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TITLE 329 SOLID WASTE MANAGEMENT BOARD

SECOND NOTICE OF COMMENT PERIOD

LSA Document #05-219(SWMB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING REGULATION OF WASTES CONTAINING PCBs AT 329 IAC 4.1

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to 329 IAC 4.1 concerning regulation of wastes containing PCBs. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: September 1, 2005, Indiana Register (28 IR 3689).

CITATIONS AFFECTED: 329 IAC 4.1.

AUTHORITY: IC 13-20-15-1.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

IDEM is proposing to make the following specific changes:

329 IAC 4.1-1-6: Update the incorporated by reference Code of Federal Regulations to the July 1, 2003 edition. Eliminate Table 1 and 2, and specify the version of secondary incorporations not dated in the federal rules.

329 IAC 4.1-2-1; 329 IAC 4.1-4-1; 329 IAC 4.1-5-1; 329 IAC 4.1-6-1; 329 IAC 4.1-11-1: Correct the viewing/copying location and the address for the Superintendent of Documents.

329 IAC 4.1-6-2: Since the adoption of the PCB rule, 329 IAC 3.1-7-7 that established the Indiana hazardous waste manifest and prohibited uses of the manifest other than manifesting hazardous waste shipments, was repealed as required by P.L. 143-2000. That statute eliminated the Indiana hazardous waste manifest and required use of the Uniform Hazardous Waste Manifest (EPA Form 8700-22). Since 40 CFR 761.207(b) allows use of the Uniform Hazardous Waste Manifest, there is no longer a reason to except that section.

329 IAC 4.1: Change the department name to reflect the name change; make nonsubstantive language changes for consistent style.

329 IAC 4.1-7-5; 329 IAC 4.1-8-5; 329 IAC 4.1-9-5; 329 IAC 4.1-10-1: Correct the Office of Land Quality (OLQ) address.

329 IAC 4.1-13-1: Remove the reference to repealed rule 329 IAC 10-8.1 in subsection (a). Correct a typographical error in subsection (d) that causes confusion about how wastes that contain PCBs at a concentration of less than 50 ppm resulting from a source that had a concentration less than 50 ppm PCBs are regulated. Remove subdivision (f)(7) that refers to 329 IAC 10-8.1.

As addressed in the First Notice of this rulemaking, all sections of 329 IAC 4.1 are proposed to be amended under this rulemaking so 329 IAC 4.1 will be readopted for purposes of IC 13-14-9.5 through this rulemaking.

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed Under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law.

Potential Fiscal Impact

Nonsubstantive corrections being proposed with this rulemaking may potentially have very limited fiscal impact on regulated entities affected by this rule. Since IDEM is not proposing any new substantive requirements at this time, we do not expect that this rule will result in any new costs. Some limited cost savings may result from streamlining and improvement of the rule but it is not possible to quantify those potential savings, if any, at this time. IDEM invites comment on the potential fiscal impact of the draft rule.

Public Participation and Workgroup Information

No workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Marjorie Samuel, Rules Section, Office of Land Quality at (317) 232-7995 or (800) 451-6021 (in Indiana).

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from September 1, 2005, through October 3, 2005, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received no comments in response to the first notice of public comment period.

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Mailed comments should be addressed to:

Marjorie Samuel (#05-219; Regulation of Wastes Containing PCBs)
Indiana Department of Environmental Management
Office of Land Quality, MC #65-45
100 N. Senate Ave., Room 1101
Indianapolis, Indiana 46204-2251

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) 232-8899 or (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by January 3, 2006.

Additional information regarding this action may be obtained from Kiran Verma, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232-8899 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 329 IAC 4.1-1-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-1-1 Applicability

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. This article applies to a person who disposes of **any** solid or liquid waste containing PCBs. (*Solid Waste Management Board; 329 IAC 4.1-1-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3073*)

SECTION 2. 329 IAC 4.1-1-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-1-2 Enforcement

Authority: IC 13-20-15-1

Affected: IC 13-14-2-6; IC 13-20-15-6; IC 13-30-3

Sec. 2. This article ~~is~~ **shall be** enforced under IC 13-14-2-6 or IC 13-30-3, or both. No date contained in the federal regulations incorporated by reference in this article shall be construed to allow or require retroactive enforcement of this article. (*Solid Waste Management Board; 329 IAC 4.1-1-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3073*)

SECTION 3. 329 IAC 4.1-1-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-1-3 Penalties

Authority: IC 13-20-15-1; IC 13-20-15-7

Affected: IC 13-20-15-6

Sec. 3. Penalties for ~~violations~~ **a violation** of this article are listed in IC 13-20-15-7. (*Solid Waste Management Board; 329 IAC 4.1-1-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3073*)

SECTION 4. 329 IAC 4.1-1-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-1-4 Variances

Authority: IC 13-14-8-8; IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 4. The commissioner may grant a variance from compliance with ~~the provisions~~ **a provision** of this article in accordance with IC 13-14-8-8. (*Solid Waste Management Board; 329 IAC 4.1-1-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3074*)

SECTION 5. 329 IAC 4.1-1-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-1-5 Dilution

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 5. No person may avoid any provision **of this article** specifying a PCB concentration by diluting the PCBs unless otherwise specifically provided. (*Solid Waste Management Board; 329 IAC 4.1-1-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3074*)

SECTION 6. 329 IAC 4.1-1-6 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-1-6 Incorporation by reference

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 6. (a) When incorporated by reference in this article, references to 40 CFR 264 and 40 CFR 761 shall mean the version of that publication revised as of July 1, ~~1999~~; **2003**.

