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TITLE 327 WATER POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD

LSA Document #06-156(WPCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING PRETREATMENT STREAMLINING

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules 327 IAC 5-16 through 327 IAC 5-21 concerning pretreatment program permit requirements. 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 5-16 through 327 IAC 5-21.

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

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

The proposed rule revises several provisions of the general pretreatment regulations that address requirements for, and oversight of, industrial users (IUs) who introduce pollutants into publicly owned treatment works (POTWs). This proposed rule includes changes to certain program requirements to be consistent with national pollutant discharge elimination system (NPDES) requirements for direct dischargers to surface waters. This action will reduce the regulatory burden on IUs and state and POTW control authorities (CAs) without adversely affecting environmental protection and will allow CAs to better focus oversight resources on IUs with the greatest potential for adversely affecting POTW operations or the environment.

Alternatives To Be Considered Within the Rulemaking

This rulemaking incorporates by reference 40 CFR 437, an updated federal categorical pretreatment standard.

1. Required: This required change provides an updated reference relating to the centralized waste treatment point source category. Potential Fiscal Impact of Alternative 1. There is no anticipated state fiscal impact to this rule as this is a requirement from federal regulations.

EPA has identified thirteen (13) required rule changes that are more stringent than the previous federal requirements in 40 CFR Part 403 and therefore are considered required modifications for the state and/or the POTW, and fourteen (14) optional provisions that are generally less stringent than current requirements to be considered for state adoption.

2. Required: This required change provides updated references relating to requirements that POTWs must meet to adjust removal credits for combined sewer overflows (CSOs).

Potential Fiscal Impact of Alternative 2. There is no anticipated state fiscal impact to this rule as this is a requirement from federal regulations.

3. Required: Applicable slug control requirements must be included in the significant industrial user's (SIU's) control mechanism. Potential Fiscal Impact of Alternative 3. There is no anticipated state fiscal impact to this rule as this is a requirement from federal regulations.

4. Required: POTWs must evaluate all of their SIUs for the need for a slug control plan or other action to control slug discharges within a year from the final rule's effective date or from becoming an SIU.

Potential Fiscal Impact of Alternative 4. There is no anticipated state fiscal impact to this rule as this is a requirement from federal regulations.

5. Required: SIUs are required to notify the POTW immediately of changes that occur at the facility affecting the potential for a slug discharge.

Potential Fiscal Impact of Alternative 5. There is no anticipated state fiscal impact to this rule as this is a requirement from federal regulations.

6. Required: The definition of significant noncompliance (SNC) is expanded to include additional types of pretreatment standards and requirements that are to be considered when determining whether an SIU's violations constitute SNC.

Potential Fiscal Impact of Alternative 6. There is no anticipated state fiscal impact to this rule as this is a requirement from federal

regulations.

7. Required: SIU reports must include best management practice (BMP) compliance information.

Potential Fiscal Impact of Alternative 7. There is no anticipated state fiscal impact to this rule as this is a requirement from federal regulations.

8. Required: SIU control mechanisms must contain any BMPs required by a pretreatment standard, local limit, state, or local law.

Potential Fiscal Impact of Alternative 8. There is no anticipated state fiscal impact to this rule as this is a requirement from federal regulations.

9. Required: Documentation of compliance with BMP requirements must be maintained as part of the SIU's and POTW's recordkeeping requirements.

Potential Fiscal Impact of Alternative 9. There is no anticipated state fiscal impact to this rule as this is a requirement from federal regulations.

10. Required: CAs that perform sampling for SIUs must perform any required repeat sampling and analysis within thirty (30) days of becoming aware of a violation.

Potential Fiscal Impact of Alternative 10. There is no anticipated state fiscal impact to this rule as this is a requirement from federal regulations.

11. Required: SIUs are required to follow sampling requirements for periodic compliance reports; the CA is required to specify the number of grab samples necessary in periodic and noncategorical SIU (NCSIU) reports; and NCSIUs are required to report all monitoring results.

Potential Fiscal Impact of Alternative 11. There is no anticipated state fiscal impact to this rule as this is a requirement from federal regulations.

12. Required: NCSIUs are required to provide representative samples in their periodic monitoring reports.

Potential Fiscal Impact of Alternative 12. There is no anticipated state fiscal impact to this rule as this is a requirement from federal regulations.

13. Required: IUs must notify the CA, as well as the POTW, of a change in discharge if the POTW is not the CA.

Potential Fiscal Impact of Alternative 13. There is no anticipated state fiscal impact to this rule as this is a requirement from federal regulations.

14. Required: The POTW must, in writing by the principal executive officer or ranking elected official of the POTW, authorize the use of a duly authorized employee.

Potential Fiscal Impact of Alternative 14. There is no anticipated state fiscal impact to this rule as this is a requirement from federal regulations.

15. Optional: This optional provision allows publication of the SNC list in any paper of general circulation within the jurisdiction served by the POTW that provides meaningful public notice.

Potential Fiscal Impact of Alternative 15. This alternative is expected to provide a cost savings to affected CAs.

16. Optional: This optional provision amends the SNC criteria to apply only to SIUs and to those IUs that cause significant adverse impacts to the POTW, human health, or the environment.

Potential Fiscal Impact of Alternative 16. This alternative is expected to provide a cost savings to affected CAs.

17. Optional: Currently, SNC applies if a required report is submitted more than thirty (30) days late. This optional provision extends the thirty (30) day deadline to forty-five (45) days.

Potential Fiscal Impact of Alternative 17. This alternative is expected to be cost neutral to affected IUs and CAs.

18. Optional: This optional provision provides POTWs the flexibility to review the need for a slug control plan or other action as necessary.

