
TITLE 329 SOLID WASTE MANAGEMENT DIVISION

Notice of Second Public Comment Period

LSA Document #24-213

KAISER ALUMINUM WASTEWATER TREATMENT FACILITY

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amending rules at [329 IAC 3.1-6-8](#), concerning updates to the Warrick Operations, Newburgh, Indiana wastewater treatment facility. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

HISTORY

Notice of First Public Comment Period published July 3, 2024: [20240703-IR-329240213FNA](#)

Regulatory Analysis submitted with Notice of First Public Comment Period: [20240703-IR-329240213RAA](#)

Date of First Hearing: August 14, 2024

ADDITIONAL DOCUMENTS

Regulatory Analysis: No changes were made to the Regulatory Analysis published with the Notice of First Public Comment Period.

Notice of Public Hearing: [20241002-IR-329240213PHA](#)

CITATIONS AFFECTED: [329 IAC 3.1-6-8](#)

AUTHORITY: [IC 4-22-2-13](#); [IC 4-22-2-17](#); [IC 4-22-2-19](#); [IC 13-14-9-3](#)

OVERVIEW

Basic Purpose and Background

Kaiser Aluminum Warrick LLC (Kaiser) has purchased the wastewater treatment operations facility at the Alcoa Corporation (Alcoa) Warrick Operations in Newburgh, Indiana. This facility generates wastewater treatment sludge, which was previously delisted under Alcoa, and Kaiser has requested that the sludge be delisted under their name.

Additionally, Kaiser intends to upgrade its wastewater treatment equipment. The incoming waste and treatment processes will not change, but an additional filter press will be installed. Installing the second filter press will result in delisted wastewater treatment sludge being generated at two locations rather than the single location in the approved delisting. Kaiser is not requesting to increase the maximum amount of sludge in the current delisting.

The proposed rule also increases the sampling requirements to reflect the new point of generation. Instead of two samples collected each quarter from one point of generation, the proposed rule requires that two samples be collected from each of the points of generation each quarter. The analysis parameters remain the same.

[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law.

Small Business Assistance Information

IDEM established a compliance and technical assistance program (CTAP) 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 CTAP and other resources available can be found at www.in.gov/idem/ctap.

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Julie Rhodes

IDEM Small Business Regulatory Coordinator/CTAP Small Business Liaison

IGCN 1316

100 North Senate Avenue

Indianapolis, IN 46204-2251

(317) 233-4477 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Matthew Jaworowski
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 650-0126
majaworowski@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Drake Abramson
IDEM Small Business Assistance Program Ombudsman/Business, Agricultural, and Legislative Liaison
IGCN 1301
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8921 or (800) 451-6027
dabramso@idem.in.gov

SUMMARY/RESPONSE TO COMMENTS

IDEM requested public comment from July 3, 2024, through August 2, 2024, and during the public hearing on August 14, 2024. IDEM did not receive any comments during the first public comment period, but has decided to extend the second public comment period by an additional thirty (30) days to allow for further comments.

REQUEST FOR PUBLIC COMMENT

IDEM is soliciting public comment on the proposed rule. Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:
LSA Document #24-213 Kaiser Aluminum Wastewater Treatment Facility
Keelyn Walsh
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue
Indianapolis, IN 46204-2251
- (2) By email to kwalsh@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the email. PLEASE NOTE: Email comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.
- (3) Attend scheduled public hearing.

Contact Karla Kindrick at kkindric@idem.in.gov or (317) 232-8922 if another method of submitting comments within the comment period is desired. Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than November 1, 2024.

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference (if applicable) are on file at the Rules Development Branch, Office of Legal Counsel, Indiana Department of Environmental Management, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana and are available for public inspection. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis are available at the IDEM Rules Development Branch office.

This notice is the second of two (2) thirty (30) day periods in which the public may comment on the proposed rule. Following this second public comment period, the Environmental Rules Board may adopt a version of the

proposed rule that is the same as or does not substantially differ from the text of the proposed rule published in this notice.

EXPLANATION OF DIFFERENCES IN PROPOSED RULE

There are no differences in the proposed rule as published in the Notice of First Public Comment Period.

