

Presented below are water quality standards that are in effect for Clean Water Act purposes.

EPA is posting these standards as a convenience to users and has made a reasonable effort to assure their accuracy. Additionally, EPA has made a reasonable effort to identify parts of the standards that are not approved, disapproved, or are otherwise not in effect for Clean Water Act purposes.

December 8, 2021

Excerpts from Article 5 (Industrial Wastewater Pretreatment Programs and NPDES):

- **327 IAC 5-3-4.1: Determination on variances from water quality standards and effluent limitations based on such variances; procedures**
- **327 IAC 5-3-5: Streamlined Mercury Variance Requirements and Application Process**

Effective September 28, 2021

The attached Water Quality Standards for the State of Indiana are effective for Clean Water Act purposes, with the following exceptions:

- EPA disapproved the variance provision at 327 IAC 5-3-4.1(b)(1)
 - Federal Great Lakes Guidance provisions at 40 CFR 132, Appendix F, Procedure 5, Section F, paragraph 2 are effective for CWA purposes

327 IAC 5-3-4.1 Determination on variances from water quality standards and effluent limitations based on such variances; procedures

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-15-4-3; IC 13-18-3

Affected: IC 4-21.5-3; IC 13-11-2-132; IC 13-15-4-1; IC 13-15-5; IC 13-15-6; IC 13-18-4; IC 13-18-7; IC 13-23-13; IC 13-24-1; IC 13-25-5

Sec. 4.1. (a) The commissioner shall consider and make a written determination on a request for a variance from a water quality standard as provided in 327 IAC 2-1-8.8 or 327 IAC 2-1.5-17.

(b) Requirements for a variance application shall be as follows:

~~(1) An application for a variance for a substance may be submitted at any time during the period beginning on the date an application is submitted for the issuance, reissuance, or modification of a NPDES permit and ending ninety (90) days following the effective date of the new, renewed, or modified NPDES permit, when the WQBEL for the substance will be or is more restrictive in the renewed, or modified NPDES permit than in the existing permit. The applicant may petition the commissioner for up to an additional ninety (90) day period to submit an application for a variance. If the variance application is submitted prior to the issuance, reissuance, or modification date of the permit, the permit limitations for a substance for which a variance~~

EPA disapproved the variance provision at 327 IAC 5-3-4.1(b) (1). Please see PDF page 2 for additional information.

INDUSTRIAL WASTEWATER PRETREATMENT PROGRAMS AND NPDES

~~application is submitted will not be issued until such time that the commissioner makes the variance determination. Notwithstanding these time frames and procedures, an applicant that is seeking a variance from a water quality standard used to derive a WQBEL contained in an issued or modified NPDES permit must appeal the issuance of the permit or modification in accordance with IC 4-21.5 and IC 13-15-6, if applicable, if the variance request is submitted after the issuance date of the permit to be eligible for a stay of the WQBELs for the substance for which the variance is being requested.~~

(2) The complete variance application shall contain the information that the commissioner determines to be necessary to satisfy the requirements contained in 327 IAC 2-1-8.8 or 327 IAC 2-1.5-17. The application shall contain the following:

(A) Except for variances governed under clause (B), the variance application shall contain the following:

(i) An identification of control methodologies in practice for similar waste streams and processes by similar facilities which achieve a level of control greater than the level currently achieved by the applicant, including those determined by the applicant not to be technically feasible for the applicant. Pollution prevention measures may be identified and submitted as part of the application. As used in this section, "pollution prevention" means changes in production process technologies, materials, processes, operations, or procedures to reduce or eliminate the source of the pollutant.

(ii) An identification, listed under item (i), of the methodologies determined by the applicant not to be technically feasible and documentation supporting infeasibility.

(iii) A ranking of those feasible methodologies from greater to lesser overall control effectiveness by:

(AA) the reduction in pollutant concentrations; and

(BB) the reduction in loadings (percent pollutant removed).

