

TITLE 329 SOLID WASTE MANAGEMENT DIVISION

Final Rule

LSA Document #09-365(F)

DIGEST

Amends [329 IAC 3.1-11-2](#) and adds [329 IAC 3.1-11.1](#) concerning temporary storage and management of spent lead acid batteries. Effective 30 days after filing with the Publisher.

HISTORY

First Notice of Comment Period: June 3, 2009, Indiana Register (DIN: [20090603-IR-329090365FNA](#)).

Second Notice of Comment Period: November 4, 2009, Indiana Register (DIN: [20091104-IR-329090365SNA](#)).

Notice of Public Hearing: November 4, 2009, Indiana Register (DIN: [20091104-IR-329090365PHA](#)).

Change in Notice of Public Hearing: February 23, 2011, Indiana Register (DIN: [20110223-IR-329090365CHA](#)).

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Change in Notice of Public Hearing: June 27, 2012, Indiana Register (DIN: [20120627-IR-329090365CHA](#)).

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Date of Third Public Hearing: November 20, 2012.

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Date of Fourth Public Hearing: December 18, 2012.

Final Adoption: December 18, 2012.

[329 IAC 3.1-11-2](#); [329 IAC 3.1-11.1](#)

SECTION 1. [329 IAC 3.1-11-2](#) IS AMENDED TO READ AS FOLLOWS:

[329 IAC 3.1-11-2](#) Exceptions and additions; specific standards

Authority: [IC 13-14-8](#); [IC 13-22-2-4](#)

Affected: [IC 13-15-2](#); [IC 13-22-2](#); 40 CFR 266

Sec. 2. Exceptions and additions to standards for the management of specific hazardous waste and specific types of hazardous waste facilities are as follows:

(1) Delete 40 CFR 266.23(b) and substitute the following: "No person may apply or allow the application of used oil as defined in [329 IAC 3.1-4](#) to any ground surface except for purposes of treatment in accordance with a permit issued by the department under [IC 13-15-2](#). The use of unused waste oil or other waste material, which is contaminated with dioxin or hazardous waste or exhibits any characteristic of hazardous waste except ignitability for dust suppression or road treatment is prohibited."

(2) In 40 CFR 266.102(a)(2)(viii) dealing with applicable financial requirements for burners, the references to federal cites shall be converted as follows:

(A) 264.141 means [329 IAC 3.1-15-2](#).

(B) 264.142 means [329 IAC 3.1-15-3](#).

(C) 264.143 means [329 IAC 3.1-15-4](#).

(D) 264.147 through 264.151 means [329 IAC 3.1-15-8](#) through [329 IAC 3.1-15-10](#).

(3) Delete ~~40 CFR 266.80(b)~~ **40 CFR 266, Subpart G** and substitute the following: "Owners or operators of facilities that store spent lead acid batteries before reclaiming them, other than spent batteries that are to be regenerated, are subject to the following requirements:

(A) Notification requirements under Section 3010 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

(B) All applicable provisions in the following subparts of 40 CFR 264:

(i) Subpart A through subpart B, excluding 40 CFR 264.13.

(ii) Subpart C through subpart E, excluding 40 CFR 264.71 and 40 CFR 264.72.

- ~~(iii) Subpart F through subpart L.~~
- ~~(C) All applicable provisions in the following subparts of 40 CFR 265:~~
 - ~~(i) Subpart A through subpart B, excluding 40 CFR 265.13.~~
 - ~~(ii) Subpart C through subpart E, excluding 40 CFR 265.71 and 40 CFR 265.72.~~
 - ~~(iii) Subpart F through subpart L.~~
- ~~(D) All applicable provisions in 40 CFR 270 and 40 CFR 124."~~ insert **[329 IAC 3.1-11.1](#)**.

