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TITLE 327 WATER POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD

LSA Document #06-179(WPCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING CLASSIFICATION OF WASTEWATER TREATMENT PLANTS AND THE EXAMINATION AND CERTIFICATION OF WASTEWATER TREATMENT OPERATORS

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to 327 IAC 5-22 concerning the classification of wastewater treatment plants and the examination and certification of wastewater treatment operators. IDEM seeks comment on the affected citation listed and any other provisions of Title 327 that may be affected by this rulemaking.

CITATIONS AFFECTED: 327 IAC 5-22.

AUTHORITY: IC 13-14-9; IC 13-18-11.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

In 2004, a citizens' petition to the Water Pollution Control Board (WPCB) requested rulemaking action to require a minimum ratio of ten parts of receiving stream water to one part of treated wastewater effluent (10:1 dilution) to provide sufficient dilution in streams receiving discharges from wastewater treatment plants. The result of the subsequent public hearings held on this petition was a recommendation by the WPCB to initiate a rulemaking concerning operation, maintenance, and management for small wastewater treatment plants. A workgroup was formed to study problems at small wastewater treatment plants. The workgroup met and held discussions through much of 2005 and provided a final report to the WPCB in February 2006. Of the recommendations by the workgroup, one was to make modifications to the existing rule at 327 IAC 5-22 for the classification of wastewater treatment plants and the examination and certification of wastewater treatment operators. The workgroup determined that a portion of the problems at small wastewater treatment plants, and all treatment plants as well, concern operator issues. Some of the problems include: (1) an operator being in responsible charge of too many treatment plants or plants at too far geographical distance from one another for the operator to be able to give sufficient attention to the treatment needs of each; (2) operator qualifications and classifications; (3) continuing education; and (4) what constitutes responsible charge of a treatment plant.

While the original citizen's petition focused on small wastewater treatment plants, especially package treatment plants, and their operators, this rulemaking addresses operators of any size wastewater treatment plant and collection system.

Alternatives To Be Considered Within the Rulemaking

The workgroup underway with rulemaking discussions concerning modifications to 327 IAC 5-22 has established topics of concern for consideration in the rule modification. These topics include the following:

Alternative 1. Modify 327 IAC 5-22-13(c)(1).

Section 13 currently is inconsistent with the state statute, IC 13-18-11-12, but requires only slight modification.

Alternative 2. Modify requirements for continuing education.

Determining what courses qualify for continuing education and whether a course should be considered technical or general is a major discussion topic.

Alternative 3. Modify wastewater treatment plant classifications and consider adding classifications of wastewater collection systems.

Alternative 4. Modify operator qualifications necessary for taking the certification exam.

Possible areas of consideration include redefining "acceptable experience" and "responsible charge experience" and maximum time frames for operator reinstatements and reexamination.

Alternative 5. Modify rule requirements regarding responsibilities.

The responsibilities for treatment plant owners or governing bodies, contract operators, and responsible charge operators are under consideration. Additionally, the need for municipal operator responsibilities for industrial facilities and industrial operator responsibilities for municipal facilities are under consideration. The number of facilities and size of treatment facilities under the

charge of an operator are under consideration.

Alternative 6. Modify associated operational issues.

Fees, management policies, and associated operational issues may be considered for rule modification or inclusion.

Applicable Federal Law

No federal law affects this rulemaking. None of the foregoing alternatives for consideration by the workgroup for this rulemaking is an incorporation of federal standards, either by reference or full text incorporation. These alternatives are not imposed by federal law and there is no comparable federal law.

Potential Fiscal Impact

Wastewater treatment operator certification and examination is currently required under state law. The possible modifications contemplated in the foregoing alternatives will not create fiscal impact that is not presently incurred by those affected by the current rule with the exception of a possible limitation placed on the number of treatment facilities where an operator can be in responsible charge. If such a change were included in the rule, it is possible that a few operators in the state may lose some income and some treatment facilities may incur expense to hire an operator who would satisfy a requirement to spend more time at the facility. The offsetting consideration is that the environment will be better served if a treatment facility receives more attentive operation and has fewer problems that may result in water discharge violations thereby reducing possible expense of clean up or harm to water sources.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program 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 www.in.gov/idem/ctap.

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

An external workgroup has been established and began meeting in March 2006 to discuss issues involved in this rulemaking. The workgroup is made up of IDEM staff and representatives of the various certified wastewater treatment operators' associations in Indiana as well as the Indiana Association of Cities and Towns, industrial operators, and training providers. The workgroup intends to meet through August 2006, on the second Thursday of the month, at the Indiana Government Center-North Building, 100 North Senate Avenue, Indianapolis, Indiana.

If you wish to provide comments to the workgroup on the rulemaking, attend meetings, or have suggestions related to the workgroup process, please contact MaryAnn Stevens, Rules Section, Office of Water Quality at (317) 232-8635 or (800) 451-6027 (in Indiana). Please provide your name, phone number, and e-mail address, if applicable, where you can be contacted. The public is also encouraged to submit comments and questions to members of the workgroup who represent their particular interests in the rulemaking.

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:

#06-179(WPCB) [WW Operators Rule]

MaryAnn Stevens Mail Code 65-40

Rules Section

Office of Water Quality

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204-2251.

Hand delivered comments will be accepted by the receptionist on duty at the twelfth floor reception desk, Office of Water Quality, Indiana Government Center-North, Room N1255, 100 North Senate Avenue, Indianapolis, Indiana. Comments also may be submitted by facsimile to (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 Section at (317) 233-8903. Please note it is not necessary to follow a faxed comment letter with a copy of the letter submitted through the postal system.

COMMENT PERIOD DEADLINE

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

Additional information regarding the operators' certification program may be obtained from Debbie Dubenetzky, Compliance Branch Chief, Office of Water Quality, (317) 233-5963 or (800) 451-6027. Additional information regarding this rulemaking action may be obtained from MaryAnn Stevens, Rules Section, Office of Water Quality, (317) 232-8635 or (800) 451-6027 (in Indiana).

Bruno Pigott
Assistant Commissioner
Office of Water Quality