

Document: Proposed Rule, **Register Page Number:** 27 IR 912

Source: December 1, 2003, Indiana Register, Volume 27, Number 3

Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register.

TITLE 329 SOLID WASTE MANAGEMENT BOARD

Proposed Rule LSA Document #02-160

DIGEST

Amends 329 IAC 3.1-9-2 to be consistent with new ground water quality standards at 327 IAC 2-11. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: July 1, 2002, Indiana Register (25 IR 3495).

Second Notice of Comment Period: January 1, 2003, Indiana Register (26 IR 1358).

Continuation of Second Notice of Comment Period: July 1, 2003, Indiana Register (26 IR 3428).

Notice of First Public Hearing: September 1, 2003, Indiana Register (26 IR 3903).

Date of First Public Hearing: October 21, 2003.

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. Because this proposed rule is not substantively different from the amended draft rule published on July 1, 2003, at 26 IR 3428, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

IDEM requested public comment from January 1, 2003, through January 31, 2003, on IDEM's draft rule language. No comments were received during the second comment period.

SUMMARY/RESPONSE TO COMMENTS FROM THE CONTINUATION OF THE SECOND COMMENT PERIOD

IDEM requested public comment from July 1, 2003, through July 31, 2003, on IDEM's amended draft rule language. No comments were received during the continuation of the second comment period.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On October 21, 2003, the solid waste management board (board) conducted the first public hearing/board meeting concerning the development of amendments to 329 IAC 3.1-9-2. No comments were made at the first hearing.

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 at 329 IAC 3.1-9-2 to make the hazardous waste management program consistent with the ground water quality standards in 327 IAC 2-11 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 3.1-9-2

SECTION 1. 329 IAC 3.1-9-2, PROPOSED TO BE AMENDED AT 26 IR 1241, SECTION 4, IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-9-2 Exceptions and additions; final permit standards

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 13-14-10; IC 13-22-2; IC 13-30-3; 40 CFR 264

Sec. 2. Exceptions and additions to federal final permit standards are as follows:

- (1) Delete 40 CFR 264.1(a) dealing with scope of the permit program and substitute the following: The purpose of this rule is to establish minimum standards which define the acceptable management of hazardous waste at final state permitted facilities.
- (2) In 40 CFR 264.4 dealing with imminent hazard action, delete “7003 of RCRA” and insert “IC 13-30-3 and IC 13-14-10”.
- (3) Reports to the state required at 40 CFR 264.56(d) shall be communicated immediately to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206-6015, (317) 233-7745, or (888) 233-7745 (toll-free in Indiana). In addition to the requirements of this rule, all requirements for spill reporting under 327 IAC 2-6.1 shall be complied with.
- (4) The written spill report required by 40 CFR 264.56(j) must also include information deemed necessary by the commissioner or the commissioner’s authorized agent to carry out the purpose and intent of 327 IAC 2-6.1.
- (5) In 40 CFR 264.75 dealing with the biennial report, delete “EPA form 8700-13B” and insert “forms provided by the commissioner”.
- (6) In 40 CFR 264.76 dealing with unmanifested waste reports, delete “The unmanifested waste report must be submitted on EPA form 8700-13B”.
- (7) In 40 CFR 264.77 regarding additional reports, insert after the first sentence in (c), “Ground water data for laboratory analytical results and field parameters must be submitted as follows:
 - (A) Two (2) paper copies on the most current form prescribed by the commissioner.
 - (B) In addition to the paper copies required in clause (A), an electronic report in a format prescribed by the commissioner.
- (d) The commissioner may request other information, as required by Subparts F, K through N, and AA through CC of this part, be submitted in an electronic format as prescribed by the commissioner.”.
- (8) In addition to the requirements in 40 CFR 264, Subpart E, the reports required by IC 13-22-4-3.1 must be kept on file for at least three (3) years after submission to the department.
- (9) In 40 CFR 264, subpart F, the term “hazardous constituent” includes the following contaminants:

Contaminant	Chemical Abstracts Service Registry Number
Alachlor	15972-60-8
Asbestos	1332-21-4
Atrazine	1912-24-9
Combined beta/photon emitters	10098-97-2, 10028-17-8
Dalapon	75-99-0
Di(2-ethylhexyl)adipate	103-23-1
cis-1,2-Dichloroethylene	156-59-2
Diquat	85-00-7
Ethylbenzene	100-41-4
Fluoride	16984-48-8
Glyphosate	1071-83-6
Gross alpha particle activity (including Radium 226 but excluding radon and uranium)	12587-46-1
Nitrate (as N)	14797-55-8
Nitrite (as N)	14797-65-0
Picloram	1918-02-1
Radium 226 and 228 (combined)	13982-63-3, 15262-20-1
Simazine	122-34-9
Styrene	100-42-5

(10) In 40 CFR 264.93(b), the commissioner may consider 327 IAC 2-11 in addition to the factors listed.

