

TITLE 327 WATER POLLUTION CONTROL BOARD

IDEM's Suggested Changes to Proposed Rule as Preliminarily Adopted concerning Antidegradation Standards and Implementation Procedures

LSA Document #08-764

Revisions made by LSA under the Administrative Rules Drafting Manual (IC 4-22-8-4(a) (2)) and incorporated into the printed version (LSA Document #08-764) have been made in the version of the rule presented to the board for final adoption.

1. Page 3 327 IAC 2-1.3-2(9): revise the definition of “**CERCLA**” to the statutory citation.
2. Page 3 327 IAC 2-1.3-2(10): revise the definition of “**Clean Water Act**” or “**CWA**” to the statutory citation.
3. Page 3 327 IAC 2-1.3-2(12): revise the definition of “**Commissioner**” to the statutory citation.
4. Page 3 327 IAC 2-1.3-2(14)(A): delete “discharge” and insert “loading”.
5. Page 3 327 IAC 2-1.3-2(15): revise the definition of “**Department**” to the statutory citation.
6. Page 3 327 IAC 2-1.3-2(17): delete the definition of “**Discharge**” or “**direct discharge**”.
Re-number all definitions, as necessary, following this deletion.
7. Page 4 327 IAC 2-1.3-2(21): renumber as subdivision (20) and revise the definition of “**Endangered or threatened species**” to read as follows:
(20) "Endangered or threatened species" means the following:
(A) Species and designated critical habitat listed as endangered or threatened under 50 CFR 17.11 and 50 CFR 17.12*, as in effect on October 1, 2010.
(B) Species listed as state endangered by the Indiana department of natural resources under the following:
(i) 312 IAC 9-3-19.
(ii) 312 IAC 9-4-14.
(iii) 312 IAC 9-5-4.
(iv) 312 IAC 9-6-9.
(v) 312 IAC 9-9-4.
(C) State endangered or threatened species identified in the Natural Resources Commission Information Bulletin #2 as approved by the Indiana Natural Resources Commission.**
8. Page 4 327 IAC 2-1.3-2(23): renumber as subdivision (22) and revise the definition of “**Governmental entity**” to the statutory citation.
9. Page 4 327 IAC 2-1.3-2(25): renumber as subdivision (24) and, in clause (A), delete “**or**” and insert “**and**”.
10. Page 4 327 IAC 2-1.3-2(29): renumber as subdivision (28) and, in the first sentence, delete “**discharged wastewater**” and insert “**discharge**”.
11. Page 5 327 IAC 2-1.3-2(32): renumber as subdivision (31) and revise the definition of “**Outstanding national resource water**” or “**ONRW**” to the statutory citation.

12. Page 6 327 IAC 2-1.3-2(33): renumber as subdivision (32) and revise the definition of **“Outstanding state resource water”** or **“OSRW”** to the statutory citation.
13. Page 6 327 IAC 2-1.3-2(35): renumber as subdivision (34) and revise the definition of **“Permit”** to the statutory citation.
14. Page 6 327 IAC 2-1.3-2(37): renumber as subdivision (36) and revise the definition of **“Person”** to the statutory citation.
15. Page 7 327 IAC 2-1.3-2(40): renumber as subdivision (39) and revise the definition of **“Pollution prevention”** to the statutory citation.
16. Page 8 327 IAC 2-1.3-2(42): renumber as subdivision (41) and revise the definition of **“Publically owned treatment works”** or **“POTW”** to the statutory citation.
17. Page 9 327 IAC 2-1.3-2(49): renumber as subdivision (48) and revise the definition of **“Sewage”** to the statutory citation.
18. Page 10 327 IAC 2-1.3-2(57): renumber as subdivision (56) and revise the definition of **“Wastewater”** to read as follows:
“Wastewater” means liquid or water-carried wastes from industrial, municipal, agricultural, or other sources.
19. Page 10 327 IAC 2-1.3-2(57): insert a new definition at subdivision (57) to read as follows:
“Water quality standard” means a state or federal law or regulation consisting of:
 (A) a designated use or uses;
 (B) water quality criteria; and
 (C) an antidegradation policy and implementation procedures.
20. Page 10 327 IAC 2-1.3-2: delete **“Section 4 of the ESA is”** after **“*”** and insert **“50 CFR 17.11 and 50 CFR 17.12 are”**.
327 IAC 2-1.3-2: insert **“**The Natural Resources Commission Information Bulletin #2 can be found at www.in.gov/dnr/fishwild.”**
21. Page 11 327 IAC 2-1.3-3(b)(1): delete **“standard”** and insert **“criterion”**.
22. Page 12 327 IAC 2-1.3-3(d): reletter existing subsection (d) as subsection (e) and insert a new subsection (d) to read as follows:
(d) In addition to the OSRWs designated under IC 13-18-3-2(u) or listed at 327 IAC 2-1.5-19(b), the following waters are designated by the board to be OSRWs:
(1) The Blue River in Washington, Crawford, and Harrison Counties, from river mile 57.0 to river mile 11.5.
(2) The North Fork of Wildcat Creek in Carroll and Tippecanoe Counties, from river mile 43.11 to river mile 4.82.
(3) The South Fork of Wildcat Creek in Tippecanoe County, from river mile 10.21 to river mile 0.00.
23. Page 12 327 IAC 2-1.3-3(e): reletter existing subsection (e) as subsection (f).
24. Page 12 327 IAC 2-1.3-3(d)(1): delete **“discharges”** and insert **“loadings”**.
25. Page 12 327 IAC 2-1.3-3(d)(2)(A)(ii): delete **“from an existing or new discharger”**.
26. Page 12 327 IAC 2-1.3-3(d)(2)(B): delete **“discharge”** and insert **“loading”**.
27. Page 12 327 IAC 2-1.3-4(a): insert **“and the water quality improvement project**

