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## **TITLE 329 SOLID WASTE MANAGEMENT BOARD**

### **SECOND NOTICE OF COMMENT PERIOD #00-47(SWMB)**

#### **READOPTION OF RULES IN TITLE 329 UNDER IC 13-14-9.5**

##### **PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on the readoption of the following rules in Title 329 of the Indiana Administrative Code pursuant to IC 13-14-9.5: 329 IAC 1-1, 329 IAC 12-2, and 329 IAC 13-3. The rules are being published as they were most recently adopted by the board. IDEM seeks comment on the rule language, including any specific revisions to the rule language.

##### **HISTORY**

First Notice of Comment Period: March 1, 2000, Indiana Register (23 IR 1491).

Continuation of First Notice Period: May 1, 2000, Indiana Register (23 IR 2138).

**CITATIONS AFFECTED:** 329 IAC 1-1; 329 IAC 12-2; 329 IAC 13-3.

**AUTHORITY:** IC 13-14-9.5.

##### **SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

This rulemaking is required pursuant to IC 13-14-9.5, which provides for the expiration and readoption of administrative rules. A rule that was adopted under a provision of IC 13 and was in effect on December 31, 1995 expires not later than January 1, 2002. All rules adopted after that date under IC 13-14-9, with some exceptions listed in IC 13-14-9.5-1, expire on January 1 of the seventh year after the year in which each rule takes effect. The First Notice of Comment Period and Continuation of First Notice of Comment Period opened all rules required to be opened in Title 329 for readoption, regardless of their initial effective date. All comments received and responses thereto are summarized below. When feasible, these comments will be included and considered within another currently existing rulemaking. Responses to comments below specify instances in which the comments received will be considered in another current rulemaking.

Rules being readopted in this rulemaking are set out below, in their entirety, as draft rules. Specific changes to the rules are not included in this second notice because many of the comments received requesting that the rules be readopted separately did not provide for specific rule changes. Therefore, with this notice, IDEM seeks comment on specific revisions to the draft rule language. Rules not commented on during the First Notice of Comment Period or the Continuation of First Notice will be readopted by publication of a Notice of Readoption in the Indiana Register pursuant to IC 13-14-9.5-4(c).

##### **SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD**

IDEM requested public comment from March 1, 2000, through March 31, 2000, and from May 1, 2000, through May 30, 2000, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received comments from the following parties by the comment period deadline:

Patrick Bennett, Indiana Manufacturers Association (IMA)

Elizabeth L. DuSold, Eli Lilly and Company (ELC)

Dan B. Magoun, Republic Services, Inc. (NSWMA)

Marcia J. Oddi (MJO)

Sue A. Shadley, Plews Shadley Racher & Braun (PSRB)

Richard J. Wigh, Regional Services Corp (RSC)

John R. Wilkins, Eli Lilly and Company (ELC)

Following is a summary of the comments received and IDEM's responses thereto:

*Comment:* What is the legal effect of the readoption of the rules under IC 13-14-9.5? Is a readopted rule a "new" rule with a new effective date? (MJO)

*Response:* IDEM believes the effective date of the rule is the date the rule was originally effective. The law, however, is unsettled on that point. Therefore, appropriate language will have to be added to rules that are being readopted to assure that there is no gap in effectiveness of a rule on regulated entities.

*Comment:* All rules containing language dealing with incorporation by reference of federal regulations should be considered in separate rulemakings with language precisely describing the versions of the documents incorporated.

*Response:* Although the commentor does not specifically list the rules that this comment would affect, if those rules are not exempt from expiration under IC 13-14-9.5-1, they will eventually be readopted as their expiration dates approach. At that time, the specific date of incorporated materials must be included within the rulemaking under IC 4-22-2-21.

*Comment:* 329 IAC 1-4(b); The reference to the 1987 Code of Federal Regulations is out-of-date and conflicts with the references in 329 IAC 3.1-1-7. (IMA)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 1-1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). 329 IAC 1-1 is included within this second notice. The rule is being published as it was most recently adopted by the board. IDEM requests comment on the draft rule language, including suggestions for specific revisions to the rule.

*Comment:* 329 IAC 3.1; Rules 329 IAC 3.1-7, 329 IAC 3.1-8, and 329 IAC 3.1-9 need to be revised to refer to the Office of Land Quality rather than the Office of Solid and Hazardous Waste. In addition, 329 IAC 3.1-7 deals with the manifesting program, which was significantly revised under SB 511. (IMA)

*Response:* The references to the Office of Solid and Hazardous Waste in 329 IAC 3.1 and 13 have been updated, based on an errata filed with the Secretary of State's office in August 2000 correcting references to the Office of Solid and Hazardous Waste contained in the 2000 Indiana Administrative Code Cumulative Supplement. Regarding the SB 511 revisions to the manifesting program, pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 3.1-7 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. The Findings and Determination of the Commissioner pursuant to IC 13-14-9-8 along with a notice of first hearing for this rule was published in the September 1, 2000, Indiana Register at 23 IR 3221. Your comment will be repeated within the published comments and responses from that first hearing. Notice of a comment period for this rule (the 2000 Hazardous Waste Annual Update) will also be published in the Indiana Register. IDEM requests comment, including suggestions for specific revisions to the rule, at that time.

*Comment:* 329 IAC 3.1; 329 IAC 3.1 should be revised to clarify that on-site recycling is encouraged, that recyclable materials can be managed in any environmentally protective manner, and that such materials are not subject to storage and management standards for hazardous waste unless the rules specifically provide otherwise. (IMA)

*Response:* 329 IAC 3.1 refers to an entire article, not a rule. Specific rules within the article that may have been commented on will be opened and readopted. IC 13-14-9.5-4(b) requires that a particular rule be commented on in order for it to be readopted separately.

*Comment:* 329 IAC 3.1; The rules should be revised to reflect that waste determination requirements apply to material from a baghouse only after the material has left the baghouse and any attached structures. (IMA)

*Response:* 329 IAC 3.1 refers to an entire article, not a rule. Specific rules within the article that may have been commented on will be opened and readopted. IC 13-14-9.5-4(b) requires that a particular rule be commented on in order for it to be readopted separately.

*Comment:* 329 IAC 10; This rule should undergo significant revisions to reflect the change in terminology as well as other requirements contained in SB 372. The waste determination requirements in this rule should be simplified to provide a simple statement that generators should comply with the standards in 40 CFR 261 to determine whether a waste is hazardous. (IMA)

*Response:* 329 IAC 10 refers to an entire article, not a rule. IC 13-14-9.5-4(b) requires that a particular rule be commented on in order for it to be readopted separately. However, IDEM believes that the substance of the comment pertains to an existing separate rulemaking to which the commentor may want to refer and provide comment. First notice of this rulemaking (the Industrial Waste rule) appeared at 23 IR 2322 in the June 1, 2000, Indiana Register.

