

**Document:** IC 13-14-9 Notice, **Register Page Number:** 25 IR 3568

**Source:** July 1, 2002, Indiana Register, Volume 25, Number 10

**Disclaimer:** This document was created from the files used to produce the official (printed) Indiana Register. However, this document is unofficial.

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

### **SECOND 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 329 IAC 13**

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

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to rules for management of solid waste to remove references to special waste and industrial waste as required by section 10 of Public Law 218-2001, and to make other changes made necessary by removal of those references. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

##### **HISTORY**

First Notice of Comment Period: September 1, 2001, Indiana Register (24 IR 4265).

**CITATIONS AFFECTED:** 329 IAC 10-2-1; 329 IAC 10-2-12; 329 IAC 10-2-29.5; 329 IAC 10-2-32; 329 IAC 10-2-63; 329 IAC 10-2-72.1; 329 IAC 10-2-73; 329 IAC 10-2-85; 329 IAC 10-2-99.3; 329 IAC 10-2-105.6; 329 IAC 10-2-107.6; 329 IAC 10-2-115; 329 IAC 10-2-116; 329 IAC 10-2-117; 329 IAC 10-2-129.5; 329 IAC 10-2-130; 329 IAC 10-2-135.1; 329 IAC 10-2-135.5; 329 IAC 10-2-140; 329 IAC 10-2-174; 329 IAC 10-2-175; 329 IAC 10-2-175.7; 329 IAC 10-2-179; 329 IAC 10-2-191; 327 IAC 10-2-197.1; 329 IAC 10-2-199.1; 329 IAC 10-2-201.1; 329 IAC 10-2.5; 329 IAC 10-5-1; 329 IAC 10-7.1; 329 IAC 10-7.2; 329 IAC 10-8.1; 329 IAC 10-8.2; 329 IAC 10-9-2; 329 IAC 10-9-4; 329 IAC 10-14-2; 329 IAC 10-20-14.1; 329 IAC 10-20-29; 329 IAC 10-28-21; 329 IAC 10-28-24; 329 IAC 10-36-19; 329 IAC 11-2-19.5; 329 IAC 11-2-39; 329 IAC 11-2-44; 329 IAC 11-3-2; 329 IAC 11-6-1; 329 IAC 11-7; 329 IAC 11-8-2; 329 IAC 11-8-2.5; 329 IAC 11-8-3; 329 IAC 11-9-6; 329 IAC 11-13-4; 329 IAC 11-13-6; 329 IAC 11-15-1; 329 IAC 11-19-2; 329 IAC 11-19-3; 329 IAC 11-20-1; 329 IAC 11-21-4; 329 IAC 11-21-5; 329 IAC 11-21-6; 329 IAC 11-21-7; 329 IAC 11-21-8; 329 IAC 12-8-4; 329 IAC 13-3-1.

**AUTHORITY:** IC 13-14-9; IC 13-19-3; IC 13-20; P.L. 138-2000, SECTION 10; 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; and
- (3) 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.

As a replacement for statutory and regulatory prohibitions or restrictions on certain solid wastes, P.L. 218-2001 repealed the industrial waste statute at IC 13-20-7.5 and 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. In the first notice, we solicited 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. We also solicited 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. No substantive comments were received on those subjects. Because the statute provides enough direction, we are not proposing new regulations to prohibit or regulate specific solid wastes at solid waste disposal or processing facilities.

329 IAC 10-2.5-1 contains a number of definitions that apply to restricted waste sites, nonmunicipal solid waste landfills, and construction/demolition sites in 329 IAC 10-24 through 329 IAC 10-38. These definitions were carried over from 329 IAC 2, that was repealed in 1996, along with the requirements for those facilities. Many of those definitions repeated statutory definitions or definitions in 329 IAC 10-2, conflicted with statutory definitions, or were not used in the article. Only fourteen (14) definitions are necessary to the meaning of the rules for restricted waste sites, nonmunicipal solid waste landfills, and construction/demolition sites. We are proposing to repeal 329 IAC 10-2.5 and to place these fourteen (14) definitions in 329 IAC 10-2.

We are proposing to repeal the existing requirements for waste determination in 329 IAC 10-7.1 and replace them with streamlined provisions for generators to identify the contents and properties of their wastes. The waste identification provisions published today represent a consensus of IDEM staff opinions and are intended to stimulate serious discussion on the subject. We are requesting substantive comment on all aspects of this issue. We are especially looking for specific justification for opinions presented because that information will be essential in developing a rule that is easy to understand and comply with and that achieves the regulatory goal in the least restrictive manner. The version of these provisions that we present to the board at preliminary and final adoption will fully consider all comments received on this subject and may be substantially different from this draft.

The existing rules for solid waste at 329 IAC 10 through 329 IAC 13 reference the special waste rules in various ways. Removal of the special waste rules at 329 IAC 10-8.1 will require significant changes to other rules. We are proposing to repeal the special waste rules in their entirety, with the exception of the special management requirements in 329 IAC 10-8.1-12. We are also proposing to modify the remaining rules as necessary to remove all references to special waste and industrial waste and to comply with the Administrative Rules Drafting Manual while maintaining the safeguards in those rules.

We are proposing to retain the special management requirements from 329 IAC 10-8.1-12 in a new rule 8.2. This new rule would cover the following wastes:

- Wastes that generate fugitive dust or fugitive particulate matter.
- Wastes that are hot or capable of generating heat.
- Wastes containing regulated asbestos-containing materials.
- Wastes that contain PCBs.
- Waste pesticides and wastes contaminated with pesticides.

These management requirements are essential to the safe management of landfills and must be kept to ensure safe handling of these wastes.

The existing 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 when they are applicable. Since the alternative daily cover rules were based on the special waste rule, removal of the special waste rule will result in significant changes to the rules for alternative daily cover. We are proposing to substitute functional criteria for the terms "Category A special waste" and "Category B special waste". We are also proposing to clarify the language and rewrite several portions to comply with the Administrative Rules Drafting Manual.

Solid waste processing facilities are currently allowed to use the insignificant facility modification process under a generic permit modification issued to all solid waste processing facilities on March 27, 2002. We are proposing to add insignificant facility modification provisions for transfer stations to 329 IAC 11. We are requesting comment on insignificant facility modifications to transfer station permits, and in particular on the following issues:

- How should "insignificant facility modification" be defined? Should additional types of modifications be included?
- Which types of modifications should be subject to seven (7) day notice and which should require the thirty (30) day evaluation?
- When should a proposed insignificant facility modification be determined to be a minor modification by the commissioner?

A provision to change 329 IAC 10-14-2 to limit weighing of vehicles to vehicles that transport solid waste to the working face of the landfill was originally proposed in LSA Document #00-185, published on September 1, 2000, at

23 IR 3221. Because P.L. 218-2001 also requires changes to that section, the change was placed in this rulemaking.

In 329 IAC 10-20-8, the reference to the special waste rule (329 IAC 10-8.1) will be removed in LSA Document #00-185 because that rulemaking will make additional changes to that section.

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

IDEM requested public comment from September 1, 2001, through November 1, 2001, 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:

David A. Kelly and Jim Hall, Greater Elkhart Chamber of Commerce (GECOC)

Dan B. Magoun, Republic Services, Inc., representing the National Solid Waste Management Association (NSWMA)

Lisa Disbrow, Waste Management of Indiana, LLC (WMI)

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

*Comment:* The Notice can be interpreted as yet another attempt by the IDEM to regulate Special/Industrial Waste. The Legislature repealed the Special/Industrial Waste statute specifically because it was demonstrated that such waste is already adequately regulated. The commentor vehemently opposes any attempts to circumvent the Legislature's intent in adopting Public Law 218-2001. (GECOC) It is most difficult to respond to the issue of wastes that should be prohibited at municipal solid waste landfills without further guidance, direction, or draft language from IDEM to gain a better understanding of IDEM's purpose or goal in raising this issue. At a minimum, it would be anticipated and expected that if IDEM proposes additional list of prohibited solid waste from land disposal, that proper justification and documentation would first be presented and established. (NSWMA)

*Response:* P.L. 218-2001 specifically provided that IDEM "may modify a permit to prohibit the processing or disposal of specific solid waste at: (1) a solid waste disposal facility; or (2) a solid waste processing facility" (IC 13-19-3-8.2). Because this provision is a key part of the statute, we felt it was important to request comment on what wastes should be prohibited, if any, and how such prohibitions should be accomplished. No substantive comment was received on this part of the first notice. Because the statute provides adequate authority, IDEM is not proposing any rules to carry out this provision of the statute.

We do not regulate any waste without statutory authority, and we have not proposed to do so in this rulemaking. P.L. 218-2001 provides an effective framework for safe disposal of solid waste without unnecessary regulation. The purpose of this rulemaking is to comply with both the letter and the spirit of P.L. 218-2001.

*Comment:* Petroleum contaminated soils associated with and resulting from clean-up of facilities as identified in 329 IAC 10-2-135.1(a) should be added to the list of acceptable alternative daily cover materials in 329 IAC 10-20-14.1(c) if exempted under 40 CFR 261.4(b)(10) as a hazardous waste. Many permitted landfill sites in Indiana have already been provided with approvals for use of these materials for alternative daily cover. Sufficient information and data has been submitted to IDEM demonstrating their acceptability as an alternative daily cover. (NSWMA) The commentor recommends that 329 IAC 10-20-14.1(c) be amended to include petroleum contaminated soils that are exempted by 40 CFR 261.4(b)(10) as a hazardous waste. Petroleum contaminated soils should be allowed as alternative daily cover if they meet the performance standards as described in 329 IAC 10-20-14.1(b) and are permitted as an insignificant facility modification. Most landfills in the state have already been granted permits for utilizing petroleum contaminated soils as alternative daily cover. (WMI)

*Response:* We agree and propose to add petroleum contaminated soils to the list of materials that require an insignificant facility modification for use as alternative daily cover. However, 40 CFR 261.4(b)(10) excludes only petroleum contaminated soils that result from cleanup of releases from underground storage tanks under 40 CFR 280, Subpart F. We propose to also allow use of petroleum contaminated soils from other sources, provided they meet the performance standards and are not hazardous waste.

*Comment:* IDEM is encouraged to continue the use of the insignificant facility modification provision in 329 IAC 10-3-3(c). Permitted landfills have established excellent programs to review the acceptability of waste as a solid waste prior to disposal. These programs coupled with the submittal of quality information describing the potential materials usage as an alternative daily cover in an insignificant facility modification should allow IDEM to continue to utilize this rule provision and potentially broaden its application. (NSWMA)

*Response:* We agree and propose to continue use of this provision.

*Comment:* The need to provide an insignificant facility notification under 329 IAC 10-3-3(b) for usage of a listed alternative daily cover in 329 IAC 10-20-14.1(c) should be deleted. Since IDEM has established that the listed wastes are acceptable for alternative daily cover use it is not understood why a seven (7) calendar day notice before their initial usage is required. Giving notice to IDEM after a facility begins using a listed alternative daily cover that has not been

utilized before should be sufficient. In addition, this would allow the facility operation to proceed smoothly and efficiently and take advantage of these waste materials, as they become available. (NSWMA) The commentor recommends that 329 IAC 10-20-14.1(f)(1) be deleted. If alternative daily cover has been approved for use under 329 IAC 10-20-14.1(c) and the facility has been granted an insignificant modification, the requirements under 329 IAC 10-3-3(b) requiring notification to IDEM should be sufficient. If a waste stream has been approved as a listed alternative daily cover under 329 IAC 10-20-14.1(c) as an insignificant modification, it is not clear why the facility would have to provide a second notification to the agency seven days prior to the first initial use of the material. (WMI)

*Response:* An insignificant facility modification under 329 IAC 10-3-3(b) requires the facility to notify IDEM no later than seven (7) days after the modification occurs. This requirement applies to all materials listed in 329 IAC 10-20-14.1(c) and is intended to make sure that a description of the modification is placed in the facility record.

In addition, 329 IAC 10-20-14.1(f)(1) requires a seven (7) day advance notice for the initial use of any alternative daily cover material. We are not proposing to remove this advance notice requirement. The advance notice allows us to schedule an inspector to visit the landfill during the initial application of an alternative daily cover at that landfill. This requirement applies to the first use of a material for alternative daily cover at a landfill. The inspector will make sure that the material meets the requirements of the rule and that the material is being applied correctly. Although most landfills use these materials correctly, we have found it necessary to check the first use of some materials at some landfills to make sure they comply with 329 IAC 10-20-14.1. Most landfills will not need to be inspected prior to their first use of a material. We are proposing to change the seven (7) day advance notice requirement to five (5) working days and to allow telephone notification.

*Comment:* References in 329 IAC 10-20-14.1(a) and 329 IAC 10-20-14.1(b) to “special waste” and “category A special waste” and “category B special waste” need to be deleted from the rule. (NSWMA) The commentor suggests deleting “Category A special waste” and “Category B special waste” referenced in 329 IAC 10-20-14.1. Both of these references are based upon definitions that have been statutory repealed in HEA 1830. (WMI)

*Response:* This rule removes all references to special waste wherever they occur in the affected articles, as required by P.L. 218-2001. However, in 329 IAC 10-20-14.1, these terms provide key standards for alternative daily cover materials. In this case, we are proposing to substitute the functional criteria currently found in 329 IAC 10-8.1-4 for terms referring to special waste.

