana Code.

The wastewater state revolving fund loan program was promulgated in April 1990 to implement the wastewater state revolving fund established by IC 13-18-13. It facilitates compliance with the state and federal water quality standards by providing low-cost financial assistance to construct necessary and environmentally sound treatment works. The fund is a self-sufficient funding program for the improvement and protection of water quality and public health and any other activity permitted by the Clean Water Act.

The drinking water state revolving fund loan program was promulgated in August 1998 to implement the drinking water state revolving fund established by IC 13-18-21. It provides funding for loans and other financial assistance for the planning, designing, construction, renovation, improvement, or expansion of public water systems to facilitate compliance with the national primary drinking water regulations under the federal Safe Drinking Water Act.

Any user or participant of a wastewater or drinking water utility is a potentially affected party to this rulemaking. Wastewater projects funded by the SRF loan program could include wastewater treatment plant improvements and upgrades, sewer line extensions to existing unsewered properties, combined sewer overflow corrections, and infiltration or inflow projects. Drinking water projects funded by the SRF loan program could include treatment plant improvements and upgrades, water line extensions to existing unserved properties, and water storage facilities.

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

One alternative to this rulemaking would be to not amend the existing rules. This would leave in place easily corrected inconsistencies and inefficiencies. This rulemaking corrects inconsistencies within the two related Articles 13 and 14 and serves to simplify requirements for the entities. Therefore, the option of not making the amendments to this rulemaking would be detrimental. Another alternative would be to eliminate the state SRF loan program rules and simply operate under the federal rules. This would create a hardship on the affected parties since the state rules are tailored for Indiana's needs and provide guidance to the regulated entities.

#### **Applicable Federal Law**

Federal Water Pollution Control Act (Clean Water Act) of 1989, as amended in 1996.

Safe Drinking Water Act, as amended in 1986, 1988, and 1996.

National Environmental Policy Act of 1969, as amended in 1970, and 1975.

Civil Rights Act of 1964, as amended in 1972, 1978, and 1991.

Real Property and Acquisition Act of 1970, as amended in 1971, 1987, 1991, and 1997.

#### **Potential Fiscal Impact**

There are no added costs due to this rulemaking, in fact it will actually reduce some of the business costs for affected parties by reducing some of the requirements. These amendments will allow refinancing to occur so affected parties can take advantage of lowered interest rates.

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

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Kiran Verma, Rules 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:

#04-293(WPCB) SRF Loan Programs Rulemaking

Larry Wu, Chief

Rules Section

Office of Water 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 12th floor reception desk, Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 232-8406, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317)233-8903.

#### **COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by December 30, 2004.

Technical information regarding this action may be obtained from Jim McGoff, SRF Loan Programs, (317) 234-2916, or (800) 451-6027 (in Indiana). Additional information regarding this action may be obtained from Kiran Verma, Rules Section, Office of Water Quality, (317) 234-0986 or (800) 451-6027 (in Indiana).

Tim Method

Deputy Commissioner

Indiana Department of Environmental Management