*Comment:* 329 IAC 10; The waste categories in Section 8.1 should be deleted for those wastes disposed in Subtitle D landfills. Any nonhazardous waste should be considered suitable for disposal in a Subtitle D landfill. (IMA)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-8.1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking (the Industrial Waste rule) appeared at 23 IR 2322 in the June 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-2; Need to allow for changes or additional definitions resulting from changes in other rules and to allow for additional insignificant modifications. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-2 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice

of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-2-54 and 329 IAC 10-2-61; Neither design or disposal capacity should include final cover volume. 329 IAC 10-2-154 also needs revision. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-2-54, 329 IAC 10-2-61, and 329 IAC 10-2-154 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-3; Need to allow for any revisions to 329 IAC 10-2-97.1. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4 (b), you have requested that 329 IAC 10-2-97.1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-6-1; Need to address the definition of what constitutes [closure] since the definition in 10-2-30 only references closure under the current rules. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-6-1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-7.1; The waste determination requirements are duplicative of other state and federal regulations and the guidance which IDEM issued regarding the implementation of these rules is overly burdensome. (ELC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-7.1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking (the Industrial Waste rule) appeared at 23 IR 2322 in the June 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-10; The entire rule needs updated and revised for clarity and consistency with IDEM guidance. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-10 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-11; Minor changes need to be incorporated, particularly to 11-2.1, 11-4, 11-5 and 11-6 since the "Commissioner" has not necessarily issued format requirements for all narrative, plans and other support documentation. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-11 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-11-5.1; The six month requirement should be revised to 12 months or 12 months allowed if no significant changes in operational patterns have taken place. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-11-5.1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-11-7; Based on prior experience with IDEM's action related to construction and demolition disposal facilities, a separate rule appears to be needed for demonstration of need of those types of facilities as IDEM reviews the need for

those facilities differently than for municipal waste landfills. In addition, reference to solid waste district plans which have not been updated as they should have been is no longer an appropriate guide for IDEM to determine need. (PSRB)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-11-7 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-12-5; Revisions needed to address the requirement to complete final cover within 180 days is not practical for units receiving a synthetic cap. Sufficient area needs to be available to efficiently install a cap system and the cap should not be placed until primary settlement (3 years +/-) is complete. In the interim, the rules should allow placement of 24 inches of intermediate soil cover and the establishment of temporary vegetation. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-12-5 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-13-1; The issuance procedures for original permits currently provides that a permit will be issued only if the applicant is in compliance with environmental statutes of the State of Indiana. This rule should be coordinated with the good character disclosure requirements and the provisions for approval or disapproval based on that statute. (PSRB)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-13-1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-14-2(d)(4) should be deleted. Revise (c)(4) to read “weigh all solid waste” not “all vehicles” to provide for the common practice of diverting small loads to a convenience area. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-14-2 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-15-4 should be reorganized, deleting redundant requirements and providing for situations where the regional hydrogeologic information is not available. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-15-4 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-15-5(a)(5); Revise to read “upgradient or background”. Revise any other section where it is not clear that background wells are suitable. (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-15-5(a)(5) be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-16-11(a)(9); “Intended to be used” needs to be deleted and the definition of 10-2-62.1 revised. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-16-11(a)(9) and 329 IAC 10-2-62.1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-17-2(a)(2), 329 IAC 10-17-2(b)(2), 329 IAC 10-15-1(a)(14), 329 IAC 10-15-10, and 329 IAC 10-20-19; Groundwater seeps into the detection zone from beneath the landfill. Groundwater infiltration is hard to quantify. The rule requires the site to develop an action leakage rate (ALR) for the witness zone. The ALR has so many variables that it ends up being a guess

without a good engineering basis. Also, it is likely that organic constituents can be found in landfill gas and be detected when sampled, causing a false indicator of line leakage. Historically, those states that have required the witness zone have eliminated this requirement. IDEM should eliminate the witness zone requirement as well. (NSWMA)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-17-2(a)(2), 329 IAC 10-17-2(b)(2), 329 IAC 10-15-1(a)(14), 329 IAC 10-15-10, and 329 IAC 10-20-19 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-17-2(b)(1)(A) and 329 IAC 10-17-2(b)(1)(B); Revise to a height of 2 feet above, but no closer than 5 feet from the ground surface in order to minimize surface water infiltration. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-17-2(b)(1)(A) and 329 IAC 10-17-2(b)(1)(B) be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* Review this entire rule and delete unnecessary and outdated requirements. Allow previous pre-construction samples under 329 IAC 10-17-5 to serve to meet part of the requirements for subsequent construction using the same soils. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-17-5 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* Delete 329 IAC 10-17-7(a)(2)(C)(i) through 329 IAC 10-17-7(a)(2)(C)(iv). (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-17-7(a)(2)(C)(i) through 329 IAC 10-17-7(a)(2)(C)(iv) be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* Revise 329 IAC 10-17-9 to eliminate the inference that all of the properties or tests must be addressed or performed. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-17-9 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* Define in 329 IAC 10-17-12 when carbonate content testing is to be performed. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-17-12 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* Delete project engineer from 329 IAC 10-17-16 and replace with owner or operator. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-17-16 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* Revise the references in 329 IAC 10-17-17 to allow for updated versions. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-17-17 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM

requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-18-1; Vertical expansions of MSWLF's should be allowed provided a synthetic cap or other leachate limiting feature is installed. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-18-1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-19-1; A new section needs to be added allowing deviations to be described. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-19-1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-21; The current list of indicators (Table 1A) is too long and many of the parameters do not have an adequate contrast in concentration between leachate and natural groundwater to be amenable to statistical analysis for detection of a release. Zinc and ammonia are poor indicators due to the high frequency of laboratory artifacts. The routine detection monitoring program should consist of no more than 4-6 parameters determined from an analysis of the leachate as compared to groundwater. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-21 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-21; It is suggested that the entire groundwater monitoring program section be revised in order to have a more meaningful and less troublesome monitoring program. Major changes to these sections should include at a minimum:

- \* No more than 4-6 site specific indicator parameters analyzed semiannually.
- \* The handling of statistical changes at an upgradient or background well(s).
- \* The remainder of Table 1A and 1B parameters analyzed annually.
- \* Elimination of zinc, ammonia, Eh and DO from the parameter lists.
- \* Table 2 sampling only at the affected well when a statistical exceedance is recorded. Elimination of total metals from being added as assessment parameters.
- \* Publication by IDEM of a minimum Standard Quality Assurance Program. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-21 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-22-8; Readopt separately to require IDEM to issue any notice of deficiency within 90 days. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4 (b), you have requested that 329 IAC 10-22-8 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-23-3(c)(5)(B); The HELP model requires using IDEM's parameters developed by the agency to run the model correctly to predict leachate generation. If you use IDEM's parameters, you get their results. IDEM has taken the stance that only their parameters are correct and others parameters are incorrect. The HELP model results as found in the rule do not reflect leachate generation rates that have been documented in the field historically. This rulemaking should be open for reconsideration of the HELP model parameters. (NSWMA)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-23-3(c) (5) (B) be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 10-39-2(c); Readopt separately to provide a uniform submittal date not an undefined “annual submittal date”. (NSWMA) (RSC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-39-2(c) be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 11; This rule is currently undergoing major revisions and a draft version of the rule was second noticed in July 1999. Unless the draft revisions to this rule are withdrawn, the existing rule should not be automatically readopted. (IMA)

*Response:* Existing rulemakings are not affected by the readoption process. To the extent that comments received in this “sunset” rulemaking can be addressed within an existing rulemaking, they will be. However, 329 IAC 11 refers to an article, not a particular rule. Specific rules within the article that have been commented on will be opened and readopted. IC 13-14-9.5(4)(b) requires that a particular rule be commented on for it to be readopted separately.

