

Document: Proposed Rule, **Register Page Number:** 29 IR 2642

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TITLE 329 SOLID WASTE MANAGEMENT BOARD

Proposed Rule LSA Document #05-219

DIGEST

Amends 329 IAC 4.1, concerning regulation of wastes containing PCBs, to readopt for the purposes of IC 13-14-9.5 and amend to update the incorporation by reference of the Code of Federal Regulations, update the viewing/copying location and addresses, clarify public notice requirements, remove the language relating to manifests to reflect the current statute, simplify certain notifications, and update references. Effective 30 days after filing with the Secretary of State.

HISTORY

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

Second Notice of Comment Period and Notice of First Hearing: December 1, 2005, Indiana Register (29 IR 1055).

Date of First Hearing: March 21, 2006.

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 on December 1, 2005, at 29 IR 1055. 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.

Since the draft rule was published, two sets of changes have been made to the rule. The first set of changes were requested by IDEM staff for the purpose of clarification of the public notice and public participation requirements in 329 IAC 4.1-7-4, 329 IAC 4.1-8-4, 329 IAC 4.1-9-4, and 329 IAC 4.1-10-1. Public notice and public participation requirements were referenced in the existing rule, but these proposed changes specifically set out the requirements. The second set of changes have been made in response to comments made by a member of the regulated community. IDEM proposes to separate 329 IAC 4.1-13-1 into new sections with some changes to new sections 329 IAC 4.1-13-3 and 329 IAC 4.1-13-4.

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

329 IAC 4.1-7-4

329 IAC 4.1-8-4

329 IAC 4.1-9-4

329 IAC 4.1-10-1

329 IAC 4.1-13-3

329 IAC 4.1-13-4

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:

Marjorie Samuel (#05-219; Regulation of Wastes Containing PCBs)

Rules Planning and Outreach Section

Office of Land Quality, MC #65-45

Indiana Department of Environmental Management

100 North Senate Avenue, Room 1101

Indianapolis, Indiana 46204-2251

Hand delivered comments will be accepted by the receptionist on duty at the Eleventh Floor East reception desk, Office of Land

Quality, 100 North Senate Avenue, Indianapolis, Indiana. Comments may also be submitted by facsimile to (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 or (317) 232-8899.

COMMENT PERIOD DEADLINE

Comments in any form must be postmarked, hand delivered, or faxed by May 22, 2006.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from December 1, 2005, through January 3, 2006, on IDEM's draft rule language. IDEM received comments from the following parties:

Barnes and Thornburg, on behalf of Heritage Environmental Services LLC (BAT)

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

Comment: The commenter believes that there is no environmental basis for the requirements set out in 329 IAC 4.1-13-1(b), (c), and (d), and that compliance with 40 CFR 761 Subpart D provides sufficient environmental protection. They feel that the proposed amendments add requirements that are more stringent than the federal requirements. They specifically question the need for the commissioner's written approval if the source was greater than 50 ppm or for disposal of PCB remediation waste at non-municipal waste landfills. They point out that the commissioner's written approval is not needed if the source was less than 50 ppm for PCB remediation waste that has been tested as required by 40 CFR 761.283, 761.286 and 761.292 and proven to contain less than 50 ppm PCBs. The commenter is not aware of any environmental or public health basis for requiring the written approval for PCB remediation waste solely because the PCB concentration of the source is greater than 50 ppm. They also point out that 40 CFR 761, Subpart D, does not make a distinction between remediation waste from sources greater or less than 50 ppm PCB. The commenter believes that this requirement establishes a competitive disadvantage for landfill facilities in the Indiana as they would need to factor in time required to obtain the commissioner's approval when bidding on PCB remediation waste projects. They feel that written approval should not be necessary when 40 CFR, Subpart D, allows disposal of PCB remediation waste in municipal solid waste landfills and nonmunicipal non-hazardous waste landfills when the waste has been documented to contain less than 50 ppm PCBs.

The commenter points out that 329 IAC 4.1-13-1, as proposed to be amended, contains no standard by which any company seeking approval to dispose of PCB remediation waste, can determine what information must be submitted to obtain such approval or what standard the commissioner would use as the basis for approving or denying a request to dispose of PCB remediation waste in Indiana.

The commenter recommends that, in addition to the proposed changes to 329 IAC 4.1-13-1(a), 329 IAC 4.1-13.1 be revised by striking everything in 329 IAC 4.1-13(b), (c), and (d) and then re-letter the remaining subsections.