*Comment:* Reference in 329 IAC 10-20-14.1(a)(2) to the standard for PCB concentration of material that is greater than twenty-five (25) parts per million needs to be corrected to comply with IDEM’s recent interpretation that PCB contaminated soils cannot be used as an alternative daily cover (IDEM denial response to MacBeth Road Landfill Request for Insignificant Modification dated September 28, 2001). (NSWMA)

*Response:* The denial letter cited points out that the PCB rules at 329 IAC 4.1 prohibit the use of PCB remediation waste as alternative daily cover. We are proposing to amend the rules for alternative daily cover to be consistent with 329 IAC 4.1.

*Comment:* It is suggested that IDEM reconsider the proposed language for a generic permit modification and insignificant modification that was drafted in June 2001 to address specific prohibited solid waste from being managed at a transfer station. The listed waste in the draft language is appropriate for exclusion at a transfer station to protect the environment, personnel safety, and facility operations. If a facility wishes to manage a listed non-hazardous prohibited waste, then an insignificant facility modification provision such as 329 IAC 10-3-3(c) should be established. It is, however, imperative that a provision for insignificant modification be incorporated into the new rule as at present no allowances are provided by rule for facility changes except either a major or minor modification. (NSWMA)

*Response:* Solid waste processing facilities are currently allowed to use the insignificant facility modification process under a generic permit modification issued to all solid waste processing facilities on March 27, 2002. We are proposing to add insignificant facility modification provisions for transfer stations to 329 IAC 11.

IC 13-19-3-8.2, added by P.L. 218-2001, provides that IDEM “may modify a permit to prohibit the processing or disposal of specific solid waste at ... a solid waste processing facility”. Because this statute provides adequate authority and flexibility, we are not proposing additional rules to prohibit processing or disposal of specific wastes.

## **SUMMARY/RESPONSE TO COMMENTS FROM LSA DOCUMENT #00-47, READOPTION OF RULES IN TITLE 329 UNDER IC 13-14-9.5**

IDEM requested public comment from March 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 the following comments concerning issues relevant to this rulemaking from the following parties by that comment period deadline:

Patrick Bennett, Indiana Manufacturers Association (IMA)

Elizabeth L. DuSold, Eli Lilly and Company (ELC)  
Dan B. Magoun, Republic Services, Inc. (NSWMA)  
Richard J. Wigh, Regional Services Corporation (RSC)

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

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

*Response:* As required by P.L. 218-2001, 329 IAC 10-8.1 will be repealed in this rulemaking.

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

*Response:* We propose to modify the waste determination requirements found in 329 IAC 10-7.1 in this rulemaking to support the various requirements for generators found in 329 IAC 10. We are specifically requesting comment on the draft language published today.

*Comment:* 329 IAC 10-14-2(d)(4) should be deleted. Revise clause (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:* We propose to amend 329 IAC 10-14-2 to accomplish the purpose of this comment.

## 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:

#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 the IDEM fax number: (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, faxed or hand delivered by July 31, 2002.

Additional information regarding this action may be obtained from Steve Mojonnier 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.

## DRAFT RULE

SECTION 1. 329 IAC 10-2-1 IS AMENDED TO READ AS FOLLOWS:

### 329 IAC 10-2-1 Definitions

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

**Affected:** IC 13-11-2; IC 13-19-3; IC 36-9-30

Sec. 1. (a) **The definitions in IC 13-11-2 apply throughout this article.** In addition to the definitions in IC 13-11-2, the definitions in this rule apply throughout this article. ~~to municipal solid waste landfills:~~

~~(b) In addition to the definitions in IC 13-11-2, the definitions in this rule apply to the regulation of nonmunicipal solid waste landfills, construction/demolition sites, and restricted waste sites Types I, H, HH, and IV as follows:~~

~~(1) 329 IAC 10-3-3.~~

~~(2) 329 IAC 10-4.~~

~~(3) 329 IAC 10-7.1 and 329 IAC 10-8.1.~~

- (4) 329 IAC 10-9-3 and 329 IAC 10-9-5;
- (5) 329 IAC 10-10 through 329 IAC 10-23;
- (6) 329 IAC 10-39-10 and 329 IAC 10-39-11.

(Solid Waste Management Board; 329 IAC 10-2-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1763; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2045; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1702, eff one hundred eighty (180) days after filing with the secretary of state; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2745, eff Jul 10, 1998; errata filed Apr 8, 1998, 2:20 p.m.: 21 IR 2990)

SECTION 2. 329 IAC 10-2-12 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-12 “Aquifer” defined**

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1  
Affected: IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 12. (a) “Aquifer” when used in conjunction with a municipal solid waste landfill, means a consolidated or unconsolidated geologic formation or group of formations or a portion of a formation, that is hydraulically interconnected and that has the ability to receive, store, or transmit water to wells, springs, or other surface water bodies.

(b) The term, when used in conjunction with a nonmunicipal solid waste landfill, a construction/demolition site, or a restricted waste site, means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of ground water. (Solid Waste Management Board; 329 IAC 10-2-12; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1764)

SECTION 3. 329 IAC 10-2-29.5 IS ADDED TO READ AS FOLLOWS:

**329 IAC 10-2-29.5 “CESQG hazardous waste” defined**

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1  
Affected: IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 29.5. “CESQG hazardous waste” means hazardous waste that is:

- (1) generated by a conditionally exempt small quantity generator; and
- (2) regulated under 40 CFR 261.5, revised as of July 1, 2001, available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, D.C. 20402-9328.

(Solid Waste Management Board; 329 IAC 10-2-29.5)

SECTION 4. 329 IAC 10-2-32 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-32 “Commercial solid waste” defined**

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1  
Affected: IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 32. (a) “Commercial solid waste” means all types of solid waste generated by:

- (1) retail outlets;
- (2) offices;
- (3) restaurants;
- (4) warehouses; and
- (5) other nonmanufacturing activities. but excludes

(b) The term does not include:

- (1) household or residential waste;
- (2) hazardous waste;
- (3) infectious waste; and special
- (4) industrial process wastes.

(Solid Waste Management Board; 329 IAC 10-2-32; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1767)

SECTION 5. 329 IAC 10-2-63 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-63 “Dwelling” defined**

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

Affected: IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 63. (a) “Dwelling”, **when used in conjunction with a municipal solid waste landfill**, means any building that people inhabit on a regular or seasonal basis, including, but not limited to, the following:

- (1) Home-based schools.
- (2) Residences.
- (3) Public or private hospitals with twenty (20) beds or less.
- (4) Churches.

The term does not include offices, factories, public or non-public schools, or public or private hospitals with more than twenty (20) beds.

**(b) The term, when used in conjunction with a nonmunicipal solid waste landfill, a construction/demolition site, or a restricted waste site, means any building that people inhabit on a regular or seasonal basis, including the following:**

- (1) Schools.**
- (2) Hospitals.**
- (3) Residences.**
- (4) Factories.**
- (5) Offices.**

*(Solid Waste Management Board; 329 IAC 10-2-63; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1771)*

SECTION 6. 329 IAC 10-2-72.1 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-72.1 “Final closure” or “closure” defined**

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

Affected: IC 13-11-2-17; IC 13-19-3; IC 36-9-30

Sec. 72.1. (a) “Final closure”, **when used in conjunction with a municipal solid waste landfill**, means those activities required at the end of waste acceptance for the entire area of a facility, including the placement of final cover and the establishment of vegetation in accordance with approved closure plans but exclusive of monitoring and maintenance activities required under post-closure care.

**(b) The term, when used in conjunction with a nonmunicipal solid waste landfill, a construction/demolition site, or a restricted waste site, means those activities to be completed at the end of waste acceptance at a facility, including certification required by 329 IAC 10-30-7 and 329 IAC 10-37-7, as applicable, but not including those activities required after said certification.** *(Solid Waste Management Board; 329 IAC 10-2-72.1; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2746)*

SECTION 7. 329 IAC 10-2-73 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-73 “Final cover” defined**

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

Affected: IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 73. (a) “Final cover”, **when used in conjunction with a municipal solid waste landfill**, means any cover of a type and thickness approved by the commissioner to be placed on top of the waste upon the termination of filling in an area.

**(b) The term, when used in conjunction with a nonmunicipal solid waste landfill, a construction/demolition site, or a restricted waste site, means any cover of a type, thickness, elevation, and slope approved by the commissioner for the termination of filling in an area.** *(Solid Waste Management Board; 329 IAC 10-2-73; filed Mar*

14, 1996, 5:00 p.m.: 19 IR 1772)

SECTION 8. 329 IAC 10-2-85 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-85 “Ground water” defined**

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1  
Affected: IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 85. (a) “Ground water”, when used in conjunction with a municipal solid waste landfill, means such accumulations of underground water, natural and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this state, but excluding manmade underground storage or conveyance structures.

(b) The term, when used in conjunction with a nonmunicipal solid waste landfill, a construction/demolition site, or a restricted waste site, means water below the land surface in the zone of saturation. (*Solid Waste Management Board; 329 IAC 10-2-85; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1773*)

SECTION 9. 329 IAC 10-2-99.3 IS ADDED TO READ AS FOLLOWS:

**329 IAC 10-2-99.3 “Karst topography” defined**

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1  
Affected: IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 99.3. “Karst topography” means a topography formed on a carbonate rock formation and dominated by features of solutional origin. (*Solid Waste Management Board; 329 IAC 10-2-99.3*)

SECTION 10. 329 IAC 10-2-105.6 IS ADDED TO READ AS FOLLOWS:

**329 IAC 10-2-105.6 “Lift” defined**

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1  
Affected: IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 105.6. “Lift” means a layer of cells covering a designated area of a solid waste land disposal facility. (*Solid Waste Management Board; 329 IAC 10-2-105.6*)

SECTION 11. 329 IAC 10-2-107.6 IS ADDED TO READ AS FOLLOWS:

**329 IAC 10-2-107.6 “Locally useful aquifer” defined**

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1  
Affected: IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 107.6. “Locally useful aquifer” means an aquifer, which, based on productivity, quality, depth, and alternate sources available, is a source or a probable source of water for any user or potential user within one (1) mile of a particular location. (*Solid Waste Management Board; 329 IAC 10-2-107.6*)

SECTION 12. 329 IAC 10-2-115 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-115 “Municipal solid waste” or “MSW” defined**

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1  
Affected: IC 13-30-2; IC 13-19-3-3; IC 36-9-30

Sec. 115. (a) “Municipal solid waste” or “MSW” means any solid waste generated by community activities or the operation of residential or commercial establishments.

(b) The term includes the following:

(1) Household or residential waste.



**(2) Commercial solid waste.**

**(c)** The term does not include **the following:**

- (1) Construction/demolition waste.
- (2) ~~special~~ **Industrial process** waste, as defined in section 179 of this rule;
- (3) Infectious waste, as defined in section 96 of this rule;
- (4) waste that:
  - (A) results from the combustion of Coal and
  - (B) is referenced under ~~IC 13-1-12-9~~ **combustion and flue gas desulfurization wastes excluded from regulation by IC 13-19-3-3.**

**(5) Hazardous waste.**

**(6) Pollution control waste.**

*(Solid Waste Management Board; 329 IAC 10-2-115; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1777)*

SECTION 13. 329 IAC 10-2-116 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-116 “Municipal solid waste landfill” or “MSWLF” defined**

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

**Affected:** IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 116. **(a)** “Municipal solid waste landfill” or “MSWLF” means a solid waste land disposal facility that is:

- (1)** permitted to ~~receive~~ **accept** municipal solid waste; and ~~that is~~
- (2)** not:
  - (A)** a land application unit;
  - (B)** a surface impoundment;
  - (C)** an injection well; or
  - (D)** a waste pile.

**(b)** An MSWLF is a sanitary landfill for purposes of IC 13-20-21. ~~An MSWLF also may receive commercial solid waste, construction/demolition waste, small quantity generator waste, industrial solid waste, and special waste in accordance with 329 IAC 10-8-1.~~ Such a landfill may be publicly or privately owned. *(Solid Waste Management Board; 329 IAC 10-2-116; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1777; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1703, eff one hundred eighty (180) days after filing with the secretary of state; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2747, eff Jul 10, 1998; errata filed Apr 8, 1998, 2:20 p.m.: 21 IR 2990; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3767)*

SECTION 14. 329 IAC 10-2-117 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-117 “Municipal solid waste landfill unit” or “MSWLF unit” defined**

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

**Affected:** IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 117. **(a)** “Municipal solid waste landfill unit” or “MSWLF unit” means a discrete area of land or an excavation that is:

- (1)** permitted to ~~receive~~ **accept** municipal solid waste for disposal; and ~~that is~~
- (2)** not:
  - (A)** a land application unit;
  - (B)** a surface impoundment;
  - (C)** an injection well; or
  - (D)** a waste pile.

as those terms are defined in 40 CFR 257.2.