(iv) An evaluation for each feasible methodology that includes reasonably foreseeable:

(AA) adverse or beneficial environmental impacts resulting from the proposed methodology, including net impacts on the receiving water;

(BB) impacts to the aquatic community, wildlife, and plant life;

(CC) impacts on rare, threatened, or endangered species;

(DD) impacts resulting from the discharge of toxic contaminants;

(EE) energy impacts (BTU and kWh);

(FF) risks to human health; and

(GG) impacts to other media, including air or land.

(v) For a facility required to obtain a municipal permit as defined in IC 13-11-2-132, an evaluation for each feasible methodology that includes the following:

(AA) An affordability analysis of total and annualized costs that measures the financial impact of the methodology on the user fees and taxes imposed on the residential and nonresidential users paying for the methodology, using, at a minimum, appropriate measures of debt and financial management conditions in the community.

(BB) The economic impacts, including the total cost and cost effectiveness of pollutant removal of the methodology.

(CC) The ability of ratepayers within the community to afford the added costs.

(DD) The ability of the public facility to obtain debt financing.

(vi) For a facility required to obtain a NPDES permit that is not a municipal permit as defined in IC 13-11-2-132, an evaluation for each feasible methodology that includes the following:

(AA) An affordability analysis of total and annualized costs that measures the financial impact of the methodology to determine whether the facility can afford the methodology based upon reasonable measures of financial health and available capital.

(BB) The economic impacts, including the total cost and cost effectiveness of pollutant removal of the methodology.

(CC) The impact of costs on applicant's goods or services.

(DD) Information regarding the relative price of goods or services in the same market as the applicant.

(EE) The overall impact of the application of the methodology on employment within the facility.

(vii) An explanation of why information sought under items (i) through (vi) is not necessary or appropriate for inclusion in the specific variance application.

(viii) Any other relevant information requested by the commissioner.

(B) The following procedures shall be used to evaluate variance applications for discharges that occur as a result of actions listed in item (i):

(i) The procedures in this clause apply to an applicant that requests a variance from a water quality standard used to derive a water quality-based effluent limitation (WQBEL) contained in an NPDES permit for a specific substance where the necessity for the variance is a short term, temporary discharge resulting from the dredging of contaminated sediments from a waterbody, and is any of the following:

(AA) A response action pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) as amended.

(BB) A corrective action pursuant to the Resource Conservation and Recovery Act (RCRA) as amended.

(CC) An action pursuant to similar federal or state authorities, including, but not limited to, the following:

(aa) An underground storage tank (UST) corrective action under IC 13-23-13.

(bb) A remediation of petroleum releases under IC 13-24-1.

(cc) A voluntary remediation under IC 13-25-5.

(dd) An abatement or correction of any polluted condition under IC 13-18-7.

(ii) The application for a variance requested under this clause shall contain the following:

(AA) Identification of the substance for which a variance is being requested and information documenting the concentrations of the substance projected to be present in the discharge.

(BB) Document predredging environmental conditions.

(CC) Document the expected environmental benefits of the project.

(DD) Identification of the methodologies that potentially could be used to reduce the concentration of the substance in the discharge or eliminate the need for variance. Methodologies to be evaluated shall include, but not be limited to:

(aa) relocation of the discharge location;

(bb) discharge to a POTW;

(cc) alternate dredging methodologies; or

(dd) control methodologies used in practice for similar wastestreams.

(EE) An identification of the methodologies identified under subitem (DD) determined by the applicant not to be technically feasible and documentation supporting the infeasibility.

(FF) A ranking of those feasible methodologies from greater to lesser effectiveness by:

(aa) the reduction in pollutant concentrations; and

(bb) the increase in percent removal.

(GG) An evaluation for each feasible methodology that includes reasonably foreseeable adverse or beneficial environmental impacts resulting from the methodology, including the net impacts on the receiving water. This evaluation shall include:

(aa) impacts to the aquatic community, wildlife, and plant life;

(bb) impacts on rare, threatened, or endangered species;

(cc) impacts resulting from the discharge of toxic contaminants;

(dd) energy impacts (BTU and kWh);

(ee) risks to human health; and

(ff) impacts to other media, including air or land.

(HH) Documentation of the costs associated with implementing each feasible methodology.

