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TITLE 329 SOLID WASTE MANAGEMENT BOARD

Proposed Rule LSA Document #01-288

DIGEST

Adds 329 IAC 10-2-29.5 to be consistent with requirements for conditionally exempt small quantity generators in 329 IAC 3.1. Adds 329 IAC 10-2-135.5 to define petroleum contaminated soil. Adds 329 IAC 10-7.2 to clarify requirements for generators to identify hazards of solid wastes. Adds 329 IAC 10-8.2 to retain handling requirements for certain solid wastes. Adds 329 IAC 11-2-19.5 and 329 IAC 11-9-6 to allow solid waste transfer stations to use the insignificant facility modification mechanism. Adds 329 IAC 11-8-2.5 to clarify wastes that transfer stations may accept. Amends 329 IAC 10-2-72.1 to clarify the definition of "final closure." Amends 329 IAC 10-2-32, 329 IAC 10-2-115, 329 IAC 10-2-116, 329 IAC 10-2-117, 329 IAC 10-2-174, 329 IAC 10-5-1, 329 IAC 10-9-4, 329 IAC 10-14-2, 329 IAC 10-20-14.1, 329 IAC 10-28-24, 329 IAC 10-36-19, 329 IAC 11-2-39, 329 IAC 11-8-2, 329 IAC 11-8-3, 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, and 329 IAC 13-3-1 to remove references to special waste and comply with IC 4-22-2-20. Amends 327 IAC 10-2-197.1 to be consistent with 329 IAC 3.1. Amends 329 IAC 10-9-2 to clarify wastes that municipal solid waste landfills may accept. Amends 329 IAC 11-3-2 to be consistent with requirements for conditionally exempt small quantity generators in 329 IAC 3.1. Repeals 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 10-7.1, 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, and 329 IAC 11-7. Effective 30 days after filing with the secretary of state.

HISTORY

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

Second Notice of Comment Period and Notice of First Hearing: July 1, 2002, Indiana Register (25 IR 3568).

Date of First Hearing: September 17, 2002.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4, until the board has conducted a third comment period that is at least twenty-one (21) days long.

REQUEST FOR PUBLIC COMMENTS

Portions of this proposed rule are substantively different from the draft rule published in the Indiana Register on July 1, 2002, at 25 IR 3568. The Indiana Department of Environmental Management (IDEM) is requesting comment on the following portions of the proposed (preliminarily adopted) rule that are substantively different from the language contained in the draft rule.

The following sections of the proposed rule are substantively different from the draft rule:

329 IAC 10-2-72.1
329 IAC 10-7.2
329 IAC 10-9-2
329 IAC 10-20-14.1
329 IAC 11-2-39
329 IAC 11-8-2.5

The following sections appeared in the draft rule but were deleted from the proposed (preliminarily adopted) rule:

329 IAC 10-2-1
329 IAC 10-2-12
329 IAC 10-2-63
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 10-2-129.5
329 IAC 10-2-140
329 IAC 10-2-175
329 IAC 10-2-175.5
329 IAC 10-2.5
329 IAC 12-2-43
329 IAC 12-2-48

This notice requests the submission of comments on the sections of the rule listed above, including suggestions for specific amendments to those sections. These comments and the department's responses thereto will be presented to the board for its consideration at final adoption under IC 13-14-9-6. Comments on additional sections of the proposed rule that the commentor believes are substantively different from the draft rule may also be submitted for the consideration of the board. 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 in any form must be postmarked, faxed, or hand delivered by February 22, 2003.

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 0, and ask for extension 3-1655.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND PUBLIC COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from July 1, 2002, through August 1, 2002, on IDEM's draft rule language. IDEM received comment from the following parties:

Dan B. Magoun, National Solid Waste Management Association (NSWMA)

Mark E. Shere, Bethlehem Steel Corporation (BSC)

Vincent L. Griffin, Indiana Chamber of Commerce (ICC)

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

Comment: This comment refers to 329 IAC 10-2-12(b), 329 IAC 10-2-72-1(b), 329 IAC 10-2-73(b), 329 IAC 10-2-85(b), 329 IAC 10-2-99.3(b), and 329 IAC 10-2-175(b). The proposed draft rule has numerous double definitions for the same term depending on if one is referring to a municipal solid waste landfill or a non-municipal solid waste landfill (MSWLF), construction/demolition site, or a restrictive waste site (e.g., 329 IAC 10-2-12, definition of aquifer; 329 IAC 10-2-63, definition of dwelling). There is no explanation why two definitions are provided. Having two different definitions for the same term creates serious confusion and could lead to inappropriate application and misuse. One definition should be utilized. (NSWMA) The proposed new definition in 329 IAC 10-2-63(b) is more restrictive than the existing definition in 329 IAC 10-2-63(a) when used in conjunction with the setback requirements in 329 IAC 10-25 and 329 IAC 10-33. Why would the setback from a dwelling for non-municipal solid waste facilities be more stringent than for a MSWLF? (NSWMA) 329 IAC 10-2-105.6 is a new definition. It is more appropriate to propose this new definition in the revision to 329 IAC 10 (LSA Document # 00-185). (NSWMA) 329 IAC 10-2-140(b): If (b) was intended to be exactly the same as (a) except for its application, then need to delete "means the original" and replace with "most recently submitted" to be consistent (which is the way it should read anyway). (NSWMA)

Response: P.L. 218 -2001 requires the board to adopt rules that reflect the repeal of references to "special waste." Because 329 IAC 10-2.5-1 contains a definition of special waste, it was included in the draft rule. Comments received on the draft rule indicated that moving existing definitions from 329 IAC 10-2.5-1 to 329 IAC 10-2 would result in confusion by creating different definitions for the same terms. Therefore, we are proposing to remove 329 IAC 10-2.5-1 from this rulemaking. The result of this action would be to retain 329 IAC 10-2.5-1 in its present form, including the definition of "special waste." That definition has no practical effect as a result of P.L. 138-2000. We will remove that definition in future rulemaking dealing with restricted waste sites, nonmunicipal solid waste landfills, and construction/demolition sites.