~~An MSWLF also may receive commercial solid waste, construction/demolition waste, small quantity generator waste, industrial solid waste, and special waste in accordance with 329 IAC 10-8-1.~~ **(b)** The landfill may be publicly or privately owned. An MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral expansion. *(Solid*

*Waste Management Board; 329 IAC 10-2-117; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1777; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1703, eff one hundred eighty (180) days after filing with the secretary of state; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2747, eff Jul 10, 1998; errata filed Apr 8, 1998, 2:20 p.m.: 21 IR 2990; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3767)*

SECTION 15. 329 IAC 10-2-129.5 IS ADDED TO READ AS FOLLOWS:

**329 IAC 10-2-129.5 “Operating personnel” defined**

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

Affected: IC 13-30-2; IC 13-19-3; IC 36-9-30

**Sec. 129.5. “Operating personnel” means persons necessary to properly operate a solid waste land disposal or processing facility.** *(Solid Waste Management Board; 329 IAC 10-2-129.5)*

SECTION 16. 329 IAC 10-2-130 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-130 “Operator” defined**

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-20-4-7; IC 13-20-6

Affected: IC 13-11-2-148; IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 130. (a) “Operator”, **except as provided in subsection (b)**, means the person or persons responsible for the overall operation of a solid waste land disposal facility or part of a solid waste land disposal facility.

**(b) In:**

**(1) 329 IAC 10-20-30;**

**(2) 329 IAC 10-28-22 through 329 IAC 10-28-24; and**

**(3) 329 IAC 10-36-17 through 329 IAC 10-36-19;**

**the term has the meaning as set forth in IC 13-11-2-148(c).** *(Solid Waste Management Board; 329 IAC 10-2-130; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1779; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3767)*

SECTION 17. 329 IAC 10-2-135.5 IS ADDED TO READ AS FOLLOWS:

**329 IAC 10-2-135.5 “Petroleum contaminated soil” defined**

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

Affected: IC 13-12; IC 13-19; IC 13-20-7-6; IC 36-9-30

**Sec. 135.5. “Petroleum contaminated soil” means soil that is contaminated with any of the following:**

**(1) Asphalt or asphaltic suspension.**

**(2) Aviation turbine fuel.**

**(3) Crude oil.**

**(4) Diesel fuel.**

**(5) Fuel oil.**

**(6) Gas oil.**

**(7) Gasoline.**

**(8) Heating oil.**

**(9) Hydraulic oil.**

**(10) Jet fuel.**

**(11) Kerosene.**

**(12) Lubricating oil.**

**(13) Mineral spirits.**

**(14) Motor fuel.**

**(15) Transformer oil.**

**(16) Transmission fluid.**

*(Solid Waste Management Board; 329 IAC 10-2-135.5)*

SECTION 18. 329 IAC 10-2-140 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-140 “Post-closure cost estimate” defined**

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

Affected: IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 140. (a) “Post-closure cost estimate”, when used in conjunction with a municipal solid waste landfill, means the original or most recently submitted written estimate, in current dollars, of the total cost of post-closure monitoring and maintenance of the solid waste land disposal facility during the entire post-closure care period in accordance with the post-closure plan.

(b) The term, when used in conjunction with a nonmunicipal solid waste landfill, a construction/demolition site, or a restricted waste site, means the original written estimate, in current dollars, of the total cost of post-closure monitoring and maintenance of the solid waste land disposal facility during the entire post-closure care period in accordance with the post-closure plan. (Solid Waste Management Board; 329 IAC 10-2-140; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1780; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3768)

SECTION 19. 329 IAC 10-2-174 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-174 “Solid waste” defined**

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

Affected: IC 13-11-2-17; IC 13-11-2-205; IC 13-19-3; IC 13-20-10; IC 36-9-30

Sec. 174. (a) “Solid waste” means any: **has the meaning as set forth in IC 13-11-2-205.**

- ~~(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:~~

**(b) The following are examples of other discarded material:**

- ~~(A) (1) Ash residue.~~
- ~~(B) (2) Contaminated sediments.~~
- ~~(C) (3) Commercial **solid** waste.~~
- ~~(D) (4) Construction/demolition waste.~~
- ~~(E) (5) Hazardous waste.~~
- ~~(F) (6) Household waste.~~
- ~~(G) (7) Infectious waste.~~
- ~~(H) (8) Liquid waste.~~
- ~~(I) special (9) **Pollution control** waste.~~
- ~~(J) (10) Municipal solid waste.~~
- ~~(K) (11) Regulated hazardous waste.~~
- ~~(L) (12) Residential and nonresidential waste. **and**~~
- ~~(M) Any solid, liquid, semisolid, or contained gaseous material.~~
- (13) Industrial process waste.**

(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 10-2-174; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1784; filed Mar 19, 1998, 11:07

a.m.: 21 IR 2748)

SECTION 20. 329 IAC 10-2-175 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-175 “Solid waste boundary” defined**

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

Affected: IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 175. (a) “Solid waste boundary”, when used in conjunction with a municipal solid waste landfill, means the outermost perimeter of the area within a solid waste land disposal facility that is permitted to receive accept solid waste for disposal.

(b) The term, when used in conjunction with a nonmunicipal solid waste landfill, a construction/demolition site, or a restricted waste site, means the outermost perimeter of the solid waste fill area, as it would exist at the time of closure, as projected in the facility’s closure plan. (Solid Waste Management Board; 329 IAC 10-2-175; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1785)

SECTION 21. 329 IAC 10-2-175.7 IS ADDED TO READ AS FOLLOWS:

**329 IAC 10-2-175.7 “Solid waste facility” or “facility” defined**

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

Affected: IC 13-12; IC 13-19; IC 13-20-7-6; IC 36-9-30

Sec. 175.7. “Solid waste facility” or “facility” means a solid waste land disposal facility. (Solid Waste Management Board; 329 IAC 10-2-175.7)

SECTION 22. 329 IAC 10-2-191 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-191 “Twenty-five year, twenty-four hour precipitation event” or “twenty-five year precipitation event” defined**

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

Affected: IC 13-30-2; IC 13-19-3; IC 36-9-30

Sec. 191. “Twenty-five (25) year, twenty-four (24) hour precipitation event” or “twenty-five (25) year precipitation event” means the maximum twenty-four (24) hour precipitation event with the probable recurrence interval of once in twenty-five (25) years as determined in the following:

- (1) “Rainfall Frequency Atlas of the United States for Duration from 30 Minutes to 24 Hours and Return Periods from 1 to 100 Years”, Technical Paper 40, Weather Bureau, United States Department of Commerce.
- (2) “Rainfall Frequency for Indiana”, Indiana department of natural resources, division of water, November 1994. (Solid Waste Management Board; 329 IAC 10-2-191; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1787)

SECTION 23. 329 IAC 10-2-197.1 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-2-197.1 “U.S. Environmental Protection Agency Publication SW-846” or “SW-846” defined**

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

Affected: IC 13-11-2; IC 13-19-3; IC 36-9-30

Sec. 197.1. “U.S. Environmental Protection Agency Publication SW-846” or “SW-846” means “Test Methods for Evaluating Solid Waste, Physical Chemical Methods”, U.S. Environmental Protection Agency Publication SW-846, Third Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), and III (December 1996), that is incorporated by reference at 329 IAC 10-7-1-2(a)(1); and IIIA (April 1998). SW-846 is available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, D.C. 20402-9328. (Solid Waste Management Board; 329 IAC 10-2-197.1; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1705, eff one hundred eighty (180) days after filing with the secretary of state)

SECTION 24. 329 IAC 10-5-1 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-5-1 Applicability**

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

**Affected:** IC 13-19-3; IC 13-25-4; IC 36-9-30

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

- (1) that dispose of solid waste ~~including special waste~~ on the site where the waste is generated or off-site at a solid waste land disposal facility that is owned and operated by the generator for its exclusive use; and
- (2) that are required to have a permit under this article, but did not have a permit under:
  - (A) 329 IAC 1.5, which was repealed in 1989; or
  - (B) 329 IAC 2, which was repealed in 1996.

(b) To continue on-site disposal after September 1, 1989, industries subject to this rule and operating before September 1, 1989, must have submitted all information required by **section 2 of this section rule** on or before September 1, 1989, to the commissioner. Compliance with section 2 of this rule must constitute an interim permit and must allow the facility to continue operating until such time as the commissioner issues or denies a permit under section 3 of this rule.

(c) This rule does not preclude the commissioner from taking action under IC 13-25-4 where a particular disposal practice is demonstrated to threaten human health or the environment. (*Solid Waste Management Board; 329 IAC 10-5-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1797; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2045; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2750; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3778; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

SECTION 25. 329 IAC 10-7.2 IS ADDED TO READ AS FOLLOWS:

**Rule 7.2. Generator Responsibilities for Waste Identification**

**329 IAC 10-7.2-1 Generator responsibilities**

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

**Affected:** IC 13-12; IC 13-19; IC 13-30-2-1

**Sec. 1. (a) A generator of solid waste is responsible for identifying the contents and properties of each waste generated for purposes of the following:**

- (1) Managing each waste in a way that does not violate IC 13-30-2-1 or 329 IAC 10-4-2.**
- (2) Managing each waste in accordance with the following:**
  - (A) 329 IAC 10.**
  - (B) 329 IAC 11.**
  - (C) 329 IAC 15.**
- (3) If applicable, managing and disposing of each waste in compliance with the following:**
  - (A) 329 IAC 3.1\*.**
  - (B) 329 IAC 4.1.**

**(b) A generator may use any of the following to identify the contents and properties of the waste:**

- (1) Generator knowledge as defined in 329 IAC 10-2-78.1.**
- (2) Waste testing in accordance with section 2 of this rule.**

**(c) A generator shall do all of the following:**

- (1) Maintain the records used to comply with this section to the extent necessary to support all decisions regarding that waste.**
  - (2) Make the information used to comply with this section available to the commissioner upon request.**
  - (3) Allow the commissioner to review any information, decisions, and activities regarding that waste.**
- This subsection does not require a generator to create records in addition to those necessary to comply with this section.**

\*The waste determination requirements in 40 CFR 262.11 apply to each person who generates a solid waste as described in 40 CFR 261.2. 40 CFR 261.2 and 40 CFR 262.11, revised as of July 1, 2001, are incorporated by reference at 329 IAC 3.1-6 and 329 IAC 3.1-7, respectively. 40 CFR 261.2 and 40 CFR 262.11, revised as of July 1, 2001, are available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, D.C. 20402-9328. (*Solid Waste Management Board; 329 IAC 10-7.2-1*)

**329 IAC 10-7.2-2 Waste testing**

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

Affected: IC 13-12; IC 13-19; IC 36-9-30

**Sec. 2. (a)** When testing is used to identify the contents and properties of a solid waste the generator shall do the following:

(1) Use methods from one (1) of the following:

(A) U.S. Environmental Protection Agency SW-846.

(B) Equivalent methods approved by the commissioner.

(2) Comply with the applicable quality assurance and quality control procedures in U.S. Environmental Protection Agency publication SW-846, Chapter 1, "Quality Control".

(3) Comply with the statistical sampling methodology specified in Volume II, Chapter 9, "Sampling Plan" of U.S. Environmental Protection Agency publication SW-846 to determine the upper confidence limit for each constituent concentration value.

(b) Wastes must not be combined for testing.

(c) Testing to identify the contents and properties of the solid waste may include, but not be limited to, the following:

(1) Metals not regulated by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

(2) Chlorides.

(3) Sulfides.

(4) Phenols.

(5) Other contaminants or characteristics that present a risk to human health or the environment.

(d) For testing required to determine a restricted waste site type under 329 IAC 10-9-4 use Table 1.

**Table 1. Testing Requirements for Waste to be Disposed of in a Restricted Waste Site**

Waste	Use These Extraction Methods <sup>1</sup>	Analyze for These Constituents <sup>2</sup>
Coal Ash or Flue Gas Desulfur-ization Byproducts	Method 1311 (Toxicity Characteristic Leaching Procedure)	Arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver
Foundry Waste	Neutral Leaching Method <sup>3</sup> or Method 1312 (Synthetic Precipitation Leaching Procedure)	Barium, chlorides, total cyanide, fluoride, sodium, sulfate, total sulfide, total dissolved solids
	Method 1311 (Toxicity Characteristic Leaching Procedure)	Arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver
	Neutral Leaching Method <sup>3</sup> or Method 1312 (Synthetic Precipitation Leaching Procedure)	Chlorides, copper, total cyanide, fluoride, iron, manganese, nickel, pH, phenols, sodium, sulfate, total sulfide, total dissolved solids, zinc
All Other Waste	Test methods from SW-846 specific to the waste	Constituents will be determined based on the specific waste

<sup>1</sup>Extraction methods and procedures are found in U.S. Environmental Protection Agency Publication SW-846 unless otherwise noted.

<sup>2</sup>Use appropriate analytical methods from SW-846, "Methods for Chemical Analysis of Water and Waste," EPA-600/4-79-020, revised March 1983, or use other equivalent analytical methods approved by the commissioner. EPA-600/4-79-020 is available from the National Technical Information Service, Springfield, Virginia 22161, order number PB84-128677.

<sup>3</sup>The Neutral Leaching Method is conducted as follows:

- (1) Use Method 1311, Toxicity Characteristic Leaching Procedure, described in U.S. Environmental Protection Agency publication SW-846.
- (2) Substitute deionized water for extraction fluids 1 and 2 described in Method 1311.
- (3) Analyze for pH at the end of the eighteen (18) hour extraction period.