(b) Sales of the Code of Federal Regulations are handled by the ~~Superintendent of Documents~~, U.S. Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402~~; **20401**. The telephone number for the U.S. Government Printing Office is ~~(202) 512-1800~~; **(202) 512-0000**. The incorporated materials are available for public review at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management~~, **Land Quality**, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(c) ~~Table 1 shows documents referenced in 40 CFR 761 and the updated versions of those documents that must be used to comply with this article.~~

Version Referenced in 40 CFR 761	Table 1: Version to be Used	Source
40 CFR 136 as amended in 41 FR 52779 on December 1, 1976	40 CFR 136, revised as of July 1, 1999	1
"Thermal Processing and Land Disposal of Solid Waste" (39 FR 29337, Aug. 14, 1974)	40 CFR 240, revised as of July 1, 1999; 40 CFR 257, revised as of July 1, 1999; and 40 CFR 258, revised as of July 1, 1999	1
U.S. Department of Transportation (DOT) or U.S. Postal Service (USPS) shipping requirements, found respectively in 49 CFR 173.345 and U.S. Postal Regulations 652.2 and 652.3	49 CFR 172, revised as of October 1, 1999	1
ASTM Standard D93-90	ASTM Standard D93-99	2
ASTM Standard D129-64	ASTM Standard D129-95	2
ASTM Standard D240-87	ASTM Standard 240-92 (Reapproved 1997) ^{†2}	2
ASTM Standard E258-67 (Reapproved 1987)	ASTM Standard E258-67 (Reapproved 1996) ^{†1}	2
ASTM Standard D482-87	ASTM Standard D482-95	2
ASTM Standard D524-88	ASTM Standard D524-97	2
ASTM Standard D808-87	ASTM Standard D808-95	2
ASTM Standard D923-86 or ASTM Standard D923-89	ASTM Standard D923-97	2

ASTM Standard D1266-87	ASTM Standard D1266-98	2
ASTM Standard D1796-83 (Reapproved 1990)	ASTM Standard D1796-97	2
ASTM Standard D2158-89	ASTM Standard D2158-97	2
ASTM Standard D2709-88	ASTM Standard D2709-96 [†]	2
ASTM Standard D2784-89	ASTM Standard D2784-98	2
ASTM Standard D3178-84	ASTM Standard D3178-89 (Reapproved 1997)	2
ASTM Standard D3278-89	ASTM Standard D3278-96 [†]	2
ASTM Standard D4059	ASTM Standard D4059-96	2
“Visual Standard No. 2; Near-White Blast Cleaned Surface Finish”, of the National Association of Corrosion Engineers (NACE)	Joint Surface Preparation Standard NACE No. 2/SSPC-SP 10 “Near-White Metal Blast Cleaning”, Approved October 1994	3
“Visual Standard No. 3; Commercial Blast Cleaned Surface Finish”, of the National Association of Corrosion Engineers (NACE)	Joint Surface Preparation Standard NACE No. 3/SSPC-SP 6 “Commercial Blast Cleaning”, Approved October 1994	3

Source 1: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; telephone (202) 512-1800.
Source 2: American Society for Testing and Materials, Customer Services, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; telephone (610) 832-9555.
Source 3: NACE International, P.O. Box 218340, Houston, Texas 77218-8340; telephone (281) 228-6200; or Steel Structures Painting Council, 4516 Henry Street, Suite 301, Pittsburgh, Pennsylvania 15213-3728; telephone (412) 687-1113.

(d) Table 2 shows documents referenced in 40 CFR 761 with no specified edition and provides the date of the edition that must be used to comply with this article:

Document Referenced in 40 CFR 761	Table 2: Edition to be Used	Source
SW-846 or “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); H (September 1994); HA (August 1993); HB (January 1995); and HH (December 1996)	†
Occupational Safety and Health Standards; 29 CFR 1910.106, Flammable and combustible liquids	Revised as of July 1, 1999	†
40 CFR 60 (referred to as part 60 of this chapter)	Revised as of July 1, 1999	†
40 CFR 112 (referred to as part 112 of this title)	Revised as of July 1, 1999	†
40 CFR 112.1(d)(2)	Revised as of July 1, 1999	†
40 CFR 112.4	Revised as of July 1, 1999	†
40 CFR 122 (referred to as part 122 of this chapter)	Revised as of July 1, 1999	†
40 CFR 264.143 (referred to as section 264.143 of this chapter)	Revised as of July 1, 1999	†
40 CFR 264.151 (referred to as section 264.151 of this chapter)	Revised as of July 1, 1999	†
40 CFR 264.175 (referred to as section 264.175 of this chapter)	Revised as of July 1, 1999	†
40 CFR 266, Subpart H (referred to as part 266, subpart H of this chapter)	Revised as of July 1, 1999	†
40 CFR 270.66 (referred to as section 270.66 of this chapter)	Revised as of July 1, 1999	†
DOT Hazardous Materials Regulations at 49 CFR parts 171 through 180	Revised as of October 1, 1999	†
49 CFR Chapter I, Subchapter C	Revised as of September 30, 1991	†
49 CFR 171.14	Revised as of October 1, 1999	†

“Verification of PCB Spill Cleanup by Sampling and Analysis”, Midwest Research Institute	“Verification of PCB Spill Cleanup by Sampling and Analysis”, U.S. Environmental Protection Agency Publication EPA-560/5-85-026, August 1985	2
“Field Manual for Grid Sampling of PCB Spill Sites to Verify Cleanup”, Midwest Research Institute	“Field Manual for Grid Sampling of PCB Spill Sites to Verify Cleanup”, U.S. Environmental Protection Agency Publication EPA-560/5-86-017, May 1986	2
“Wipe Sampling and Double Wash/Rinse Cleanup as Recommended by the Environmental Protection Agency PCB Spill Cleanup Policy”, dated June 23, 1987 and revised on April 18, 1991	“Wipe Sampling and Double Wash/Rinse Cleanup as Recommended by the Environmental Protection Agency PCB Spill Cleanup Policy”, June 23, 1987, revised and clarified on April 18, 1991	2

Source 1: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; telephone (202) 512-1800.
Source 2: TSCA Technical Information Service, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460; telephone (202) 554-1404.