Comment: The words "revised as of July 1, 2001" in 329 IAC 10-2-29.5(2) should be deleted to eliminate future impacts on this rule by a new revision of 40 CFR 261.5. (NSWMA)

Response: This phrase establishes a "date certain" for material referenced in the rule as required by the Attorney General under IC 4-22-2-21, IC 4-22-2-32, and IC 4-22-2-42. If this date was eliminated, future amendments could take effect without action by the board. Such prospective regulation is prohibited by Indiana law. This date ensures that only amendments adopted by the board under IC 4-22-2 and IC 13-14-9 are included in the rules.

Comment: The reference to "special waste" in 329 IAC 10-2-32 should be deleted. (NSWMA)

Response: 329 IAC 10-2-32 is included in this rule in Section 4, where the term "special waste" has been replaced with "industrial process waste."

Comment: 329 IAC 10-2-174 is a new definition and is inconsistent in what is being proposed in the revision to 329 IAC 10 (LSA Document #00-185). In addition, there is a duplication in (b)(6) and (12). Residential and household wastes are the same. What is non-residential waste? Isn't non-residential waste the rest of the list in (b)? (NSWMA)

Response: 329 IAC 10-2-174 is an existing definition. However, as currently written, this definition conflicts with the statutory definition of "solid waste" at IC 13-11-2-205. Because such a conflict is grounds for disapproval of the rule, the definition has been rewritten to be consistent with the statutory definition. The list of wastes retained in this definition clarifies the term "other discarded material."

Household waste and residential waste are defined at 329 IAC 10-2-90 and 329 IAC 10-2-156, respectively. Since both terms are used in Article 10, both terms have been retained.

The existing term "nonresidential waste" has been removed because it is not defined in Article 10 and is only used in this definition.

No changes to this section have been proposed in the Article 10 substantial change rule, LSA Document #00-185.

Comment: 329 IAC 10-7.2-2(a)(2) and 329 IAC 10-7.2-2(a)(3) should be deleted. These subdivisions are redundant because they are included in 329 IAC 7.2-2(a)(1). (NSWMA)

Response: 329 IAC 10-7.2-2(a)(1) describes the acceptable sources of test methods to use to comply with this section. 329 IAC 10-7.2-2(a)(2) requires use of Chapter 1 of SW-846 for all test methods, even those from sources other than SW-846. Similarly, 329 IAC 10-7.2-2(a)(3) requires use of the statistical sampling methodology from Chapter 9 of SW-846 for all test methods, even those from sources other than SW-846. Removing these subdivisions would result in Chapters 1 and 9 of SW-846 being applicable only to test methods from SW-846. 329 IAC 10-7.2-2 has been rewritten to clarify that these requirements apply to all test methods used to identify chemicals in solid waste.

Comment: 329 IAC 10-8.2-4(a)(4)(C)(vi): What is "dedicated equipment"? A definition is needed. It is suggested that the whole second sentence be deleted. Also, suggest in the last sentence that "directed by the asbestos waste disposal manager" be deleted and replaced with "in accordance with the facility written asbestos contingency plan". (NSWMA)

Response: These requirements originally appeared in the rules for special waste (329 IAC 10-8-4), effective April 13, 1996. They were added to ensure that a landfill would have the ability to clean up an uncontrolled release of asbestos-containing material by having a stock of equipment and supplies that is available when it is needed, as well as a trained supervisor who can ensure that the release is cleaned up without endangering human health.

The equipment and supplies required to clean up a spill of asbestos-containing material is established by 29 CFR 1926.1101, 29 CFR 1910.120 and the landfill's contingency plan. The requirement for equipment and supplies to be dedicated ensures that sufficient equipment and supplies will be available when needed to respond to a release of asbestos-containing material. Common sense would suggest that a landfill would not need to own a separate backhoe or end loader, or other similar costly equipment, just to clean up an asbestos spill, if the landfill operator can immediately make the equipment available to clean up a spill. Common sense would also suggest that supplies such as disposal drums, tape, wetting agents and personal protective equipment that are difficult to obtain on short notice should be stockpiled and not used for other purposes. The landfill's contingency plan must document adequate amounts and sources of equipment and supplies to respond to spills of asbestos-containing materials. Because landfills that accept asbestos-containing material need to be able to clean up spills and secure improperly packaged material, we are not proposing to eliminate the requirement for dedicated equipment and supplies. Because the dictionary definitions provide an adequate explanation of this term, we do not intend to propose a new definition for this term.

IDEM considers a trained asbestos waste disposal manager essential to conducting cleanup of an uncontrolled release of asbestos without endangering human health. Requirements for asbestos waste disposal manager training and certification are found in 326 IAC 18. The requirement for an asbestos waste disposal manager is consistent with the rules for asbestos removal in 326 IAC 14-10. The commentor's suggestion to remove the trained manager and permit cleanups to be performed with untrained personnel would endanger human health and is inconsistent with other rules for management of asbestos-containing material. The commentor has provided no justification for removing this important provision and we are not proposing to do so in this rule.

Comment: In 329 IAC 10-9-2 (a), the designation for "(a)" is not present. The listing of solid wastes for MSWLF acceptance is not complete. Petroleum contaminated soils and pollution control wastes are omitted. It is suggested for clarity and completeness that this section be deleted and the original language "all solid waste regulated under this article except" be retained. Again for clarity, it is recommended that IDEM list those wastes that are not acceptable. Suggested listing:

- (1) Infectious waste;
- (2) Regulated hazardous waste;
- (3) PCB waste with concentration >50 ppm;
- (4) Old section (b)(2); and
- (5) Old section (b)(1).

This would eliminate the need for IDEM to list out in every new permit or amend every existing permit to identify all prohibited wastes when rule becomes effective. (NSWMA)

Response: IDEM concurs. This section now includes a comprehensive list of wastes that may and may not be accepted by a municipal solid waste landfill.