*Comment:* 329 IAC 11-9-5; The need demonstration for processing facilities needs to be revised as it makes reference to the additional capacity that a processing facility will provide if permitted. This rule was carried over directly from the solid waste land disposal facility rules and improperly references disposal capacity for facilities that are processing facilities not disposal facilities. The need demonstration for processing facilities including transfer stations is a much different consideration than that for land disposal facilities and IDEM should attempt to establish guidance specifically relevant to processing facilities. (PSRB)

*Response:* Pursuant to IC 13-14-9.5-4 (b), you have requested that 329 IAC 11-9-5 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. Second notice of this rulemaking appeared at 22 IR 3246 in the July 1, 1999 Indiana Register. Your comments will be considered in the development of the rule language to be presented to the board at the preliminary adoption hearing. A specific response to your comment will be included in the “Summary/Response to Comments from the Second Comment Period” to be presented to the board. You will be sent notice of board meetings and corresponding board materials prior to meetings that have this separate rulemaking (the Processing rule) as an agenda item. Board meeting notices and materials will be sent to you, up to and including notice of the preliminary adoption hearing. You may wish to testify on the draft rule language at the preliminary adoption hearing.

*Comment:* 329 IAC 11-11-3 and 329 IAC 10-13-3; The rules for duration of permit should be revised to be consistent with the statute that allows a permit term to be for ten years. (PSRB)

*Response:* Pursuant to IC 13-14-9.5-4 (b), you have requested that 329 IAC 11-11-3 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. Second notice of this rulemaking appeared at 22 IR 3246 in the July 1, 1999 Indiana Register. Your comments will be considered in the development of the rule language to be presented to the board at the preliminary adoption hearing. A specific response to your comment will be included in the “Summary/Response to Comments from the Second Comment Period” to be presented to the board. You will be sent notice of board meetings and corresponding board materials prior to meetings that have this separate rulemaking (the Processing rule) as an agenda item. Board meeting notices and materials will be sent to you, up to and including notice of the preliminary adoption hearing. You may wish to testify on the draft rule language at the preliminary adoption hearing. Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 10-13-3 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared at 23 IR 3221 in the September 1, 2000, Indiana Register. Your comment will be repeated within the published comments and responses from that first notice. When the second notice is published with the draft rule language, IDEM requests comment on the draft rule language, including suggestions for specific revisions to the draft rule.

*Comment:* 329 IAC 11-14; Quarterly tonnage reports should not be required for a facility which is owned by the generator of the waste and is limited to use by that person. Indiana statutes provide a similar exemption for several different types of reporting related to solid waste facilities, e.g., IC 13-20-5-1, and such an exemption should be provided to relieve owners of captive solid waste processing facilities, such as Lilly, from the burden of reporting on intracompany transfers of solid wastes. (ELC)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 11-14 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. Second notice of this rulemaking appeared at 22 IR 3246 in the July 1, 1999 Indiana Register. Your comments will be considered in the development of the rule language to be presented to the board at the preliminary adoption hearing. A specific response to your comment will be included in the “Summary/Response to Comments from the Second Comment Period” to be presented to the board. You will be sent notice of board meetings and corresponding board materials prior to meetings that have this separate rulemaking (the Processing rule) as an agenda item. Board meeting notices and materials will be sent to you, up to and including notice of the preliminary adoption hearing. You may wish to testify on the draft rule language at the preliminary adoption hearing.

*Comment:* 329 IAC 12-2, 329 IAC 12-5, and 329 IAC 12-6; A proposed rule, 329 IAC 15, repeals Sections 12-5 and 12-6, therefore, this rule should not be readopted until the sections dealing with used tires are removed. (IMA)

*Response:* IDEM will not readopt rules that have been repealed as part of the IC 13-14-9.5 readoption process. Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 12-2 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). 329 IAC 12-2 is included within this second notice. The rule is being published as it was most recently adopted by the board. IDEM requests comment on the draft rule language, including suggestions for specific revisions to the rule.

*Comment:* 329 IAC 13-3-1(b)(2); This section should be revised to reflect the federal regulations. (IMA)

*Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 329 IAC 13-3-1(b)(2) be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). IC 13-3-1(b)(2) is included within this second notice. The rule is being published as it was most recently adopted by the board. IDEM requests comment on the draft rule language, including suggestions for specific revisions to the rule.

*Comment:* It is inappropriate, and outside the scope of IDEM's statutory authority, for IDEM to readopt these rules without the involvement of the respective board. (ELC)

*Response:* IC 13-14-9.5-4(c) allows the department to publish a notice stating that the agency has readopted any rule not commented on within the first notice. IDEM is following the procedure set forth in the statute, and is therefore within its statutory authority to readopt rules not commented on through this process.

*Comment:* Any environmental rule impacted by an enrolled act from the 2000 session should be adopted in a separate rulemaking and not as part of the readoption process. (ELC)

*Response:* Substantive rulemakings required by statute are not affected by the readoption process, except to the extent that rules must be readopted prior to their expiration, seven years after the year in which they become effective.

*Comment:* IDEM must make a distinction between the rules that are subject to readoption and those that are not (e.g., federal rules adopted by reference). (ELC)

*Response:* Rules that incorporate a federal regulation by reference are not subject to the readoption process. IDEM is making this distinction. If a rule contains more than a mere incorporation of federal language, it is not subject to the statutory exception and is, therefore, open to expire. If so, it was listed as a rule to be readopted in the first notice.

*Comment:* IDEM should withdraw the notices of readoption published in the March 1, 2000, *Indiana Register*. (ELC)

*Response:* IDEM did not withdraw the notices because they were published in accordance with the procedures established in IC 13-14-9.5-4(a).

*Comment:* The following rules should be adopted in a separate rulemaking and not part of the readoption rule:

329 IAC 3.1-7 Indiana Hazardous Waste Manifest Program

329 IAC 10-7.1 Waste Determination

329 IAC 10-8.1 Special Waste Management

329 IAC 11-14 Quarterly Tonnage Reports for Solid Waste Processing Facilities

(ELC)

*Response:* Under IC 13-14-9.5-4(b) no basis for the request for separate readoption has been stated. However, other commentors have stated a basis for separate readoption for 329 IAC 10-7.1, 329 IAC 10-8.1 and 329 IAC 11-14. Please see the above comments and responses. If the reference to 329 IAC 3.1-7 was meant to refer to the SB 511 revisions to the manifesting program; these are being incorporated into 329 IAC 3.1 through the 2000 Hazardous Waste Annual Update rule. The Findings and Determination of the Commissioner pursuant to IC 13-14-9-8 along with a notice of first hearing for this rule was published in the September 1, 2000, *Indiana Register* at 23 IR 3221.

## **REQUEST FOR PUBLIC COMMENTS**

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Mailed comments should be addressed to:

#00-47(SWMB) Readoption Rule

Marjorie Samuel

Rules, Planning and Outreach Section

Office of Land Quality

Indiana Department of Environmental Management

P.O. Box 6015

Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the receptionist on duty at the eleventh floor reception desk, Office of Land Quality, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at (317) 232-3403, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules, Planning and Outreach Section at (317) 232-7995 or (317) 232-3593.

## **COMMENT PERIOD DEADLINE**



Comments must be postmarked or hand delivered by October 30, 2000.

Additional information regarding this action may be obtained from Lynn West, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232-3593 or (800) 451-6027 (in Indiana).