*(Solid Waste Management Board; 329 IAC 10-7.2-2)*

SECTION 26. 329 IAC 10-8.2 IS ADDED TO READ AS FOLLOWS:

## **Rule 8.2. Management Requirements for Certain Solid Wastes**

### **329 IAC 10-8.2-1 General**

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

Affected: IC 13-11-2-155; IC 13-12; IC 13-19; IC 13-20-7-6

**Sec. 1.** This rule describes certain solid waste that must be managed using the handling or disposal requirements described in this section. *(Solid Waste Management Board; 329 IAC 10-8.2-1)*

### **329 IAC 10-8.2-2 Wastes that generate fugitive dust**

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

Affected: IC 13-11-2-155; IC 13-12; IC 13-18-1; IC 13-19; IC 13-20-7-6

**Sec. 2.** Waste that generates fugitive dusts or fugitive particulate matter must be managed in a way that does not violate any of the following:

- (1) The rules of the air pollution control board at 326 IAC 6-4 for fugitive dust.
- (2) The rules of the air pollution control board at 326 IAC 6-5 for fugitive particulate matter, including 326 IAC 6-5-4(g) for control measures for solid waste handling.

*(Solid Waste Management Board; 329 IAC 10-8.2-2)*

### **329 IAC 10-8.2-3 Waste that is hot or capable of generating heat**

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

Affected: IC 13-11-2-155; IC 13-12; IC 13-19; IC 13-20-7-6

**Sec. 3. (a)** Waste that is hot, or capable of generating heat in combination with other wastes or water, such that the heat may adversely affect:

- (1) routine solid waste disposal operations;
- (2) the structure of the MSWLF unit or non-MSWLF unit; or
- (3) human health;

must be managed in accordance with this section, as applicable.

**(b)** The waste must be cooled or allowed to cool to a temperature that will not adversely affect:

- (1) routine solid waste disposal operations;
- (2) the structure of the MSWLF unit or non-MSWLF unit; or
- (3) human health;

prior to shipment for disposal.

**(c)** The waste must be treated to prevent any exothermic reaction if such contact may adversely affect:

- (1) routine solid waste disposal operations;
- (2) the structure of the MSWLF unit or non-MSWLF unit; or
- (3) human health.

**(d)** The waste must be isolated to prevent contact with another waste or with water if such contact may adversely affect:

- (1) routine solid waste disposal operations;
- (2) the structure of the MSWLF unit or non-MSWLF unit; or

**(3) human health.**

*(Solid Waste Management Board; 329 IAC 10-8.2-3)*

**329 IAC 10-8.2-4 Regulated asbestos-containing materials**

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

Affected: IC 13-11-2-155; IC 13-12; IC 13-19; IC 13-20-7-6

**Sec. 4. (a) Regulated asbestos-containing materials, except for Category II nonfriable asbestos-containing materials regulated under subsection (b), must be managed in accordance with the rules of the air pollution control board at 326 IAC 14-10, 40 CFR 61, Subpart M, revised as of February 12, 1999, and the following:**

**(1) The generator shall provide the solid waste land disposal facility with sufficient notice in advance of the disposal such that the facility may prepare to accept the regulated asbestos-containing material.**

**(2) All regulated asbestos-containing material must be handled in accordance with the wetting, packaging, and labeling provisions of 40 CFR 61.145(c), revised as of January 16, 1991, and 40 CFR 61.150(a), revised as of January 16, 1991.**

**(3) Each load of regulated asbestos-containing material must be accompanied by a waste shipment record prepared on one (1) of the following:**

**(A) A form provided by the department.**

**(B) A form produced by the generator that includes all the information included on the form provided by the department.**

**(4) All regulated asbestos-containing material must be disposed of in accordance with the provisions of the following:**

**(A) 40 CFR 61.154, revised as of January 16, 1991.**

**(B) 326 IAC 14-10.**

**(C) The following:**

**(i) There must not be direct physical contact between regulated asbestos-containing material and heavy equipment during disposal and covering operations.**

**(ii) All regulated asbestos-containing material must be covered with soil, approved alternative material, or solid waste before compaction with heavy equipment or within twenty-four (24) hours of receipt of the waste to prevent airborne release.**

**(iii) Any regulated asbestos-containing material that is improperly packaged or in which packaging has been damaged must be placed in the working face of the MSWLF unit or non-MSWLF unit and covered immediately after placement of the waste.**

**(iv) An asbestos waste disposal manager shall be present at the MSWLF unit or non-MSWLF unit during all handling and disposal of regulated asbestos-containing material to ensure compliance with this subsection. The asbestos waste disposal manager shall be licensed in accordance with the rules of the air pollution control board at 326 IAC 18-1.**

**(v) All personnel involved in off-loading or in covering shall use appropriate personal protective equipment as necessary to prevent exposure to any airborne release of asbestos fibers during disposal operations.**

**(vi) The solid waste land disposal facility must have a written contingency plan to safely control torn and broken containers. Dedicated equipment and supplies must be maintained at the facility to properly handle spilled or improperly packaged or wetted regulated asbestos-containing material. If release of asbestos-containing waste materials occurs, the solid waste land disposal facility must take immediate corrective action directed by the asbestos waste disposal manager.**

**(b) Category II nonfriable asbestos-containing material, as defined in 40 CFR 61.141, revised as of June 19, 1995, that has not been made friable by forces reasonably expected to act on the material before disposal must be managed in accordance with the following:**

**(1) Subsection (a)(1).**

**(2) Subsection (a)(3).**

**(3) Subsection (a)(4).**

**(4) Label the containers or wrapped materials using warning labels that meet the requirements of 29 CFR 1910.1001(j)(4), revised as of January 8, 1998, and include the information in the following figure:**



**DANGER**  
**CONTAINS ASBESTOS FIBERS**  
**AVOID CREATING DUST**  
**CANCER AND LUNG DISEASE HAZARD**

(5) For asbestos-containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated.

(c) 29 CFR 1910 and 40 CFR 61 are available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, D.C. 20402-9328. (*Solid Waste Management Board; 329 IAC 10-8.2-4*)

**329 IAC 10-8.2-5 Wastes that contain PCBs**

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

Affected: IC 13-11-2-155; IC 13-12; IC 13-19; IC 13-20-7-6

**Sec. 5. Wastes that contain PCBs must be managed and disposed of in accordance with 329 IAC 4.1.** (*Solid Waste Management Board; 329 IAC 10-8.2-5*)

**329 IAC 10-8.2-6 Waste pesticides or wastes contaminated with pesticides**

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

Affected: IC 13-11-2-155; IC 13-12; IC 13-19; IC 13-20-7-6; IC 15-3-3.5-34

**Sec. 6. Waste pesticides or wastes contaminated with pesticides must be disposed of in accordance with:**

**(1) the label required by 40 CFR 156.10(a), revised as of February 23, 1998, available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, D.C. 20402-9328; and**

**(2) IC 15-3-3.5-34.**

(*Solid Waste Management Board; 329 IAC 10-8.2-6*)

SECTION 27. 329 IAC 10-9-2 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-9-2 Municipal solid waste landfill waste criteria**

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

Affected: IC 13-11-2; IC 13-19-3; IC 36-9-30

Sec. 2. A municipal solid waste landfill may accept all solid waste regulated under this article except the following:

**(1) Municipal solid waste.**

**(2) Construction/demolition waste.**

**(3) CESQG hazardous waste.**

**(4) Industrial process waste.**

**(b) A municipal solid waste landfill may not accept the following:**

**(1) Special Solid waste must be accepted at a municipal solid waste landfill only in accordance with 329 IAC 10-8-1 that is prohibited by the facility permit.**

**(2) Waste that is or that contains free liquids must not be accepted for disposal by any municipal solid waste landfill effective September 1, 1989. Free liquid shall be determined utilizing Method 9095 Paint Filter Liquids Test, as described in U.S. Environmental Protection Agency Publication SW-846. This prohibition must does not apply to those liquids allowed in 329 IAC 10-20-27.**

(*Solid Waste Management Board; 329 IAC 10-9-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1805; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1725, eff one hundred eighty (180) days after filing with the secretary of state; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

SECTION 28. 329 IAC 10-9-4 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 10-9-4 Restricted waste sites waste criteria**

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

Affected: IC 13-11-2; IC 13-19-3; IC 36-9-30

Sec. 4. (a) A restricted waste site must accept only the restricted waste types specified in the facility permit, determined according to the classification criteria in this section.

(b) Restricted wastes accepted at a restricted waste site must be limited to one (1) waste type or related waste types that are as follows:

(1) Expected to have similar chemical and physical composition.

(2) Demonstrated to be within the concentration limits for the appropriate site type for each constituent for which testing is required. The concentration limits for each constituent for each **restricted waste** site type are as follows:

(A) **Table 1 lists the maximum levels** for constituents using **Method 1311**, the toxicity characteristic leaching procedure test as defined in 329 IAC 4-7-1 described in U.S. Environmental Protection Agency Publication SW-846:

Table 1. Constituents Using the **Method 1311**, Toxicity Characteristic Leaching Procedure Test

Constituent	Concentration (milligrams per liter)			
	Type IV	Type III	Type II	Type I
Arsenic	≤*.05 ≤.05	≤.50	≤1.3	≤5.0 ≤5.0
Barium	≤1.0	≤10.	≤25.	<100.
Cadmium	≤.01	≤.10	≤.25	<1.0
Chromium	≤.05	≤.50	≤1.3	<5.0
Lead	≤.05	≤.50	≤1.3	<5.0
Mercury	≤.002	≤.02	≤.05	<.20
Selenium	≤.01	≤.10	≤.25	<1.0
Silver	≤.05	≤.50	≤1.3	<5.0

(B) **Table 2 lists the maximum levels** for constituents using the **neutral** leaching method test:

Table 2. Constituents Using the **Neutral** Leaching Method Test <sup>1</sup>

Constituent	Concentration (milligrams per liter)			
	Type IV	Type III	Type II	Type I
Barium	≤1.0	≤10.0	≤25.	*** (2)
Chlorides	≤250.	≤2,500.	≤6,300.	*** (2)
Copper	≤.25	≤2.5	≤6.3	*** (2)
Cyanide, total	≤.20	≤2.0	≤5.0	*** (2)
Fluoride	≤1.4	≤14.0	≤35.	*** (2)
Iron	≤1.5	≤15.0	*** (2)	*** (2)
Manganese	≤.05	≤.50	*** (2)	*** (2)
Nickel	≤.20	≤2.0	≤5.0	*** (2)
Phenols	≤.30	≤3.0	≤7.5	*** (2)
Sodium	≤250.	≤2,500.	≤6,300.	*** (2)
Sulfate	≤250.	≤2,500.	≤6,300.	*** (2)
Sulfide, total	≤1.0*** ≤1.0 <sup>3</sup>	≤5.0	≤13.	*** (2)
Total dissolved solids	≤500.	≤5,000.	≤12,500.	*** (2)
Zinc	≤2.5	≤25.	≤63.	*** (2)

<sup>1</sup>The Neutral Leaching Method test is conducted as follows:

- (1) Use Method 1311, Toxicity Characteristic Leaching Procedure, described in U.S. Environmental Protection Agency publication SW-846.
- (2) Substitute deionized water for extraction fluids 1 and 2 described in Method 1311.
- (3) Analyze for pH at the end of the eighteen (18) hour extraction period.

<sup>2</sup>Testing is not required.

<sup>3</sup>If detection limit problems exist, please consult the Office of Land Quality for guidance.

(C) For Table 3 lists the maximum pH:

Table 3. pH

Constituent	Acceptable Range (Standard Units)
-------------	-----------------------------------

	Type IV	Type III	Type II	Type I
pH	6.0-9.0	5.0-10.0	4.0-11.0	*** (1)

\* ≤ means less than or equal to:

\*\* < means less than:

\*\*\* 1 Testing is not required.

\*\*\*\* If detection limit problems exist, please consult the Office of Solid and Hazardous Waste for guidance.

(3) (c) The following apply to those wastes that have previously been classified using the **Method 1310**, extraction procedure toxicity test, **described in U.S. Environmental Protection Agency Publication SW-846**, under 329 IAC 2, which was repealed in 1996, and now must be classified using the **toxicity characteristic leaching procedure Method 1311** under this article:

(A) (1) The waste must be classified as under ~~329 IAC 10-7.1~~ **329 IAC 10-7.2** at the renewal of the current waste classification.

(B) (2) If the results using the **toxicity characteristic leaching procedure Method 1311** demonstrate a higher concentration of contaminants leaching from the waste than demonstrated using the **extraction procedure toxicity test Method 1310** for the previous waste classification such that the waste now requires a restricted waste site type with more environmentally protective design and operating standards, the facility accepting the waste is subject to the following:

(i) (A) For units undergoing closure, the facility must comply with the ground water monitoring and post-closure requirements of the more environmentally protective restricted waste site type.

(ii) (B) Within one (1) year from the date that the new waste classification type is determined, the owner or operator shall:

(AA) (i) submit an application to reclassify the facility to the restricted waste site type with the more environmentally protective standards; or

(BB) (ii) close the facility as required under item (i).

(iii) (C) If the facility is comprised of previously closed units that are contiguous with existing or new units, the new and existing units must comply with item (ii) and the entire facility must comply with the ground water monitoring requirements of the more environmentally protective restricted waste site type.

(c) (d) Coal combustion fly or bottom ash and flue gas desulfurization byproducts may be disposed of at a restricted waste site Type I without characterization testing, or at a restricted waste site Type II, III, or IV, if the following are completed:

(1) The waste is characterized as specified in ~~329 IAC 10-7.1~~ **329 IAC 10-7.2**.