Comment: In 329 IAC 10-20-14.1(c)(3), dust is already addressed in 329 IAC 10-8.2-2. It is suggested that this criteria be deleted or change to read "The material must not create a violation of 329 IAC 10-8.2-2." (NSWMA) 329 IAC 10-20-14.1(c)(5) is not required and is burdensome. Violations of fugitive dust issues are covered elsewhere. (NSWMA)

Response: 329 IAC 10-8.2-2 applies to "waste" and refers to violations of the fugitive dust rules in 326 IAC 6-4 and 326 IAC 6-5. 329 IAC 10-20-14.1 applies to materials used as alternative daily cover that are not considered wastes. 329 IAC 10-20-14.1(c)(3) was intended to ensure that an adequate thickness of alternative daily cover material is in place to cover the waste as required by 329 IAC 10-20-13 and 329 IAC 10-20-14. If the alternative daily cover material washes or blows away, then it does not meet the requirements of 329 IAC 10-20-14(b). We have removed proposed 329 IAC 10-20-14.1(c)(3) and substituted a more general statement in 329 IAC 10-20-14.1(c)(2) that states: "Use of the material must

not result in... blowing dust.”

329 IAC 10-20-14.1(c)(5) (now 329 IAC 10-20-14.1(c)(4)) is intended to provide an ascertainable standard that will allow a person to identify materials that might be susceptible to blowing away in conditions commonly experienced in Indiana, prior to their application.

Comment: This comment refers to 329 IAC 10-20-14.1(c)(9). The purpose of cover is already addressed in items (2) and (4) of this section. Secondly, cover application is addressed in 329 IAC 10-20. As written, the requirement is severely stringent and almost impossible to meet. When cover is applied, portions of solid waste has a tendency to become entangled and intermingled with cover material or the equipment even with six inches of soil resulting in small portion of waste sometimes visible and slightly protruding through the cover. The commentor suggests that this item be deleted. (NSWMA)

Response: This subdivision establishes a performance standard that is consistent with 329 IAC 10-20-13 and 329 IAC 10-20-14. Adding a standard for how much a material may fail to meet a particular performance standard would result in an unnecessarily complex rule that would be difficult to administer. Minor discrepancies in application of material are compliance issues unique to each facility and application.

Comment: As written, 329 IAC 10-20-14.1(c)(10) is not a performance standard and provides no clear guidance as to what criteria must be met. It is suggested for clarity that IDEM place a concentration level if a PCB criteria is to be included in this section. NSWMA would again suggest 25 ppm as the criteria for PCBs in waste for use as an ADC. (NSWMA)

Response: IDEM concurs. A number of materials containing PCB may safely be used as alternative daily cover, including:

(1) Material containing PCB allowed under 40 CFR 761.62(d).

(2) Materials containing less than fifty (50) parts per million PCB that:

(A) results from a source that contained less than fifty (50) parts per million PCB;

(B) would otherwise meet the definition of PCB bulk product waste in 40 CFR 761.3; and

(C) is listed in 40 CFR 761.62(b)(1).

(3) Other material containing less than or equal to ten (10) parts per million PCB not as a result of dilution.

These materials have been added to the list of materials in 329 IAC 10-20-14.1(d) that may be used under an insignificant facility modification under 329 IAC 10-3-3(b). A new provision in 329 IAC 10-20-14.1(b) would prohibit use of any material containing PCB that is not listed in 329 IAC 10-20-14.1(d).

Comment: For clarity, it is recommended that shredder fluff not be deleted from 329 IAC 10-20-14.1(e). (NSWMA)

Response: If the specific shredder fluff to be used meets the performance standards in 329 IAC 10-20-14.1(c), then use of the material may be proposed as an insignificant facility modification under 329 IAC 10-3-3(c), the same as currently provided for in the existing rules.

Comment: Is a collection container, as referred to in 329 IAC 11-2-19.5(a)(7), the same as a “collection container system” as defined in 329 IAC 10-2-31? (NSWMA)

Response: This language was proposed by the commentor and refers to an individual collection container placed at a processing facility. This is not a “collection container system” as defined in 329 IAC 11-2-6 and regulated under 329 IAC 12-4. Since this new provision for insignificant facility modifications applies only to solid waste processing facilities, the definition of collection container system at 329 IAC 10-2-31 is not relevant.

Comment: The definition of solid waste in 329 IAC 11-2-39 is not consistent with 329 IAC 10-2-174. For clarity and to minimize confusion these definitions should be the same. (NSWMA)

Response: 329 IAC 11-2-39 is an existing definition. As currently written, it conflicts with the statutory definition of “solid waste” at IC 13-11-2-205. Such conflicts are grounds for disapproval of the rule. We have also been advised by the Attorney General to delete regulatory definitions of terms that are defined in statutes. However, because these definitions of “solid waste” contain amplifying information, we have kept that information and have rewritten 329 IAC 10-2-174 to be consistent with IC 13-11-2-205 and we have rewritten 329 IAC 11-2-39 to refer to 329 IAC 10-2-174.

Comment: For consistency and clarity, 329 IAC 11-8-2.5 should be consistent with 329 IAC 10-9-2. (NSWMA)

Response: IDEM concurs. The same list now appears in both sections.

Comment: Many facilities in Indiana ship non-hazardous solid wastes out of state for disposal. These facilities comply with the standards of the receiving state for notification, testing, and other requirements. It does not make sense to subject these shipments to dual regulations that may conflict.

Indiana’s current solid waste rules recognize this overlap. For example, under 329 IAC 10-7.1-3(a), a waste determination “must be carried out for all solid waste except waste “that is disposed of outside of Indiana.” The language in IDEM’s July 1, 2002, proposals would eliminate the current exclusions for wastes disposed out of state. IDEM’s discussion of its proposal and its response to comments give no indication that the agency intended a substantive change in the regulatory requirements that apply to waste disposed out of state, or even that the agency was aware of the issue.