(II) Upon request by the applicant, the commissioner may determine that one (1) or more of the requirements in subitems (AA) through (HH) is not necessary or appropriate for inclusion in the variance application. This request submitted by the applicant shall explain why such information is not necessary or appropriate for inclusion.

(JJ) Any other relevant information requested by the commissioner.

(c) Upon receipt of a variance application, the commissioner shall provide notice, request comment, and, if requested, schedule and hold a public meeting on the application in accordance with 327 IAC 5-2-11.2.

(d) After the receipt of a variance application, the commissioner shall specify in writing any additional relevant information

which is deemed necessary to make a determination on the variance request. Such additional information shall be submitted by the applicant within forty-five (45) days after the receipt of the commissioner's request. The applicant may petition the commissioner for an extension of up to an additional forty-five (45) days within which to submit the additional information. Failure of an applicant to submit any additional relevant information requested by the commissioner within the applicable time period shall result in the denial of the variance application.

(e) After the commissioner has determined that a variance application is complete, the commissioner shall make a determination on the application in accordance with the following procedures:

(1) After receipt of a completed variance application, the information submitted under subsection (b)(2) will be reviewed and evaluated.

(2) The highest ranking methodology will be evaluated in accordance with:

(A) 327 IAC 2-1-8.8(b) and 327 IAC 2-1-8.8(c); or

(B) 327 IAC 2-1.5-17(b) and 327 IAC 2-1.5-17(c).

(3) If implementation of the highest ranking methodology causes an undue hardship or burden upon the applicant, the next highest ranking methodology will be evaluated as in subdivision (2).

(4) The procedures outlined in subdivisions (2) and (3) will be repeated until the highest ranking methodology that does not meet the criteria for granting a variance is identified.

(5) The variance determination will require the applicant to implement the highest ranking methodology that does not meet the criteria for granting of a variance.

(6) A variance shall not be granted that would approve the applicant's implementation of a methodology with less overall control effectiveness than the methodology currently implemented by the applicant.

(f) After the commissioner's review and consideration of a completed variance application, the commissioner shall issue a tentative determination on the variance application. The commissioner shall provide a comment period of thirty (30) days on a tentative determination to grant or deny a variance and shall provide public notice of the tentative determination and the comment period as specified under section 12 of this rule. The commissioner shall also include in this public notice, any effects of the variance on the designated use of the receiving waterbody if the tentative determination is to grant the variance.

(g) If a significant degree of interest is expressed during the comment period on the tentative determination to grant or deny the variance, and a public hearing is requested, the commissioner may hold such a hearing after giving notice thereof in accordance with section 12 of this rule. After the comment period or public hearing, the commissioner may request additional information from the applicant.

(h) The commissioner shall make a written determination on the requested variance in accordance with the conditions in 327 IAC 2-1-8.8(b) and subsection (c) or 327 IAC 2-1.5-17(b) and 327 IAC 2-1.5-17(c) within ninety (90) days of the expiration of the later of the following:

(1) The expiration of the public comment period required under subsection (f).

(2) The date of a public hearing allowed under subsection (g).

(3) The date that additional information, requested under subsection (g), is received by the commissioner.

This determination is appealable under IC 4-21.5-3.

(i) If the determination is to grant a variance, either as requested, or as modified by the commissioner, the commissioner shall issue a new or reissue or modify an existing NPDES permit to incorporate the provisions of the variance. This variance shall contain the following:

(1) The WQBELs from which the variance has been granted.

(2) The effluent limitations which are determined to be attainable during the term of the variance. These limitations shall represent the maximum degree of progress feasible during the term of the variance toward attainment of the WQBELs without causing the demonstrated adverse impact. When the duration of the variance is shorter than the duration of the permit, compliance with effluent limitations sufficient to meet the water quality criterion upon the expiration of the variance shall be required.

(3) A compliance schedule which specifies the time period in which the permittee will be required to attain the limitations specified under subdivision (2). During this period in which the compliance schedule is in effect, the permittee will be required to meet interim limitations that are no less stringent than those achieved under the previous permit. If the variance is approved for a BCC, a pollutant minimization program shall be conducted consistent with 327 IAC 5-2-11.6(h)(7).