(c) If not specified in the federal regulations incorporated by reference, the version of materials incorporated by reference in those federal regulations is the version that was in effect on the effective date of the 2006 amendments to this rule. (Solid Waste Management Board; 329 IAC 4.1-1-6; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3074)

SECTION 7. 329 IAC 4.1-2-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-1 Applicability; incorporation by reference

Authority: IC 13-20-15-1

Affected: IC 13-11-2; IC 13-20-15-6

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

(b) The definitions at 40 CFR 761.3 are incorporated by reference, except as provided otherwise in section 2 of this rule.

(c) 40 CFR 761.3 is available for viewing and copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management~~, **Land Quality**, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(d) The Code of Federal Regulations is available from the ~~Superintendent of Documents~~, U.S. Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402~~; **20401**. The telephone number for the ~~Superintendent of Documents Government Printing Office~~ is ~~(202) 512-1800~~; **(202) 512-0000**. (*Solid Waste Management Board; 329 IAC 4.1-2-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3075*)

SECTION 8. 329 IAC 4.1-2-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-2 Exceptions and additions

Authority: IC 13-20-15-1

Affected: IC 13-11-2-155; IC 13-11-2-158; IC 13-20-15-6

Sec. 2. Exceptions and additions to the definitions **contained** in 40 CFR 761.3 are as follows:

(1) Delete the definition of “person” and substitute the definition at IC 13-11-2-158(a).

(2) Delete the definition of “PCB and PCBs” and substitute the definition of PCB at IC 13-11-2-155.

(*Solid Waste Management Board; 329 IAC 4.1-2-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3075*)

SECTION 9. 329 IAC 4.1-2-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-3 “Alternative disposal facility” defined

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 3. (a) "Alternative disposal facility" means a facility that:

- (1) separates;
- (2) processes;
- (3) recovers;
- (4) treats;
- (5) transfers; or
- (6) disposes of;

PCB waste. ~~and~~

~~(2)~~ is not one ~~(1)~~ of ~~(b)~~ The term does not include the following:

- ~~(A)~~ (1) A chemical waste landfill.
- ~~(B)~~ (2) An incinerator.
- ~~(C)~~ (3) A high efficiency boiler.
- ~~(D)~~ (4) A mobile facility.
- ~~(E)~~ (5) A generator of PCB waste.

(c) An alternative disposal facility ~~is~~ **provides** an alternative method of destroying PCBs as described in 40 CFR 761.60(e). (*Solid Waste Management Board; 329 IAC 4.1-2-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3075*)

SECTION 10. 329 IAC 4.1-2-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-4 "EPA" defined

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 4. "EPA" means the ~~United States~~ **federal** Environmental Protection Agency. (*Solid Waste Management Board; 329 IAC 4.1-2-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3075*)

SECTION 11. 329 IAC 4.1-2-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-5 "Mobile facility" defined

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 5. "Mobile facility" means machinery, equipment, or vehicles ~~of any nature~~ that are used or intended to be used at more than one (1) location for the:

- (1) separation;
- (2) processing;
- (3) recovery, as defined at 329 IAC 10-2-149; or
- (4) treatment;

of PCBs in a material or waste containing PCBs. (*Solid Waste Management Board; 329 IAC 4.1-2-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076*)

SECTION 12. 329 IAC 4.1-2-6 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-6 "Municipal solid waste landfill" or "MSWLF" defined

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 6. "Municipal solid waste landfill" or "MSWLF" has the meaning ~~as~~ set forth ~~at in~~ 329 IAC 10-2-116. (*Solid Waste Management Board; 329 IAC 4.1-2-6; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076*)

SECTION 13. 329 IAC 4.1-2-7 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-7 “Municipal solid waste landfill unit” or “MSWLF unit” defined

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 7. “Municipal solid waste landfill unit” or “MSWLF unit” has the meaning ~~as~~ set forth ~~at in~~ 329 IAC 10-2-117. (*Solid Waste Management Board; 329 IAC 4.1-2-7; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076*)

SECTION 14. 329 IAC 4.1-2-8 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-8 “Nonmunicipal solid waste landfill” defined

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 8. “Nonmunicipal solid waste landfill” has the meaning ~~as~~ set forth ~~at in~~ 329 IAC 10-2-121. (*Solid Waste Management Board; 329 IAC 4.1-2-8; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076*)

SECTION 15. 329 IAC 4.1-2-9 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-2-9 “Single location” defined

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 9. “Single location” means an aggregation of one (1) or more facilities that are:

(1) located on:

(A) one (1) piece of property; or ~~on~~

(B) contiguous or adjacent properties; and ~~that are~~

(2) owned or operated by the same person.

(*Solid Waste Management Board; 329 IAC 4.1-2-9; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076*)

SECTION 16. 329 IAC 4.1-3-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-3-1 Conversion of federal terms

Authority: IC 13-20-15-1

Affected: IC 13-11-2-71; IC 13-20-15-6

Sec. 1. When used in 40 CFR 264, Subpart D, and 40 CFR 761, as incorporated by reference in this article, ~~substitute~~ the following **federal terms are defined as provided in this section** unless otherwise indicated:

(1) “Act” means the environmental management laws as defined at IC 13-11-2-71.

(2) “Administrator” or “assistant administrator” means the commissioner of the ~~Indiana department of environmental management.~~

(3) “Agency” means the ~~Indiana department of environmental management.~~

(4) “Director”, “director, chemical management division”, or “director, CMD” means the commissioner of the ~~Indiana department of environmental management.~~

(5) “Environmental protection agency” or “EPA” means the ~~Indiana department of environmental management.~~

(6) “He” means he or she, without regard to gender.

(7) “Notification requirements of Section 3010” means the notification requirements of this article.

(8) “RCRA permit” means state hazardous waste permit.

(9) “Regional administrator” means the commissioner of the ~~Indiana department of environmental management.~~

(10) “She” means he or she, without regard to gender.

(11) “State”, “authorized state”, “approved state”, and “approved program” means Indiana.