## **DRAFT RULE**

SECTION 1. 329 IAC 1-1-1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

### **329 IAC 1-1-1 Applicability of rule**

**Authority:** IC 13-17-3; IC 13-14-8

**Affected:** IC 13-17-3

Sec. 1. This rule (329 IAC 1-1) is applicable to all of Title 329 IAC. (*Solid Waste Management Board; 329 IAC 1-1-1; filed May 31, 1988, 2:42 p.m.: 11 IR 3199*)

SECTION 2. 329 IAC 1-1-2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

### **329 IAC 1-1-2 Severability**

**Authority:** IC 13-17-3; IC 13-14-8

**Affected:** IC 13-17-3; IC 13-14-8

Sec. 2. If any provision of these rules (329 IAC) or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect any other provisions or applications of these rules (329 IAC) which can be given effect without the invalid provision or application. (*Solid Waste Management Board; 329 IAC 1-1-2; filed May 31, 1988, 2:42 p.m.: 11 IR 3200*)

SECTION 3. 329 IAC 1-1-3 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

### **329 IAC 1-1-3 Savings clause**

**Authority:** IC 13-17-3; IC 13-14-8

**Affected:** IC 13-17-3; IC 13-14-8

Sec. 3. The repeal and reenactment in this Title (329 IAC) of any rule previously the responsibility of the Solid Waste Management Board, the Environmental Management Board, or the Stream Pollution Control Board shall not have the effect to release or extinguish any penalty or forfeiture incurred under the same, and such previous rule shall be treated as still remaining on in force for the purpose of sustaining any proper action, or prosecution for the enforcement of such penalty, forfeiture or liability. (*Solid Waste Management Board; 329 IAC 1-1-3; filed May 31, 1988, 2:42 p.m.: 11 IR 3200*)

SECTION 4. 329 IAC 1-1-4 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

### **329 IAC 1-1-4 Reference to Federal Acts**

**Authority:** IC 13-17-3; IC 13-14-8

**Affected:** IC 13-17-3; IC 13-14-8

Sec. 4. (a) Unless otherwise indicated, references in these rules (329 IAC) to the Resource Conservation and Recovery Act (RCRA) shall mean the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, by the Hazardous and Solid Waste Amendments of 1984, as amended, 4 U.S.C. § 6901, et seq. Unless otherwise indicated, references in these rules (329 IAC) to the Comprehensive Environmental Response, Compensation and Liability Act (CERLA) shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, as amended, 42 U.S.C. § 9601, et seq. Unless otherwise indicated, references in these rules (329 IAC) to the Toxic Substances Control Act (TSCA) shall mean the Toxic Substances Control Act as amended by the Asbestos Hazard Emergency Response Act of 1986, as amended, 15 U.S.C. § 2601 et seq.

(b) Unless otherwise indicated, as in 329 IAC 3-1-6, references to the Code of Federal Regulations (CFR) shall mean the 1987 version. (*Solid Waste Management Board; 329 IAC 1-1-4; filed May 31, 1988, 2:42 p.m.: 11 IR 3200*)

SECTION 5. 329 IAC 12-2-1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-1 Definitions**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 1. In addition to the definitions found in IC 13-11-2, the definitions in this rule apply only to this article. *(Solid Waste Management Board; 329 IAC 12-2-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1952; errata filed Dec 6, 1999, 9:41 a.m.: 23 IR 813)*

SECTION 6. 329 IAC 12-2-2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-2 “Access road” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 2. “Access road” means a road that leads to the entrance of a solid waste management activity, normally a county, state, or federal highway. *(Solid Waste Management Board; 329 IAC 12-2-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1952)*

SECTION 7. 329 IAC 12-2-2.1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-2.1 “Accredited examination” defined**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

**Affected:** IC 13-15-10; IC 36-9-30

Sec. 2.1. “Accredited examination” means a written examination accredited by the commissioner for the purposes of testing individuals seeking to become certified as solid waste facility operators. *(Solid Waste Management Board; 329 IAC 12-2-2.1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1479)*

SECTION 8. 329 IAC 12-2-2.2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-2.2 “Accredited examination provider” defined**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

**Affected:** IC 13-15-10; IC 36-9-30

Sec. 2.2. “Accredited examination provider” means a person or a postsecondary learning institution that provides an accredited examination for the purpose of certifying operators in accordance with 329 IAC 12-7 and 329 IAC 12-8. *(Solid Waste Management Board; 329 IAC 12-2-2.2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1479)*

SECTION 9. 329 IAC 12-2-2.3 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-2.3 “Accredited training course” defined**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

**Affected:** IC 13-15-10; IC 36-9-30

Sec. 2.3. “Accredited training course” means a course accredited by the commissioner for the purposes of providing solid waste facility operator training for recertification. *(Solid Waste Management Board; 329 IAC 12-2-2.3; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1479)*

SECTION 10. 329 IAC 12-2-2.4 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-2.4 “Accredited training course provider” defined**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

**Affected:** IC 13-15-10; IC 36-9-30

Sec. 2.4. “Accredited training course provider” means a person or a postsecondary learning institution that provides an accredited

training course for the purpose of recertifying operators in accordance with 329 IAC 12-7 and 329 IAC 12-9. (*Solid Waste Management Board; 329 IAC 12-2-2.4; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480*)

SECTION 11. 329 IAC 12-2-3 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-3 “Altered tire” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 3. “Altered tire” means a waste tire that has been modified so that it is no longer capable of holding accumulations of water, including, but not limited to, waste tires that have been shredded, chopped, drilled with holes sufficient to assure drainage, slit longitudinally, and stacked so as not to collect water, or wholly or partially filled with cement or other material to prevent the accumulation of water. (*Solid Waste Management Board; 329 IAC 12-2-3; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1953*)

SECTION 12. 329 IAC 12-2-4 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-4 “Base flood” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 4. “Base flood” means a flood that has a one percent (1%) or greater chance of recurring in any year or a flood of a magnitude equaled or exceeded once in one hundred (100) years, on the average, over a significantly long period. In any given one hundred (100) year interval, such a flood may not occur or more than one (1) such flood may occur. (*Solid Waste Management Board; 329 IAC 12-2-4; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1953*)

SECTION 13. 329 IAC 12-2-5 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-5 “Board” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 5. “Board” means the solid waste management board. (*Solid Waste Management Board; 329 IAC 12-2-5; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1953; errata filed Dec 6, 1999, 9:41 a.m. 23 IR 813*)

SECTION 14. 329 IAC 12-2-5.1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-5.1 “Certificate” defined**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

**Affected:** IC 13-15-10; IC 36-9-30

Sec. 5.1. “Certificate” means a document issued by the commissioner to an individual meeting the testing requirements of 329 IAC 12-7 and 329 IAC 12-8. (*Solid Waste Management Board; 329 IAC 12-2-5.1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480*)

SECTION 15. 329 IAC 12-2-5.2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-5.2 “Certified operator” defined**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

**Affected:** IC 13-15-10; IC 36-9-30

Sec. 5.2. “Certified operator” means an individual:  
(1) with responsibility for the daily operation of the facility; and  
(2) who holds a current certificate of training issued by the commissioner.  
(*Solid Waste Management Board; 329 IAC 12-2-5.2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480*)

SECTION 16. 329 IAC 12-2-6 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-6 “Collection container system” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 6. “Collection container system” means a group of containers for solid waste collection from noncommercial, nonindustrial, and noninstitutional sources, and made available for use by the general public such as a county wide collection box system. *(Solid Waste Management Board; 329 IAC 12-2-6; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1953)*

SECTION 17. 329 IAC 12-2-7 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-7 “Commissioner” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 7. “Commissioner” refers to the commissioner of the department created under IC 13-13-1-1. *(Solid Waste Management Board; 329 IAC 12-2-7; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1953; errata filed Dec 6, 1999, 9:41 a.m.: 23 IR 813)*

SECTION 18. 329 IAC 12-2-8 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-8 “Contaminant” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 8. “Contaminant” means any of the following:

- (1) Pollutant as defined in the federal Water Pollution Control Act, 33 U.S.C. 1362 as amended November 18, 1988.
- (2) Radioactive material as regulated by the Atomic Energy Act of 1954, 42 U.S.C. 2014 as amended October 24, 1992.
- (3) Solid or hazardous waste as determined by the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq. as effective January 1, 1989.
- (4) Hazardous substance as defined by the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq. as amended November 23, 1988.
- (5) Any toxic substance as determined by the Toxic Substances Control Act, 15 U.S.C. 2603 et seq. as amended October 22, 1986.
- (6) Any commingled waste containing waste as defined in subdivisions (1) through (5), from whatever source that:
  - (A) is injurious to human health, plant or animal life, or property;
  - (B) interferes unreasonably with the enjoyment of life or property; or
  - (C) violates this article.

