

Legislative Notice for Rule Readoption

LSA Document #23-812

Under [IC 4-22-2.6-3](#), the Indiana Department of Environmental Management (IDEM) notifies the Legislative Council of its intent to readopt rules in anticipation of rules expiring January 1, 2025.

STATUTORY AUTHORITY: [IC 4-22-2.6](#)

SUBJECT MATTER:

This rulemaking is required under [IC 4-22-2.6](#), which provides for the expiration and readoption of administrative rules. All rules expire on January 1 of the fifth year after the year in which each rule takes effect unless the rule expires or is repealed on an earlier date. The rules listed to be readopted have an expiration date of January 1, 2025, or later. IDEM has chosen to readopt all affected rules at one time rather than readopt each rule separately as its expiration date approaches.

[329 IAC 1](#) contains general provisions that apply to the entirety of Title 329 and also includes requirements for restrictive covenants, which are authorized under [IC 13-14-2-9](#).

As a component of a federally authorized hazardous waste program, Indiana has adopted requirements at [329 IAC 3.1](#) for the management of hazardous waste and at [329 IAC 13](#) for the management of used oil. [329 IAC 3.1](#) includes requirements for the identification, generation, treatment, storage, disposal, transport, and permitting of hazardous waste. Hazardous waste management is federally authorized under 42 U.S.C. 6921 et seq., with state authorization requirements at 42 U.S.C. 6926. The U.S. EPA has granted IDEM the authority to administer and enforce a hazardous waste program in Indiana. To maintain authorization for this program, IDEM must comply with the requirements for state authorization in 40 CFR 271 and adopt rules that are no less stringent than the federal hazardous waste regulations at 40 CFR 260 through 270 and 40 CFR 273 and standards for the management of used oil at 40 CFR 279.

Under the authority of [IC 13-20-15](#), IDEM has established rules for the regulation of wastes containing polychlorinated biphenyls (PCBs) at [329 IAC 4.1](#). The rules mainly incorporate by reference the federal requirements for prohibition of PCBs at 40 CFR 761, which were established under the authority of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.). The rules include requirements for the disposal of solid or liquid waste containing PCBs, spill cleanup, and facilities that accept PCBs for disposal.

IDEM has established rules in [329 IAC 5](#) for a state environmental policy that determines if a specific state agency action is a major state action significantly affecting the quality of the human environment. These rules were adopted to comply with the statutory directives at [IC 13-12-4-5](#). Rather than impose any requirements on regulated entities, these rules provide guidance for other state agencies in determining what constitutes a major state action and developing an environmental assessment form.

IDEM has established rules in [329 IAC 6.1](#) for addressing the accessibility of public records, handling of confidential information, content of confidentiality agreements, and determinations on confidential information. These rules implement the statutory requirements for public records and confidentiality at [IC 5-14-3](#) and [IC 13-14-11](#).

Under the authority [IC 13-23-13-7](#) and [IC 13-25-4-7](#), IDEM has established rules at [329 IAC 7.1](#) for a priority ranking system for hazardous substances response sites. The rules set forth criteria and procedures for prioritizing threats from releases of hazardous substances, petroleum, and other constituents or contaminants that are not a part of other state or federal remediation programs. The ranking system allows the department to assess the need for response and remediation for a site or release.

Under the authority of [IC 13-20-20-13](#), IDEM has established rules at [329 IAC 8](#) for a program that provides grants to local government units and solid waste management districts to create household hazardous waste collection and disposal programs. The rules include requirements for grant applicants and terms and conditions of a grant. The program is designed to provide literature and educational materials for household hazardous waste, encourage participation from households within the area of the governmental unit, and utilize licensed transporters for the collection and disposal of household hazardous waste.

As a component of a federally approved state underground storage tank (UST) program, Indiana has adopted requirements for UST owners and operators at [329 IAC 9](#). The rules include standards for UST registration, installation, ownership, operation, release prevention, release detection and reporting, corrective action, financial responsibility, operator training and certification, and UST closure. The U.S. EPA regulates UST owners and operators under the authority at 42 U.S.C. 6991 et seq., and approves states to maintain their own UST regulatory programs. Approved state UST programs must be no less stringent than the federal UST rules at 40 CFR 280, which set standards for UST ownership and operation, and comply with 40 CFR 281, which set standards for the approval of state UST programs.

State statutes at [IC 13-15](#), [IC 13-19](#), and [IC 13-20](#) provide authority for Indiana to adopt rules for solid waste

management, facilities, and permitting, which IDEM has established in [329 IAC 10](#). Various types of solid waste and disposal facilities are regulated and permitted under [329 IAC 10](#), including municipal and nonmunicipal solid waste landfills, construction/demolition sites, restricted waste sites, coal combustion residuals impoundments and landfills, and certain types of solid waste. In addition, Indiana maintains a federally approved state solid waste management plan with requirements for solid waste management and land disposal facilities. The Resource Conservation and Recovery Act (RCRA), codified at 42 U.S.C. 6901 et seq., is the authorizing federal law for the management of solid waste. With the approval of the U.S. EPA under 40 CFR 239, state programs may issue permits for solid waste management and land disposal facilities that implement U.S. EPA requirements authorized under RCRA. Further requirements at 40 CFR 256 provide guidelines for the development and implementation of state solid waste management plans.

