

Document: IC 13-14-9 Notice

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TITLE 329 SOLID WASTE MANAGEMENT BOARD

FIRST NOTICE OF COMMENT PERIOD #01-288(SWMB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING REMOVAL OF REFERENCES TO SPECIAL WASTE AND INDUSTRIAL WASTE FROM 329 IAC 10 THROUGH AND 329 IAC 13

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules in 329 IAC 10 through 329 IAC 13 to remove references to industrial waste and special waste as required by Public Law 218-2001 (HEA 1830). IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

CITATIONS AFFECTED: 329 IAC 10; 329 IAC 11; 329 IAC 12; 329 IAC 13.

AUTHORITY: IC 13-14-8; IC 13-19-3; P.L.218-2001, SECTION 10.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

In its 2001 session, the Indiana General Assembly adopted P.L.218-2001 that, among other things:

- (1) repeals IC 13-20-7.5 regulating disposal of industrial waste;
- (2) allows IDEM to modify a permit to prohibit processing or disposal of specific solid waste at a solid waste disposal facility or a solid waste processing facility; and
- (3) requires the Solid Waste Management Board (board) to adopt rules to remove references to special waste and industrial waste in the rules of the board.

The purposes of this rulemaking are to:

- (1) implement the requirements of P.L.218-2001 by removing references to special waste and industrial waste wherever they occur in 329 IAC 10 through 329 IAC 13;
- (2) amend affected parts of the rules as needed to correct problems resulting from removal of references to special waste and industrial waste;
- (3) provide necessary guidance and direction to persons who dispose of solid wastes other than municipal solid waste;
- (4) prohibit or regulate such disposal where necessary; and
- (5) streamline and correct the rules at 329 IAC 10 through 329 IAC 13 as needed to eliminate unnecessary, confusing, or overly burdensome requirements and to comply with IC 4-22-2-20 and the Administrative Rules Drafting Manual published by the Legislative Services Agency.

Several parts of the rules of the board at 329 IAC 10 through 329 IAC 13 reference the special waste rules in various ways. In particular, the requirements for alternative daily cover at 329 IAC 10-20-14.1 require persons using alternative daily cover at a municipal solid waste landfill to comply with the special waste rules at 329 IAC 10-8.1. Removal of the special waste rules will require extensive changes to the rules for alternative daily cover. Similar situations may occur in other areas. IDEM is soliciting comment on ways to modify the rules to remove references to special waste and industrial waste without eliminating the safeguards in those rules.

P.L.218-2001 added a new IC 13-19-3-8.2 that allows IDEM to modify a permit to prohibit processing or disposal of specific solid waste at a solid waste disposal facility or a solid waste processing facility. There are a number of ways to make such permit modifications, from using the existing permitting rules and procedures to writing new rules for permit modifications and management of solid wastes other than municipal solid waste. For example, "permit-by-rule" provisions for specific wastes could establish appropriate controls without subjecting landfills to the paperwork burden to modify a permit. IDEM is soliciting comment on ways to modify permits to prohibit or regulate management of specific solid wastes at solid waste disposal facilities and solid waste processing facilities.

IDEM is also soliciting comment on solid wastes that should or should not be prohibited from disposal, or solid wastes that should be regulated in some way in this rulemaking.

With the exception of removing references to special waste and industrial waste directed by P.L.218-2001, SECTION 10, IDEM

has not selected any specific options to accomplish the purposes of this rulemaking. IDEM is soliciting comment on the full range of options from no action to prohibiting or regulating disposal of specific classes of solid waste. IDEM is soliciting comments on any reasonable ways to accomplish the purpose of this rulemaking within the boundaries of Indiana's environmental management laws.

In the 2000 legislative session, Senate Enrolled Act 372 (P.L.138-2000) was enacted to repeal the definition of special waste and the standards for special waste disposal in IC 13-20-7, to define industrial waste, and to establish new disposal standards for industrial waste at IC 13-20-7.5. SECTION 10 of P.L.138-2000 required the Solid Waste Management Board to adopt rules to reflect the elimination of references to special waste and the addition of references to industrial waste. On June 1, 2000, IDEM published LSA Document #00-110 to accomplish the requirements of that statute. P.L.218-2001 repealed both IC 13-20-7.5 and SECTION 10 of P.L.138-2000. As a result, IDEM is withdrawing LSA Document #00-110.

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#01-288(SWMB) [*Removal of Special Waste and Industrial Waste*]

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, Eleventh Floor East, Indianapolis, Indiana. Comments may be submitted by facsimile at (317) 232-3403, Monday through Friday, 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) 232-1655 or (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, hand delivered or faxed by November 1, 2001.

Additional information regarding this action may be obtained from Steve Mojonier of the Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or call (800) 451-6027 (in Indiana), press zero (0), and ask for extension 3-1655.

Mary Beth Tuohy

Assistant Commissioner

Office of Land Quality