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

### **Proposed Rule LSA Document #04-256**

#### **DIGEST**

Amends 329 IAC 10-2-112 and adds 329 IAC 10-11-6.5 concerning a minor modification to a municipal solid waste landfill permit for research, development, and demonstration and to incorporate federal language, with minor wording changes, into the Indiana rules. Effective 30 days after filing with the secretary of state.

#### **HISTORY**

Notice of Comment Period under IC 13-14-9-7: October 1, 2004, Indiana Register (28 IR 417).

Notice of First Hearing: October 1, 2004, Indiana Register (28 IR 419).

Date of First Hearing: November 16, 2004.

#### **PUBLIC COMMENTS UNDER IC 13-14-9-4.5**

Because this proposed rule is not substantively different from the draft rule published on October 1, 2004, at 28 IR 417, 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**

The Indiana Department of Environmental Management (IDEM) requested public comment from October 1, 2004, through November 1, 2004, on IDEM's draft rule language. No comments were received during the comment period under IC 13-14-9-7.

#### **SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING**

On November 16, 2004, the solid waste management board (board) conducted the first public hearing/board meeting concerning a minor modification to a municipal solid waste landfill permit for research, development, and demonstration. No public comments were made at the first hearing.

#### **329 IAC 10-2-112**

#### **329 IAC 10-11-6.5**

SECTION 1. 329 IAC 10-2-112 IS AMENDED TO READ AS FOLLOWS:

#### **329 IAC 10-2-112 "Minor modification of solid waste land disposal facilities" defined**

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

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

Sec. 112. (a) "Minor modification of solid waste land disposal facilities" means any modification in a permitted solid waste land disposal facility that would not:

(1) increase the:

(A) facility's permitted capacity to dispose of solid waste by the lesser of:

~~(A)~~ (i) more than ten percent (10%); or

~~(B)~~ (ii) five hundred thousand (500,000) cubic yards; or

~~(2)~~ increase the (B) area within the permitted solid waste boundary by more than one (1) acre; or

~~(3)~~ (2) include those items determined to be:

(A) insignificant modifications by under 329 IAC 10-3-3(b) or by the commissioner; or

~~(4)~~ include those items determined to be (B) major modifications by under section 109 of this rule.

(b) A minor modification ~~may include the addition or modification of:~~ **includes, but is not limited to, the following:**

- (1) An alternative daily cover (ADC) under 329 IAC 10-20-14.1(e).
- (2) A baled waste management plan under 329 IAC 10-20-31(3). ~~and~~
- (3) A borrow pit:
  - (A) owned by the owner, operator, or permittee;
  - (B) not permitted by the department before April 1, 2004; and
  - (C) located on-site or on property adjoining the facility.

**(4) The run-on control systems, the liquids restriction, and the final cover as allowed under the research, development, and demonstration minor permit modification in 329 IAC 10-11-6.5.**

*(Solid Waste Management Board; 329 IAC 10-2-112; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1777; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3766; filed Feb 9, 2004, 4:51 p.m.: 27 IR 1795, eff Apr 1, 2004)*

SECTION 2. 329 IAC 10-11-6.5 IS ADDED TO READ AS FOLLOWS:

**329 IAC 10-11-6.5 Research, development, and demonstration minor modification application**

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

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

**Sec. 6.5. (a)** Except as provided in subsection (f), the commissioner may issue a minor modification for research, development, and demonstration for a new MSWLF, existing MSWLF, or lateral expansion for which the owner or operator proposes to utilize innovative and new methods that vary from either or both of the following criteria provided that the MSWLF has a leachate collection system designed and constructed to maintain less than twelve (12) inches depth of leachate on the liner:

- (1) The run-on control system in 329 IAC 10-20-11(a)(1).
- (2) The liquids restrictions in 329 IAC 10-20-27.

(b) The commissioner may issue a minor modification for research, development, and demonstration for a new MSWLF, existing MSWLF, or lateral expansion for which the owner or operator proposes to utilize innovative and new methods that vary from the final cover requirements at 329 IAC 10-22-6, provided the MSWLF owner/operator demonstrates that the percolation of liquid through the alternative cover system will not cause contamination of ground water or surface water or cause leachate depth on the liner to exceed twelve (12) inches.

(c) Any MSWLF permit minor modification issued under this section must also meet the requirements in section 6 of this rule and must include such terms and conditions at least as protective as this article to assure protection of human health and the environment. The minor modification issued under this section shall do the following:

- (1) Provide for the construction and operation of such facilities as necessary, for not longer than three (3) years, unless renewed as provided in subsection (e).
- (2) Provide that the MSWLF must receive only those types and quantities of municipal solid waste and nonhazardous wastes that the commissioner deems appropriate for the purposes of determining the efficacy and performance capabilities of the technology or process.
- (3) Include such requirements as necessary to protect human health and the environment, including such requirements as necessary for testing and providing information to the commissioner with respect to the operation of the facility.
- (4) Require the owner or operator of the MSWLF with a minor modification under this section to submit an annual report to the commissioner showing whether and to what extent the site is progressing in attaining project goals. The report will also include a summary of all monitoring and testing results, as well as any other operating information specified by the commissioner in the minor modification given under this section.
- (5) Require compliance with all requirements, as applicable, under this article.

(d) The commissioner may revoke or amend the minor modification issued under this section and require immediate termination of all operations at the facility allowed by the minor modification issued under this section or other corrective measures at any time the commissioner determines that the overall goals of the project are not being attained, including protection of human health or the environment.

(e) Any minor modification issued under this section shall not exceed a term of three (3) years, and each renewal of this minor modification may not exceed a term of three (3) years. The following apply to this section:

**(1) The total term for a minor modification issued under this section, including all renewals issued under this section, must not exceed twelve (12) years.**

**(2) As part of the minor modification renewal application under this section, the owner or operator shall provide the following:**

**(A) A detailed assessment of the approved research, development, and demonstration project showing the status with respect to achieving project goals.**

**(B) A list of problems and status with respect to problem resolutions.**

**(C) Any other information that the commissioner determines necessary to assure protection of human health or the environment for the minor modification renewal issued under this section.**

**(f) An owner or operator of a MSWLF:**

**(1) operating under an exemption set forth in 40 CFR 258.1(f)(1); or**

**(2) that disposes of twenty (20) tons of municipal solid waste per day or less based on an annual average; is not eligible for a minor modification under this section. (Solid Waste Management Board; 329 IAC 10-11-6.5)**

### ***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 15, 2005 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 (board) will hold a public hearing on the proposed amendments to 329 IAC 10.*

*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 Lynn West, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232-3593, (800) 451-6027 (in Indiana) or e-mail at [lwest@dem.state.in.us](mailto:lwest@dem.state.in.us).*

*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, IN 46206-6015*

*or call (317) 233-0855 or (317) 233-6565 (TDD). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-333. Please provide a minimum of seventy-two (72) hours' notification before the hearing.*

*Copies of these rules are now on file at the Office of Land Quality, Eleventh Floor, Indiana Government Center-North, 100 North Senate Avenue and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Tim Method  
Deputy Commissioner  
Office of Land Quality