(12) “United States” means the state of Indiana.

(*Solid Waste Management Board; 329 IAC 4.1-3-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076*)

SECTION 17. 329 IAC 4.1-4-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-4-1 Requirements for storage and disposal incorporated by reference

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. (a) 40 CFR 761, Subpart D, consisting of 40 CFR 761.50 through 40 CFR 761.79, is incorporated by reference, except as provided otherwise in section 2 of this rule.

(b) 40 CFR 761, Subpart D is available for viewing and copying at the ~~Office of Solid and Hazardous Waste~~ **Indiana Department of Environmental Management, Office of Land Quality**, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(c) The Code of Federal Regulations is available from the ~~Superintendent of Documents~~; U.S. Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402~~: **20401**. The telephone number for the ~~Superintendent of Documents~~ **U.S. Government Printing Office** is ~~(202) 512-1800~~: **(202) 512-0000**. (*Solid Waste Management Board; 329 IAC 4.1-4-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076*)

SECTION 18. 329 IAC 4.1-4-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-4-2 Exceptions and additions

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6; 40 CFR 761, Subpart D

Sec. 2. **The** exceptions and additions to 40 CFR 761, Subpart D, are as follows:

- (1) Delete 40 CFR 761.60(b)(2)(iii)(B).
- (2) Delete 40 CFR 761.60(b)(2)(iv)(B).
- (3) Delete 40 CFR 761.60(b)(2)(v).
- (4) In 40 CFR 761.60(b)(2)(vi), delete "large PCB capacitors or".
- (5) Delete 40 CFR 761.60(f)(1)(iii).
- (6) In 40 CFR 761.65(b), delete "After July 1, 1978,".
- (7) Delete 40 CFR 761.65(d)(1).

(*Solid Waste Management Board; 329 IAC 4.1-4-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076*)

SECTION 19. 329 IAC 4.1-5-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-5-1 PCB spill cleanup policy incorporated by reference

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. (a) 40 CFR 761, Subparts G and M through T are incorporated by reference, except as provided otherwise in section 2 of this rule.

(b) 40 CFR 761, Subparts G and M through T are available for viewing and copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management~~, **Land Quality**, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(c) The Code of Federal Regulations is available from the ~~Superintendent of Documents~~; U.S. Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402~~: **20401**. The telephone number for the ~~Superintendent of Documents~~ **U.S. Government Printing Office** is ~~(202) 512-1800~~: **(202) 512-0000**. (*Solid Waste Management Board; 329 IAC 4.1-5-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3077*)

SECTION 20. 329 IAC 4.1-5-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-5-2 Exceptions and additions

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 2. **The** exceptions and additions to 40 CFR 761, Subparts G and M through T are as follows:

(1) In 40 CFR 761.398(a), delete “the Director, National Program Chemicals Division (NPCD), (7404), Office of Pollution Prevention and Toxics, 401 M St., SW., Washington, DC” and substitute “the commissioner”.

(2) In 40 CFR 761.398(a), delete “From time to time, the Director of NPCD will confirm the use of validated new decontamination solvents and publish the new solvents and validated decontamination procedures in the Federal Register”.

(Solid Waste Management Board; 329 IAC 4.1-5-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3077)

SECTION 21. 329 IAC 4.1-6-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-6-1 Requirements for PCB waste disposal records and reports incorporated by reference

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. (a) 40 CFR 761, Subpart K, consisting of 40 CFR 761.202 through 40 CFR 761.218, is incorporated by reference, except as provided otherwise in section 2 of this rule.

(b) 40 CFR 761, Subpart K is available for viewing and copying at the Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management~~, **Land Quality**, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(c) The Code of Federal Regulations is available from the ~~Superintendent of Documents~~, U.S. Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402~~: **20401**. The telephone number for the ~~Superintendent of Documents~~ **U.S. Government Printing Office** is ~~(202) 512-1800~~: **(202) 783-3238**. *(Solid Waste Management Board; 329 IAC 4.1-6-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3077)*

SECTION 22. 329 IAC 4.1-6-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-6-2 Exceptions and additions

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 2. Exceptions and additions to 40 CFR 761, Subpart K, are as follows:

(1) Delete 40 CFR 761.202(c).

(2) In 40 CFR 761.205(a)(1), delete “April 4, 1990” and substitute a date six (6) months after the effective date of this article: **with “February 13, 2001”**.

(3) In 40 CFR 761.205(b), delete “April 4, 1990” and substitute a date six (6) months after the effective date of this article: **with “February 13, 2001”**.

(4) In 40 CFR 761.205(d), delete “Chief, Operations Branch (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460” and substitute “Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management~~, P.O. Box 6015, **Land Quality, 100 North Senate Avenue, MC 65-45**, Indianapolis, Indiana ~~46206-6015~~: **46204-2251”**.

~~(5) Delete 40 CFR 761.207(b). The manifest described in 329 IAC 3.1-7 and available from the department must not be used for manifesting of PCB shipments. Generators may use copies of EPA Form 8700-22 from any other source to comply with this article.~~

~~(6) (5) In 40 CFR 761.202(b), delete “After June 4, 1990,”.~~

~~(7) (6) In 40 CFR 761.211(a), delete “After April 4, 1990,”.~~

(Solid Waste Management Board; 329 IAC 4.1-6-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3077)

SECTION 23. 329 IAC 4.1-7-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-7-1 Applicability

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. This rule applies to incinerators and high efficiency boilers **that are** required to be approved by the commissioner under 329 IAC 4.1-4-1, ~~that which~~ incorporates 40 CFR 761.60 and 40 CFR 761.70 by reference. *(Solid Waste Management Board; 329*

IAC 4.1-7-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078)

SECTION 24. 329 IAC 4.1-7-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-7-2 General

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 2. Incinerators and high efficiency boilers must comply with **the provisions of 329 IAC 4.1-4 through 329 IAC 4.1-6.** (*Solid Waste Management Board; 329 IAC 4.1-7-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078*)