(Solid Waste Management Division; [329 IAC 3.1-11-2](#); filed Jan 24, 1992, 2:00 p.m.: 15 IR 939; errata filed Feb 6, 1992, 3:15 p.m.: 15 IR 1027; filed Oct 23, 1992, 12:00 p.m.: 16 IR 849; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2743; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jul 15, 2013, 11:02 a.m.: [20130814-IR-329090365FRA](#))

SECTION 2. [329 IAC 3.1-11.1](#) IS ADDED TO READ AS FOLLOWS:

Rule 11.1. Spent Lead Acid Batteries

[329 IAC 3.1-11.1-1](#) Applicability

Authority: [IC 13-14-8](#); [IC 13-22-2-4](#)

Affected: [IC 13-11-2-194](#); [IC 13-11-2-267](#); [IC 13-15-2](#); [IC 13-22-2](#)

Sec. 1. (a) This rule applies to:

- (1) retailers as defined in [IC 13-11-2-194\(b\)](#);
- (2) wholesalers as defined in [IC 13-11-2-267\(b\)](#);
- (3) owners or operators of reclamation facilities;
- (4) owners or operators of intermediate storage facilities; and
- (5) owners or operators of other storage facilities;

that discard, dispose of, store, or recycle spent lead acid batteries.

(b) Generators of spent lead acid batteries not listed in subsection (a) are not subject to this article provided the batteries are reclaimed.

(Solid Waste Management Division; [329 IAC 3.1-11.1-1](#); filed Jul 15, 2013, 11:02 a.m.: [20130814-IR-329090365FRA](#))

[329 IAC 3.1-11.1-2](#) Definitions

Authority: [IC 13-14-8](#); [IC 13-22-2-4](#)

Affected: [IC 13-11-2-118](#); [IC 13-15-2](#); [IC 13-22-2](#)

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) "Battery breaking" or "battery cracking" means decapitating, cutting, or otherwise liberating the contents of a spent lead acid battery. This activity includes the following:

- (1) Separating any component of the battery from the other components.
- (2) Draining acid from the battery.
- (3) Removing plates and groups from the battery.

(c) "Component" means any of the various materials and parts of a spent lead acid battery, including, but not limited to, the following:

- (1) Plates and groups.
- (2) Rubber and plastic case material.
- (3) Acid.
- (4) Paper cellulose material.

(d) "Intermediate storage facility" means a warehouse or other collection facility used for the temporary storage of whole spent lead acid batteries before sending the batteries to a spent lead acid battery reclamation facility. An intermediate storage facility excludes facilities belonging to the following:

- (1) Retailers.
- (2) Wholesalers.

(e) "Lead acid battery", as defined in [IC 13-11-2-118](#), means a battery that:
(1) contains lead and sulfuric acid; and
(2) has a nominal voltage of at least six (6) volts.

(f) "Partially reclaimed material" means a solid waste material that has been processed but must be processed further before recovery is complete.

(g) "Plates and groups" means the internal components of a spent lead acid battery that are constructed of lead or lead alloys, or both.

(h) "Reclamation facility" means a facility involved in the recovery of components from spent lead acid batteries and includes:

- (1) Battery breaking facilities engaging in battery breaking or cracking.
- (2) Secondary lead smelters or smelters.

(i) "Reclamation process" means the process of recovering components from whole spent lead acid batteries and includes, but is not limited to:

- (1) battery cracking; and
- (2) smelting.

(j) "Spent lead acid battery", for purposes of this rule, means any lead acid battery that has been used and can no longer serve the purpose for which it was produced without processing, or any lead acid battery being discarded, abandoned, disposed of, or reclaimed.

(k) "Staging" means holding whole spent lead acid batteries in trailers, which have arrived at a reclamation facility until the batteries can be transferred to a permitted storage area or moved into the reclamation process.

(l) "Storage", for purposes of this rule, means the holding of spent lead acid batteries, or components thereof, for a temporary period, at the end of which the batteries or components are treated, disposed of, or store elsewhere.

(m) "Whole spent lead acid battery" means a spent lead acid battery that has not been subjected to battery-breaking operations.

(Solid Waste Management Division; [329 IAC 3.1-11.1-2](#); filed Jul 15, 2013, 11:02 a.m.: [20130814-IR-329090365FRA](#))

[329 IAC 3.1-11.1-3](#) Standards for retailers and wholesalers

Authority: [IC 13-14-8](#); [IC 13-22-2-4](#)

Affected: [IC 13-15-2](#); [IC 13-20-16](#); [IC 13-22-2](#)

Sec. 3. Retailers and wholesalers that store spent lead acid batteries prior to sending off-site for storage or reclamation must comply with the requirements in [IC 13-20-16](#) and the following:

- (1) Spent lead acid batteries must be stored in a:
 - (A) building with a roof; or
 - (B) covered container that is:
 - (i) in good condition; and
 - (ii) chemically compatible with the contents of the battery.
- (2) Spent lead acid batteries must be stored upright and secured to prevent overturning.
- (3) If the spent lead acid battery is not in good condition or begins to leak, the owner or operator of the facility must transfer the battery to a container that is:
 - (A) in good condition; and

(B) chemically compatible with the contents of the battery.