*(Solid Waste Management Board; 329 IAC 12-2-8; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1953)*

SECTION 19. 329 IAC 12-2-9 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-9 “Customer” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 9. “Customer” means a person who purchases at least one (1) new tire from a retailer. *(Solid Waste Management Board; 329 IAC 12-2-9; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1953)*

SECTION 20. 329 IAC 12-2-10 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-10 “Department” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 10. “Department” means the department of environmental management created under IC 13-13-1-1. *(Solid Waste Management Board; 329 IAC 12-2-10; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1953; errata filed Dec 6, 1999, 9:41 a.m.: 23 IR 813)*

SECTION 21. 329 IAC 12-2-11 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-11 "Disposal" defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 11. "Disposal" means the discharge, deposit, dumping, emission, injection, spill, leak, or placement of any solid waste or hazardous waste into or on any land or water, so that the solid waste or hazardous waste or any constituent of the waste is in or may enter the environment, or be emitted into the air or discharged into any waters, including ground waters. (*Solid Waste Management Board; 329 IAC 12-2-11; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1953*)

SECTION 22. 329 IAC 12-2-11.1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-11.1 "Facility" defined**

**Authority:** IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

**Affected:** IC 13-15-10; IC 25-31; IC 36-9-30

Sec. 11.1. "Facility" may consist of one (1) or more permitted processing, storage, disposal, or operational units used for processing, storing in conjunction with processing or disposal, or disposing of solid waste. The term includes:

- (1) all conterminous land and structures related to the permit;
- (2) other appurtenances related to the permit; and
- (3) improvements on the land related to the permit.

(*Solid Waste Management Board; 329 IAC 12-2-11.1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480*)

SECTION 23. 329 IAC 12-2-12 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-12 "Garbage" defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 12. "Garbage" means all putrescible animal solid, vegetable solid, and semisolid wastes resulting from the processing, handling, preparation, cooking, serving, or consumption of food or food materials. (*Solid Waste Management Board; 329 IAC 12-2-12; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1954*)

SECTION 24. 329 IAC 12-2-13 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-13 "Generating facility" defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 13. "Generating facility" means any person or site, at, on, or by which one (1) or more solid wastes are generated, such as a large manufacturing plant that may have more than one (1) source of solid waste at the plant location. The term does not include hazardous waste generator as regulated by 329 IAC 3.1. (*Solid Waste Management Board; 329 IAC 12-2-13; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1954*)

SECTION 25. 329 IAC 12-2-14 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-14 "Generator" defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 14. "Generator", as used in 329 IAC 12-5 and 329 IAC 12-6, means a person who possesses more than twenty (20) tires at any point in time and ships tires for reuse, recycling, disposal, or processing for reuse, recycling, or disposal. (*Solid Waste Management Board; 329 IAC 12-2-14; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1954*)

SECTION 26. 329 IAC 12-2-15 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-15 “Grading” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 15. “Grading” means the contouring of land so that surface water flow and erosion are controlled according to a predetermined plan. *(Solid Waste Management Board; 329 IAC 12-2-15; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1954)*

SECTION 27. 329 IAC 12-2-16 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-16 “Ground water” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 16. “Ground water” means water below the land surface in the zone of saturation. *(Solid Waste Management Board; 329 IAC 12-2-16; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1954)*

SECTION 28. 329 IAC 12-2-17 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-17 “Hazardous waste” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 17. “Hazardous waste” means a solid waste or combination of solid wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

(1) cause or significantly contribute to an increase in mortality or increase in serious irreversible or incapacitating reversible illness; or

(2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

*(Solid Waste Management Board; 329 IAC 12-2-17; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1954)*

SECTION 29. 329 IAC 12-2-18 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-18 “Incinerator” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 18. “Incinerator” has the meaning set forth in 329 IAC 11-2-16. *(Solid Waste Management Board; 329 IAC 12-2-18; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1954)*

SECTION 30. 329 IAC 12-2-19 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-19 “Industrial process waste” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 19. “Industrial process waste” means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under 329 IAC 3.1. Such waste may include, but is not limited to, waste resulting from any of the following manufacturing processes:

(1) Electric power generation.

(2) Fertilizer or agricultural chemicals production.

(3) Food and related products or byproducts production.

(4) Inorganic chemicals production.

(5) Iron and steel manufacture or foundries.

- (6) Leather and leather products production.
- (7) Nonferrous metals manufacture or foundries.
- (8) Organic chemicals production.
- (9) Plastics and resins manufacture.
- (10) Pulp and paper industry.
- (11) Rubber and miscellaneous plastic products production.
- (12) Stone, glass, clay, and concrete products.
- (13) Textile manufacture.
- (14) Transportation equipment.
- (15) Oil and gas process and refinery wastes and disposed products.
- (16) Painting, printing, and allied industries.
- (17) Contaminated, off-specification, or outdated wholesale products.
- (18) Recycling activities and process residues.

The term does not include mining operations waste or oil and gas recovery waste. *(Solid Waste Management Board; 329 IAC 12-2-19; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1954)*

SECTION 31. 329 IAC 12-2-20 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-20 “Infectious waste” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 20. (a) “Infectious waste” means waste that epidemiologic evidence indicates is capable of transmitting a dangerous communicable disease, as defined in 410 IAC 1-3-5.

(b) The term includes any of the following:

- (1) Pathological wastes, including tissue, organs, body parts, and blood or body fluids in liquid or semiliquid form that are removed during surgery, biopsy, or autopsy.
- (2) Biological cultures and associated biologicals.
- (3) Contaminated sharps.
- (4) Infectious agent stock and associated biologicals.
- (5) Blood and blood products in liquid or semiliquid form.
- (6) Laboratory animal carcasses, body parts, and bedding.
- (7) Wastes (as defined in 410 IAC 1-3-19).

*(Solid Waste Management Board; 329 IAC 12-2-20; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1955)*

SECTION 32. 329 IAC 12-2-21 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-21 “Infectious waste incinerator” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 21. “Infectious waste incinerator” has the meaning set forth in 329 IAC 11-2-19. *(Solid Waste Management Board; 329 IAC 12-2-21; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1955)*

SECTION 33. 329 IAC 12-2-21.1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-21.1 “Interim operator” defined**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

**Affected:** IC 13-15-10; IC 36-9-30

Sec. 21.1. “Interim operator” means an individual:

- (1) with responsibility for the daily operation of the facility; and
- (2) that does not yet hold a current certificate issued by the commissioner.