Response: IDEM agrees that the existing language of 329 IAC 4.1-13-1 on PCB waste landfill disposal sets out a review process that can be redundant in its practical application. IDEM proposes to separate 329 IAC 4.1-13-1 into new sections 329 IAC 4.1-13-3 on state authorization, 329 IAC 4.1-13-4 on notification to landfills, and 329 IAC 4.1-13-5 on disposal of fluorescent light ballasts.

The section on state authorization has been streamlined to eliminate such authorization when there is a federal approval process for the specific waste under 40 CFR 761, Subpart D or when state authorization would not result in meaningful additional environmental protection. State authorization as now proposed allows the commissioner to evaluate a non-conforming landfill in general to determine if such a disposal is environmentally protective, and allows for the inclusion of specific requirements for a particular waste and a particular landfill to ensure environmental and human health protection.

329 IAC 4.1-13-4 is now a stand-alone requirement for notification to the landfill of disposal of waste containing less than 50 ppm PCBs from a source that is less than 50 ppm PCBs. This regulation is consistent with the rules found under the solid waste regulations 329 IAC, specifically found at 329 IAC 10-9-5. This rule requires the owner/operator of a landfill to only accept waste listed in their facility permit, or to submit a written request, to be approved by the commissioner, for authorization to dispose of other wastes. Non-municipal solid waste landfills may submit this request to comply with both the Solid Waste and PCB regulations. A "blanket approval" could be requested to eliminate the need for generators to obtain specific approvals from the IDEM prior to disposal of this specific type of PCB waste.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On March 21, 2006, the solid waste management board (board) conducted the first public hearing/board meeting concerning the development of amendments to 329 IAC 4.1 concerning regulation of wastes containing PCBs. No comments were made at the first hearing.

329 IAC 4.1-1-1	329 IAC 4.1-7-3
329 IAC 4.1-1-2	329 IAC 4.1-7-4
329 IAC 4.1-1-3	329 IAC 4.1-7-5
329 IAC 4.1-1-4	329 IAC 4.1-8-1
329 IAC 4.1-1-5	329 IAC 4.1-8-2
329 IAC 4.1-1-6	329 IAC 4.1-8-3
329 IAC 4.1-2-1	329 IAC 4.1-8-4
329 IAC 4.1-2-2	329 IAC 4.1-8-5
329 IAC 4.1-2-3	329 IAC 4.1-9-1
329 IAC 4.1-2-4	329 IAC 4.1-9-2
329 IAC 4.1-2-5	329 IAC 4.1-9-3
329 IAC 4.1-2-6	329 IAC 4.1-9-4
329 IAC 4.1-2-7	329 IAC 4.1-9-5
329 IAC 4.1-2-8	329 IAC 4.1-10-1
329 IAC 4.1-2-9	329 IAC 4.1-11-1
329 IAC 4.1-3-1	329 IAC 4.1-11-2
329 IAC 4.1-4-1	329 IAC 4.1-11-3
329 IAC 4.1-4-2	329 IAC 4.1-11-4
329 IAC 4.1-5-1	329 IAC 4.1-12-1
329 IAC 4.1-5-2	329 IAC 4.1-13-1
329 IAC 4.1-6-1	329 IAC 4.1-13-2
329 IAC 4.1-6-2	329 IAC 4.1-13-3
329 IAC 4.1-7-1	329 IAC 4.1-13-4
329 IAC 4.1-7-2	329 IAC 4.1-13-5

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:

Table 1 :		
Version Referenced in 40 CFR 761	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); II (September 1994); IIIA (August 1993); IIIB (January 1995); and IIIC (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 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 U.S. 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 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 Management~~ **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. (a) Each applicant submitting a request for approval for an incinerator or high efficiency boiler under 329 IAC 4.1-4-1 shall **submit a signed affidavit to the department agreeing to notify adjoining landowners with a notice as described in 329 IAC 10-12-1(b) and shall thereafter** comply with the public notice and public participation requirements ~~contained in 329 IAC 10-12-1~~ **329 IAC 10-12-1(b) through 329 IAC 10-12-1(f),** as follows:

(1) For an incinerator or high efficiency boiler 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~~ **329 IAC 10-12-1(b) through 329 IAC 10-12-1(f),** 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~~ **329 IAC 10-12-1(b) through 329 IAC 10-12-1(f),** before beginning construction.

(b) The department shall comply with 329 IAC 10-12-1(g) through 329 IAC 10-12-1(i) as appropriate after receipt of a request for approval under this section.