SECTION 25. 329 IAC 4.1-7-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-7-3 Location restrictions

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6; IC 36-7-4

Sec. 3. (a) An incinerator or high efficiency boiler must comply with all **applicable** zoning and location restrictions of the political subdivision in which the facility is located. ~~if any are imposed:~~

(b) The owner or operator shall provide documentation that all required zoning and other local approvals, if any are required, have been obtained before written approval is requested under 329 IAC 4.1-4-1, ~~that~~ **which** incorporates 40 CFR 761.60 and 40 CFR 761.70 by reference, is requested. Documentation that all required zoning and other local approvals, if any are required, have been obtained may include the following:

(1) A copy of the:

(A) zoning requirements, if any, for solid waste facilities in the area; ~~where the facility is to be located:~~

~~(2) A copy of the~~ (B) improvement location permit or occupancy permit issued by the zoning authority having jurisdiction for the site, if a solid waste land disposal facility is permitted by the zoning ordinance in the area; ~~where the facility is to be located:~~

~~(3) A copy of the~~ (C) amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq., if:

(i) a change in the zone maps is required for the area; ~~where the facility is to be located:~~ **or**

~~(4) A copy of the amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq.;~~ if (ii) such amendment is required for the area; ~~where the facility is to be located;~~ **and**

~~(5) A copy of the~~ (D) variance, special exception, special use, contingent use, or conditional use approved under IC 36-7-4-921 et seq., if such approval is required for the area;

where the facility is to be located.

~~(6) (2)~~ The status of any appeal of any zoning determination as described in ~~subdivisions (2)~~ **subdivision (1)(B)** through ~~(5)~~ **(1)(D)** and, if none is pending, the date by which the appeal must be initiated.

(c) The owner or operator of an incinerator or high efficiency boiler shall not dredge or fill wetlands, except in compliance with an appropriate permit required by Section 404 of the Clean Water Act, as amended (33 U.S.C. 1344). (*Solid Waste Management Board; 329 IAC 4.1-7-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078*)

SECTION 26. 329 IAC 4.1-7-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-7-4 Public notice and public participation

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 4. Each applicant submitting a request for approval for an incinerator or high efficiency boiler under 329 IAC 4.1-4-1 shall comply with the public notice and public participation requirements in 329 IAC 10-12-1 as follows:

(1) For an incinerator or high efficiency boiler for which construction was started prior to ~~the effective date of this article;~~ **August 13, 2000**, the owner or operator shall comply with 329 IAC 10-12-1 before starting operation under this article.

(2) For an incinerator or high efficiency boiler for which construction is started on or after ~~the effective date of this article;~~ **August 13, 2000**, the owner or operator shall comply with 329 IAC 10-12-1 before beginning construction.

(*Solid Waste Management Board; 329 IAC 4.1-7-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078*)

SECTION 27. 329 IAC 4.1-7-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-7-5 Notice of activity

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 5. (a) The owner or operator of an incinerator or high efficiency boiler shall notify the following at least thirty (30) days before beginning any storage, separation, processing, recovery, treatment, or disposal of waste containing PCBs:

(1) Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management~~, **Land Quality**, 100 North Senate Avenue, ~~P.O. Box 6015~~, **100 North Senate Avenue, MC 65-45**, Indianapolis, Indiana ~~46206-6015~~: **46204-2251**.

(2) The:

(A) county health department; ~~for the county in which the facility is located~~;

~~(3) The~~ (B) emergency management director; and ~~the~~

(C) local emergency planning committee;

for the county in which the facility is located.

~~(4)~~ (3) The fire department with jurisdiction over the facility.

(b) Upon completion of any separation, processing, recovery, or treatment of PCB waste regulated under this article, the owner or operator of an incinerator or high efficiency boiler shall provide written notification to the department that the waste no longer contains PCBs. This notification must include either **of the following**:

(1) PCB disposal notification. ~~or~~

(2) Analytical documentation demonstrating that the PCBs were destroyed.

(Solid Waste Management Board; 329 IAC 4.1-7-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078)

SECTION 28. 329 IAC 4.1-8-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-8-1 Applicability

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. This rule applies to a chemical waste ~~landfills~~ **landfill** required to be approved by the commissioner under 329 IAC 4.1-4-1, ~~that which~~ incorporates 40 CFR 761.75(c) by reference. *(Solid Waste Management Board; 329 IAC 4.1-8-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079)*

SECTION 29. 329 IAC 4.1-8-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-8-2 General

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 2. A chemical waste landfill must ~~comply~~ **be in compliance** with 329 IAC 4.1-4 through 329 IAC 4.1-6. *(Solid Waste Management Board; 329 IAC 4.1-8-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079)*

SECTION 30. 329 IAC 4.1-8-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-8-3 Location restrictions

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6; IC 36-7-4

Sec. 3. (a) A chemical waste landfill must comply with the location restrictions in 329 IAC 10-16 that apply to a new MSWLF or MSWLF unit permitted under 329 IAC 10, except that the reduction of setback distances in 329 IAC 10-16-12 does not apply to a chemical waste landfill.

