TITLE 329 SOLID WASTE MANAGEMENT BOARD

SECOND NOTICE OF COMMENT PERIOD
LSA Document #05-181(SWMB)

DEVELOPMENT OF ADDITION OF 329 IAC 16 CONCERNING ELECTRONIC WASTE

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for new rules at 329 IAC 16 concerning e-waste. 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: August 1, 2005, Indiana Register (28 IR 3357).
Continuation of First Notice of Comment Period: February 1, 2006, Indiana Register (29 IR 1771).

CITATIONS AFFECTED: 329 IAC 16.

AUTHORITY: IC 4-22-2; IC 13-14-7-1; IC 13-14-8-1; IC 13-14-8-2; IC 13-14-9; IC 13-15-2; IC 13-19-3-1; IC 13-30-2.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Electronic waste (e-waste) handling and disposal has become a pressing nationwide environmental issue of concern. The United States generates more e-waste than any other nation, according to the United States Environmental Protection Agency (U.S. EPA). Electronic waste, or e-waste, includes cathode ray tubes (CRTs) from televisions and computer monitors, the central processing units (CPUs) and other chips from PCs, hard drives, printers, circuit boards, keyboards, cellular and cordless phones, televisions, VCRs, and DVD players. E-waste can include any item that has an electric cord or a battery. E-waste is also known as WEEE, or waste from electrical and electronic equipment. In general, computer equipment is a complicated assembly of more than 1,000 materials, many of which are highly toxic, such as chlorinated and brominated substances, toxic gases, toxic metals, biologically active materials, acids, plastics, and plastic additives.

Indiana has addressed white goods disposal for more than 13 years. White goods include clothes washers and dryers, refrigerators, stoves, and dishwashers. Indiana Solid Waste Management Districts must provide for the proper management and disposal of white goods as a part of their approved solid waste management plans. Generally, these items are repaired or recycled, so this background report will concentrate on electronic waste other than white goods.

The health impacts of the mixtures and material combinations in electronic products often are not known. However, there is evidence that computer recyclers have high levels of dangerous chemicals in their blood. (Sjodin, et al. "Flame Retardants Exposure–Polybrominated Diphenyl Ethers (PBDEs) in Blood from Swedish Workers". Environmental Health Perspectives. Vol. 107, Number 8, August 1999.) Experts estimate that as of 2004 there were more than 315 million obsolete computers in the U.S., many of which were destined for landfills, incinerators, or hazardous waste exports. Approximately 6.3 million computers were obsolete in Indiana as of 2004. No national specific mandates exist for the collection and handling of e-waste in the United States. California, Maine, Massachusetts, and Minnesota have recognized the problem to the extent of banning cathode ray tubes (CRT) from municipal solid waste landfills.

This rule will be a true "one-stop shopping" rule. It will include the new exclusion under the hazardous waste rules at 40 CFR 260 et al., and include provisions and standards for e-waste processing, storage, and disposal under the solid waste rules. The U.S. EPA's rule for handling and recycling of cathode ray tubes was signed on July 19, 2006. The U.S. EPA "believes strongly that if the minimum requirement specified under the regulations are not met, neither the facilities nor EPA can ensure that used CRTs are being managed in a manner protective of human health and the environment".

This rule will specify minimal requirements. The minimal requirements are a registration notice, storage requirements, operational requirements, employee training, disposal requirements, and closure requirements with a closure bond. The rule will require permitting of certain e-waste processing facilities–thermal and chemical treatment–both because of the risks involved and the general statutory permitting requirement for thermal and chemical solid waste processing facilities.

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed Under Federal Law (NIFL). The following elements of the proposed rule impose restrictions or requirements not imposed under federal law:

(A) The requirements for registration, some operational requirements, closure, and financial assurance.

(1) The environmental hazard dictating the imposition of the NIFL element is the potential for mismanagement of electronic waste, especially cathode ray tubes. CRTs have been found to be a hazardous waste. This rule will set standards so that all e-waste will be covered under this article and be able to comply with the laws and rules. This rule should protect against spills and contamination caused by storing and processing e-waste.

(2) The estimated fiscal impact of the NIFL element are insignificant because many of the costs associated with this article are either required under federal law or are a common business practice such as record keeping, operational safety plans, proper storage, and closure. There will not be a cost for registration. As a protection to the state, there will be a cost for a closure bond. It is unknown at this time what a bond will cost each facility, as it depends on the amount stored at the facility. The expected benefits include the protection of the environment and human health from pollution caused by e-waste.