IDEM proposes to add a new Rule 7.2 on “Generator Responsibilities for Waste Identification.” To be consistent with the current rules, the following language should be added:

329 IAC 10-7.2-1 Generator Responsibilities

* * * * *

(c) This rule does not apply to industrial waste that is disposed of in a solid waste land disposal facility in another state if the generator complies with the waste identification requirements of federal law and of the receiving state.

It does not appear that other sections of the proposed rule would impose new requirements for wastes to be disposed out of state. It would be helpful for IDEM to confirm this point in its response to comments. (BSC)

Response: The provision in 329 IAC 10-7.1-3(a)(4) was added in the special waste rule which dealt with disposal. 329 IAC 10-7.2-1 refers to waste generation. Even though disposal may occur outside of Indiana, a number of activities subsequent to generation will occur in Indiana, such as storage, handling, transportation, transfer into or out of containers, consolidation, treatment, compaction, and other activities. Each activity

requires the generator to understand the hazards associated with the waste to be able to conduct the activity safely. The waste identification requirement ensures that the generator has enough information to make appropriate choices about each waste's management, storage and disposition, in addition to disposal.

Comment: The proposed rule requires every generator of solid waste to do testing over and above that necessary for making a hazardous waste determination. It is incumbent upon IDEM to demonstrate why such additional testing is necessary. U.S. EPA regulations include provisions requiring generators to determine whether their wastes are hazardous or non-hazardous. IDEM has proposed a new section 329 IAC 10-7.2-1 ("Generator Responsibilities for Waste Identification") with broad language that differs significantly from the federal requirements. We recommend that this section be revised to provide a straight incorporation of the federal regulations. It is important to note that IC 13-20-7.5(2) provided until recently that generators were required to follow only the federal requirements for waste identification. This section was repealed by P.L. 218-2001 (HEA 1830-2001 session), but this repeal was to remove references to "special waste" from the Indiana Code and was non-substantive. We believe the legislature's intent continues to be for Indiana to follow the federal requirements for waste determinations. We are especially concerned that IDEM has not identified the practical differences between the federal requirements and the broad language in the current proposal. (ICC)

Response: Any activity that requires an agency decision may require additional waste specific and site specific information, beyond that required to make a hazardous waste determination under 40 CFR 262.11. The following are some examples of agency decisions that would require us to request additional information:

- Solid waste surface impoundment closures.
- Legitimate reuse requests.
- Disposal of cement kiln dust that is not regulated under the rules for boilers and industrial furnaces.
- Solid waste cleanup issues.
- Open dumping issues.
- Management of solid waste on-site in contact with the land.

Action levels will depend on the activity itself, the location, and any other site-specific issues and will often reflect either established levels from the risk integrated system of closure (RISC) or restricted waste type criteria.

Comment: The proposal would introduce or leave in place several regulatory inconsistencies. These include definitions of "ground water" and "potable ground water source" that differ from the corresponding definitions adopted by the Water Pollution Control Board. It brings needless complexity and potential conflict into the regulations for different boards to be using different definitions of these common terms. (ICC)

Response: The definition of "ground water" at 329 IAC 10-2-85 is derived from the definition of "waters" at IC 13-11-2-265, which includes underground waters. 329 IAC 10-2-85 is identical to definitions of "ground water" in the rules of the water pollution control board at 327 IAC 2-1-9(18) and 327 IAC 2-1.5-2(44) (Water Quality Standards).

In contrast, in other rules of the water pollution control board at 327 IAC 2-11-3(7) (Ground Water Quality Standards), and 327 IAC 6.1-2-25 (Land Application of Biosolid, Industrial Waste Product, and Pollutant-Bearing Water), the definition of "ground water" is similar to that found in the federal Comprehensive Environmental Response, Cleanup, and Liability Act (CERCLA)(42 U.S.C. 9601(12)).

"Potable ground water source" defines a specific type of aquifer for purposes of determining an aquifer of significance and does not appear in rules of the water pollution control board.

Because it is unclear from the comment what specific action is recommended, and because these terms are derived from different authorities for different purposes, IDEM is not proposing any changes to these definitions.

Comment: The current rules contain a definition of "storage" of solid waste that appears to be more restrictive than the corresponding statutory definition of storage for hazardous waste. In the context of solid waste, the definition declares a "rebuttable presumption" that storage is limited to "six months." By contract, the statutory definition of storage of hazardous waste at IC 13-11-2-223 refers explicitly to storage "for a period of years." It does not make sense to apply a more restrictive definition to ordinary solid waste than to wastes that are legally "hazardous." (ICC)

Response: The statutory definition of "storage" at IC 13-11-2-223(a) reads in full:

"(a) 'Storage', for purposes of environmental management laws and when used in conjunction with hazardous waste, means the containment of hazardous waste, either on a temporary basis or for a period of years, in a manner that does not constitute disposal of the hazardous waste." In addition to this definition, the hazardous waste management program defines storage as "the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere." [See 40 CFR 260.10, incorporated by reference at 329 IAC 3.1-4-1(a). This definition of storage does not apply to nonhazardous solid waste.] The hazardous waste rules at 329 IAC 3.1 also contain extensive requirements for storage of hazardous waste that are much more stringent than the provisions for storage in 329 IAC 10-2-181.

In contrast, the rules for solid waste in 329 IAC 10 contain minimal regulation of storage. The definition at 329 IAC 10-2-181 contains only three (3) stipulations:

- (1) The retention, containment or accumulation of the solid waste must be temporary, that is, it must end at some point.
- (2) The storage must not threaten or potentially threaten human health or impact or potentially impact the environment.
- (3) If the storage continues for more than twenty-four (24) hours, it must not constitute disposal of the waste.

Rather than create extensive rules for solid waste storage similar to those found in 329 IAC 3.1, the board simply required that storage not threaten human health or the environment, in line with the prohibitions in 329 IAC 10-4-2 through 329 IAC 10-4-4. To ensure that storage is temporary, the board provided a maximum storage time of six (6) months, unless the owner of the waste can show that the waste is stored in a way that does not constitute disposal.