(b) The owner or operator **of a chemical waste landfill** shall provide documentation that all required zoning and other local approvals, if any are required, have been obtained before written approval is requested under 329 IAC 4.1-4-1, ~~that which~~

incorporates 40 CFR 761.75(c) by reference, is requested. Documentation that all required zoning and other local approvals, if any are required, have been obtained may include the following:

(1) A copy of the:

(A) zoning requirements, if any, for solid waste facilities in the area; ~~where the facility is to be located.~~

~~(2) A copy of the (B) improvement location permit or occupancy permit issued by the zoning authority having jurisdiction for the site, if a solid waste land disposal facility is permitted by the zoning ordinance in the area; where the facility is to be located.~~

~~(3) A copy of the (C) amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq., if:~~

~~(i) a change in the zone maps is required for the area; where the facility is to be located; or~~

~~(4) A copy of the amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq., if (ii) such amendment is required for the area; where the facility is to be located; and~~

~~(5) A copy of the (D) variance, special exception, special use, contingent use, or conditional use approved under IC 36-7-4-921 et seq., if such approval is required for the area;~~

~~where the facility is to be located.~~

~~(6) (2) The status of any appeal of any zoning determination as described in subdivisions (2) subdivision (1)(B) through (5) (1)(D) and, if none is pending, the date by which the appeal must be initiated.~~

(c) The owner or operator of a chemical waste landfill shall not dredge or fill wetlands, except in compliance with an appropriate permit required by Section 404 of the Clean Water Act, as amended (33 U.S.C. 1344). (*Solid Waste Management Board; 329 IAC 4.1-8-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079*)

SECTION 31. 329 IAC 4.1-8-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-8-4 Public notice and public participation

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 4. ~~Each~~ **An** applicant submitting a request for approval for a chemical waste landfill under 329 IAC 4.1-4-1, ~~that which~~ incorporates 40 CFR 761.75(c) by reference, shall comply with the public notice and public participation requirements in 329 IAC 10-12-1. (*Solid Waste Management Board; 329 IAC 4.1-8-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079*)

SECTION 32. 329 IAC 4.1-8-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-8-5 Notice of activity

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 5. (a) The owner or operator of a chemical waste landfill shall notify the following at least thirty (30) days before beginning any storage, separation, processing, recovery, treatment, or disposal of waste containing PCBs:

(1) Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management~~, **Land Quality**, 100 North Senate Avenue, ~~P.O. Box 6015; MC 65-45~~, Indianapolis, Indiana ~~46206-6015; 46204-2251~~.

(2) The:

~~(A) county health department; for the county in which the facility is located.~~

~~(3) The (B) emergency management director; and the~~

~~(C) local emergency planning committee;~~

~~for the county in which the facility is located.~~

~~(4) (3) The fire department with jurisdiction over the facility.~~

(b) Upon completion of any separation, processing, recovery, or treatment of PCB waste regulated under this article, the owner or operator of a chemical waste landfill shall provide written notification to the department that the waste no longer contains PCBs. This notification must include either **of the following**:

(1) PCB disposal notification. ~~or~~

(2) Analytical documentation demonstrating that the PCBs were destroyed.

(*Solid Waste Management Board; 329 IAC 4.1-8-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079*)

SECTION 33. 329 IAC 4.1-9-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-9-1 Applicability

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. This rule applies to **an** alternative disposal ~~facilities~~ **facility** required to be approved under 329 IAC 4.1-4-1, ~~that which~~ incorporates 40 CFR 761.60(e) by reference. (*Solid Waste Management Board; 329 IAC 4.1-9-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080*)

SECTION 34. 329 IAC 4.1-9-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-9-2 General

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 2. (a) The owner or operator of an alternative disposal facility must receive written approval ~~by~~ **from** the commissioner as follows:

(1) For an alternative disposal facility for which construction was started ~~prior to the effective date of this article, before August 13, 2000,~~ written approval must be received from the commissioner before starting operation under this article.

(2) For an alternative disposal facility for which construction is started on or after ~~the effective date of this article, August 13, 2000,~~ written approval must be received from the commissioner before beginning construction.

(b) The owner or operator of an alternative disposal facility shall **do the following:**

(1) Provide to the department a copy of the written approval from EPA required by 40 CFR 761.60(e).

~~(c) The owner or operator of an alternative disposal facility shall~~ (2) Comply with the requirements of 329 IAC 4.1-4 through 329 IAC 4.1-6.

(*Solid Waste Management Board; 329 IAC 4.1-9-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080*)

SECTION 35. 329 IAC 4.1-9-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-9-3 Location restrictions

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6; IC 36-7-4

Sec. 3. (a) An alternative disposal facility must comply with all **applicable** zoning and location restrictions of the political subdivision in which the facility is located. ~~if any are imposed.~~

(b) The owner or operator shall provide documentation that all required zoning and other local approvals, if any are required, have been obtained before written approval is requested under 329 IAC 4.1-4-1, ~~that which~~ incorporates 40 CFR 761.60(e) by reference, is requested. Documentation that all required zoning and other local approvals, if any are required, have been obtained may include the following:

(1) A copy of the:

(A) zoning requirements, if any, for solid waste facilities in the area; ~~where the facility is to be located.~~

~~(2) A copy of the~~ (B) improvement location permit or occupancy permit issued by the zoning authority having jurisdiction for the site, if a solid waste land disposal facility is permitted by the zoning ordinance in the area; ~~where the facility is to be located.~~

~~(3) A copy of the~~ (C) amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq., if:

(i) a change in the zone maps is required for the area; ~~where the facility is to be located.~~ **or**

~~(4) A copy of the amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq.,~~ if (ii) such amendment is required for the area; ~~where the facility is to be located.~~ **and**

~~(5) A copy of the~~ (D) variance, special exception, special use, contingent use, or conditional use approved under IC 36-7-4-921 et seq., if such approval is required for the area;

where the facility is to be located.

~~(6)~~ (2) The status of any appeal of any zoning determination as described in ~~subdivisions (2)~~ **subdivision (1)(B)** through ~~(5)~~ **(1)(D)** and, if none is pending, the date by which the appeal must be initiated.

(c) The owner or operator of an alternative disposal facility shall not dredge or fill wetlands, except in compliance with an

appropriate permit required by Section 404 of the Clean Water Act, as amended (33 U.S.C. 1344). (*Solid Waste Management Board; 329 IAC 4.1-9-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080*)

SECTION 36. 329 IAC 4.1-9-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-9-4 Public notice and public participation

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 4. ~~Each~~ **An** applicant submitting a request for approval of an alternative disposal facility under 329 IAC 4.1-4-1, ~~that which~~ incorporates 40 CFR 761.60(e) by reference, shall comply with the public notice and public participation requirements in 329 IAC 10-12-1 as follows:

(1) For an alternative disposal facility for which construction was started ~~prior to the effective date of this article; before August 13, 2000~~, the owner or operator shall comply with 329 IAC 10-12-1 before beginning:

- (A) storage;
- (B) separation;
- (C) processing;
- (D) recovery; or
- (E) treatment;

of PCB waste under this article.