(4) Appropriate conditions requiring reasonable progress to be made toward attaining the water quality criterion for the

waterbody as a whole.

(5) Any additional monitoring that is determined to be necessary to evaluate the effects on the receiving waterbody of the variance from water quality standards. This monitoring may include, but is not limited to, the following:

- (A) Whole effluent toxicity tests.
- (B) Biological assessments of the receiving waterbody.
- (C) Fish tissue analysis.
- (D) Monitoring of the water column.
- (E) Sediment toxicity testing.
- (F) Chemical analysis of sediments.

(6) A requirement for the permittee to investigate treatment technologies, process changes, and other techniques which may result in further progress toward attainment of the WQBELs.

(7) A provision allowing the commissioner to reopen and modify the permit based on any revision to the variance made by the board during the next revision of the water quality standards or by EPA upon review of the variance.

(8) For variances governed under subsection (b)(2)(B), a permit condition that allows the commissioner to suspend work of the project, upon written notice to the discharger, if the commissioner determines that the discharge is not in compliance with the permit or that the discharge is causing adverse environmental impacts that were not considered in the development of the permit. This decision is appealable under IC 4-21.5-3. The issuance of a suspension order under this subsection shall not limit other enforcement actions or penalties. The department and permittee shall analyze operational deficiencies, and the department shall prescribe changes necessary to bring the discharge into conformance with the permit or revise the permit to address the unanticipated adverse environmental impacts.

(9) Other conditions that the commissioner determines to be necessary to implement the terms of the variance.

(j) The commissioner may issue a permit containing new limitations for substances not included by the applicant in the variance request. Permit limitations for a substance contained in the applicant's permit that are in effect at the time of the variance application shall remain in effect during the consideration of a variance application for that particular substance.

(k) The permittee may request a renewal of a variance in accordance with the provisions contained in 327 IAC 2-1-8.8 or 327 IAC 2-1.5-17 and this section. The renewal application shall also contain information concerning its compliance with the conditions incorporated into its permit as part of the original variance under subsection (i). Renewal of a variance may be denied if the permittee did not comply with the conditions of the original variance.

(l) All variances and supporting information shall be submitted by the commissioner to the EPA and shall include the following:

- (1) Relevant permittee applications submitted under subsection (b).
- (2) Public comments and records of any public hearings under subsections (f) and (g).
- (3) The final decision under subsection (h).
- (4) NPDES permits issued under subsection (i).

Items required in subdivisions (1) through (3) shall be submitted by the commissioner within thirty (30) days of the date of the final variance decision. The item required in subdivision (4) shall be submitted in accordance with the Memorandum of Agreement with the Regional Administrator.

(m) All variances shall be appended to the water quality standards rules, 327 IAC 2-1 or 327 IAC 2-1.5, during the triennial review process. (*Water Pollution Control Division; 327 IAC 5-3-4.1; filed Feb 1, 1990, 4:30 p.m.: 13 IR 1044; filed Feb 26, 1993, 5:00 p.m.: 16 IR 1759; filed Feb 15, 1995, 1:30 p.m.: 18 IR 1821; errata filed Apr 21, 1995, 4:00 p.m.: 18 IR 2261; filed Jan 14, 1997, 12:00 p.m.: 20 IR 1467; errata filed Aug 11, 1997, 4:15 p.m.: 20 IR 3380; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA*)

Rule 3.5. Streamlined Mercury Variance Requirements and Application Process

327 IAC 5-3.5-1 Purpose

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18
Affected: IC 13-18-4

Sec. 1. The purpose of this rule is to establish a streamlined process and application requirements for obtaining a variance from a water quality criterion used to establish a water quality-based effluent limitation for mercury in an NPDES permit. *(Water Pollution Control Division; 327 IAC 5-3.5-1; filed Apr 6, 2005, 4:00 p.m.: 28 IR 2349; readopted filed Jun 15, 2011, 11:15 a.m.: 20110713-IR-327110193BFA; readopted filed Jun 29, 2017, 9:34 a.m.: 20170726-IR-327170225BFA)*

327 IAC 5-3.5-2 Applicability

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18
Affected: IC 13-14-8-9; IC 13-18-4

Sec. 2. (a) An SMV shall be available for the duration of the NPDES permit issued to a wastewater discharging facility that has an NPDES permit in effect containing a discharge limitation for mercury that cannot be achieved consistently by the facility.