*(Solid Waste Management Division; [329 IAC 3.1-11.1-3](#); filed Jul 15, 2013, 11:02 a.m.:
[20130814-IR-329090365FRA](#))*

[329 IAC 3.1-11.1-4](#) Standards for intermediate storage facilities

Authority: [IC 13-14-8](#); [IC 13-22-2-4](#)

Affected: [IC 13-15-2](#); [IC 13-22-2](#)

Sec. 4. Intermediate storage facilities shall comply with the following:

(1) If a lead acid battery is not in good condition or begins to leak, the owner or operator must transfer the battery to a container that is:

(A) in good condition; and

(B) chemically compatible with the contents of the battery.

(2) Spent lead acid batteries must be stored upright and secured to prevent overturning.

(3) Spent lead acid batteries must be stored in a building with a roof or stored in a covered container that is:

(A) in good condition; and

(B) chemically compatible with the contents of the battery.

(4) Spent lead acid batteries may not be stored for more than three hundred sixty-five (365) consecutive days.

(5) Any spilled waste and contaminated equipment must be disposed or recycled in accordance with applicable solid waste rules at [329 IAC 10](#) and [329 IAC 11](#) or hazardous waste rules in this article.

(6) Any spent lead acid battery being discarded shall be sent to:

(A) a RCRA permitted reclamation facility;

(B) a universal waste handler in accordance with [329 IAC 3.1-16](#); or

(C) a facility collecting batteries for delivery to a recycling facility.

(7) If accumulating more than five thousand (5,000) kilograms or eleven thousand twenty-three (11,023) pounds of spent lead acid batteries at any time, notify the commissioner of the following within thirty (30) days after the effective date of this rule:

(A) Location of the storage site.

(B) Contact information, including name, address, and phone number.

*(Solid Waste Management Division; [329 IAC 3.1-11.1-4](#); filed Jul 15, 2013, 11:02 a.m.:
[20130814-IR-329090365FRA](#))*

[329 IAC 3.1-11.1-5](#) Standards for reclaimers

Authority: [IC 13-14-8](#); [IC 13-22-2-4](#)

Affected: [IC 13-15-2](#); [IC 13-22-2](#)

Sec. 5. (a) Owners or operators of reclamation facilities that store spent lead acid batteries before reclaiming them, other than spent batteries that are to be regenerated, are subject to the following requirements:

(1) Notification requirements under [329 IAC 3.1-1-11](#).

(2) All applicable provisions in the following subparts of 40 CFR 264 as the subparts are incorporated by reference in [329 IAC 3.1-9](#):

(A) Subpart A through Subpart B, excluding 40 CFR 264.13.

(B) Subpart C through Subpart E, excluding 40 CFR 264.71 and 40 CFR 264.72.

(C) Subpart F through Subpart L.

(3) All applicable provisions in [329 IAC 3.1-13](#).

(b) Whole spent lead acid batteries that are transported by trailer to reclamation facilities may be staged at the reclamation facility on an asphalt or concrete surface maintained in good condition and shall be processed, or put into permitted storage, within fourteen (14) calendar days of receipt. The following conditions shall be met for staged batteries:

(1) Weekly inspections of the staging area shall be performed as long as trailers remain in the area.

Any indications that a trailer is leaking will require an immediate inspection to determine the source of the leak. If the batteries are the source of the leak, either the entire load shall be processed

immediately or the leaking batteries shall be removed from the trailer and stored in a covered container that is:

- (A) in good condition; and
 - (B) chemically compatible with the contents of the battery.
- (2) Spills must be addressed per the facility's IDEM approved contingency plan or spill response plan.
- (3) Operating records will consist of documentation of inspections conducted under subdivision (1).

