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**TITLE 329 SOLID WASTE MANAGEMENT
BOARD**

FIRST NOTICE OF COMMENT PERIOD

LSA Document #05-297(SWMB)

**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING SOLID WASTE PROCESSING FACILITIES AT 329
IAC 11**

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules regarding solid waste processing facilities at 329 IAC 11 that implement certain provisions of Public Law 154-2005 (Senate Enrolled Act 279). IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

CITATIONS AFFECTED: 329 IAC 11.

AUTHORITY: IC 4-22-2; IC 13-14-8-1; IC 13-14-8-2; IC 13-14-9; IC 13-15-2; IC 13-19-3-1; P.L.154-2005.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

This rulemaking implements provisions of SEA 279-2005 with regard to solid waste processing facilities and proposes clarification and transition language for these provisions consistent with the regulatory scheme of 329 IAC 11.

These changes include the following:

Adding additional categories of facilities to the definition of "solid waste processing facility" to be consistent with the amended statutory definition at IC 13-11-2-212.

Amending 329 IAC 11-9-5 regarding demonstrations of need to exclude transfer stations.

Revising the general exclusions at 329 IAC 11-3-1(5) to clarify language and implement the amended definition of solid waste processing facility.

Providing a transition period for permitting additional categories of solid waste processing facilities.

Amending 329 IAC 11-11-5 to provide comprehensive requirements for transferring permits and ownership.

Alternatives To Be Considered Within the Rulemaking

There are no alternatives to rulemaking to accomplish the purpose of this notice. IDEM is considering the following alternatives in this rulemaking.

Alternative 1. Amending the rule to make it consistent with statutory mandates; adding clarification and transition language.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No. The amendments implementing SEA 279 are mandated by state law.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Amending the rule to make it consistent with statutory mandates; no transition or clarification language.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No. The amendments implementing SEA 279 are mandated by state law.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

There are no federal laws that are applicable to this rulemaking.

Potential Fiscal Impact

IDEM is unable to quantify a fiscal impact for Alternative 1 or Alternative 2 at this time. IDEM specifically solicits comment on any potential fiscal impact associated with this rulemaking.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-5, there is a Small Business Assistance Program Ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 N. Senate Avenue
W-041
Indianapolis, IN 46204-2251
317-232-8578
selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen
IDEM Small Business Assistance Program Ombudsman
External Affairs - MC50-01
100 N. Senate Avenue
IGCN 1301
Indianapolis, IN 46204-2251
317-234-3386
elevenha@idem.in.gov

Public Participation and Workgroup Information

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Lou McFadden, Rules Section, Office of Land Quality at (317) 232-8922 or (800) 451-6027 (in Indiana).

STATUTORY AND REGULATORY REQUIREMENTS

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

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

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.
- (3) The submission of information on the fiscal impact of each alternative identified in this notice.

Mailed comments should be addressed to:

#05-297(SWMB) [Amendments to 329 IAC 11]

Marjorie Samuel

Rules, Planning and Outreach Section

Office of Land Quality

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204

Hand delivered comments will be accepted by the IDEM receptionist on duty at the eleventh floor reception desk, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, 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) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by November 30, 2005.

Additional information regarding this action may be obtained from Lou McFadden, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232-8922 or (800) 451-6027 (in Indiana).

Bruce H. Palin
Assistant Commissioner
Office of Land Quality