(2) The waste is classified as specified in ~~329 IAC 10-7.1~~ **329 IAC 10-7.2** for disposal and meets the criteria under subsection (b) for a restricted waste site Type II, III, or IV.

(3) Resampling is conducted:

(A) at five (5) year intervals;

(B) whenever the characteristics of the coal changes;

(C) whenever the process generating the waste changes; or

(D) according to a schedule for resampling specified by the commissioner based on variability noted in previous sampling and other factors affecting the predictability of waste characteristics.

(d) (e) Foundry waste may be disposed of at a restricted waste site Type I, II, III, or IV if the following are completed:

(1) The waste is characterized as specified in ~~329 IAC 10-7.1~~ **329 IAC 10-7.2**.

(2) The waste is characterized as specified in ~~329 IAC 10-7.1~~ **329 IAC 10-7.2** for disposal and meets the criteria under subsection (b) for a restricted waste site Type I, II, III, or IV.

(3) Resampling is conducted:

(A) at two (2) year intervals;

(B) whenever the process changes; or

(C) according to a schedule for resampling by the commissioner based on variability noted in previous sampling and other factors affecting the predictability of waste characteristics.

(e) (f) For waste other than those in subsections (c) through (d), the generator may request that the commissioner define test constituents and concentration limits needed to ~~make a determination of~~ **determine** which restricted waste

site type ~~adequately~~ controls the expected hazards of the waste based on the chemical and physical characteristics of the waste. The commissioner may deny such a request for wastes that are heterogeneous, such as municipal garbage and trash and demolition debris, or wastes that are subject to organic decomposition, and other wastes for which test methods are inadequate to determine the hazards posed by the waste or its decomposition products.

~~(f)~~ **Notwithstanding (g) Except as provided in subsections (a) through (f), even if** sampling results that indicate that waste constituents exceed the criteria for a proposed restricted waste site type, the commissioner may approve the site if the permittee ~~adequately~~ demonstrates that:

- (1) the pH range encountered under leaching conditions likely to be encountered at the site will produce lower concentrations of waste constituents in any leachate generated;
- (2) due to precipitation, sorption, ion exchange, neutralization, reaction, or decomposition, the waste constituents will be removed from solution; or
- (3) dispersion and dilution likely to occur within the monitoring boundary, as defined in 329 IAC 10-2-113, will reduce the concentration of waste constituents in leachate as determined by the toxicity characteristic leaching procedure and leaching method tests.

~~(g)~~ **(h)** The generator shall submit a comprehensive list, comparable to material safety data sheets, of all organic additives used in the process unit operations generating the waste. If trade names are given to additives, it is the generator's responsibility to contact the manufacturer about supplying the commissioner with the chemical ingredient listing that makes up the trade name chemical and to have the manufacturer contact the commissioner with the proper information. The commissioner may require organic testing of the additive.

~~(h)~~ **(i)** Waste analyses submitted to the commissioner for review under subsections (a) through (g) must be accompanied by sufficient documentation of representative sampling and quality assurance and quality control measures to establish that the applicable procedures were conducted under adequate controls as stipulated in ~~329 IAC 10-7-1-4~~. **329 IAC 10-7.2.**

~~(i)~~ **(j)** The person seeking the restricted waste site waste classification shall include a signed statement attesting that the information provided is true and accurate that states, "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons who managed the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. I further certify that I am authorized to submit this information."

~~(j)~~ **(k)** The results of the waste classification indicating the restricted waste type determined by the commissioner must be provided in writing to the generator of the waste. A waste classification is not considered valid unless provided in writing by the commissioner. *(Solid Waste Management Board; 329 IAC 10-9-4; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1805; errata filed Apr 4, 1996, 4:00 p.m.: 19 IR 2045; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1725, eff one hundred eighty (180) days after filing with the secretary of state; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 29. 329 IAC 10-14-2 IS AMENDED TO READ AS FOLLOWS:

### **329 IAC 10-14-2 Weighing scales**

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

**Affected:** IC 13-19-3; IC 13-20-2; IC 24-6-3-5; IC 36-9-30

Sec. 2. (a) This section applies to either of the following:

- (1) Solid waste land disposal facilities receiving a permit from the department after January 1, 1994, that are required to install weighing scales.
- (2) Existing solid waste land disposal facilities required to install weighing scales under the following conditions:
  - (A) The solid waste land disposal facility is open to accept solid waste for disposal.
  - (B) Based on reporting results required by section 1(a) of this rule, the solid waste land disposal facility accepts in

any calendar year an annual average of more than fifty (50) tons of solid waste per operating day.

(b) This section does not apply to any solid waste land disposal facility that receives solid waste from a person that:

- (1) generates the solid waste; and
- (2) disposes of the solid waste at a solid waste land disposal facility that is:
  - (A) owned by that person; and
  - (B) limited to use for the disposal of solid waste generated by that person.

(c) Solid waste land disposal facilities required to install weighing scales by subsection (a) must:

- (1) install the weighing scales within twelve (12) months of determining the installation is required;
- (2) notify the department in writing of the date the weighing scales became operable after installation;
- (3) effectively maintain and operate these weighing scales in accordance with IC 24-6;
- (4) submit to inspection of the weighing scales under IC 24-6-3-5; and
- (5) weigh all vehicles bringing solid waste to the **working face of the** solid waste land disposal facility and report the total weighed quantity of solid waste in tons as required by section 1 of this rule.

(d) In the event that the weighing scales required in subsection (a) break down or are operating improperly:

- (1) the solid waste land disposal facility owner, operator, or permittee may use the waste quantification methods in subsection (e) for the duration of the scale breakdown;
- (2) the solid waste land disposal facility owner, operator, or permittee shall submit a written notification of the breakdown with each quarterly tonnage report required under section 1 of this rule for each affected quarter;
- (3) the solid waste land disposal facility owner, operator, or permittee shall submit with the notification required by subdivision (2), the time frames for actions to be taken to repair the breakdown or inoperable weighing scales; and
- (4) the solid waste land disposal facility owner, operator, or permittee shall notify the department in writing that the weighing scales are operable after any repair.

(e) A solid waste land disposal facility required to report under section 1(a) of this rule but not required to install and operate weighing scales or a solid waste land disposal facility at which the scales are operating improperly or are temporarily inoperable shall use the most applicable of the following conversion factors to determine the weight of municipal solid waste from the volume of municipal solid waste:

- (1) Three and three-tenths (3.3) cubic yards of compacted solid waste equals one (1) ton of solid waste.
- (2) Six (6) cubic yards of uncompacted solid waste equals one (1) ton of solid waste.
- (3) One (1) cubic yard of baled solid waste equals one (1) ton of solid waste.

(f) Any solid waste land disposal facility accepting construction/demolition waste or **special pollution control** waste, required to report under section 1(a) of this rule that is not required by subsection (a) to install weighing scales to weigh solid waste, shall use accepted engineering practices, production information, or other methods approved by the department to estimate the weight of ~~these solid construction/demolition waste types and pollution control waste~~ received at the solid waste land disposal facility.

(g) Failure to install and operate weighing scales and to notify the department as required by this section constitutes an operational violation under 329 IAC 10-1-2. (*Solid Waste Management Board; 329 IAC 10-14-2; filed Mar 14, 1996, 5:00 p.m.; 19 IR 1817; filed Aug 2, 1999, 11:50 a.m.; 22 IR 3796*)

SECTION 30. 329 IAC 10-20-14.1 IS AMENDED TO READ AS FOLLOWS:

### **329 IAC 10-20-14.1 Alternative daily cover**

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

**Affected:** IC 13-11-2-215.1; IC 13-19-3; IC 13-20; IC 36-9-30

Sec. 14.1. (a) ~~An~~ **The** owner, operator, or permittee of an MSWLF unit **that is constructed** with a leachate collection system and composite liner **in accordance with 329 IAC 10-17** may apply **an a material as** alternative daily cover ~~(ADC) material~~ **under only in accordance with:**

- (1) this section; and**

**(2) any requirements in the facility permit.**

**(b) The following materials must not be applied as ~~ADC~~ alternative daily cover:**

**(1) Category A special waste: A solid waste that contains a toxicity characteristic contaminant listed in 40 CFR 261.24, Table 1, at a level equal to or greater than seventy-five percent (75%) of the regulatory level for that contaminant, determined in accordance with 329 IAC 3.1.**

**(2) Material that contains polychlorinated biphenyl (PCB) concentrations greater than twenty-five (25) parts per million; however, this material cannot be PCB containing as defined by 329 IAC 4-1-1(b).**

**(3) Material excluded from special waste requirements that is greater than or equal to seventy-five percent (75%) of the hazardous waste limit under the:**

**(A) toxicity characteristic leaching procedure (TCLP) test; or**

**(B) extraction procedure toxicity (EP Tox) test;**

**as applicable:**

**(2) Putrescible waste.**

**(3) Medical waste.**

**(4) Baghouse dust.**

**(5) Biosolid that does not meet Class A criteria described in the rules of the water pollution control board at 327 IAC 6.1-4-13(c).**

**~~(b) The~~ (c) Unless permitted otherwise under subsection (f), all material used as alternative daily cover must meet the following ~~are ADC~~ performance standards:**

**(1) The material must meet the disposal all requirements for MSWLFs under of this article for disposal in a municipal solid waste landfill.**

**(2) Category B special waste must meet the verification process for disposal under 329 IAC 10-8-1.**

**~~(3) (2) Use of the material must control:~~ not result in:**

**(A) blowing litter; and**

**(B) disease vectors.**

**(3) The material must not be transported outside the solid waste boundary by wind or water.**

**(4) The material must not contribute to:**

**(A) fire;**

**(B) odor; or**

**(C) scavenging.**

**(5) The material must not:**

**(A) be composed of particle sizes that contribute to fugitive dust more than twenty percent (20%) particles smaller than six hundred (600) microns; or**

**(B) have a bulk density less than one (1) gram per cubic centimeter.**

**(6) The material must not be soluble in water.**

**(7) A dry material must not exhibit a pH of:**

**(A) less than or equal to five (5); or**

**(B) greater than or equal to ten (10);**

**when tested in accordance with Method 9045C, "Soil and Waste pH," described in U.S. Environmental Protection Agency Publication SW-846.**

**~~(6) The material must not pose an exposure threat to workers~~**

**(8) When applied as alternative daily cover in accordance with this section, the material must not present a threat to human health or the environment as follows:**

**(A) The material must not exceed an exposure limit listed in any of the following:**

**(i) 29 CFR 1910, Subpart Z, revised as of July 1, 2001.**

**(ii) 29 CFR 1926.55, revised as of July 1, 2001.**

**(iii) 29 CFR 1926.62, revised as of July 1, 2001.**

**29 CFR 1910 and 29 CFR 1926 are available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, D.C. 20402-9328.**

**(B) The material must not be ignitable under conditions that exist at the working face of the landfill.**

**~~(7) The maximum dimension of the material, with the exception of geotextile or plastic (tarp), must be fourteen (14) inches or less.~~**

**(9) Waste must not be visible after application of the material as alternative daily cover.**

**(10) Material containing PCB must be managed in accordance with 329 IAC 4.1.**

~~(e) If the ADC is one (1) of the following and meets the performance standards under subsection (b);~~ **(d) The owner, operator, or permittee of the municipal solid waste landfill shall apply for an insignificant facility modification under in accordance with 329 IAC 10-3-3(b) to apply any of the ADC: following materials as alternative daily cover:**

(1) Altered tires.

(2) Wood chips.

(3) Compost.

(4) ~~Category B Foundry sand. or foundry sand that is excluded from special waste under IC 13-11-2-215.1(b)(8).~~

(5) Geotextile.

(6) Plastic ~~(tarp):~~ **tarpaulin.**

(7) ~~Excluded Material under~~ **excluded from regulation by 329 IAC 10-3-1(1).**

(8) Dewatered publicly owned treatment works ~~(POTW)~~ sludge.

(9) Dewatered paper sludge.