*(Solid Waste Management Board; 329 IAC 12-2-21.1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480)*

SECTION 34. 329 IAC 12-2-22 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-22 “Legal description” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 22. “Legal description” means a legal description of the real property, to include the county, township, range, and section numbers and, if applicable, the metes and bounds description, together with the acreage thereof. *(Solid Waste Management Board; 329 IAC 12-2-22; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1955)*

SECTION 35. 329 IAC 12-2-23 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-23 “New tire” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 23. “New tire” means a tire that has never been placed on a vehicle wheel rim. *(Solid Waste Management Board; 329 IAC 12-2-23; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1955)*

SECTION 36. 329 IAC 12-2-24 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-24 “On-site road” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 24. “On-site road” means a road for the passage of vehicles from a solid waste management activity entrance to the activity area. *(Solid Waste Management Board; 329 IAC 12-2-24; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1955)*

SECTION 37. 329 IAC 12-2-25 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-25 “Open burning” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 25. “Open burning” means the combustion of any matter in the open or in an open dump. *(Solid Waste Management Board; 329 IAC 12-2-25; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1955)*

SECTION 38. 329 IAC 12-2-26 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-26 “Open dump” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 26. “Open dump” has the meaning set forth in 329 IAC 10-2-128. *(Solid Waste Management Board; 329 IAC 12-2-26; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1955)*

SECTION 39. 329 IAC 12-2-27 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-27 “Operating personnel” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 27. “Operating personnel” means persons necessary to properly operate a solid waste management activity. *(Solid Waste Management Board; 329 IAC 12-2-27; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1955)*



SECTION 40. 329 IAC 12-2-27.1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-27.1 “Operator” defined**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

**Affected:** IC 13-15-10; IC 36-9-30

Sec. 27.1. “Operator” means the person or persons responsible for the overall operation of a facility or part of a facility. (*Solid Waste Management Board; 329 IAC 12-2-27.1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480*)

SECTION 41. 329 IAC 12-2-27.2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-27.2 “Owner” defined**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

**Affected:** IC 13-15-10; IC 36-9-30

Sec. 27.2. “Owner” means the person who owns a facility or part of a facility. (*Solid Waste Management Board; 329 IAC 12-2-27.2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480*)

SECTION 42. 329 IAC 12-2-28 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-28 “Passenger tire equivalent” or “PTE” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 28. “Passenger tire equivalent” or “PTE” means one (1) average size tire weighing twenty-five (25) pounds with a volume of four (4) cubic feet for whole waste tires and one and twenty-five hundredths (1.25) cubic feet for shredded waste tires. If both the weight and volume of the tires are known, then the weight of the tires must be used to establish the PTE. All references to specific numbers of waste tires contained in this article are in terms of the passenger tire equivalent. (*Solid Waste Management Board; 329 IAC 12-2-28; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1955*)

SECTION 43. 329 IAC 12-2-29 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-29 “Person” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 29. “Person” means any of the following:

- (1) An individual.
- (2) A partnership.
- (3) A copartnership.
- (4) A firm.
- (5) A company.
- (6) A corporation.
- (7) An association.
- (8) A joint stock company.
- (9) A trust.
- (10) An estate.
- (11) A municipal corporation.
- (12) A city.
- (13) A school city.
- (14) A town.
- (15) A school town.
- (16) A school district.
- (17) A school corporation.
- (18) A county.

- (19) Any consolidated unit of government.
- (20) A political subdivision.
- (21) A solid waste management district.
- (22) A state agency.
- (23) A federal government or agency.
- (24) Any other legal entity.

*(Solid Waste Management Board; 329 IAC 12-2-29; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956)*

SECTION 44. 329 IAC 12-2-30 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-30 “Pollution control waste” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 30. “Pollution control waste” includes liquid, solid, semisolid, or gaseous waste generated as a direct or indirect result from the removal of contaminants from air, water, or land that may include, but is not limited to, such waste as water and wastewater treatment sludges, baghouse dust, scrubber sludges, chemical spills, or remedial activity clean-up wastes. *(Solid Waste Management Board; 329 IAC 12-2-30; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956)*

SECTION 45. 329 IAC 12-2-31 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-31 “Processing” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 31. “Processing” has the meaning set forth in 329 IAC 11-2-30. *(Solid Waste Management Board; 329 IAC 12-2-31; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956)*

SECTION 46. 329 IAC 12-2-31.5 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-31.5 “Recertification” defined**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

**Affected:** IC 13-15-10; IC 36-9-30

Sec. 31.5. “Recertification” means the procedures under 329 IAC 12-7 and 329 IAC 12-9 to renew a certification for a certified operator meeting the applicable training requirements. *(Solid Waste Management Board; 329 IAC 12-2-31.5; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480)*

SECTION 47. 329 IAC 12-2-32 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-32 “Recovery” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 32. “Recovery” means obtaining materials or energy for commercial or industrial use from solid waste or hazardous waste. *(Solid Waste Management Board; 329 IAC 12-2-32; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956)*

SECTION 48. 329 IAC 12-2-33 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-33 “Registered professional engineer” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 33. “Registered professional engineer” means a professional engineer registered by the state of Indiana under IC 25-31. *(Solid Waste Management Board; 329 IAC 12-2-33; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956)*

SECTION 49. 329 IAC 12-2-34 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-34 “Remanufactured tire” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 34. “Remanufactured tire” means a waste tire that has been recapped, retreaded, or regrooved and that has not been placed on the wheel of a motor vehicle. *(Solid Waste Management Board; 329 IAC 12-2-34; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956)*

SECTION 50. 329 IAC 12-2-35 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-35 “Residue” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 35. “Residue” has the meaning set forth in 329 IAC 11-2-33. *(Solid Waste Management Board; 329 IAC 12-2-35; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956)*

SECTION 51. 329 IAC 12-2-36 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-36 “Resource recovery” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 36. “Resource recovery” has the meaning set forth in 329 IAC 11-2-34. *(Solid Waste Management Board; 329 IAC 12-2-36; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956)*

SECTION 52. 329 IAC 12-2-37 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-37 “Retailer” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 37. “Retailer” means a person engaged in the business of selling new tires at retail in Indiana. *(Solid Waste Management Board; 329 IAC 12-2-37; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956)*

SECTION 53. 329 IAC 12-2-38 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-38 “Salvaging” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 38. “Salvaging” means the controlled and organized removal of materials from solid waste for utilization. *(Solid Waste Management Board; 329 IAC 12-2-38; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956)*

SECTION 54. 329 IAC 12-2-39 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-39 “Scavenging” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 39. “Scavenging” means the uncontrolled and unauthorized removal of materials from solid waste. *(Solid Waste Management Board; 329 IAC 12-2-39; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1957)*

SECTION 55. 329 IAC 12-2-40 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-40 “Shredded waste tire” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 40. “Shredded waste tire” means tire pieces that are less than four (4) square inches in size and that do not hold water. (*Solid Waste Management Board; 329 IAC 12-2-40; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1957*)

SECTION 56. 329 IAC 12-2-41 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-41 “Site” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 41. “Site” means the land area on which the registered solid waste management activity is situated. (*Solid Waste Management Board; 329 IAC 12-2-41; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1957*)

SECTION 57. 329 IAC 12-2-42 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-42 “Sludge” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 42. “Sludge” means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant. (*Solid Waste Management Board; 329 IAC 12-2-42; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1957*)

SECTION 58. 329 IAC 12-2-43 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-43 “Solid waste” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 43. (a) “Solid waste” means any:

- (1) garbage;
- (2) refuse;
- (3) sludge from a wastewater treatment plant;
- (4) sludge from a water supply treatment plant;
- (5) sludge from an air pollution control facility; or
- (6) other discarded material;

including ash residue, commercial waste, construction/demolition waste, hazardous waste, household waste, infectious waste, liquid waste, special waste, municipal solid waste, regulated hazardous waste, residential and non-residential waste, and any solid, liquid, semisolid, or contained gaseous material.