(c) Failure of the applicant to comply with the requirements of this section may result in denial of the application by the commissioner. *(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~~;

~~(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 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 ~~landfill~~ **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~~ (a) 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 **do the following**:

(1) **Submit a signed affidavit to the department agreeing to notify adjoining landowners with a notice as described in 329 IAC 10-12-1(b).**

(2) **Thereafter** comply with the public notice and public participation requirements in ~~329 IAC 10-12-1~~; **329 IAC 10-12-1(b) through 329 IAC 10-12-1(f).**

(b) **The department shall comply with 329 IAC 10-12-1(g) through 329 IAC 10-12-1(i) as appropriate after receipt of a request for approval under this section.**

(c) **Failure of the applicant to comply with the requirements of this section may result in denial of the application by the commissioner.** (*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 (a)~~ **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 submit a signed affidavit to the department agreeing to notify adjoining landowners with a notice as described in 329 IAC 10-12-1(b) and shall thereafter comply with the public notice and public participation requirements in 329 IAC 10-12-1 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f) 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 10-12-1 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f)~~ 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 10-12-1 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f)~~ before beginning construction of the facility.

(b) The department shall comply with 329 IAC 10-12-1(g) through 329 IAC 10-12-1(i) as appropriate after receipt of a request for approval under this section.

(c) Failure of the applicant to comply with the requirements of this section may result in denial of the application by the commissioner. (*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~~ **329 IAC 10-12-1(b) through 329 IAC 10-12-1(f)** before continuing operations under this article.

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

(A) Submit a signed affidavit to the department agreeing to notify adjoining landowners with a notice as described in 329 IAC 10-12-1(b).

(B) Thereafter comply with the public notice and public notice and public participation requirements in 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f).

(6) The department shall comply with 329 IAC 10-12-1(g) through 329 IAC 10-12-1(i) as appropriate after receipt of a request for approval under this section.

(7) Failure of the applicant to comply with the requirements of this section may result in denial of the application by the commissioner.

(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~~ **An** 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:

- (1) a fire;
- (2) ~~an~~ explosion; or
- (3) ~~a~~ 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~~ **An** 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), 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:~~

- (1) obtain written authorization from the commissioner prior to 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), 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:

- (1) obtain written authorization from the commissioner prior to 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 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 MSWLF unit or a 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 leaking or 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)

SECTION 46. 329 IAC 4.1-13-3 IS ADDED TO READ AS FOLLOWS:

329 IAC 4.1-13-3 Disposal of waste containing PCBs; state authorization

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 3. (a) This section does not apply to the disposal of PCB household waste, as defined at 40 CFR 761.3.

(b) As follows, if the requirements of section 1 of this rule do not include a requirement for approval by the U.S. EPA Regional Administrator before disposal of a specific waste, then:

(1) In addition to compliance with the requirements of section 1 of this rule, 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 in a nonmunicipal solid waste landfill that is not specifically permitted to accept the waste shall do the following:

(A) Obtain written authorization from the commissioner before disposal of any quantity of the waste.

(B) Comply with any conditions for disposal in the written authorization by the commissioner.

(2) In addition to compliance with the requirements of section 1 of this rule, 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:

(A) Obtain written authorization from the commissioner before disposal of any quantity of the waste.

(B) Comply with any conditions for disposal in the written authorization by the commissioner.

Table 1.

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

Items or wastes containing inadvertently generated PCBs.
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(Solid Waste Management Board; 329 IAC 4.1-13-3)

SECTION 47. 329 IAC 4.1-13-4 IS ADDED TO READ AS FOLLOWS:

329 IAC 4.1-13-4 Disposal of wastes; notification to landfills

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 4. 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; or

(2) nonmunicipal solid waste landfill;

unit shall provide a written and signed notification to the landfill stating that the PCB concentration in the source was less than fifty (50) parts per million PCBs. (Solid Waste Management Board; 329 IAC 4.1-13-4)

SECTION 48. 329 IAC 4.1-13-5 IS ADDED TO READ AS FOLLOWS:

329 IAC 4.1-13-5 Disposal of fluorescent light ballasts containing PCBs

Authority: IC 13-20-15-1

Affected: IC 13-20-15-6

Sec. 5. (a) 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).

(b) 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.

(c) 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 4.1-13-5)*

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 July 18, 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 proposed 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 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 Kiran Verma, Rules, Planning and Outreach Section, (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

I n d i a n a D e p a r t m e n t o f E n v i r o n m e n t a l M a n a g e m e n t
100 North Senate Avenue

Indianapolis, Indiana 46204-2251

or call (317) 233-0855 or (317) 232-6565 (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, 100 North Senate Avenue and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin
Assistant Commissioner
Office of Land Quality