These provisions were included because "storage" of solid waste often results in one (1) of the following conditions:

- (1) The waste is stored on the ground, a practice that is considered by federal and state law to threaten human health or the environment by its very nature, since disposal of solid waste on the ground is open dumping. State law and the federal Resource Conservation and Recovery Act (RCRA) prohibit disposal of solid waste except in a solid waste land disposal facility.
- (2) The waste is "stored" for an indeterminate period of time, with no definite or predicted time for removal or proper disposal. Such "storage"

meets the dictionary definition of “permanent.” Many entities file for bankruptcy before such “storage” ends, often forcing Indiana taxpayers to bear the cost of removal of the waste.

The current standards for storage of solid waste strike a reasonable balance between regulation and environmental protection and do not require amendment.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On September 17, 2002, the solid waste management board conducted the first public hearing/board meeting concerning the development of amendments to 329 IAC 10 through 329 IAC 13. Comments were made by the following parties:

- Lisa Disbrow, National Solid Waste Management Association (NSWMA)
- Mark E. Shere, Bethlehem Steel Corporation (BSC)

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

Comment: 329 IAC 10-9-2 proposes a list of acceptable and nonacceptable wastes at a landfill. In developing a list in the rules, it is difficult to have an all-inclusive list. The commentator suggests that instead of developing a list of what may or may not come in, that language be added in subsection (a) that would read “Unless prohibited in subsection (b), a municipal solid waste landfill may accept solid wastes including but not limited to.” A broad statement similar to this would give IDEM the flexibility to either specifically or generically modify permits, and would also retain the list of nonacceptable waste in subsection (b). (NSWMA)

Response: The items in proposed 329 IAC 10-9-2(a) were moved from 329 IAC 10-2-116 and 329 IAC 10-2-117 when those definitions were rewritten to meet the standards of the Administrative Rules Drafting Manual. That manual prohibits inclusion of substantive or applicability provisions in definitions. This list is derived from the definition of “municipal solid waste landfill unit” in 40 CFR 258.2 that lists wastes that a municipal solid waste landfill unit may accept. Because this information is part of the basis for federal authorization of Indiana’s solid waste program, the list must remain in our rules. However, based on this comment, we are proposing to change proposed 329 IAC 10-9-2(a) to add a statement similar to that proposed by the commentator.

Comment: In proposed 329 IAC 10-20-14.1(d)(14), IDEM is amending the criteria for PCB waste that can be used as alternative daily cover from twenty-five (25) parts per million to ten (10) parts per million. Why is IDEM proposing to reduce this criteria? (NSWMA)

Response: This proposed rule makes several changes that affect use of materials containing PCBs as alternative daily cover. While the rule reduces the allowable PCB concentration for some materials, it increases the allowable PCB concentration for other types and streamlines the procedures for use of the material.

(1) The existing twenty-five (25) parts per million criteria did not take into account the new rules for waste containing PCBs. 329 IAC 4.1 does not automatically allow use of PCB remediation waste as daily cover in a landfill. The self-implementing procedure for on-site cleanup and disposal of PCB remediation waste in 40 CFR 761.61(a) sets the following cleanup levels:

| | |
|----------------------------------------------------------|-----------------------------------------------------------------------------------------|
| High occupancy areas: (worker exposure ≥16.8 hours/week) | ≤1 ppm without conditions |
| | >1 ppm to ≤10 ppm if site is capped with asphalt or concrete |
| Low occupancy areas: (worker exposure <16.8 hours/week) | ≤25 ppm unless site is secured or capped |
| | >25 - ≤50 ppm if access is limited: site is secured with a fence and marked with a sign |
| | >25 - ≤100 ppm if site is capped with asphalt or concrete |

Because a landfill working face can be either a high-occupancy area or a low-occupancy area, we selected ten (10) parts per million PCBs as a level that was reasonably consistent with these new protective standards. Materials containing more than ten (10) parts per million PCBs could still be used under a minor facility modification.

(2) On the other hand, this proposed rule would actually increase the allowable PCB concentration for some materials that could be used as alternative daily cover:

- PCB bulk product wastes listed in 40 CFR 761.62(b)(1) could be used as daily cover, as currently allowed by 329 IAC 4.1. PCB bulk product wastes listed in 40 CFR 761.62(b)(1) are derived from manufactured products, have a low potential for leaching PCBs into the environment, and have PCB concentrations equal to or greater than fifty (50) parts per million.
- Materials listed in 40 CFR 761.62(b)(1) with a PCB concentration less than fifty (50) parts per million could also be used. These are materials similar to PCB bulk product waste that are not regulated under 329 IAC 4.1.

(3) This proposed rule would also make it easier to use materials containing PCBs by allowing landfills to use these materials under the “seven day” insignificant facility modification in 329 IAC 10-3-3(b). That provision allows use of these materials without prior approval as long as the landfill notifies IDEM no later than seven days after beginning use of the material. Currently, use of materials containing PCBs requires a thirty day advance notice to the department, as well as department concurrence.

We will continue to work with interested parties to further refine these provisions before final adoption by the board.

Comment: Proposed 329 IAC 11-8-2.5(a) deals with acceptable waste for transfer stations and is similar to 329 IAC 10-9-2. Some of the materials listed, including biosolids, regulated asbestos-containing material, wastewater, and pollution control waste, may have handling issues. Regarding pollution control waste, the commentator suggests adding language that states “Pollution control waste in nonleaking containers or after written approval from the department.” (NSWMA)

Response: This list is intended to be consistent with 329 IAC 10-9-2. Based on this comment, we are proposing to change proposed 329 IAC 11-8-2.5 to clarify the wastes a transfer station could accept. We will propose to add pollution control waste in nonleaking containers to the list of acceptable waste. We will also add language that would allow a transfer station to accept up to two hundred twenty (220) pounds of uncontainerized pollution control waste in a shipment without going through the insignificant facility modification process. Greater amounts would require an insignificant facility modification under proposed 329 IAC 11-9-6, consistent with the current generic modification issued to all transfer stations in 2002. Once an insignificant facility modification is approved, the waste would be a “solid waste authorized by the facility permit.”