**(10) Petroleum contaminated soil.**

**(11) Soil contaminated with vegetable oil.**

**(12) PCB bulk product waste described in 40 CFR 761.62(b), revised as of June 24, 1999. 40 CFR 761 is available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, D.C. 20402-9328.**

~~(d) If (e) The owner, operator, or permittee intends to apply:~~ **of the municipal solid waste landfill shall apply for an insignificant facility modification in accordance with 329 IAC 10-3-3(c) to apply a material that:**

~~(1) an ADC that:~~

~~(A) (1) is not listed under in subsection (e);~~ **(d); and**

~~(B) (2) meets the performance standards under in subsection (b); or (c) when delivered to the working face of the landfill.~~

~~(2) Shredder fluff as an ADC;~~

~~the owner, operator, or permittee shall apply for an insignificant facility modification under 329 IAC 10-3-3(c).~~

~~(e) If (f) The owner, operator, or permittee intends to~~ **of the municipal solid waste landfill shall apply an ADC that does not meet the requirements of subsection (d) and for a minor modification in accordance with 329 IAC 10-11-6 to apply a material as alternative daily cover that:**

(1) is not listed ~~under in~~ subsection ~~(e);~~ **(d); and**

(2) does not meet the performance standards ~~under in~~ subsection ~~(b);~~ **the owner, operator, or permittee shall apply for a minor modification under 329 IAC 10-11-6: (c) when delivered to the working face of the landfill but can be made to meet the performance standards using additional management practices at the landfill.**

**The application for a minor modification must describe the management practices that will be used to make the material meet the performance standards in subsection (c).**

~~(f) An~~ **(g) The owner, operator, or permittee of a municipal solid waste cell or unit that applies ADC alternative daily cover shall comply with all of the following requirements:**

(1) Prior to the initial use of any ~~one (1) ADC under this section;~~ **material as alternative daily cover,** the owner, operator, or permittee shall notify the ~~commissioner seven (7) Agriculture and Solid Waste Compliance Section,~~ **Office of Land Quality, at least five (5) working days prior to before the initial use of the any material as alternative daily cover.**

(2) ~~The ADC~~ **Alternative daily cover must only be used applied on:**

**(A)** areas that will have additional solid waste deposited within the next seven (7) working days; or

**(B)** as approved by the commissioner.

~~Areas that have ADC~~ **(3) Alternative daily cover that is exposed for longer than seven (7) working days must be covered with soil: under**

**(A) as required by** section 13(a) of this rule; or

**(B) as approved by the commissioner.**

~~(3) The ADC~~ **(4) Alternative daily cover must be placed on the working face by the end of each day of operation.**

ADC with the exception of

**(5) Alternative daily cover, except** geotextile or plastic (~~tarp~~); **tarpaulin**, must be applied:

(A) at a minimum thickness of six (6) inches; or

(B) as approved by the commissioner.

**(6) Any solid waste that is not covered by ADC alternative daily cover must be covered under in accordance with section 13(a) of this rule.**

~~(4) The ADC, with the exception of~~ **(7) Alternative daily cover, except** geotextile or plastic (~~tarp~~); **tarpaulin**, must:

(A) not be reapplied as daily cover; or

(B) be applied as approved by the commissioner.

~~(5)~~ **(8) The owner, operator, or permittee shall retain the following information in the operating record for a period of one (1) year:**

(A) The ~~ADC~~ **source of the alternative daily cover material.**

**(B) Documentation used to determine compliance with subsection (b)(1).**

~~(B)~~ **(C) Documentation that the ADC alternative daily cover material** complies with the performance standards under subsection ~~(b)~~; **(c)**, if applicable.

~~(6) The ADC~~ **(9) Material used as alternative daily cover must be stockpiled under applicable federal, state, and local regulations. in accordance with:**

**(A) the provisions of this article regarding storm water pollution prevention; and**

**(B) section 15 of this rule.**

~~(7) An alternative~~ **(10) A supply of acceptable daily cover under material that meets the requirements of section 13 of this rule must be readily available if the ADC material used as alternative daily cover does not meet the requirements of this section.**

~~(g)~~ **(h) The commissioner may**

~~(1)~~ **modify the procedures under subsection (f) for using;** or

~~(2)~~ **prohibit the use of;**

**revoke an approval under subsections (d) through (f) for application of any material that does not meet the requirements of this section.** (*Solid Waste Management Board; 329 IAC 10-20-14.1; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3829; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

SECTION 31. 329 IAC 10-28-24 IS AMENDED TO READ AS FOLLOWS:

### **329 IAC 10-28-24 Definitions**

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

**Affected:** IC 13-11-2-148; IC 13-11-2-254; IC 13-19-3-3; IC 13-22; IC 13-30-2; IC 16-41-16-4; IC 36-1-2-23; IC 36-9-30

Sec. 24. As used in sections 22 and 23 of this rule, the following definitions apply:

(1) "Manifest" means the form used for identifying the quantity, origin, operators involved in a shipment, and the destination of municipal ~~solid~~ waste during its transportation.

(2) "Municipal waste", ~~refers to as defined in IC 13-11-2-133,~~ **means** any garbage, refuse, industrial lunchroom or office waste, and other **similar** material resulting from the operation of residential, municipal, commercial, or institutional establishments, and ~~from~~ community activities. The term does not include the following:

~~(A) Special waste as defined in 329 IAC 10-2-179.~~

~~(B) (A) Hazardous waste regulated under: IC 13-22~~

**(i) IC 13-22-1 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14; or under**

**(ii) the federal 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, 42 U.S.C. 6901 et seq., as in effect on January 1, 1990.**

~~(C) (B) Infectious waste as defined in 329 IAC 10-2-96 IC 16-41-16-4.~~

~~(D) Waste (C) Wastes that results result from the combustion of coal and is are referred to in IC 13-19-3-3.~~

~~(E) (D) Materials that are being transported to a facility for reprocessing or reuse.~~

**(E) As used in this subdivision, "reprocessing or reuse" does not include either of the following:**

**(i) Incineration. or**

**(ii) Placement in a landfill.**



(3) "Operator", ~~refers to as defined in IC 13-11-2-148(c)~~, means a corporation, a **limited liability company**, a partnership, a business association, a unit, ~~(as defined in IC 36-1-2-23)~~; or an individual who is a sole proprietor that is one (1) of the following:

(A) A broker.

(B) A person who manages the activities of a transfer station that receives municipal waste.

(C) A transporter.

(4) "Waste transfer activities", ~~refers to as defined in IC 13-11-2-254~~, means the participation by a:

(A) broker or transporter who is:

(i) a resident of Indiana; or

(ii) not a resident of Indiana; or

(B) transfer station that receives municipal waste located:

(i) inside Indiana; or

(ii) outside Indiana;

in the collection or transportation of municipal waste for disposal or incineration in Indiana. (*Solid Waste Management Board; 329 IAC 10-28-24; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1899; errata filed Dec 6, 1999, 9:41 a.m.: 23 IR 813; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

SECTION 32. 329 IAC 10-36-19 IS AMENDED TO READ AS FOLLOWS:

### 329 IAC 10-36-19 Definitions

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

Affected: IC 13-11-2; IC 13-19-3-3; IC 13-22; IC 13-30-2; IC 36-1-2-23; IC 36-9-30

Sec. 19. As used in sections 17 and 18 of this rule, the following definitions apply:

(1) "Manifest" means the form used for identifying the quantity, origin, and operators involved in a shipment, and the destination of municipal solid waste during its transportation.

(2) "Municipal waste", ~~refers to as defined in IC 13-11-2-133~~, means any garbage, refuse, industrial lunchroom or office waste, and other material resulting from the operation of residential, municipal, commercial, or institutional establishments, and ~~from~~ community activities. The term does not include the following:

~~(A) Special waste, as defined in 329 IAC 10-2-179.~~

~~(B) (A) Hazardous waste regulated under: IC 13-22~~

~~(i) IC 13-22-1 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14; or under~~

~~(ii) the federal 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, 42 U.S.C. 6901 et seq., in effect on January 1, 1990.~~

~~(C) (B) Infectious waste as defined in 329 IAC 10-2-96. IC 16-41-16-4.~~

~~(D) Waste (C) Wastes that results result from the combustion of coal and that is are referred to in IC 13-19-3-3.~~

~~(E) (D) Materials that are being transported to a facility for reprocessing or reuse.~~

(E) As used in this subdivision, "reprocessing or reuse" does not include **either of the following**:

(i) Incineration. ~~or~~

(ii) Placement in a landfill.

(3) "Operator", ~~refers to as defined in IC 13-11-2-148(c)~~, means a corporation, a **limited liability company**, a partnership, a business association, a unit, ~~(as defined in IC 36-1-2-23)~~; or an individual who is a sole proprietor that is one (1) of the following:

(A) A broker.

(B) A person who manages the activities of a transfer station that receives municipal waste.

(C) A transporter.

(4) "Waste transfer activities", ~~refers to as defined in IC 13-11-2-254~~, means the participation by a:

(A) broker or transporter who is:

(i) a resident of Indiana; or

(ii) not a resident of Indiana; or

(B) transfer station **that receives municipal waste** located:

(i) inside Indiana; or

(ii) outside Indiana;

that receives municipal waste for in the collection or transportation of municipal waste for disposal or incineration in Indiana. (Solid Waste Management Board; 329 IAC 10-36-19; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1915; errata filed Dec 6, 1999, 9:41 a.m.: 23 IR 813; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 33. 329 IAC 11-2-19.5 IS ADDED TO READ AS FOLLOWS:

**329 IAC 11-2-19.5 “Insignificant facility modification” defined**

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

Affected: IC 13-19-3; IC 13-30-2; IC 36-9-30

**Sec. 19.5. (a) “Insignificant facility modification”, as used in 329 IAC 11-9-6(b), means any of the following:**

- (1) Add recycling activities and associated storage areas.**
- (2) Add or modify outside storage of:**
  - (A) white goods; or**
  - (B) other scrap metal.**
- (3) Modify facility traffic patterns.**
- (4) Modify the size of a compactor.**
- (5) Add or modify tipping floor entrance doors.**
- (6) Add or modify the collection of household hazardous waste.**
- (7) Add or modify a collection container.**

**(b) The term, as used in 329 IAC 11-9-6(c), means any of the following:**

- (1) Accept more than two hundred twenty (220) pounds of uncontainerized pollution control wastes in a shipment.**
- (2) Modify the waste water handling or disposition procedures.**
- (3) Modify the drainage around the facility, except for normal maintenance.**
- (4) Modify the latest approved facility layout.**
- (5) Any modification to the permitted facility that the commissioner determines will improve the operation of the facility without altering the approved solid waste processing facility permit.**

(Solid Waste Management Board; 329 IAC 11-2-19.5)

SECTION 34. 329 IAC 11-2-39 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 11-2-39 “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 13-11-2-205; IC 13-19-3; IC 13-30-2; IC 36-9-30

**Sec. 39. (a) “Solid waste” means any: has the meaning as set forth at IC 13-11-2-205.**

- ~~(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) (b) The following are examples of other discarded material: including~~

- ~~(1) Ash residue.~~
- ~~(2) Commercial solid waste defined in 329 IAC 10-2-32.~~
- ~~(3) Construction/demolition waste defined in 329 IAC 10-2-37.~~
- ~~(4) Hazardous waste.~~
- ~~(5) Household waste or residential waste defined in 329 IAC 10-2-90.~~
- ~~(6) Infectious waste.~~
- ~~(7) Liquid waste special defined in 329 IAC 10-2-106.~~
- ~~(8) Pollution control waste.~~
- ~~(9) Municipal solid waste defined in 329 IAC 10-2-115.~~
- ~~(10) Regulated hazardous waste residential and nonresidential waste; and any solid, liquid, semisolid, or contained~~

~~gaseous material: defined in 329 IAC 10-2-153.~~

**(11) Industrial process waste.**

~~(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 11-2-39; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1931; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; errata filed May 8, 2002, 2:01 p.m.: 25 IR 2741)*

SECTION 35. 329 IAC 11-3-2 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 11-3-2 Exclusion; hazardous waste**

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

**Affected:** IC 13-19-3; IC 13-30-2; IC 36-9-30

Sec. 2. (a) Hazardous wastes are regulated by and shall be treated, stored, and disposed of in accordance with 329 IAC 3.1. Hazardous waste that is regulated by 329 IAC 3.1 is not subject to the provisions of this article.

(b) No hazardous waste which is regulated by 329 IAC 3.1 shall be disposed of at any solid waste facility regulated under this article.

(c) As used in this article, "hazardous waste that is regulated by 329 IAC 3.1" does not include **CESQG hazardous waste that is generated in quantities less than one hundred (100) kilograms per month and is, therefore, excluded from regulation under the hazardous waste management article, 329 IAC 3.1. Such small quantities of as defined in 329 IAC 10-2-29.5. CESQG hazardous waste shall must be disposed of in accordance with 329 IAC 10 and 40 CFR 261.5, revised as of July 1, 2001. 40 CFR 261.5 is available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, D.C. 20402-9328.**

(d) Facilities permitted under 329 IAC 3.1 are not required to obtain permits under this article for the storage, treatment, or disposal of nonhazardous solid waste where such solid waste is treated or disposed of as a hazardous waste at the receiving hazardous waste facility. *(Solid Waste Management Board; 329 IAC 11-3-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1934; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 36. 329 IAC 11-8-2 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 11-8-2 Processing facilities waste criteria**

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

**Affected:** IC 13-11-2; IC 13-19-3; IC 36-9-30

Sec. 2. Solid waste processing facilities may accept all solid waste regulated under this article, ~~Special waste may be accepted at solid waste processing facilities in accordance with 329 IAC 11-7 and 329 IAC 10-8.1: except the following:~~

**(1) Hazardous waste that is regulated by 329 IAC 3.1.**

**(2) Solid waste that is prohibited by the facility permit.**

*(Solid Waste Management Board; 329 IAC 11-8-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1936; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1730, eff one hundred eighty (180) days after filing with the secretary of state; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 37. 329 IAC 11-8-2.5 IS ADDED TO READ AS FOLLOWS:

### **329 IAC 11-8-2.5 Transfer station waste criteria**

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

Affected: IC 13-11-2; IC 13-19-3; IC 36-9-30

**Sec. 2.5. Transfer stations may accept the following solid waste:**

- (1) Municipal solid waste.**
- (2) Commercial solid waste.**
- (3) Construction/demolition waste.**
- (4) CESQG hazardous waste.**
- (5) Pollution control waste in accordance with the facility permit.**
- (6) Industrial process waste in accordance with the facility permit.**