(b) Application for a variance under this rule meets the requirements for a variance under IC 13-14-8-9 and rules adopted by the board.

(c) An SMV is not available for the following:

(1) New or recommencing Great Lakes system dischargers except as provided under 327 IAC 2-1.5-17(a)(3).

(2) Applicants seeking an interim limit whose effluent contains mercury at an average concentration, as determined under section 8(a) of this rule, greater than thirty (30) ng/l (parts per trillion).

(Water Pollution Control Division; 327 IAC 5-3.5-2; filed Apr 6, 2005, 4:00 p.m.: 28 IR 2349; readopted filed Jun 15, 2011, 11:15 a.m.: 20110713-IR-327110193BFA; readopted filed Jun 29, 2017, 9:34 a.m.: 20170726-IR-327170225BFA)

327 IAC 5-3.5-3 Definitions

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18
Affected: IC 13-11-2; IC 13-18-4

Sec. 3. In addition to the definitions contained in IC 13-11-2 and this article, the following definitions apply throughout this rule:

(1) "Department" means the Indiana department of environmental management.

(2) "Facility" means any NPDES point source or any other facility or activity (including land or appurtenances thereto) that

is subject to regulation under the NPDES program. For a municipality, "facility" means a POTW.

(3) "Pollutant minimization program" or "PMP" means a program developed by an SMV applicant to identify and minimize the discharge of mercury into the environment.

(4) "Pollutant minimization program plan" or "PMPP" means the plan for development and implementation of the PMP.

(5) "Publicly owned treatment works" or "POTW" means a treatment works as defined by Section 212(2) of the Federal Water Pollution Control Act owned by the state or a municipality as defined by Section 502(4) of the Federal Water Pollution Control Act.

(6) "Streamlined mercury variance" or "SMV" means a process established under this rule for obtaining a variance from the water quality criterion used to establish a water quality-based effluent limitation (WQBEL) established for mercury in an NPDES permit.

(Water Pollution Control Division; 327 IAC 5-3.5-3; filed Apr 6, 2005, 4:00 p.m.: 28 IR 2349; errata filed Jul 6, 2005, 3:15 p.m.: 28 IR 3582; readopted filed Jun 15, 2011, 11:15 a.m.: 20110713-IR-327110193BFA; readopted filed Jun 29, 2017, 9:34 a.m.: 20170726-IR-327170225BFA)

327 IAC 5-3.5-4 Initial SMV application

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18

Affected: IC 13-18-4

Sec. 4. (a) The initial SMV application shall be submitted on forms provided by the department.

(b) An applicant for an SMV may submit the application as a part of an application for a:

(1) new;

(2) renewed; or

(3) modified;

NPDES permit.

(c) The initial SMV application must include all information, including the PMPP, required under section 9 of this rule, PMPP requirements. Applications to renew an SMV shall comply with section 7 of this rule.

(d) Upon receipt of a complete SMV application, the department will publish a notice of completeness and availability of the SMV in accordance with section 5 of this rule, public notice of SMV application. The notice of completeness and availability will be published within thirty (30) days of receipt of a complete SMV application.

(e) In order for an application to be considered complete, the application must contain all information required under section 9 of this rule, PMPP requirements. *(Water Pollution Control Division; 327 IAC 5-3.5-4; filed Apr 6, 2005, 4:00 p.m.: 28 IR 2349; readopted filed Jun 15, 2011, 11:15 a.m.: 20110713-IR-327110193BFA; readopted filed Jun 29, 2017, 9:34 a.m.: 20170726-IR-327170225BFA)*

327 IAC 5-3.5-5 Public notice of SMV application

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18

Affected: IC 4-21.5; IC 13-18-4

Sec. 5. (a) The department shall publish notice of each (a) complete SMV application for public comment:

(1) in the newspaper with the greatest circulation in the city or county of the applicant's location; and

(2) with a thirty (30) day public comment period.