(11) Delete 40 CFR 264.94(a)(2), Table 1, and substitute the following:

Table 1. Maximum Concentration of Constituents for Groundwater Protection

Constituent	Maximum Concentration (mg/L)
Arsenic	0.05

Barium	1.0
Cadmium	0.005
Chromium	0.05
Lead	0.015
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin (1,2,3,4,10,10-hexachloro-1,7-epoxy 1,4,4a,5,6,7,8,9a-octahydro-1, 4-endo, endo-5,8-dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer)	0.0002
Methoxychlor (1,1,1-Trichloro-2,2-bis (p-methoxyphenylethane)	0.04
Toxaphene (C₁₀H₁₀Cl₆, Technical chlorinated camphene, 67-69 percent chlorine)	0.003
2,4-D (2,4-Dichlorophenoxyacetic acid)	0.07
2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.01

(12) In 40 CFR 264.94(b), the commissioner may consider 327 IAC 2-11 in addition to the factors listed.

(13) In 40 CFR 264.99(g), in addition to the constituents listed in 40 CFR 264, Appendix IX, the commissioner may require a facility to monitor for the following contaminants:

Contaminant	Chemical Abstracts Service Registry Number
Alachlor	15972-60-8
Asbestos	1332-21-4
Atrazine	1912-24-9
Combined beta/photon emitters	10098-97-2, 10028-17-8
Dalapon	75-99-0
Di(2-ethylhexyl)adipate	103-23-1
cis-1,2-Dichloroethylene	156-59-2
Diquat	85-00-7
Fluoride	16984-48-8
Glyphosate	1071-83-6
Gross alpha particle activity (including Radium 226 but excluding radon and uranium)	12587-46-1
Nitrate (as N)	14797-55-8
Nitrite (as N)	14797-65-0
Picloram	1918-02-1
Radium 226 and 228 (combined)	13982-63-3, 15262-20-1
Simazine	122-34-9

(9) (14) Delete 40 CFR 264, Subpart H dealing with financial requirements and substitute 329 IAC 3.1-15.

(10) (15) Exceptions and additions to the standards for tank systems in 40 CFR 264, Subpart J are under section 3 of this rule.

(11) (16) In 40 CFR 264.221(e)(2)(i)(C), delete “permits under RCRA Section 3005(c)” and insert “with final state permits”.

(12) (17) Delete 40 CFR 264.301(l).

(13) (18) Delete 40 CFR 264, Appendix VI.

(14) (19) In 40 CFR 264.316(b), delete “(49 CFR Parts 178 and 179)” and substitute “(49 CFR Part 178)”.

(15) (20) In 40 CFR 264.316(f), delete “fiber drums” and substitute “nonmetal containers”.

(16) (21) Delete 40 CFR 264.555(e)(6).

(22) The requirements in subdivisions (9) through (13) do not apply to any of the following industries to a greater extent than the standard of conduct established in the related federal regulation or regulatory policy, until July 1, 2005:

Industry Standard Industry Classification Code

Steel works, blast furnaces (including coke ovens), and rolling	3312
Gray and ductile iron foundries	3321
Malleable iron foundries	3322
Steel investment foundries	3324
Steel foundries, not elsewhere classified	3325
Aluminum foundries	3365
Copper foundries	3366
Nonferrous foundries, except aluminum and copper	3369

(Solid Waste Management Board; 329 IAC 3.1-9-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 935; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3356; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3365; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1112; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2741; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 22, 2001, 9:46 a.m.: 24 IR 1617; errata filed Mar 19, 2001, 10:31 a.m.: 24 IR 2470; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2433; filed Jun 3, 2002, 10:40 a.m.: 25 IR 3112)

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 February 17, 2004 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 329 IAC 3.1-9-2.

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 call (800) 451-6027 (in Indiana) 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, (TDD): (317) 232-6565. 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 Office of Land Quality, 100 North Senate Avenue and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin
Deputy Assistant Commissioner
Office of Land Quality