(2) For an alternative disposal facility for which construction is started on or after ~~the effective date of this article; August 13, 2000~~, the owner or operator shall comply with 329 IAC 10-12-1 before beginning construction of the facility.

(*Solid Waste Management Board; 329 IAC 4.1-9-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080*)

SECTION 37. 329 IAC 4.1-9-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-9-5 Notice of activity

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 5. (a) The owner or operator of an alternative disposal facility shall notify the following at least thirty (30) days before beginning any storage, separation, processing, recovery, treatment, or disposal of waste containing PCBs:

(1) Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management; Land Quality~~, 100 North Senate Avenue, ~~P.O. Box 6015; MC 65-45~~, Indianapolis, Indiana ~~46206-6015; 46204-2251~~.

(2) The:

- (A) county health department; ~~for the county in which the facility is located;~~
- ~~(B) The~~ (B) emergency management director; and ~~the~~
- (C) local emergency planning committee;

for the county in which the facility is located.

~~(4)~~ (3) The fire department with jurisdiction over the facility.

(b) Upon completion of any separation, processing, recovery, or treatment of PCB waste regulated under this article, the owner or operator of an alternative disposal facility shall provide written notification to the department that the waste no longer contains PCBs. This notification must include either **of the following**:

(1) PCB disposal notification. ~~or~~

(2) Analytical documentation demonstrating that the PCBs were destroyed.

(*Solid Waste Management Board; 329 IAC 4.1-9-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080*)

SECTION 38. 329 IAC 4.1-10-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-10-1 Mobile facilities

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. (a) A mobile facility that operates for one hundred eighty (180) days or less in a single location must comply with the

following requirements:

- (1) 40 CFR 761, Subpart D, incorporated by reference at 329 IAC 4.1-4-1.
- (2) The requirements of 329 IAC 4.1-4 through 329 IAC 4.1-6, except the requirement to obtain approval from the commissioner under this article if the facility has obtained approval from the EPA under 40 CFR 761.60(e).

(b) A mobile facility that operates for more than one hundred eighty (180) days in a single location must comply with the following requirements:

- (1) 40 CFR 761, Subpart D, incorporated by reference at 329 IAC 4.1-4-1.
- (2) 329 IAC 4.1-4 through 329 IAC 4.1-6.
- (3) The mobile facility must comply with one (1) of the following:
 - (A) 329 IAC 4.1-7 for an incinerator or a high efficiency boiler.
 - (B) 329 IAC 4.1-8 for a chemical waste landfill.
 - (C) 329 IAC 4.1-9 for an alternative disposal facility.
- (4) The owner or operator of the mobile facility shall comply with the public notice and public participation requirements in 329 IAC 10-12-1 before continuing operations under this article.

(c) The owner or operator of a mobile facility shall do the following:

- (1) Provide to the department a copy of the written approval from EPA.
- (2) Notify the following at least thirty (30) days before beginning an activity regulated under this article:
 - (A) Indiana Department of Environmental Management, Office of ~~Solid and Hazardous Waste Management~~, **Land Quality**, 100 North Senate Avenue, ~~P.O. Box 6015, MC 65-45~~, Indianapolis, Indiana ~~46206-6015~~; **46204-2251**.
 - (B) The county health department for the county in which the activity takes place.
 - (C) The emergency management director and the local emergency planning committee for the county in which the facility is located.
 - (D) The fire department with jurisdiction over the facility.

(d) Upon completion of an activity regulated under this article, the owner or operator of a mobile facility shall provide written notification to the department that the waste no longer contains PCBs. This notification must include either **of the following**:

- (1) PCB disposal notification. ~~or~~
- (2) Analytical documentation demonstrating that the PCBs were destroyed.

(Solid Waste Management Board; 329 IAC 4.1-10-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3081)

SECTION 39. 329 IAC 4.1-11-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-11-1 Incorporation by reference; contingency plan

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. (a) 40 CFR 264, Subpart D, consisting of 40 CFR 264.50 through 40 CFR 264.56, is incorporated by reference, except as provided in subsection (d).

(b) 40 CFR 264, Subpart D is available for viewing and copying at the Office of ~~Solid and Hazardous Waste Management~~, **Land Quality**, Indiana Government Center-North, Eleventh Floor West, 100 North Senate Avenue, Indianapolis, Indiana.

(c) The Code of Federal Regulations is available from the ~~Superintendent of Documents~~, U.S. Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402~~; **20401**. The telephone number for the ~~Superintendent of Documents~~ U.S. **Government Printing Office** is ~~(202) 512-1800~~; **(202) 512-0000**.

(d) Delete 40 CFR 264.50. *(Solid Waste Management Board; 329 IAC 4.1-11-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3081)*

SECTION 40. 329 IAC 4.1-11-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-11-2 Contingency plan

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 2. (a) The owner or operator of:

- (1) an incinerator or high efficiency boiler;
- (2) a chemical waste landfill;
- (3) an alternative disposal facility; or
- (4) a mobile facility;

shall prepare and maintain a contingency plan in accordance with 40 CFR 264.51 through 40 CFR 264.54.

(b) The contingency plan must **be as follows:**

(1) ~~be~~ Designed to minimize hazards to human health and the environment from **any of the following:**

(A) Fires.

(B) Explosions. ~~or~~

(C) Any unplanned sudden or nonsudden release of PCB waste to **any of the following:**

(i) Air.

(ii) Soil.

(iii) Surface water. ~~or~~

(iv) Ground water. ~~and~~

(2) Meet the requirements of 40 CFR 264.51 through 40 CFR 264.54.