(b) Public notice may be held simultaneously with the public notice procedures of a new, renewed, or modified NPDES permit.

(c) The department may hold a public hearing on the complete SMV application if a request is received during the public comment period. The public hearing may be held simultaneously with the public hearing or a new, renewed, or modified NPDES permit.

(d) The department shall consider public comments received during:

(1) the public comment period; and

(2) the public hearing, if one is held.

(e) The department may require an applicant to modify the SMV application if it is necessary in order for the SMV application to be consistent with the requirements of this rule.

(f) If the SMV application meets the requirements of this rule, the department shall incorporate the SMV into the NPDES

permit in accordance with this rule within ninety (90) days, unless the applicant agrees to a longer time frame, following the close of the later of the following:

- (1) The public comment period.
- (2) The public hearing.

(g) A final determination under subsection (e) is an appealable decision under IC 4-21.5. (*Water Pollution Control Division; 327 IAC 5-3.5-5; filed Apr 6, 2005, 4:00 p.m.: 28 IR 2350; readopted filed Jun 15, 2011, 11:15 a.m.: 20110713-IR-327110193BFA; readopted filed Jun 29, 2017, 9:34 a.m.: 20170726-IR-327170225BFA*)

327 IAC 5-3.5-6 Issuance of SMV

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18
Affected: IC 13-14-8-9; IC 13-18-4

Sec. 6. When an SMV is issued under this rule, the SMV shall be incorporated as a condition of the applicant's NPDES permit through issuance, renewal, or modification of the NPDES permit. The SMV remains in effect until the NPDES permit expires under IC 13-14-8-9. The NPDES permit shall include the requirements of the PMPP and any applicable interim discharge limitation. (*Water Pollution Control Division; 327 IAC 5-3.5-6; filed Apr 6, 2005, 4:00 p.m.: 28 IR 2350; readopted filed Jun 15, 2011, 11:15 a.m.: 20110713-IR-327110193BFA; readopted filed Jun 29, 2017, 9:34 a.m.: 20170726-IR-327170225BFA*)

327 IAC 5-3.5-7 Renewal of SMV

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18
Affected: IC 13-14-8-9; IC 13-18-4

Sec. 7. (a) An eligible applicant may apply for a renewal of the SMV:

- (1) one hundred eighty (180) days prior to the expiration of its NPDES permit; or
- (2) within one hundred eighty (180) days after issuance of a revised NPDES permit that establishes a revised mercury discharge limit based on the water quality criteria.

(b) The department may renew an initial SMV in accordance with IC 13-14-8-9 if the applicant demonstrates that implementation of the PMPP has achieved progress toward the goal of reducing mercury from its discharge except as provided in subsection (d).

(c) A renewal application shall contain the following:

- (1) All information required for an initial SMV application under section 4 of this rule, including revisions to the PMPP, if applicable.
- (2) A report on implementation of each provision of the PMPP.
- (3) An analysis of the mercury concentrations determined through sampling at the facility's locations that have mercury monitoring requirements in the NPDES permit for the two (2) year period prior to the SMV renewal application.
- (4) A proposed alternative mercury discharge limit, if appropriate, to be evaluated by the department according to section 8(b) of this rule, based on the most recent two (2) years of representative sampling information from the facility.

(d) A PMPP must be revised if implementation of the original PMPP does not lead to demonstrable progress in minimizing the discharge of mercury. If the applicant can provide information, as part of a revision to a PMPP, that demonstrates there is no known reasonable additional action that will reduce mercury, the PMPP may remain as previously approved.