(b) The term does not include:

- (1) solid or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows, or industrial discharges that are point sources subject to permits under Section 402 of the federal Water Pollution Control Act, 33 U.S.C. 1342 as amended February 4, 1987;
- (2) source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, 42 U.S.C. 2014 et seq. as amended October 24, 1992;
- (3) manures or crop residues returned to the soil at the point of generation as fertilizers or soil conditioners as part of a total farm operation; or
- (4) vegetative matter at composting facilities registered under IC 13-20-10.

(*Solid Waste Management Board; 329 IAC 12-2-43; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1957; errata filed Dec 6, 1999, 9:41 a.m.: 23 IR 813*)

SECTION 59. 329 IAC 12-2-44 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-44 “Solid waste facility” or “facility” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 44. “Solid waste facility” or “facility” means all contiguous land and structures, other appurtenances, and improvements on the land used for processing, storing in conjunction with processing or disposal, or disposing of solid waste and may consist of several processing, storage, or disposal operational units, for example, one (1) or more landfills, surface impoundments, or combinations thereof. (*Solid Waste Management Board; 329 IAC 12-2-44; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1957*)

SECTION 60. 329 IAC 12-2-45 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-45 “Solid waste land disposal facility” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 45. “Solid waste land disposal facility” has the meaning set forth in 329 IAC 10-2-176. (*Solid Waste Management Board; 329 IAC 12-2-45; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1957*)

SECTION 61. 329 IAC 12-2-46 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-46 “Solid waste management” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 46. “Solid waste management” means the systematic administration of activities that provide for the collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste. (*Solid Waste Management Board; 329 IAC 12-2-46; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1957*)

SECTION 62. 329 IAC 12-2-47 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-47 “Solid waste processing facility” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 47. “Solid waste processing facility” has the meaning set forth in 329 IAC 11-2-43. (*Solid Waste Management Board; 329 IAC 12-2-47; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1958*)

SECTION 63. 329 IAC 12-2-48 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-48 “Special waste” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2; IC 13-19-3

**Affected:** IC 13-11-2; IC 13-18-1; IC 13-18-20; IC 25-31; IC 36-9-30

Sec. 48. “Special waste” has the meaning as set forth in 329 IAC 10-2-179. (*Solid Waste Management Board; 329 IAC 12-2-48; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1958; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1733, eff one hundred eighty (180) days after filing with the secretary of state*)

SECTION 64. 329 IAC 12-2-49 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-49 “Surface impoundment” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 49. (a) "Surface impoundment" means a facility or part of a facility that:

- (1) is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials, although it may be lined with manmade materials;
- (2) holds or is designed to hold an accumulation of liquid wastes or wastes containing free liquids; and
- (3) is not an injection well.

(b) Examples of surface impoundments may include the following:

- (1) Holding, storage, settling, and aeration pits.
- (2) Holding, storage, settling, and aeration ponds.
- (3) Holding, storage, settling, and aeration lagoons.

*(Solid Waste Management Board; 329 IAC 12-2-49; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1958)*

SECTION 65. 329 IAC 12-2-50 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-50 "Surface water" defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 50. "Surface water" means water present on the surface of the earth, including:

- (1) streams;
- (2) lakes;
- (3) ponds;
- (4) rivers;
- (5) swamps;
- (6) marshes; or
- (7) rainwater present on the earth.

*(Solid Waste Management Board; 329 IAC 12-2-50; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1958)*

SECTION 66. 329 IAC 12-2-51 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-51 "Tire" defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 51. "Tire" means a continuous solid or pneumatic rubber covering designed to encircle a wheel of a motor vehicle. *(Solid Waste Management Board; 329 IAC 12-2-51; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1959)*

SECTION 67. 329 IAC 12-2-52 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-52 "Transfer station" defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 52. "Transfer station" has the meaning set forth in 329 IAC 11-2-47. *(Solid Waste Management Board; 329 IAC 12-2-52; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1959)*

SECTION 68. 329 IAC 12-2-53 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-53 "Transformed tire" defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 53. "Transformed tire" means a waste tire that has been manufactured into a usable commodity other than a tire. Usable products, manufactured from tires, that are capable of holding accumulations of water must be deemed to be transformed if they are stacked, packaged, boxed, containerized, or enclosed in such a manner so as to preclude exposure to precipitation prior to sale or

conveyance. *(Solid Waste Management Board; 329 IAC 12-2-53; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1959)*

SECTION 69. 329 IAC 12-2-54 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-54 “Vector” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 54. “Vector” means any animal capable of harboring and transmitting micro-organisms from one (1) animal to another or to a human. *(Solid Waste Management Board; 329 IAC 12-2-54; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1959)*

SECTION 70. 329 IAC 12-2-55 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-55 “Washout” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 55. “Washout” means the carrying away of solid waste by waters of the base flood. *(Solid Waste Management Board; 329 IAC 12-2-55; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1959)*

SECTION 71. 329 IAC 12-2-56 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-56 “Waste tire” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 56. “Waste tire” means a tire, including an altered tire, that is not suitable for the tire’s original purpose because of wear, damage, or defect. *(Solid Waste Management Board; 329 IAC 12-2-56; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1959)*

SECTION 72. 329 IAC 12-2-57 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-57 “Waste tire processing operation” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 57. “Waste tire processing operation” means an operation that processes waste tires by cutting, shredding, or grinding. *(Solid Waste Management Board; 329 IAC 12-2-57; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1959)*

SECTION 73. 329 IAC 12-2-58 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-58 “Waste tire storage site” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 58. “Waste tire storage site” means a site at which five hundred (500) or more waste tires, in passenger tire equivalents, are accumulated in the outdoors at a single location and are not completely enclosed within a structure or vehicle. *(Solid Waste Management Board; 329 IAC 12-2-58; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1959)*

SECTION 74. 329 IAC 12-2-59 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-59 “Waste tire transporter” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 59. “Waste tire transporter” means a person who:

- (1) engages in the business of accepting waste tires from retailers and transporting the waste tires to one (1) or more other locations;  
or
  - (2) transports more than twenty (20) waste tires at one (1) time.
- (Solid Waste Management Board; 329 IAC 12-2-59; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1959)*

SECTION 75. 329 IAC 12-2-60 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-60 “Water pollution” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 60. “Water pollution” means:

- (1) actual or threatened alteration of the physical, thermal, chemical, biological, bacteriological, or radioactive properties of any waters; or
- (2) the discharge or threatened discharge of any contaminant into any waters that does or can create a nuisance or render the waters harmful, detrimental, or injurious to:
  - (A) public health, safety, or welfare;
  - (B) domestic, commercial, industrial, agricultural, recreational, or other legitimate uses; or
  - (C) livestock, wild animals, birds, fish, or aquatic life.

*(Solid Waste Management Board; 329 IAC 12-2-60; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1959)*

SECTION 76. 329 IAC 12-2-61 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-61 “Waters” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 61. (a) “Waters” means the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this state.

(b) The term does not include any:

- (1) private pond; or
- (2) off-stream pond, reservoir, or facility built for reduction or control of pollution or cooling of water prior to discharge unless the discharge from the pond, reservoir, or facility causes or threatens to cause water pollution.