(c) ~~The~~ **A** person required to prepare a contingency plan shall provide copies of the contingency plan to the:

(1) local emergency planning committee; and

(2) ~~the~~ emergency management director;

for the county in which the facility is located before operation of the facility begins. (*Solid Waste Management Board; 329 IAC 4.1-11-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082*)

SECTION 41. 329 IAC 4.1-11-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-11-3 Use of contingency plan

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 3. ~~The~~ **A** owner or operator of a facility described in section 2(a) of this rule shall carry out the provisions of the contingency plan immediately whenever there is a:

(1) fire;

(2) explosion; or

(3) release of PCB waste;

that could threaten human health or the environment. (*Solid Waste Management Board; 329 IAC 4.1-11-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082*)

SECTION 42. 329 IAC 4.1-11-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-11-4 Emergency coordinator

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 4. (a) ~~The~~ **A** owner or operator of a facility described in section 2(a) of this rule shall designate an employee as the emergency coordinator as required in 40 CFR 264.55.

(b) The emergency coordinator shall carry out the duties described in 40 CFR 264.56 that are appropriate for the facility. (*Solid Waste Management Board; 329 IAC 4.1-11-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082*)

SECTION 43. 329 IAC 4.1-12-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-12-1 General

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. ~~Owners~~ **An owner** or ~~operators~~ **operator** of the following types of facilities shall comply with the financial assurance requirements in 329 IAC 3.1-15:

- (1) An incinerator or high efficiency boiler.
- (2) A chemical waste landfill.
- (3) An alternative disposal facility.

(Solid Waste Management Board; 329 IAC 4.1-12-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082)

SECTION 44. 329 IAC 4.1-13-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-13-1 Disposal in MSWLF units or nonmunicipal solid waste landfill units

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 1. (a) A person who disposes of waste containing or contaminated with PCBs in a MSWLF unit or a nonmunicipal solid waste landfill unit shall comply with all requirements of

- ~~(1) 40 CFR 761, Subpart D, as incorporated by reference at 329 IAC 4.1-4. and~~
- ~~(2) 329 IAC 10-8.1.~~

(b) In addition to the requirements of subsection (a), a person who disposes of any waste containing PCBs in a MSWLF unit that does not meet the design requirements of 329 IAC 10-17 or a nonmunicipal solid waste landfill shall **do the following:**

- (1) Obtain written authorization from the commissioner ~~prior to~~ **before** disposal of any quantity of the waste. ~~and~~
- (2) Comply with any conditions in the written authorization by the commissioner.

(c) In addition to the requirements of subsection (a), a person who disposes of a waste listed in Table 1 in a MSWLF unit that meets the design requirements of 329 IAC 10-17 shall **do the following:**

- (1) Obtain written authorization from the commissioner ~~prior to~~ **before** disposal of any quantity of the waste. ~~and~~
- (2) Comply with any conditions in the written authorization by the commissioner.

Table 1.

Waste that contains PCBs at a concentration less than 50 ppm PCBs, resulting from a source that had a PCB concentration greater than or equal to 50 ppm PCBs.

Items or wastes containing inadvertently generated PCBs.
--

(d) ~~Instead of following~~ **In addition to** the requirements of subsections (a) through (c), ~~of this section,~~ a person who disposes of a waste that contains PCBs at a concentration of less than fifty (50) parts per million resulting from a source that had a PCB concentration less than fifty (50) parts per million PCBs in a:

- ~~(1) MSWLF; unit or a~~
- ~~(2) nonmunicipal solid waste landfill;~~

unit shall provide a signed letter to the landfill stating that the PCB concentration in the source was less than fifty (50) parts per million PCBs.

(e) Fluorescent light ballasts containing PCBs that are:

- (1) leaking; or
- (2) no longer intact;

must be disposed of in accordance with 40 CFR 761.62(a) or 40 CFR 761.62(c).

(f) Nonleaking fluorescent light ballasts containing PCBs must be disposed of as follows:

- (1) Dispose of the ballasts only in a MSWLF unit that meets the design requirements of 329 IAC 10-17.
- (2) Place the ballasts in a container that meets the packaging requirements in 40 CFR 761.60(b)(2)(iv) as incorporated by reference in 329 IAC 4.1-4.
- (3) Fill the interstitial space in the container with absorbent material capable of absorbing all liquid content of the ballasts and capacitors.
- (4) Segregate containers of fluorescent light ballasts from organic liquids disposed of in the landfill unit.
- (5) Before compacting with heavy equipment, cover containers of fluorescent light ballasts with a layer of:
 - (A) daily cover material;

- (B) alternative daily cover material; or
 - (C) solid waste;
- that is thick enough to prevent crushing of the containers.
- (6) Collect leachate from the landfill unit and monitor the leachate for PCBs.
 - ~~(7) Comply with all applicable requirements of 329 IAC 10-8.1.~~

(g) Nonleaking fluorescent light ballasts containing PCBs must not be disposed of in a MSWLF unit that does not meet the design requirements of 329 IAC 10-17. *(Solid Waste Management Board; 329 IAC 4.1-13-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082; errata filed Jul 14, 2000, 10:59 a.m.: 23 IR 3091)*

SECTION 45. 329 IAC 4.1-13-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 4.1-13-2 Disposal in other solid waste land disposal facilities

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 2. **Any** wastes containing or contaminated with PCBs must not be disposed of in:

- (1) a construction/demolition site as defined at 329 IAC 10-2-36; or
- (2) a restricted waste site as defined at 329 IAC 10-2-159.

(Solid Waste Management Board; 329 IAC 4.1-13-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3083)

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on March 21, 2006, at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana, the Solid Waste Management Board will hold a public hearing on amendments to 329 IAC 4.1, regulation of wastes containing PCBs.

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Kiran Verma, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232-8899 or (800) 451-6027 (in Indiana).

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

Indianapolis, Indiana 46204-2251

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

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