(e) A renewal SMV shall be issued in a timely manner and in accordance with the requirements for the issuance of an initial SMV under this rule. If an applicant submits an application for a renewal SMV at least one hundred eighty (180) days prior to the expiration of its NPDES permit, the department shall make a final SMV decision, if requested by the applicant, concurrent with the final decision on the NPDES permit. (*Water Pollution Control Division; 327 IAC 5-3.5-7; filed Apr 6, 2005, 4:00 p.m.: 28 IR 2350; readopted filed Jun 15, 2011, 11:15 a.m.: 20110713-IR-327110193BFA; readopted filed Jun 29, 2017, 9:34 a.m.: 20170726-IR-327170225BFA*)

327 IAC 5-3.5-8 SMV interim discharge limit

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18
Affected: IC 13-18-4

Sec. 8. (a) The interim limit for mercury discharge for the duration of an SMV shall be based on representative effluent data that have been analyzed using Analytical Method 1631 or any analytical method approved by the department. The interim limit shall be expressed as the highest daily value for mercury from a data set that includes a minimum of six (6) daily values that are generally evenly spaced over the most recent twelve (12) to twenty-four (24) month period and representative of the four (4) seasons. The highest daily value will become the value for the interim limit. Compliance with the interim limit is achieved if the average of the measured effluent daily values over the rolling twelve (12) month period is less than the interim limit. An SMV is not available to an applicant that requests an interim limit greater than thirty (30) ng/l (parts per trillion).

(b) The interim discharge limit shall be evaluated upon receipt of a renewal SMV application based upon available, valid, and representative data of the effluent levels for mercury collected and analyzed over the most recent two (2) year period. Data collection and analyses must be done according to Analytical Method 1631 or the analytical method approved by the department. (*Water Pollution Control Division; 327 IAC 5-3.5-8; filed Apr 6, 2005, 4:00 p.m.: 28 IR 2351; readopted filed Jun 15, 2011, 11:15 a.m.: 20110713-IR-327110193BFA; readopted filed Jun 29, 2017, 9:34 a.m.: 20170726-IR-327170225BFA*)

327 IAC 5-3.5-9 PMPP requirements

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18

Affected: IC 13-18-3-15; IC 13-18-4; IC 13-20-17.5

Sec. 9. (a) A PMPP for a facility must be submitted with an application for an SMV. The PMPP must contain the following:

(1) Results of a preliminary inventory of potential uses and sources of mercury in all buildings and departments and a plan and schedule for providing the department results of a complete inventory.

(2) Preliminary identification of known mercury-bearing equipment, wastestreams, and mercury storage sites.

(3) A list of planned activities to be conducted to eliminate or minimize the release of mercury to the water. The list of planned activities may consider technical and economic feasibility and must include, at a minimum, the following:

(A) A review of purchasing policies and procedures.

(B) Necessary training and awareness for facility staff.

(C) Evaluation of alternatives to the use of any mercury-containing equipment or materials.

(D) Other specific activities designed to reduce or eliminate mercury loadings.

(E) An identification of the facility's responsibilities under IC 13-20-17.5.

(4) For each activity specified in subdivision (3), the plan must contain the following:

(A) The goal to be accomplished.

(B) A measure of performance.

(C) A schedule for action.

(5) All available mercury monitoring data and any information on mercury in biosolids, if required by an NPDES permit or land application permit, for the two (2) year period preceding the SMV application.

(6) Identification of the resources and staff necessary to implement the PMPP.

(7) Proof of completion of public notice activities required under this section.

(8) Annual reports according to a schedule in the PMPP. Each annual report must describe the following:

(A) The facility's progress toward fulfilling each of the requirements of the PMPP.

(B) The results of mercury monitoring.

(C) The steps taken to implement each planned activity developed under this subsection and subsection (b) to reduce or eliminate mercury from the facility's water.

(b) In addition to subsection (a), a PMPP for a POTW must include the following:

(1) Results of a preliminary evaluation of possible mercury sources in the facility's influent and a plan and schedule for providing the department results of a complete evaluation. The evaluation shall include, at a minimum, the following:

(A) Medical facilities, for example, the following:

(i) Hospitals.

(ii) Clinics.

(iii) Nursing homes.

(iv) Veterinary facilities.

(B) Dental clinics.

(C) Public and private educational laboratories.