Comment: Under the current solid waste rules at 329 IAC 10-7.1-3(a), a waste determination must be carried out for all solid waste except waste

that is disposed of outside of Indiana. Solid wastes being shipped out of state have not been an environmental problem. The commentor objected to elimination of this exclusion for solid waste being disposed of outside of Indiana. (BSC)

Response: The primary purpose of 329 IAC 10-7.1-3 was to support the special waste certification and verification process which was set up to ensure that Indiana landfills did not accept hazardous waste and that any special handling requirements at the landfill were identified. The exclusion for waste disposed of out-of-state was provided to prevent duplication or conflict with other states' requirements relative to disposal of special waste in their landfills.

It is unfortunate that the existing language is written the way it is as it implies that waste being shipped out-of-state doesn't need to be understood to assure it is managed in an environmentally sound manner while it is still within Indiana. Continuing to provide such an exclusion is not environmentally sound policy. Also, this exclusion does not allow violation of other environmental laws including Indiana's environmental management laws, the Clean Water Act, the Comprehensive Environmental Response, Compensation and Liability Act (Superfund), and the Resource Conservation and Recovery Act.

Waste determination requirements apply to waste as it is generated. Even though disposal of a solid waste may occur outside of Indiana, a number of other activities prior to disposal, such as storage and transportation, do occur in Indiana. Each activity requires the generator to understand the characteristics of the waste to be able to conduct the activity safely.

Comment: This proposed rule would impose a new set of controls on wastes that are currently excluded from regulation when they undergo predisposal activities, such as storage, handling, transfer into and out of containers, and other activities, on-site at the generating facility. (BSC)

Response: While the existing rule does provide an exclusion for waste being disposed of out-of-state, there is no logical reason why the management of the waste in Indiana prior to disposal should be treated differently based on where it is ultimately taken for disposal. It is the department's position that all waste managed in Indiana should be handled in a manner that does not create a threat to the environment.

Comment: This proposed rule would create a third level of regulation for waste determination. (BSC)

Response: This rule reduces Indiana's waste identification requirements to the lowest level allowed by Indiana and federal laws, and eliminates all unnecessary and duplicative requirements. This rule only requires that generators comply with Indiana's waste determination requirements in 329 IAC 3.1-7 and manage their wastes in accordance with Indiana's solid waste management rules. Generators would need to identify the contents and properties of their wastes sufficiently to comply with those rules. If a generator does not have enough information to comply with the rules, testing may be necessary. Generators would be required to keep records and share the information with IDEM when requested to do so.

None of these are new requirements. The requirement to identify the contents and properties of solid waste ensures that a generator has enough information to make appropriate choices about how to manage each waste stream from generation to disposal.

329 IAC 3.1-7 incorporates the federal waste determination requirement in 40 CFR 262.11 by reference, as required by federal law (42 U.S.C. §6926 and 40 CFR 271). As provided in 42 U.S.C. §6926(b), Indiana's hazardous waste program operates in lieu of the federal hazardous waste program. Similarly, since 329 IAC 10 is equivalent to the federal solid waste regulations in 40 CFR 258, Indiana has received authorization by the U.S. Environmental Protection Agency to operate our solid waste management program. Because Indiana's solid and hazardous waste rules and the federal regulations are identical or equivalent and no agency other than IDEM regulates solid waste in Indiana, there is no "triple layer of regulation" as asserted by the commentor. There is only the single layer of Indiana rules for solid and hazardous waste administered by IDEM. We have been careful to ensure that this proposed rule does not duplicate other requirements.

In addition to the waste determination requirements in 329 IAC 3.1-7, a generator may engage in an activity that requires an agency decision. We may need additional information to make that decision. Activities that may require additional information include:

- Permitting a restricted waste site (329 IAC 10-24 through 10-38).
- Permitting a nonmunicipal solid waste landfill (329 IAC 24 through 10-31).
- Disposal of solid waste in a restricted waste site (329 IAC 10-9-4).
- Disposal of solid waste in a non-MSWLF (329 IAC 10-9-5).
- Use of a material as alternative daily cover (329 IAC 10-20-14.1).
- Solid waste surface impoundment closures (329 IAC 10-3-1(8)).
- Legitimate reuse requests (329 IAC 10-3-1(13)).
- Storage, containment, processing, or disposal of solid waste in a manner which creates a threat (329 IAC 10-4-2).
- Deposit of a contaminant or solid waste on the land (329 IAC 10-4-2, IC 13-30-2).
- Correcting open dumping violations (329 IAC 10-4-3, IC 13-30-2).
- Storage of solid waste (329 IAC 10-2-181).
- Management of solid waste on-site in contact with the land (329 IAC 10-2-181).
- Corrective action (329 IAC 10-21-13, 329 IAC 10-29-9).
- Disposal of wastes containing PCBs in a MSWLF (329 IAC 10-8.2-5, 329 IAC 4.1).
- Industrial on-site activities (329 IAC 10-5).

All of these decisions are waste specific and site specific. Each activity is under the control of the generator or results from an action taken by the generator. In each case, the generator would have to provide IDEM with the information we need to make an approval or to carry out our statutory responsibilities.

This proposed rule is significantly less restrictive and much more flexible than the existing requirements in 329 IAC 10-7.1, and eliminates the specific requirements for waste determinations in the existing rule. Since preliminary adoption, we reviewed this proposed rule to eliminate any unnecessary provisions. At final adoption, we will propose to the board an even more simplified version that removes references to rules other than 329 IAC 10 and makes the least restrictive statement that can legally be made about waste identification. This new version will only require the generator to identify the contents and properties of the waste to the extent necessary to comply with 329 IAC 10. Because 329 IAC 10 provides specific requirements for regulated activities, compliance should be greatly simplified.