Potential Fiscal Impact of Alternative 18. This alternative is expected to provide a cost savings to affected CAs.

19. Optional: This optional provision gives the CA the flexibility to determine the appropriate minimum number of grab samples IUs are required to take to measure pH, cyanide, total phenols, oil and grease, sulfides, and volatile organic compounds.

Potential Fiscal Impact of Alternative 19. This alternative is expected to provide a cost savings to affected IUs.

20. Optional: This optional provision clarifies that multiple grab samples for cyanide, total phenols, sulfide, oil and grease, and volatile organic compounds collected during a twenty-four (24) hour period may be composited prior to analysis. The CA will also be allowed to authorize manually composited grab samples for other parameters that are unaffected by compositing procedures.

Potential Fiscal Impact of Alternative 20. This alternative is expected to provide a cost savings to affected IUs and CAs.

21. Optional: This optional provision removes the requirement that flow composite sampling must be determined "infeasible" in order to allow time composite sampling. The IU must demonstrate that the time-proportional or grab samples are representative of the discharge before the CA may allow the IU to submit such samples.

Potential Fiscal Impact of Alternative 21. This alternative is expected to provide a cost savings to affected IUs and CAs.

22. Optional: This optional provision authorizes the CA to reduce some of its oversight responsibilities and sampling and inspection requirements for a newly established class of indirect discharger, the NSCIU that discharges no more than one hundred

(100) gallons per day of categorical wastewater to the POTW.

Potential Fiscal Impact of Alternative 22. This alternative is expected to provide a cost savings to affected IUs and CAs.

23. Optional: This optional provision allows the CA to reduce the reporting requirements for categorical industrial users (CIUs) meeting eligibility criteria when the CIU's categorical wastewater flow does not exceed:

- (1) one-hundredth (.01) percent of the POTW's design dry weather hydraulic capacity, or five thousand (5,000) gallons per day, whichever is smaller;
- (2) one-hundredth (.01) percent of the POTW's design organic treatment capacity; and
- (3) one-hundredth (.01) percent of the maximum allowable headworks loading (MAHL).

The POTW can reduce its own required annual inspections and monitoring of those CIUs eligible for reduced reporting.

Potential Fiscal Impact of Alternative 23. There is no anticipated state fiscal impact to this rule as this alternative is voluntary. However, unless IDEM receives widespread support, IDEM does not propose to adopt this provision as the cost of implementing this alternative would be high for POTWs and the benefits would be small to IUs.

24. Optional: This optional provision allows the CA to authorize a sampling waiver for a pollutant if the CIU can demonstrate the given pollutant is not present in its discharge or is present only in background levels in intake water.

Potential Fiscal Impact of Alternative 24. This alternative is expected to provide a cost savings to affected IUs and CAs.

25. Optional: This optional provision allows the CA to develop a general permit to regulate the activities of groups of SIUs.

Potential Fiscal Impact of Alternative 25. This alternative is expected to provide a cost savings to affected SIUs and CAs.

26. Optional: This optional provision allows the use of concentration based limits in lieu of flow based mass limits for facilities in the organic chemical and synthetic fibers, petroleum refining, and pesticide chemicals categories.

Potential Fiscal Impact of Alternative 26. This alternative is expected to provide a cost savings to affected IUs and CAs.

27. Optional: This optional provision gives the CA the discretion to calculate an equivalent mass limit for a control mechanism for categorical pretreatment standards that are expressed in terms of concentration.

Potential Fiscal Impact of Alternative 27. This alternative is expected to be cost neutral.

28. Optional: This optional provision defines BMPs consistent with NPDES regulations and allows their use in lieu of numeric local limits.

Potential Fiscal Impact of Alternative 28. This alternative is expected to provide a cost savings to affected IUs.

Applicable Federal Law

40 CFR Parts 9, 122, 403, and 437

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 the CTAP program, the monthly CTAP newsletter, and other resources available can be found at <http://www.in.gov/idem/compliance/ctap/index.html>.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf

IDEM Compliance and Technical Assistance Program

OPPTA - MC60-04

100 N. Senate Avenue, W-041

Indianapolis, IN 46204-2251

(317) 232-8578

selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen

IDEM Small Business Assistance Program Ombudsman

External Affairs - MC50-01

100 N. Senate Avenue, IGCN 1301

Indianapolis, IN 46204-2251

(317) 234-3386

elevenha@idem.in.gov

Public Participation and Workgroup Information

This rulemaking implements several mandatory provisions of the general pretreatment program as required by federal regulation. Therefore, at this time, no workgroup is planned for the rulemaking. However, if you feel that a workgroup or other informal discussion on the optional rule changes is appropriate, please contact Rebecca Schmitt, Rules Development 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:

#06-156(WPCB) [Pretreatment Streamlining]
Rebecca Schmitt, Rulewriter
Rules Development Section
Office of Water Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the twelfth 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 Office of Water Quality, Rules Development Section at (317) 233-8903.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by June 30, 2006.

Additional information regarding this action may be obtained from Rebecca Schmitt, Rules Development Section, Office of Water Quality, (317) 234-0986 or (800) 451-6027 (in Indiana) or technical information concerning industrial permit requirements may be obtained from Jay Hanks, Industrial Permits Section, Office of Water Quality, (317) 233-3555 or (800) 451-6027 (in Indiana) or technical information concerning pretreatment standards may be obtained from Natalie Maupin, State Pretreatment Coordinator, Compliance Evaluation Section, Office of Water Quality, (317) 232-8729 or (800) 451-6027 (in Indiana).

Bruno Pigott
Assistant Commissioner
Office of Water Quality