*(Solid Waste Management Board; 329 IAC 11-8-2.5)*

SECTION 38. 329 IAC 11-8-3 IS AMENDED TO READ AS FOLLOWS:

### **329 IAC 11-8-3 Incinerators waste criteria**

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

Affected: IC 13-11-2; IC 13-19-3; IC 36-9-30

**Sec. 3. Incinerators may accept all solid waste regulated under this article, except special waste must be accepted at an incinerator in accordance with 329 IAC 11-7 and 329 IAC 10-8.1 the following:**

- (1) Hazardous waste that is regulated by 329 IAC 3.1.**
- (2) Solid waste that is prohibited by the facility permit.**

*(Solid Waste Management Board; 329 IAC 11-8-3; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1936; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1730, eff one hundred eighty (180) days after filing with the secretary of state; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 39. 329 IAC 11-9-6 IS ADDED TO READ AS FOLLOWS:

### **329 IAC 11-9-6 Insignificant facility modifications**

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

Affected: IC 13-14; IC 13-19-3; IC 13-30; IC 36-9-30

**Sec. 6. (a) The permittee of a solid waste processing facility may make or propose an insignificant facility modification in accordance with this section.**

**(b) If a permittee of a solid waste processing facility makes an insignificant facility modification described in 329 IAC 11-2-19.5(a), the permittee shall provide notice to the commissioner no later than seven (7) calendar days after the modification has been made. The notice must include a detailed description of the modification and the date the modification was completed or is expected to be completed.**

**(c) If the permittee of a solid waste processing facility proposes to make an insignificant facility modification described in 329 IAC 11-2-19.5(b), the permittee shall submit documentation of the proposed insignificant facility modification to the commissioner. The documentation must include a detailed description of the proposed modification.**

**(d) If the commissioner determines that the modification proposed under subsection (c) is a major or minor modification, the commissioner will notify the permittee in writing within thirty (30) days after receipt of the proposed modification that the permittee must submit an application for a minor or major modification to the current permit if the permittee plans to proceed with the proposed modification.**

**(e) If the permittee of the solid waste processing facility does not receive notification from the commissioner within thirty (30) days after submission of the proposed modification under subsection (c) to the commissioner, the permittee may initiate the insignificant facility modification in accordance with documentation provided to the commissioner.**

- (f) A permit modification is not required to modify the facility as necessary to:**  
**(1) correct operational violations of this article; or**  
**(2) protect human health or the environment.**

*(Solid Waste Management Board; 329 IAC 11-9-6)*

SECTION 40. 329 IAC 11-13-4 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 11-13-4 Sanitation**

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

**Affected:** IC 13-11-2; IC 13-19-3; IC 36-9-30

Sec. 4. (a) Solid waste must be confined to the designated storage, processing, loading, and unloading areas of the processing facility. The processing facility and adjacent areas must be maintained clean and litter free.

(b) Solid waste may not be stored overnight at the processing facility except in permitted storage areas or in enclosed transporting units.

(c) The solid waste processing facility must be cleaned as necessary to prevent a nuisance or public health hazard.

(d) Residues from solid waste processing facilities and incinerators ~~are special wastes and~~ must be disposed of in accordance with ~~329 IAC 10-8-1~~; **329 IAC 10**.

(e) Salvaging, if undertaken, must not interfere with the facility operation or create unsightliness, nuisance, or health hazard.

(f) At a minimum, all salvage materials must be stored in buildings or transportable containers while awaiting removal from the facility. No alternative methods of storing salvage materials may be used without obtaining prior approval from the commissioner. Approval may be granted at the request of the permittee, if the permittee can demonstrate that the alternative method will provide a comparable level of environmental protection. *(Solid Waste Management Board; 329 IAC 11-13-4; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1942; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1730, eff one hundred eighty (180) days after filing with the secretary of state; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 41. 329 IAC 11-13-6 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 11-13-6 Records and reports**

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

**Affected:** IC 13-11-2; IC 13-19-3; IC 36-9-30

Sec. 6. (a) The following must be furnished upon request and made available during normal operating hours for inspection by any officer, employee, or representative of the commissioner:

(1) All solid waste processing facility records and reports required by this section, 329 IAC 11-14, and 329 IAC 11-15.

(2) All test results of residues generated by the facility.

~~(3) All special waste certifications and disposal notifications required by 329 IAC 11-7 and 329 IAC 10-8-1 if applicable.~~

(b) Owners or operators of solid waste processing facilities shall maintain the records and reports required in subsection (a)(2) ~~and (a)(3)~~ until certification of post-closure is deemed acceptable if applicable. *(Solid Waste Management Board; 329 IAC 11-13-6; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1942; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1730, eff one hundred eighty (180) days after filing with the secretary of state; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 42. 329 IAC 11-15-1 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 11-15-1 Definitions**

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

Affected: IC 13-11-2; IC 13-19-3-3; IC 13-22; IC 13-30-2; IC 36-1-2-23; IC 36-9-30

Sec. 1. (a) In addition to the definitions found in 329 IAC 11-2 and IC 13-11-2, the definitions in this section apply throughout this rule.

(b) “Broker”, **as defined in IC 13-11-2-19**, means a person who is in the business of making arrangements for the transportation of municipal waste that was generated by another person. ~~The term does not include an owner or operator of a solid waste processing facility who makes arrangements for transportation of municipal waste from their own facility.~~

(c) “Manifest” means the form used for identifying the quantity, origin, operators involved in a shipment, and destination of municipal solid waste during its transportation.

(d) “Municipal waste”, ~~refers to~~ **as defined in IC 13-11-2-133**, means any garbage, refuse, industrial lunchroom or office waste, and other **similar** material resulting from the operation of residential, municipal, commercial, or institutional establishments, and from community activities. The term does not include the following:

~~(1) Special waste as defined in 329 IAC 11-2-44.~~

~~(2) (1) Hazardous waste regulated under: IC 13-22~~

~~(A) IC 13-22-1 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14; or under~~

~~(B) the federal 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; 42 U.S.C. 6901 et seq. in effect on January 1, 1990.~~

~~(3) (2) Infectious waste as defined in 329 IAC 11-2-18. IC 16-41-16-4.~~

~~(4) (3) Wastes that result from the combustion of coal and that are referred to in IC 13-19-3-3.~~

~~(5) (4) Materials that are being transported to a facility for reprocessing or reuse. As used in this subdivision, “reprocessing or reuse” does not include either of the following:~~

~~(A) Incineration. or~~

~~(B) Placement in a landfill.~~

(e) “Operator”, **as defined in IC 13-11-2-148(c)**, means a corporation, **a limited liability company**, a partnership, a business association, a unit, ~~(as defined in IC 36-1-2-23)~~, or an individual who is a sole proprietor that is one (1) of the following:

(1) A broker.

(2) A person who manages the activities of a transfer station that receives municipal waste.

(3) A transporter.

(f) “Solid waste processing facility”, **as defined in IC 13-11-2-212**, means a facility at which at least one (1) of the following is located:

(1) ~~A~~ solid waste incinerator.

(2) ~~A~~ transfer station.

(3) ~~A~~ solid waste ~~shredder~~: **baler**.

(4) ~~A~~ solid waste ~~baler~~: **shredder**.

(5) ~~A~~ resource recovery system.

(6) ~~A~~ composting facility.

(7) ~~A~~ garbage grinding system.

The term does not include a facility or an operation that generates solid waste.

(g) “Transporter”, **as defined in IC 13-11-2-238**, means a person who is in the business of transporting municipal ~~solid~~ waste.

(h) “Waste transfer activities”, **as defined in IC 13-11-2-254**, means the participation by a:

(1) broker or a transporter who is:

(A) a resident of Indiana; or

- (B) not a resident of Indiana; or
- (2) transfer station that receives municipal waste located:
  - (A) inside Indiana; or
  - (B) outside Indiana;

in the collection or transportation of municipal waste for disposal or incineration in Indiana. (*Solid Waste Management Board; 329 IAC 11-15-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1944; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; errata filed May 8, 2002, 2:01 p.m.: 25 IR 2741*)

SECTION 43. 329 IAC 11-19-2 IS AMENDED TO READ AS FOLLOWS:

### **329 IAC 11-19-2 Permit by rule**

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

**Affected:** IC 13-11-2; IC 13-19-3; IC 36-9-30

Sec. 2. (a) All solid waste incinerators with a design capacity less than ten (10) tons per day, and infectious waste incinerators with a design capacity of less than seven (7) tons per day, will be deemed to have a permit under this article provided they comply with the following:

- (1) File a notification as a solid waste incinerator facility as required by section 1 of this rule.
- (2) Comply with 329 IAC 11-13-4 and 329 IAC 11-13-5.
- (3) Infectious waste incinerators with a design capacity of less than seven (7) tons per day must also comply with the requirements of 329 IAC 11-20-1.
- (4) Operate in compliance with all applicable air pollution control standards and regulations and all conditions set forth in the permit.
- (5) Notify the office of solid and hazardous waste management and all appropriate local government officials within twenty-four (24) hours after the permittee learns of the release, violation, shutdown, or damage of the following:
  - (A) Any release of a contaminant in a quantity in excess of that allowed by permit conditions and appropriate regulations.
  - (B) Any violation of operating requirements established in the permit.
  - (C) Any unscheduled shutdown of the incinerator or associated equipment.
  - (D) Any damage to the incinerator or associated equipment that could, if not repaired, result in a release of a contaminant in a quantity exceeding a control level established in the permit or applicable regulations.
- (6) The incinerator must dispose of residues in accordance with ~~329 IAC 11-7 and 329 IAC 10-8.1~~ at a solid waste facility with a valid permit under 329 IAC 10.

(b) All solid waste incinerators with a design capacity greater than or equal to ten (10) tons per day, and less than or equal to thirty (30) tons per day, and infectious waste incinerators with a design capacity of greater than or equal to seven (7) tons per day, and less than or equal to thirty (30) tons per day, will be deemed to have a permit under this article provided they comply with the following:

- (1) File a notification as a solid waste incinerator facility as required by section 1 of this rule.
- (2) Submit an application for a solid waste processing facility permit, complying with 329 IAC 11-9, 329 IAC 11-16, and 329 IAC 11-17 within ninety (90) days of the notification required by section 1 of this rule.
- (3) Solid waste incinerators must comply with the requirements of ~~329 IAC 11-7~~ and 329 IAC 11-13 through 329 IAC 11-15.
- (4) Infectious waste incinerators that burn infectious waste must comply with the requirements of ~~329 IAC 11-7~~, 329 IAC 11-13 through 329 IAC 11-15 and 329 IAC 11-20.
- (5) The incinerator must operate in compliance with all applicable air pollution control standards and regulations and all conditions set forth in the permit.
- (6) The permit holder shall notify the office of solid and hazardous waste management and all appropriate local government officials within twenty-four (24) hours after the permittee learns of the release, violation, shutdown, or damage of the following:
  - (A) Any release of a contaminant in a quantity in excess of that allowed by permit conditions and appropriate regulations.
  - (B) Any violation of operating requirements established in the permit.
  - (C) Any unscheduled shutdown of the incinerator or associated equipment.

(D) Any damage to the incinerator or associated equipment that could, if unrepaired, result in a release of a contaminant in a quantity exceeding a control level established in the permit or applicable regulations.

(c) Permits granted under subsection (b) must remain in effect until such time as the commissioner takes action on the application submitted in compliance with 329 IAC 11-9, 329 IAC 11-16, and 329 IAC 11-17. (*Solid Waste Management Board; 329 IAC 11-19-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1947; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1731, eff one hundred eighty (180) days after filing with the secretary of state; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

SECTION 44. 329 IAC 11-19-3 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 11-19-3 Solid waste incinerators 10 tons per day or greater; infectious waste incinerators seven tons per day or greater; operational requirements**

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

**Affected:** IC 13-11-2; IC 13-19-3; IC 36-9-30

Sec. 3. The following operational requirements apply to solid waste incinerators with a design capacity of ten (10) tons per day or greater and to infectious waste incinerators with a design capacity of seven (7) tons per day or greater:

(1) The incinerator must not operate without a valid permit under this article and a valid permit from the office of air management or its designated local air pollution control agency and comply with the operational requirements of ~~329 IAC 11-7~~ and 329 IAC 11-13 through 329 IAC 11-15 and all permit conditions.

(2) The incinerator must dispose of residues in accordance with ~~329 IAC 11-7~~ and ~~329 IAC 10-8.1~~ at a solid waste facility with a valid permit under 329 IAC 10.

(3) The incinerator must operate in compliance with all applicable air pollution control standards and regulations and all conditions set forth in the permit.

(4) The permittee shall notify the office of solid and hazardous waste management and all appropriate local government officials within twenty-four (24) hours after the permittee learns of the release, violation, shutdown, or damage of the following:

(A) Any release of a contaminant in a quantity in excess of that allowed by permit conditions and appropriate regulations.

(B) Any violation of operating requirements established in the permit.

(C) Any unscheduled shutdown of the incinerator or associated equipment.

(D) Any damage to the incinerator or associated equipment that could, if unrepaired, result in a release of a contaminant in a quantity exceeding a control level established in the permit or applicable regulations.