FISCAL ANALYSIS PREPARED BY THE LEGISLATIVE SERVICES AGENCY

Under IC 4-22-2-28, IDEM has estimated that the economic impact of the proposed amendments to rules removing references to special waste and industrial waste will be less than five hundred thousand dollars (\$500,000) on the regulated entities. The economic impact analysis for this rule was not submitted to the Legislative Services Agency.

| | |
|--------------------|-------------------|
| 329 IAC 10-2-29.5 | 329 IAC 10-28-24 |
| 329 IAC 10-2-32 | 329 IAC 10-36-19 |
| 329 IAC 10-2-72.1 | 329 IAC 11-2-19.5 |
| 329 IAC 10-2-115 | 329 IAC 11-2-39 |
| 329 IAC 10-2-116 | 329 IAC 11-2-44 |
| 329 IAC 10-2-117 | 329 IAC 11-3-2 |
| 329 IAC 10-2-130 | 329 IAC 11-6-1 |
| 329 IAC 10-2-135.1 | 329 IAC 11-7 |
| 329 IAC 10-2-135.5 | 329 IAC 11-8-2 |
| 329 IAC 10-2-174 | 329 IAC 11-8-2.5 |
| 329 IAC 10-2-179 | 329 IAC 11-8-3 |
| 329 IAC 10-2-197.1 | 329 IAC 11-9-6 |
| 329 IAC 10-2-199.1 | 329 IAC 11-13-4 |
| 329 IAC 10-2-201.1 | 329 IAC 11-13-6 |
| 329 IAC 10-5-1 | 329 IAC 11-15-1 |
| 329 IAC 10-7.1 | 329 IAC 11-19-2 |
| 329 IAC 10-7.2 | 329 IAC 11-19-3 |
| 329 IAC 10-8.1 | 329 IAC 11-20-1 |
| 329 IAC 10-8.2 | 329 IAC 11-21-4 |
| 329 IAC 10-9-2 | 329 IAC 11-21-5 |
| 329 IAC 10-9-4 | 329 IAC 11-21-6 |
| 329 IAC 10-14-2 | 329 IAC 11-21-7 |
| 329 IAC 10-20-14.1 | 329 IAC 11-21-8 |
| 329 IAC 10-20-29 | 329 IAC 12-8-4 |
| 329 IAC 10-28-21 | 329 IAC 13-3-1 |

SECTION 1. 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 13-19-3; IC 13-30-2; 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 2. 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 13-19-3; IC 13-30-2; 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 wastes.~~**
- (4) industrial process waste.**

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

SECTION 3. 329 IAC 10-2-72.1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-72.1 “Final 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” means those activities required at the end of waste acceptance for the entire area of a facility. ~~including-~~

(b) The term includes:

- (1) the placement of final cover; ~~and~~**
- (2) the establishment of vegetation in accordance with approved closure plans; ~~but exclusive of and~~**
- (3) activities to be completed at the end of waste acceptance at a facility, including certification required by:**
 - (A) 329 IAC 10-22-8;**
 - (B) 329 IAC 10-30-7; or**
 - (C) 329 IAC 10-37-7.**

(c) The term does not include:

- (1) monitoring and maintenance activities required under post-closure care; ~~and~~**
- (2) activities required after certification.**

(Solid Waste Management Board; 329 IAC 10-2-72.1; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2746)

SECTION 4. 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 13-19-3-3; IC 13-30-2; 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; or**
- (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 5. 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 13-19-3; IC 3-20-21; IC 13-30-2; 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 6. 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 13-19-3; IC 13-30-2; 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 7. 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 13-19-3; IC 13-30-2; 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 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 8. 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 9. 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 36-9-30

Sec. 174. (a) “Solid waste” ~~means any:~~ **has the meaning 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 10. 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 11. 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 12. 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) This article.

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

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

(B) Equivalent methods approved by the commissioner.

(2) Comply with the following for all test methods used:

(A) Applicable quality assurance and quality control procedures in U.S. Environmental Protection Agency publication SW-846, Chapter 1, "Quality Control".

(B) 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) Nothing in this section limits the ability of the commissioner to require additional testing for activities other than disposal in a municipal solid waste landfill that meets the requirements of 329 IAC 10-17.

(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 ¹ | Analyze for These Constituents ² |
|-------------------------------------------------|--------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| Coal Ash or Flue Gas Desulfurization Byproducts | Method 1311 (Toxicity Characteristic Leaching Procedure) | Arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver |
| | Neutral Leaching Method ³ or Method 1312 (Synthetic Precipitation Leaching Procedure) | Barium, chlorides, total cyanide, fluoride, sodium, sulfate, total sulfide, total dissolved solids |
| Foundry Waste | Method 1311 (Toxicity Characteristic Leaching Procedure) | Arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver |
| | Neutral Leaching Method ³ 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 |

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

²Use 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.

³The 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 13. 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 13-19; 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:

| |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: center;">DANGER CONTAINS ASBESTOS FIBERS AVOID CREATING DUST CANCER AND LUNG DISEASE HAZARD</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|

- (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 14. 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 13-20-9; IC 13-20-16; IC 36-9-30

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

- (1) **Municipal solid waste.**
- (2) **Construction/demolition waste.**
- (3) **CESQG hazardous waste.**
- (4) **Industrial process waste.**
- (5) **Pollution control waste.**
- (6) **Regulated asbestos-containing material that meets the requirements of 329 IAC 10-8.2-4.**
- (7) **Biosolid defined in 327 IAC 6.1-2-7, in accordance with 327 IAC 6.1-1-7.**
- (8) **Wastewater defined in 327 IAC 7.1-2-41, in accordance with 327 IAC 7.1-7-1.**

(b) A municipal solid waste landfill may not dispose of or accept for disposal any of the following solid wastes:

- (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) **Liquid 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 not apply to except those liquids allowed in 329 IAC 10-20-27.

(3) Hazardous waste, except CESQG hazardous waste.

(4) Infectious waste, except as provided in 410 IAC 1-3-26.