or payment to the OSRW improvement fund requirements included in section 7 of this rule” after “section 5 of this rule”.

Delete “short-term, temporary,”.

Delete “discharges” and insert “loadings”.

28. Page 12 327 IAC 2-1.3-4(a)(2): delete “discharge” and insert “loading”.
29. Page 12 327 IAC 2-1.3-4(a)(4): delete “discharge” and insert “loading”.
30. Page 12 327 IAC 2-1.3-4(a)(5): delete “discharge” and insert “loading”.
31. Page 13 327 IAC 2-1.3-4(b): insert “and the water quality improvement project or payment to the OSRW improvement fund requirements included in section 7 of this rule” after “section 5 of this rule”.
- Delete “short-term, temporary,”
- Delete “discharges” and insert “loadings”.
32. Page 13 327 IAC 2-1.3-4(b)(2): delete “discharge” and insert “loading”.
33. Page 13 327 IAC 2-1.3-4(b)(4): delete “discharge” and insert “loading”.
34. Page 13 327 IAC 2-1.3-4(b)(5): delete “discharge” and insert “loading”.
35. Page 13 327 IAC 2-1.3-4(c): insert “and the water quality improvement project or payment to the OSRW improvement fund requirements included in section 7 of this rule” after “section 5 of this rule”.
36. Page 13 327 IAC 2-1.3-4(c)(1)(B): delete “discharges” and insert “loadings”.
37. Page 13 327 IAC 2-1.3-4(c)(1)(B)(i): delete “discharge” and insert “loading”.
38. Page 13 327 IAC 2-1.3-4(c)(1)(B)(ii): delete “discharge” and insert “loading”.
39. Page 14 327 IAC 2-1.3-4(c)(1)(C): delete “discharges” and insert “loadings”.
40. Page 14 327 IAC 2-1.3-4(c)(1)(C)(i): delete “discharge” after “The new or increased” and insert “loading”.
- Delete “discharge.” and insert “loading.” after “adjacent to the”.
41. Page 14 327 IAC 2-1.3-4(c)(1)(C)(ii): delete “discharge” and insert “loading”.
42. Page 15 327 IAC 2-1.3-5(a): delete “significant”.
- Delete “must” after “under section 4 of this rule” and insert “shall”.
- Delete “discharge.” and insert “loading.”
43. Page 15 327 IAC 2-1.3-5(a)(1): delete “discharge.” and insert “in the new or increased loading.”
44. Page 15 327 IAC 2-1.3-5(a)(2): delete “loading” after “concentration and mass”.
- Delete “discharged.” and insert “in the new or increased loading.”
45. Page 15 327 IAC 2-1.3-5(a)(3): delete “discharge” and insert “loading” after “The location of the proposed”.
- Delete “discharge” and insert “loading” after “a map of the area of the proposed”.
- Delete “discharge” and insert “loading” after “the area downstream of the proposed”.
46. Page 15 327 IAC 2-1.3-5(b): insert “Any person requesting a new or increased loading that would cause a lowering of water quality that is not exempt under section 4 of this rule shall submit” before “an antidegradation demonstration”.
- Delete “shall be submitted” after “required under subsection (c)”.
47. Page 15 327 IAC 2-1.3-5(b)(1): delete “discharged” after “concentration of the regulated pollutant”.
48. Page 16 327 IAC 2-1.3-5(b)(3): delete “discharge” and insert “loading”.