[329 IAC 11](#) contains requirements for solid waste processing facilities and is established under the general rulemaking authorities in [IC 13-14-8](#), [IC 13-15](#), and [IC 13-19-3](#). While analogous federal rules are not available for processing facilities, the rules in [329 IAC 11](#) are a component of Indiana's federally approved state solid waste management plan and essential for final disposal or resource recovery of solid waste. The rules include specific requirements for facility transition, classification, permit application, permit issuance and renewal, operation, quarterly reports, closure, and other miscellaneous requirements for processing facilities. Types of processing facilities include, but are not limited to, transfer stations, incinerators, medical waste facilities, resource recovery systems, shredders and garbage grinders, solidification facilities, and other types of processors that IDEM may receive an application for.

[329 IAC 11.5](#), [329 IAC 11.6](#), and [329 IAC 11.7](#) include alternative solid waste processing requirements to [329 IAC 11](#) for specific types of facilities and waste streams. These facilities include biomass anaerobic digestion and biomass gasification facilities, mobile home salvaging facilities, and alternative fuel source facilities. While similar to the requirements in the [329 IAC 11](#), the rules provide an alternative, streamlined, and potentially lower cost regulatory scheme for facilities that process certain types of material and waste streams.

Under the authority of [IC 13-15-10](#), IDEM has established rules at [329 IAC 12](#) for the certification of solid waste facility operators. The statute requires that solid waste facilities have a certified operator or else they cannot obtain or renew a permit to operate. The rules include standards for the training, examination, certification, and renewal certification of operators, and also basic requirements for the operation of collection container systems.

Under the authority of [IC 13-20-13](#) and [IC 13-20-14](#), IDEM has established rules for the management of waste tires at [329 IAC 15](#). The rules include requirements for the storage, processing, handling, transportation, and legitimate use of waste tires. The purpose of the rules is to prevent threats to public health and the environment uniquely posed by waste tires, such as intense fires, water-borne disease vectors, and open dumping, and also provide compliance alternatives for managing waste tires instead of disposal.

[329 IAC 16](#) includes requirements for the management of electronic waste as an alternative to the solid waste processing rules under [329 IAC 11](#). The rules are established under the general rulemaking authority contained in [IC 13-14-8-7](#), [IC 13-15](#), and [IC 13-19-3](#) to provide a more streamlined and appropriate regulatory option for electronic waste facilities. The rules include requirements for the registration, operation, closure, and financial assurance of electronic waste facilities, storage, treatment, and disposal of electronic waste.

Under the authority of [IC 13-27-8-3](#), IDEM has established rules for voluntary performance based leadership programs, including the Indiana Environmental Stewardship Program and Comprehensive Local Environmental Action Network Community Challenge Program. These programs are voluntary and offer recognition, regulatory flexibility, and an opportunity to work directly with the department on innovative pilot projects for entities that consistently demonstrate environmental stewardship and make measurable efforts towards continual environmental improvement.

OVERVIEW

Rules to be readopted without changes are as follows:

329 IAC 1	GENERAL PROVISIONS
329 IAC 3.1	HAZARDOUS WASTE MANAGEMENT PERMIT PROGRAM AND RELATED HAZARDOUS WASTE MANAGEMENT
329 IAC 4.1	REGULATION OF WASTES CONTAINING PCBS
329 IAC 5	STATE ENVIRONMENTAL POLICY
329 IAC 6.1	PUBLIC RECORDS; CONFIDENTIAL INFORMATION; CONFIDENTIALITY AGREEMENTS
329 IAC 7.1	PRIORITY RANKING SYSTEM FOR HAZARDOUS SUBSTANCES RESPONSE SITES
329 IAC 8	HOUSEHOLD HAZARDOUS WASTE GRANTS PROGRAM
329 IAC 9	UNDERGROUND STORAGE TANKS
329 IAC 10	SOLID WASTE LAND DISPOSAL FACILITIES

329 IAC 11	SOLID WASTE PROCESSING FACILITIES
329 IAC 11.5	BIOMASS ANAEROBIC DIGESTION FACILITIES AND BIOMASS GASIFICATION FACILITIES
329 IAC 11.6	MOBILE HOME SALVAGING FACILITIES
329 IAC 11.7	ALTERNATIVE FUEL SOURCE
329 IAC 12	SOLID WASTE MANAGEMENT ACTIVITY REGISTRATION
329 IAC 13	USED OIL MANAGEMENT
329 IAC 15	WASTE TIRE MANAGEMENT
329 IAC 16	ELECTRONICS WASTE MANAGEMENT
329 IAC 18	VOLUNTARY PERFORMANCE BASED LEADERSHIP PROGRAMS

Rules to be repealed are as follows:

None

Posted: 12/20/2023 by Legislative Services Agency

An [html](#) version of this document.