(5) Whole waste tires, except as provided in 329 IAC 10-20-32.

(6) Lead-acid batteries prohibited by IC 13-20-16.

(7) Vegetative matter prohibited by IC 13-20-9.

(8) Waste or material containing PCB prohibited by 329 IAC 4.1.

(9) Regulated asbestos-containing material that is not managed in accordance with 326 IAC 14-10 and 329 IAC 10-8.2-4.

(10) Any appliance or motor vehicle air conditioner containing a refrigerant or other class I or class II substance that has not been removed as required by 40 CFR 82.156, revised as of July 1, 2001. 40 CFR 82.156 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 10-9-2; 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 15. 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 10-7-1: **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 Test¹

| 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 ³ | ≤5.0 | ≤13. | *** (2) |
| Total dissolved solids | ≤500. | ≤5,000. | ≤12,500. | *** (2) |
| Zinc | ≤2.5 | ≤25. | ≤63. | *** (2) |

¹The 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.

²Testing is not required.

³If 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.

*** ¹Testing 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)~~ **clause (A)**.

(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)~~ **clause (B)** and the entire facility must comply with the ground water monitoring requirements of the more environmentally protective restricted waste site type.

(4) (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 ~~(e)~~ **(d)** through ~~(d)~~ **(e)**, 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)~~ **(g)** ~~Notwithstanding~~ **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)~~ **(h)** 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 16. 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:

(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 17. 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).~~

(6) ~~Material containing PCB that is not listed in subsection (d).~~

(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) ~~blowing dust; or~~

(B) ~~(C) disease vectors.~~

(4) ~~(3) The material must not contribute to:~~

(A) ~~fire;~~

(B) ~~odor; or~~

(C) ~~scavenging.~~

(5) ~~(4) 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.~~

(5) ~~The material must not be soluble in water.~~

(6) ~~The A dry material must not pose an exposure threat to workers 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.

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

less: 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.

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

~~(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) Material containing PCB allowed under 40 CFR 761.62(d), revised as of July 1, 1999*.

(13) Material containing less than fifty (50) parts per million PCB that:

(A) results from a source that contained less than fifty (50) parts per million PCB;

(B) would otherwise meet the definition of PCB bulk product waste in 40 CFR 761.3, revised as of July 1, 1999*; and

(C) is listed in 40 CFR 761.62(b)(1), revised as of July 1, 1999*.

(14) Other material containing less than or equal to ten (10) parts per million PCB not as a result of dilution.

*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) ADE 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 ADE~~ **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 ADE~~ (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 ADE~~ (4) **Alternative daily cover** must be placed on the working face by the end of each day of operation. ~~ADE 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 ~~ADE~~ **alternative daily cover** must be covered ~~under~~ **in accordance with** section 13(a) of this rule.

~~(4) The ADE; 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 ~~ADE~~ **source of the alternative daily cover material**.

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

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

~~(6) The ADE~~ (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 ~~ADE~~ **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 18. 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; IC 13-19-3-3; IC 13-22; IC 13-30-2; IC 16-41-16-4; 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 that 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 19. 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 16-41-16-4; 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 that 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 20. 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 21. 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 set forth at 329 IAC 10-2-174.**

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

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

(b) The term does not include:

- ~~(1) solid or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges~~

that are point sources subject to permits under Section 402 of the federal Water Pollution Control Act, 33 U.S.C. 1342 as amended February 4, 1987;

(2) source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, 42 U.S.C. 2014 et seq. as amended October 24, 1992;

(3) manures or crop residues returned to the soil at the point of generation as fertilizers or soil conditioners as part of a total farm operation; or

(4) vegetative matter at composting facilities registered under IC 13-20-10.

(Solid Waste Management Board; 329 IAC 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 22. 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 23. 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 24. 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 13-20-9; IC 13-20-16; IC 36-9-30

Sec. 2.5. (a) A transfer station may accept the following solid waste:

(1) Municipal solid waste.

- (2) Construction/demolition waste.
- (3) CESQG hazardous waste.
- (4) Industrial process waste.
- (5) Pollution control waste.
- (6) Regulated asbestos-containing material that meets the requirements of 329 IAC 10-8.2-4.
- (7) Biosolid defined in 327 IAC 6.1-2-7, in accordance with 327 IAC 6.1-1-7.
- (8) Wastewater defined in 327 IAC 7.1-2-41, in accordance with 327 IAC 7.1-7-1.

(b) A transfer station may not accept any of the following:

- (1) Solid waste that is prohibited by the facility permit.
- (2) Liquid waste defined in 329 IAC 10-2-106 except those liquids allowed in 329 IAC 10-20-27.
- (3) Hazardous waste except CESQG hazardous waste.
- (4) Infectious waste except as provided in 410 IAC 1-3-26.
- (5) Whole waste tires except as provided in 329 IAC 10-20-32.
- (6) Lead-acid batteries prohibited by IC 13-20-16.
- (7) Vegetative matter prohibited by IC 13-20-9.
- (8) Waste or material containing PCB prohibited by 329 IAC 4.1.
- (9) Regulated asbestos-containing material that is not managed in accordance with 326 IAC 14-10 and 329 IAC 10-8.2-4.
- (10) Any appliance or motor vehicle air conditioner containing a refrigerant or other class I or class II substance that has not been removed as required by 40 CFR 82, Subpart F, revised as of July 1, 1994, as incorporated by reference in 326 IAC 22-1-1.

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

SECTION 25. 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 26. 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 27. 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 28. 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 29. 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 16-41-16-4; 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 30. 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 31. 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 32. 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 33. 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 34. 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 35. 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~~ **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 36. 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 37. 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 38. 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 39. 329 IAC 13-3-1, AS AMENDED AT 25 IR 238, SECTION 45, 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 solid waste regulations under 329 IAC 10 and 329 IAC 11.~~

(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 40. 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 10-7.1; 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 Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on April 15, 2003 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 proposed 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 final 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 Mojonier, 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 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

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