(*Solid Waste Management Board; 329 IAC 11-19-3; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1948; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1731, eff one hundred eighty (180) days after filing with the secretary of state; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

SECTION 45. 329 IAC 11-20-1 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 11-20-1 Operational requirements**

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

**Affected:** IC 13-11-2; IC 13-19-3; IC 36-9-30

Sec. 1. (a) The following additional operational requirements apply to all infectious waste incinerators:

(1) A solid waste incinerator that is used to burn infectious waste, except an existing incinerator equipped with an afterburner and achieving zero (0) opacity, must be a multiple chamber incinerator. Infectious waste incinerators must maintain a temperature of one thousand eight hundred (**1,800**) degrees Fahrenheit (~~1,800°F~~) with a residence time of one (1) second in the secondary chamber.

(2) Any solid waste incinerator that is used to burn antineoplastic agents must maintain a temperature of one thousand eight hundred (**1,800**) degrees Fahrenheit (~~1,800°F~~) with a residence time of one and one-half (1½) seconds in the secondary chamber. As used in this rule, "antineoplastic agents" means chemotherapy drugs, or compounds used in the treatment of cancer, which are not subject to regulation under 329 IAC 3.1. Containers or other items containing residues of antineoplastic agents must not be considered antineoplastic agents.

(3) Infectious waste incinerators constructed after January 1, 1988, must be equipped with an automatic mechanical



loading device, and an interlock system must be provided to prevent charging until the secondary chamber exit temperature of one thousand eight hundred **(1,800)** degrees Fahrenheit ~~(1,800°F)~~ is established.

(4) Batch incinerators, fully loaded while cold and never opened until the burn cycle is complete, must incorporate a lockout system that will prevent ignition of the waste until the exit temperature of the secondary chamber or the afterburner reaches one thousand eight hundred **(1,800)** degrees Fahrenheit ~~(1,800°F)~~ and prevent recharging until the combustion and burndown cycles are complete.

(5) No waste must be charged to an incinerator other than a batch incinerator until the secondary chamber or afterburner has achieved a minimum temperature of one thousand eight hundred **(1,800)** degrees Fahrenheit ~~(1,800°F)~~. The secondary chamber or afterburner must achieve and maintain the required minimum temperature for fifteen (15) minutes before charging begins.

(6) During shutdowns, the secondary chamber or afterburner minimum temperature of one thousand eight hundred **(1,800)** degrees Fahrenheit ~~(1,800°F)~~ is to be maintained using auxiliary burners until the wastes are completely combusted and the burndown cycle is complete.

(7) Residue from an infectious waste incinerator must be disposed of in accordance with ~~329 IAC 11-7 and 329 IAC 10-8.1.~~ **329 IAC 10.**

(b) All infectious waste incinerators that are not in compliance or not able to comply with the requirements of this rule must submit a detailed timetable for the modification of the facility necessary to bring the unit into compliance. This timetable must be submitted within one hundred eighty (180) days of ~~the effective date of this article.~~ **April 14, 1996.**

(c) All infectious waste incinerators must be in compliance with this rule within eighteen (18) months of ~~the effective date of this article.~~ **April 14, 1996**, unless a written extension has been granted by the commissioner. *(Solid Waste Management Board; 329 IAC 11-20-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1948; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1732, eff one hundred eighty (180) days after filing with the secretary of state; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 46. 329 IAC 11-21-4 IS AMENDED TO READ AS FOLLOWS:

#### **329 IAC 11-21-4 Monitoring of incoming municipal waste**

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

**Affected:** IC 13-11-2-254; IC 13-19-3; IC 13-30-6-7

Sec. 4. (a) Incoming municipal waste must be monitored daily by transfer station employees. The monitoring must be conducted by personnel who are able to recognize the visual indications that:

(1) ~~special waste as defined by 329 IAC 11-2-44.~~ **prohibited by the facility permit;**

(2) hazardous waste regulated by 329 IAC 3.1; ~~and~~

(3) infectious waste as defined by 329 IAC 11-2-18; ~~or~~

**(4) regulated asbestos containing materials;**

may be present in the municipal waste observed.

(b) The monitoring may be accomplished by either of the following methods:

(1) Conducting, on a daily basis, a minimum of two (2) random inspections that must consist of a visual observation of all off-loaded municipal waste prior to processing.

(2) An overview of the municipal waste on an ongoing basis by facility personnel.

*(Solid Waste Management Board; 329 IAC 11-21-4; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1950; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 47. 329 IAC 11-21-5 IS AMENDED TO READ AS FOLLOWS:

#### **329 IAC 11-21-5 Record keeping**

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

**Affected:** IC 13-11-2-254; IC 13-19-3; IC 13-30-6-7

Sec. 5. (a) Random inspections conducted under section 4(b)(1) of this rule must be recorded in a format established by the department.

(b) A facility conducting overview inspections of the incoming municipal waste under section 4(b)(2) of this rule must only record events in which ~~special waste, hazardous waste, or infectious waste~~ **any of the following** is found:

- (1) Waste prohibited by the facility permit.**
- (2) Hazardous waste.**
- (3) Infectious waste.**
- (4) Regulated asbestos containing material.**

Records of such events must be in a format established by the department.

(c) Inspection records must be maintained on-site and available for review by department personnel for a period of one (1) year from the date of the inspection or event. (*Solid Waste Management Board; 329 IAC 11-21-5; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1950; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

SECTION 48. 329 IAC 11-21-6 IS AMENDED TO READ AS FOLLOWS:

### **329 IAC 11-21-6 Reporting**

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

**Affected:** IC 13-11-2-254; IC 13-19-3; IC 13-30-6-7

Sec. 6. (a) Transfer stations that ~~are transporting transport and disposing dispose of~~ municipal waste at disposal facilities in Indiana ~~on or after the effective date of this rule,~~ must submit to the office of ~~solid waste management land quality~~ by January 31 of each year an annual report, in a format established by the department, which identifies:

- (1) any inspection that detected any:**
  - (A) regulated asbestos ~~special~~ containing materials;**
  - (B) waste prohibited by the facility permit;**
  - (C) hazardous waste; or**
  - (D) infectious waste;**at the facility; and ~~its final~~
- (2) the disposition of these wastes.**

**(b) The report must include all of the following:**

- (1) Name of facility.
- (2) Address of facility.
- (3) Permit number of facility.
- (4) Inspection date.
- (5) Name of person conducting each inspection.
- (6) Type of waste found and how it was handled, including final disposition.
- (7) Name and address of generator of waste found during an inspection if known.

(*Solid Waste Management Board; 329 IAC 11-21-6; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1950; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

SECTION 49. 329 IAC 11-21-7 IS AMENDED TO READ AS FOLLOWS:

### **329 IAC 11-21-7 Training**

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

**Affected:** IC 13-11-2-254; IC 13-19-3; IC 13-30-6-7

Sec. 7. The transfer station employee responsible for conducting the random inspections or constant overview required in section 4 of this rule shall be able to recognize the visual indications that ~~special waste, hazardous waste, and infectious waste~~ **any of the following** may be present in the municipal waste observed:

- (1) Waste prohibited by the facility permit.**
- (2) Hazardous waste.**
- (3) Infectious waste.**
- (4) Regulated asbestos containing material.**

(*Solid Waste Management Board; 329 IAC 11-21-7; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1951; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

SECTION 50. 329 IAC 11-21-8 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 11-21-8 General operating requirements**

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

**Affected:** IC 13-11-2-254; IC 13-19-3; IC 13-30-6-7

Sec. 8. All transfer stations must be operated in a manner that minimizes the inclusion of liquids and vectors into the municipal waste shipped from the transfer station. Such management practices include, but are not limited to, the following:

(1) All facility floors must be maintained so as to prevent standing water within the facility structure. All drainage and liquids originating from:

- (A) storage, handling, and processing municipal waste;
- (B) cleaning floors; or
- (C) wash-out water from a municipal waste vehicle;

must be properly directed to a sanitary sewer, a holding tank constructed and operated in accordance with any applicable local approvals, or the equivalent of a sanitary sewer or holding tank.

(2) The facility tipping floor must be cleaned by wash-down to prevent odors and other nuisance conditions with all residuals being removed and disposed of properly.

(3) Any municipal waste that is stored overnight at the facility, except nonputrescible waste that has been segregated for recycling, must be removed from the site the following operating day except for holidays and weekends. Any municipal waste stored overnight must be stored in a manner to promote vector control.

(4) Any ~~hazardous waste, infectious waste, or special waste of the following~~ found at a transfer station must be managed in accordance with the applicable laws:

**(A) Waste prohibited by the facility permit.**

**(B) Hazardous waste.**

**(C) Infectious waste.**

**(D) Regulated asbestos containing material.**

*(Solid Waste Management Board; 329 IAC 11-21-8; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1951; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 51. 329 IAC 12-8-4 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 12-8-4 Examination requirements for Category II certification**

**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 13-19-3; IC 36-9-30

Sec. 4. (a) In order to qualify for accreditation as an accredited examination provider for Category II certification for operators of municipal and nonmunicipal solid waste disposal facilities, the written examination must meet the requirements of this section.

(b) The commissioner may approve an examination under the Category IV certification for a specific type of site. For operators of municipal and nonmunicipal solid waste disposal facilities, the examination for operator certification under Category IV must address any Category II topics in subsection (c) that are applicable to the type of site for which the examination has been developed.

(c) A Category II certification shall adequately address the following topics:

(1) Purpose of training course.

(2) An overview of municipal and nonmunicipal solid waste disposal facilities in integrated municipal solid waste management to address the following:

- (A) Generation of municipal solid wastes.
- (B) Physical and chemical composition of solid wastes.
- (C) Municipal solid waste management.

(3) Basics of site selection.

(4) Complying with design requirements to the following:

- (A) Specifications.

- (B) Types of plans.
- (C) Plan reading.
- (D) Municipal and nonmunicipal solid waste facility landfill methods.
- (5) Waste acceptance and screening to include the following:
  - (A) Wastes prohibited by state and federal law and regulations.
  - (B) Commonly prohibited wastes.
  - (C) Wastes requiring special handling.
  - (D) **Special Wastes prohibited by the facility permit.**
  - (E) Screening methods for prohibited wastes.
  - (F) Record keeping and notification requirements.
  - (G) Public information and education.
- (6) Waste decomposition to include the following:
  - (A) Fate of wastes.
  - (B) Effects of decomposition.
  - (C) Subsidence and differential settlement.
  - (D) Landfill gas generation and migration.
  - (E) Leachate generation, migration, and control.
- (7) Control processes for landfill gas and leachate to include the following:
  - (A) Landfill gas and leachate characteristics.
  - (B) Managing landfill gas.
  - (C) Protection of facilities built on landfills.
  - (D) Landfill gas recovery and use.
  - (E) Managing leachate.
- (8) Operational techniques shall adequately address the following:
  - (A) Design and operational plans.
  - (B) Operational practices.
  - (C) Cover systems.
  - (D) Operation of a lined facility.
  - (E) Operational problems.
  - (F) Site operation to minimize environmental and health problems.
- (9) Closure and long term care shall adequately address the following:
  - (A) Site closure.
  - (B) Closure considerations.
  - (C) Closure plan.
  - (D) Long term care and environmental monitoring.
  - (E) Landfill site end uses.
  - (F) Final cover design.
  - (G) Vegetation.
  - (H) Financing closure and postclosure care.

*(Solid Waste Management Board; 329 IAC 12-8-4; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1485; readopted filed Jan 1, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 52. 329 IAC 13-3-1 IS AMENDED TO READ 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, **revised as of July 1, 2001.**

(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, **revised as of July 1, 2001**, 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, **revised as of July 1, 2001**. 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, **revised as of July 1, 2001**. 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, **revised as of July 1, 2001**, 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, **revised as of July 1, 2001**, 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; **and**

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

~~(C) if applicable, are subject to the solid waste regulations under 329 IAC 10 and 329 IAC 11.~~

(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), **revised as of July 1, 2001**.

(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, **33 U.S.C. 1342 or 33 U.S.C. 1317(b), respectively**, 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), **revised as of June 24, 1999.**

**(j) 40 CFR 261 and 40 CFR 761 are available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, D.C. 20402-9328. (Solid Waste Management Board; 329 IAC 13-3-1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1494; readopted filed Sep 7, 2001, 1:35 p.m.: 25 IR 238)**

SECTION 53. THE FOLLOWING ARE REPEALED: 329 IAC 10-2-135.1; 329 IAC 10-2-179; 329 IAC 10-2-199.1; 329 IAC 10-2-201.1; 329 IAC 10-2.5; 329 IAC 10-7.1; 329 IAC 10-8.1; 329 IAC 10-20-29; 329 IAC 10-28-21; 329 IAC 11-2-44; 329 IAC 11-6-1; 329 IAC 11-7.

*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 August 20, 2002 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 amendments to the solid waste management rules at 329 IAC 10 through 329 IAC 13.*

*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 proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.*

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

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

*Attn: ADA Coordinator*

*Indiana Department of Environmental Management*

*100 North Senate Avenue*

*P.O. Box 6015*

*Indianapolis, Indiana 46206-6015*

*or call (317) 233-0855 (V) or (317) 233-6565 (TT). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.*

*Copies of these rules are now on file at the Indiana Department of Environmental Management Central File Room, Indiana Government Center-North, 100 North Senate Avenue, Room 1201, Indianapolis, Indiana and are open for public inspection.*

Mary Beth Tuohy  
Assistant Commissioner  
Office of Land Quality  
Indiana Department of Environmental Management