*(Solid Waste Management Board; 329 IAC 12-2-61; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1960)*

SECTION 77. 329 IAC 12-2-62 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 12-2-62 “Wholesaler” defined**

**Authority:** IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

**Affected:** IC 13-30-2; IC 36-9-30

Sec. 62. “Wholesaler” means a person engaged in the business of selling new tires at wholesale in Indiana. *(Solid Waste Management Board; 329 IAC 12-2-62; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1960)*

SECTION 78. 329 IAC 13-3-1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

**329 IAC 13-3-1 Applicability**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

**Affected:** IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 261; 40 CFR 761.20(e)

Sec. 1. (a) The department presumes that used oil is to be recycled unless a used oil handler disposes of used oil or sends used oil for disposal. Except as provided in section 2 of this rule, this article applies to used oil, and to materials identified in this section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in 40 CFR 261 Subpart C.



(b) Mixtures of used oil and hazardous waste must be handled as follows:

(1) For mixtures of used oil with a listed hazardous waste, the following shall apply:

(A) Mixtures of used oil and hazardous waste that is listed in 40 CFR 261 Subpart D are subject to regulation as hazardous waste under 329 IAC 3.1 rather than as used oil under this article.

(B) Used oil containing more than one thousand (1,000) parts per million total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 40 CFR 261 Subpart D. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste. For example, this may be done by using an analytical method from EPA publication SW-846, Third Edition, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in 40 CFR 261 Appendix VIII. EPA publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, (202) 783-3238. Request document number 955-001-00000-1. The rebuttable presumption does not apply to the following:

(i) Metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in 329 IAC 13-4-5(c), to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner or disposed.

(ii) Used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(2) Used oil mixed with characteristic hazardous waste identified in 40 CFR 261 Subpart C are subject to 329 IAC 3.1.

(3) Mixtures of used oil and conditionally exempt small quantity generator hazardous waste regulated under 40 CFR 261.5 are subject to regulation as used oil under this article.

(c) Materials containing or otherwise contaminated with used oil must be handled as follows:

(1) Except as provided in subdivision (2), materials containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the material:

(A) are not used oil and thus not subject to this article;

(B) if applicable, are subject to the hazardous waste regulations under 329 IAC 3.1; and

(C) if applicable, are subject to the special waste regulations under 329 IAC 10.

(2) Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under this article.

(3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this article.

(d) Mixtures of used oil with products must be handled as follows:

(1) Except as provided in subdivision (2), mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this article.

(2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this article once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of 329 IAC 13-4.

(e) Materials derived from used oil must be handled as follows:

(1) Materials that are reclaimed from used oil that are used beneficially and are not burned for energy recovery or used in a manner constituting disposal, such as re-refined lubricants, are:

(A) not used oil and thus are not subject to this article; and

(B) not solid wastes and are thus not subject to the hazardous waste regulations under 329 IAC 3.1 as provided in 40 CFR 261.3(c)(2)(A).

(2) Materials produced from used oil that are burned for energy recovery, such as used oil fuels, are subject to regulation as used oil under this article.

(3) Except as provided in subdivision (4), materials derived from used oil that are disposed of or used in a manner constituting disposal are:

(A) not used oil and thus are not subject to this article; and

(B) are solid wastes and thus are subject to:

(i) if applicable, the hazardous waste regulations under 329 IAC 3.1 if the materials are listed or identified as hazardous waste; and

(ii) if applicable, the special waste regulations under 329 IAC 10.

(4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this article.

(f) Wastewater, the discharge of which is subject to regulation under either Section 402 or 307(b) of the Clean Water Act, including wastewaters at facilities that have eliminated the discharge of wastewater, contaminated with de minimis quantities of used oil are not subject to the requirements of this article. As used in this subsection, “de minimis quantities of used oils” means small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

(g) Used oil introduced into crude oil pipelines or a petroleum refining facility must be handled as follows:

(1) Used oil mixed with crude oil or natural gas liquids, such as in a production separator or crude oil stock tank, for insertion into a crude oil pipeline is exempt from the requirements of this article. The used oil is subject to the requirements of this article prior to the mixing of used oil with crude oil or natural gas liquids.

(2) Mixtures of used oil and crude oil or natural gas liquids containing less than one percent (1%) used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of this article.

(3) Used oil that is inserted into the petroleum refining facility process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of this article provided that the used oil constitutes less than one percent (1%) of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this article.

(4) Except as provided in subdivision (5), used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this article only if the used oil meets the specification of section 2 of this rule. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this article.

(5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as an article of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this article. This exemption does not extend to used oil that is intentionally introduced into a hydrocarbon recovery system, such as by pouring collected used oil into the wastewater treatment system.

(6) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this article.

(h) Used oil produced on vessels from normal shipboard operations is not subject to this article until it is transported ashore.

(i) In addition to the requirements of this article, marketers and burners of used oil who market used oil containing any quantifiable level of polychlorinated biphenyls (PCBs) are subject to the requirements found at 40 CFR 761.20(e). (*Solid Waste Management Board; 329 IAC 13-3-1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1494*)

SECTION 79. 329 IAC 13-3-2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

### **329 IAC 13-3-2 Used oil specifications**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

**Affected:** IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 2. Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this article unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in Table 1. Once used oil that is to be burned for energy recovery has been shown not to exceed any specification and the person making that showing complies with 329 IAC 13-9-3, 329 IAC 13-9-4, and 329 IAC 13-9-5(b), the used oil is no longer subject to this article.

Table 1-Used Oil not Exceeding any Specification Level is not Subject to this Article when Burned for Energy Recovery<sup>1</sup>

<u>Constituent or Property</u>	<u>Allowable Level</u>
Arsenic	5 ppm maximum
Cadmium	2 ppm maximum
Chromium	10 ppm maximum

Lead	100 ppm maximum
Flash point	100 EF minimum
Total halogens	4,000 ppm maximum <sup>2</sup>

<sup>1</sup>The specification does not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (See section 1(b) of this rule.).

<sup>2</sup>Used oil containing more than one thousand (1,000) parts per million total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under section 1(b) of this rule. Such used oil is subject to 40 CFR 266 Subpart H rather than this article when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

Note: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e). (*Solid Waste Management Board; 329 IAC 13-3-2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1495*)

SECTION 80. 329 IAC 13-3-3 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

### **329 IAC 13-3-3 Prohibitions**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

**Affected:** IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 260.10; 40 CFR 264; 40 CFR 265

Sec. 3. (a) Used oil shall not be managed in surface impoundments or waste piles unless the units are subject to regulation under 40 CFR 264 or 40 CFR 265.

(b) The use of used oil as a dust suppressant is prohibited.

(c) Off-specification used oil fuel may be burned for energy recovery in only the following devices:

(1) Industrial furnaces identified in 40 CFR 260.10.

(2) Boilers, as defined in 40 CFR 260.10, that are identified as any of the following:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes.

(B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.

(C) Used oil-fired space heaters provided that the burner meets the provisions of 329 IAC 13-4-4.

(3) Hazardous waste incinerators subject to regulation under 40 CFR 264 Subpart O or 40 CFR 265.

(*Solid Waste Management Board; 329 IAC 13-3-3; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1496*)

### **Notice of First Meeting/Hearing**

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on November 21, 2000 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana, the Solid Waste Management Board will hold a public hearing on the readoption of 329 IAC 1-1, 329 IAC 12-2, and 329 IAC 13-3, pursuant to IC 13-14-9.5.

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the readoption of these rules. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed at this hearing may be found in the April 1, 1996, *Indiana Register*, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Lynn West, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232-3593 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: Susan Zapf, ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

P.O. Box 6015

*Indianapolis, Indiana 46206-6015  
or call (317) 234-1208 (V) or (317) 233-6565 (TDD). Please provide a minimum of 72 hours' notification.  
Copies of these rules are now on file at the Office of Land Quality, Indiana Department of Environmental Management, Indiana  
Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana and are open for public inspection.*