(c) Owners or operators of reclamation facilities that reclaim spent lead acid batteries, other than spent batteries that are to be regenerated, are subject to the following requirements:

- (1) Notification requirements under [329 IAC 3.1-1-11](#).
- (2) Unless an exemption pursuant to [329 IAC 3.1-5-4](#) is granted by the commissioner:
- (A) Reclamation facilities shall comply with all applicable generator requirements of 40 CFR 262 as those requirements are incorporated by reference in [329 IAC 3.1-7](#) for partially reclaimed materials generated on-site or any other waste generated on-site that is hazardous pursuant to 40 CFR 261 as incorporated by reference in [329 IAC 3.1-6](#). Storage of on-site generated waste in piles is prohibited by land disposal restrictions unless stored in compliance with 40 CFR 265, Subpart DD as referenced by 40 CFR 262, as 40 CFR 262 and 40 CFR 265, Subpart DD are incorporated by reference in [329 IAC 3.1-7](#) and [329 IAC 3.1-10](#).
 - (B) Reclamation facilities shall obtain a permit in accordance with [329 IAC 3.1-13](#) for greater than ninety (90) day storage of any on-site generated hazardous waste. Storage in piles is prohibited by land disposal restrictions unless stored in compliance with 40 CFR 264, Subpart DD as incorporated by reference in [329 IAC 3.1-9](#).
 - (C) Storage of hazardous waste received from off-site requires a permit obtained in accordance with [329 IAC 3.1-13](#). Storage in piles is prohibited by land disposal restrictions unless stored in compliance with 40 CFR 264, Subpart DD as incorporated by reference in [329 IAC 3.1-9](#).
- (3) Reclamation facilities requiring a permit under [329 IAC 3.1-11.1-5\(c\)\(2\)](#) [subdivision (2)] shall submit a permit application in accordance with [329 IAC 3.1-13](#) within one hundred eighty (180) days of the effective date of this rule.

(Solid Waste Management Division; [329 IAC 3.1-11.1-5](#); filed Jul 15, 2013, 11:02 a.m.: [20130814-IR-329090365FRA](#))

[329 IAC 3.1-11.1-6](#) Transporters

Authority: [IC 13-14-8](#); [IC 13-22-2-4](#)
Affected: [IC 13-15-2](#); [IC 13-22-2](#)

Sec. 6. (a) Persons who engage in transporting components of a spent lead acid battery must comply with [329 IAC 3.1-8](#).

(b) Facilities that receive and store components of spent lead acid batteries that are a hazardous waste as identified in 40 CFR 261 as incorporated by reference in [329 IAC 3.1-6](#) must comply with the manifest requirements of 40 CFR 264, Subpart E as incorporated by reference in [329 IAC 3.1-9](#).

(c) The requirements of 40 CFR 264, Subpart E as incorporated by reference in [329 IAC 3.1-9](#) do not apply to the transportation of whole spent lead acid batteries.

(Solid Waste Management Division; [329 IAC 3.1-11.1-6](#); filed Jul 15, 2013, 11:02 a.m.: [20130814-IR-329090365FRA](#))

[329 IAC 3.1-11.1-7](#) Closure and corrective action

Authority: [IC 13-14-8](#); [IC 13-22-2-4](#)
Affected: [IC 13-12-3-2](#); [IC 13-15-2](#); [IC 13-22-2](#); [IC 13-25-5-7](#)

Sec. 7. The closure requirements are as follows:

- (1) Permitted facilities are subject to the closure and post-closure requirements of 40 CFR 264, Subpart G as incorporated by reference in [329 IAC 3.1-9](#), and corrective action for solid waste management units may be initiated at any time during the life of the facility.

(2) At closure of unpermitted hazardous waste storage areas, the owner or operator must comply with 40 CFR 265.111 and 265.114 as these sections are incorporated by reference in [329 IAC 3.1-10](#).

(3) If the contaminated soils cannot be completely removed, the owner or operator must prepare a written plan to close the area in accordance with [IC 13-12-3-2](#) and submit the plan to the commissioner for approval. The written plan must provide information equivalent to a proposed work plan under [IC 13-25-5-7\(b\)](#). If closure requirements are addressed in an exemption received under [329 IAC 3.1-5-4](#), the facility must follow the closure requirements contained in the exemption.

(Solid Waste Management Division, [329 IAC 3.1-11.1-7](#); filed Jul 15, 2013, 11:02 a.m.: [20130814-IR-329090365FRA](#))

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