PROPOSED RULE

SECTION 1. [329 IAC 3.1-6-8](#) IS AMENDED TO READ AS FOLLOWS:

[329 IAC 3.1-6-8](#) Waste excluded from regulation; Kaiser Aluminum Warrick LLC, Warrick Operations, Newburgh, Indiana

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

Affected: [IC 13-22](#)

Sec. 8. Wastewater treatment sludge, hazardous waste code F019, that is generated by ~~Alcoa Corporation~~ **Kaiser Aluminum Warrick LLC (Kaiser)** at the Warrick Operations, Newburgh, Indiana is excluded from regulation under this article so long as management of the waste complies with all of the following conditions:

- (1) No concentration of a constituent listed in Table 1 may exceed the delisting level for that constituent listed in Table 1. The delisting levels listed in Table 1 are the maximum concentration of that constituent measured in the extract of the wastewater treatment sludge using the extraction methods described in subdivision (2).

Table 1. Maximum Delisting Levels for Inorganic and Organic Constituents		
Chemical Abstract Service Registry		
Constituent	Number	Delisting Level
Antimony	7440-36-0	0.390 mg/L ¹
Arsenic	7440-38-2	0.360 mg/L ¹
Barium	7440-39-3	100 mg/L ^{1, 3}
Beryllium	7440-41-7	0.790 mg/L ¹
Cadmium	7440-43-9	0.280 mg/L ¹
Chromium (trivalent)	7440-47-3	5.0 mg/L ^{1, 3}
Chromium (hexavalent)	18540-29-9	3,800 mg/kg ²
Copper	7440-50-8	17,000 mg/L ¹
Cobalt	7440-48-4	42.5 mg/L ¹
Lead	7439-92-1	5.0 mg/L ^{1, 3}
Mercury	7439-97-6	0.150 mg/L ¹
Nickel	7440-02-0	53.3 mg/L ¹
Selenium	7782-49-2	1 mg/L ^{1, 3}
Silver	7440-22-4	5 mg/L ^{1, 3}
Thallium	7440-28-0	0.16 mg/L ¹
Tin	7440-31-5	430 mg/L ¹
Vanadium	7440-62-2	40 mg/L ¹
Zinc	7440-66-6	530 mg/L ¹
¹ mg/L means milligrams per liter.		
² mg/kg means milligrams per kilogram.		
³ The delisting level for this constituent was higher than the toxicity characteristic regulatory level in 40 CFR 261.24; therefore, the toxicity characteristic regulatory level applies.		

(2) Except as provided in clauses (C) through (F), ~~Alcoa~~ **Kaiser** shall obtain two (2) duplicate representative samples of the delisted waste **from each filter press where the delisted sludge is generated** each quarter and analyze them for the constituents listed in Table 1 as follows:

(A) Constituents must be extracted using the following:

(i) Method 1311, Toxicity Characteristic Leaching Procedure (TCLP)*.

(ii) Method 1330A, Oily Waste Extraction Procedure*, if oil and grease levels exceed ten thousand (10,000) milligrams per kilogram.

(iii) Method 3060A, Alkaline Digestion for Hexavalent Chromium*.

(B) Constituents must be analyzed using the following:

(i) Method 6010B, Inductively Coupled Plasma-Atomic Emission Spectrometry* or Method 6020, Inductively Coupled Plasma-Mass Spectrometry*.

(ii) Method 7470A, Mercury in Liquid Waste (Manual Cold-Vapor Technique)*.

(iii) Method 7196A, Hexavalent Chromium (Colorimetric)*.

(C) For constituents other than hexavalent chromium, if the relative percent difference (**RPD**) between the two (2) samples is forty percent (40%) or less for the first four (4) quarters, ~~then Alcoa Kaiser~~ may obtain and analyze one (1) representative sample of the delisted waste each following quarter. The ~~relative percent difference~~ RPD is calculated for each constituent and equals one hundred (100) times the absolute value of the difference between the results divided by the average of the results, as follows:

$$RPD = 100 [(|x1 - x2|) / \{(x1 + x2) / 2\}]$$

where x1 equals sample results and x2 equals duplicate results.

(D) If the level of hexavalent chromium in the sample or duplicate sample is less **than** or equal to ten and zero-tenths (10.0) milligrams per kilogram during the first four (4) quarters, ~~then Alcoa Kaiser~~ may obtain and analyze one (1) representative sample of the delisted waste for hexavalent chromium each following quarter.