49. Page 16 327 IAC 2-1.3-5(c)(2): delete “**effluent**” and insert “**loading**”.
50. Page 16 327 IAC 2-1.3-5(c)(2)(A)(iii): delete “**effluent concentrations**” and insert “**loading reduction**”.
51. Page 17 327 IAC 2-1.3-5(c)(2)(B)(i): delete “**discharge**” and insert “**loading**”.
52. Page 17 327 IAC 2-1.3-5(d): insert “**Any person requesting a new or increased loading that would cause a lowering of water quality that is not exempt under section 4 of this rule shall submit**” before “**an antidegradation demonstration**”.
- Delete “**shall be submitted**” after “**required under subsection (e)**”.
53. Page 19 327 IAC 2-1.3-6(a): delete “**discharge**” and insert “**loading**”.
54. Page 20 327 IAC 2-1.3-6(b)(1): delete “**discharge**” and insert “**loading**”.
55. Page 20 327 IAC 2-1.3-6(b)(2)(B): delete “**discharge.**” and insert “**loading.**”.
56. Page 20 327 IAC 2-1.3-6(d)(1): delete “**discharger**” and insert “**person proposing the new or increased loading**”.
57. Page 20 327 IAC 2-1.3-6(d)(3): delete “**state listed endangered or federally listed**”.
58. Page 21 327 IAC 2-1.3-6(g): insert “**tentative**” after “**When the commissioner makes a**”.
- Insert “**tentative**” after “**notice the antidegradation demonstration**”.
- Delete “**final**” and insert “**tentative**” after “**327 IAC 5-2-11.2 and the**”.
59. Page 21 327 IAC 2-1.3-7(b)(1): delete “**discharger**” and insert “**person**”.
60. Page 22 327 IAC 2-1.3-7(b)(3): delete “**discharger**” and insert “**person**”.
61. Page 22 327 IAC 2-1.3-7(c): delete “**To fund a water quality improvement project in the watershed of the affected OSRW by payment of a fee into the OSRW improvement fund established under IC 13-18-3-14, the following apply:**”
62. Page 22 327 IAC 2-1.3-7(c)(1): delete “**(1)**”.
- The language of subdivision (1) becomes subsection (c).
- Delete “**discharger**” and insert “**person**”.
63. Page 22 327 IAC 2-1.3-7(c)(1)(A): delete “**(A)**” and insert “**(1)**”.
- The language of clause (A) becomes subdivision (1).
64. Page 22 327 IAC 2-1.3-7(c)(1)(B): delete “**(B)**” and insert “**(2)**”.
- The language of clause (B) becomes subdivision (2).
65. Page 22 327 IAC 2-1.3-7(c)(1)(B)(i): delete “**(i) using the water quality improvement project information required under subsection (b)(1) as submitted to the department by the discharger; and**”.
66. Page 22 327 IAC 2-1.3-7(c)(1)(B)(ii): delete “**(ii)**”.
- The language of item (ii) becomes the concluding text of subdivision (2).
67. Page 22 327 IAC 2-1.3-7(c)(1)(B)(ii)(AA): delete “**(AA)**” and insert “**(A)**”.
- The language of subitem (AA) becomes clause (A).
68. Page 22 327 IAC 2-1.3-7(c)(1)(B)(ii)(BB): delete “**(BB)**” and insert “**(B)**”.
- The language of subitem (BB) becomes clause (B).
69. Page 22 327 IAC 2-1.3-7(c)(1)(B)(ii)(CC): delete “**(CC)**” and insert “**(C)**”.
- The language of subitem (CC) becomes clause (C).
70. Page 32 327 IAC 15-2-6(a): delete “327 IAC 2-1-2(3),”
- Delete “or” after “327 IAC 2-1-11(b)”
- Insert “, or 327 IAC 2-1.3-3(d)” after “327 IAC 2-1.3-2”