- (D) General industry and all SIUs.
- (E) Significant sources of residential and retail contributions of mercury, for example, the following:
 - (i) Heating, ventilation, and air conditioning contractors.
 - (ii) Automobile and appliance repair.
 - (iii) Veterinarians.
 - (iv) Others specific to the community served.

(F) An identification of the responsibilities under IC 13-20-17.5 for the significant industrial users for the POTW.

- (2) A list of planned activities designed to reduce or eliminate mercury loadings from the sources identified in subdivision (1).
- (3) For each activity specified in subdivision (2), the plan must contain the following:

- (A) The goal to be accomplished.
- (B) A measure of performance.
- (C) A schedule for action.

(4) In addition to activities required under subsection (a)(3), activities must also include an education program for the facility employees and the public within the service area of the facility.

(c) Prior to submitting the PMPP to the department as part of the SMV application, an applicant shall do the following:

(1) Publish notice of the availability of the draft PMPP in a daily or weekly newspaper of general circulation throughout the area affected by the discharge.

(2) Post a copy of the information required by this section at the following:

- (A) Principal office of the municipality or political subdivision affected by the facility or discharge.
- (B) The United States post office.
- (C) If one is available, the library serving those premises.

(d) All notices published under this section shall contain the following information:

- (1) The name and address of the applicant that prepared the PMPP.
- (2) A general description of the elements of the PMPP.
- (3) A brief description of the activities or operations that result in the discharge for which an SMV is being requested.
- (4) A brief description of the purpose of this notice and the comment procedures.
- (5) The name of a contact person, a mailing address, an internet address, if available, and a telephone number where interested persons may obtain additional information and a copy of the PMPP.

(e) The applicant shall do the following:

- (1) Provide a minimum comment period of thirty (30) days.
- (2) Include a copy of the comments received and the applicant's responses to those comments in the SMV application submitted to the department.

(f) The department shall consider a PMPP to be complete if it meets the requirements of this section. (*Water Pollution Control Division; 327 IAC 5-3.5-9; filed Apr 6, 2005, 4:00 p.m.: 28 IR 2351; readopted filed Jun 15, 2011, 11:15 a.m.: 20110713-IR-327110193BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; readopted filed Jun 29, 2017, 9:34 a.m.: 20170726-IR-327170225BFA*)

327 IAC 5-3.5-10 Transitional mercury effluent limitation

Authority: IC 13-13-5-1; IC 13-13-5-2; IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18

Affected: IC 4-21.5-3; IC 13-14-1-9; IC 13-18-4

Sec. 10. (a) Either at the time a discharging facility applies for or when it receives a renewal of an NPDES permit with a previously established mercury limit from a prior NPDES permit for which a compliance schedule for mercury is not established in the renewed permit and the discharging facility has not had a prior SMV, then the following may be done to assure compliance with the renewed permit:

- (1) In a written document to the department, the discharging facility should:
 - (A) indicate that the discharging facility is planning to apply for an SMV in accordance with this rule; and
 - (B) provide information to establish a transitional limit consistent with section 8 of this rule.
- (2) The department may issue a transitional limit for the discharging facility through a permit modification or an order under IC 13-14-1-9 until the SMV is either approved or denied.
- (b) If an SMV is denied, a discharger may request an individual variance, notwithstanding the time limitations set in 327 IAC

5-3-4.1, by doing the following:

- (1) Requesting the commissioner's consideration and written determination on a request for a mercury variance from a water quality standard as provided in 327 IAC 2-1-8.8 or 327 IAC 2-1.5-17.
- (2) Applying for the mercury variance up to ninety (90) days after the denial of the SMV so long as all other requirements in 327 IAC 5-3-4.1 are met. The applicant may petition the commissioner for up to an additional ninety (90) day period to submit the application.

(Water Pollution Control Division; 327 IAC 5-3.5-10; filed Apr 6, 2005, 4:00 p.m.: 28 IR 2352; readopted filed Jun 15, 2011, 11:15 a.m.: 20110713-IR-327110193BFA; readopted filed Jun 29, 2017, 9:34 a.m.: 20170726-IR-327170225BFA)