(E) If the level of hexavalent chromium in the sample or duplicate sample is greater than ten and zero-tenths (10.0) milligrams per kilogram, ~~then Alcoa Kaiser~~ must calculate the ~~relative percent difference~~ **RPD** as described in clause (C). If the relative percent difference between the two (2) samples is forty percent (40%) or less during the first four (4) quarters, ~~then Alcoa Kaiser~~ may obtain and analyze one (1) representative sample of the delisted waste for hexavalent chromium each following quarter.

(F) If duplicate results for any constituent exceed forty percent (40%) ~~relative percent difference~~, ~~Alcoa RPD~~, **Kaiser** must continue to analyze duplicate samples for that constituent for an additional two (2) quarters beyond the initial four (4) quarters. If the results still exceed forty percent (40%) ~~relative percent difference~~ **RPD** after the additional two (2) quarters, ~~Alcoa Kaiser~~ must continue to analyze duplicate samples for that constituent until authorized by the department to analyze one (1) sample each quarter.

(G) If any sample result shows any constituent listed in Table 1 at or above fifty percent (50%) of the delisting level for that constituent, ~~then Alcoa Kaiser~~ must analyze two (2) duplicate samples each quarter until authorized by the department to analyze one (1) sample each quarter.

(H) Nothing in this section prohibits ~~Alcoa Kaiser~~ from requesting at any time that the ~~solid waste management~~ board modify this section to allow less frequent verification testing.

(3) If waste testing or other information available to ~~Alcoa Kaiser~~ shows that any constituent in Table 1 has exceeded the delisting level for that constituent, or ~~Alcoa Kaiser~~ makes changes in the Warrick Operations that cause hazardous constituents listed in Table 1 to exceed the delisting level for that constituent, ~~Alcoa Kaiser~~ must do all of the following:

(A) Notify the department in writing within ten (10) days ~~of~~ **after** first possessing or being made aware of ~~such the~~ data.

(B) Demonstrate that the waste continues to meet all delisting levels in Table 1.

(C) Manage the waste as hazardous waste until ~~Alcoa Kaiser~~ receives written approval from the commissioner to resume managing the waste under this exclusion.

(4) ~~Alcoa Kaiser~~ must submit an annual report that summarizes the data obtained through quarterly verification testing required by subdivision (2) to the department by February 1 of the following year. The report must include the results of each required analysis for the previous calendar year.

(5) ~~Alcoa Kaiser~~ must compile, summarize, and maintain records of operating conditions and analytical data. The records must be:

(A) maintained for ~~a minimum of~~ **at least** five (5) years; and

(B) made available for inspection by the department during normal working hours.

(6) ~~All~~ **The** data required by this section must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12).

(7) The delisted waste must be disposed of in a:

(A) municipal solid waste landfill permitted under [329 IAC 10](#); or

(B) hazardous waste disposal facility permitted under this article.

(8) If at any time after disposal of the delisted waste ~~Alcoa Kaiser~~ possesses or is otherwise made aware of

any data, including, but not limited to, leachate data or groundwater monitoring data, or any other data relevant to the delisted waste indicating that any constituent identified in Table 1 is at a level in the leachate that is higher than the specified delisting level, ~~then Alcoa Kaiser~~ must report ~~such~~ **the** data in writing to the department within ten (10) days ~~of~~ **after** first possessing or being made aware of that data.

(9) ~~Ne~~ **Not** more than five thousand two hundred fifty (5,250) short tons of delisted waste may be disposed of in any calendar year under this exclusion.

***This document is incorporated by reference.** Test methods referenced in this rule are found in U.S. EPA Publication SW-846, "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods", Third Edition, accessed at <https://www.epa.gov/hw-sw846> or obtained from the National Technical Information Service.

(Solid Waste Management Division; [329 IAC 3.1-6-8](#); filed Apr 1, 2008, 10:11 a.m.: [20080430-IR-329070552FRA](#); errata filed May 13, 2021, 3:03 p.m.: [20210609-IR-329210194ACA](#))

Posted: 10/02/2024 by Legislative Services Agency
An [html](#) version of this document.