(3) The materials that IDEM relied on in the development of this rule include an informational paper on e-waste written by Lynn West, IDEM, and provided to the Solid Waste Management Board in 2005. The materials may be obtained from the Office of Land Quality, Rules, Planning and Outreach Section, Eleventh Floor, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Potential Fiscal Impact

There may be a cost of approximately $20,000 to $50,000 per acre to allow indoor storage and processing of all e-waste at the facility. There is no cost associated with sending in a registration form, but there would be a cost for obtaining a closure bond. Some costs are merely costs of doing business, such as record keeping, operational safety plans, employee training, and protective storage requirements. The costs for a facility storm water permit, as applicable, are imposed by separate environmental rules.

In contrast, if the site would become contaminated, the cost of soil and ground water remediation is at a minimum $400,000 to $800,000 per acre. The United States Environmental Protection Agency estimates that the average savings under the 2006 CRT rule for a previously regulated small quantity generator is $520 per year; for a previously regulated large quantity generator, the average saving is $1,091 per year. (See the Cost/Economic Impact, Hazardous Waste Management System; Modification of the Hazardous Waste Program; Cathode Ray Tubes.)

For the facilities required to obtain a solid waste processing facility permit the cost of a full permit varies; however, to permit, construct, and operate a solid waste processing facility, the cost is approximately $400,000 to $750,000. Under this draft rule, the processing or storage of e-waste is an activity excluded from the requirement to obtain a solid waste processing facility permit, unless the e-waste will be processed by thermal or chemical treatment.

Public Participation and Workgroup Information

An external workgroup has been established to discuss issues involved in this rulemaking. The workgroup is made up of IDEM staff and a cross section of stakeholders representing the regulated community, universities, municipalities, consultants, and solid waste management districts. This workgroup has met on a regular basis to develop the draft rule language. From September 2005 to May 2006, the external workgroup has met nine times to discuss the requirements and draft language. If you would like to be a member of this workgroup, please contact Lynn West, Rule, Planning, and Outreach Section, Office of Land Quality at (317) 232-3593 or (800) 451-6027 (in Indiana).

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from August 1, 2005, through September 1, 2005, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received comments from the following parties by the comment period deadline:

James Murray, Director, Bartholomew County Solid Waste Management District (BARSWMD)
David A Sharp, Business Manager, Covanta Energy (COV)
Phil Goldsmith, President and CEO, and Eric Goldsmith, Vice President, Goldsmith Group, Inc. (GGI)
Melissa A Kriegerfox, President, and Michelle Cohen, Executive Director, Indiana Recycling Coalition (IRC)
Steve Gauger, Assistant Director, Brian McDonald, Environmental Protection Specialist, Adam Krajicek, Hazardous Waste Chemist, Purdue University (PU)

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

Comment: Exempt one-day and ongoing collection of e-waste from all rules for units of government performing this service. Exempt one-day collection of e-waste from all rules for commercial establishments. Ongoing collections involving commercial establishments must meet all alternative 1 requirements. (BARSWMD)

Response: IDEM agrees and has exempted the short term collection events if e-waste is removed in 5 days. On-going collection events will be regulated if more than 23 tons is stored in an enclosed building or lockable trailer on-site at any one time.

Comment: Impose streamlined alternative 2 requirements for all processors of e-waste. Make the processing permit less onerous if only e-waste is involved at the facility. (BARSWMD)

Response: Processors of all e-waste, except thermal treatment and chemical treatment processors of

e-waste, will be registered and have minimal requirements.

Comment: Ban solid waste land disposal of CRT's. Mountains of evidence show them to be consistently RCRA hazardous. (BARSWMD)

Response: A CRT ban must be done either under Federal law or rule or Indiana statute.

Comment: Require Indiana solid waste districts to educate on the dangers of improper e-waste disposal. Fund this education via a $2,000/year/District non-matching grant cut from the recycling grant funds. This non-competitive e-waste grant shall sunset after 5 years. (BARSWMD)

Response: IDEM believes that this type of education would be beneficial; however, the provisions mentioned would need to be implemented under Indiana statute.

Comment: Covanta does not oppose the agency's objective of shifting the management of discarded electronic waste material from disposal to recycling. However, the use of a disposal ban as the means to that end presents significant problems. An "end-of-pipe" focus provides no incentive to the public for modifying behavior, nor does it encourage manufacturers to modify their product. Disposal bans tend to target disposal facilities for enforcement, without recognizing the inability of these facilities to exercise control over either household generators or large manufacturers. While it is certainly possible to refuse larger, segregated loads of such material delivered to disposal facilities, this material is more often delivered as a very small component of regular household trash. Individual, smaller components are difficult, if not impossible to spot in a load of garbage dropped at a disposal site. (COV)

Response: The rule does not contemplate a disposal ban.

Comment: Covanta encourages the State to look instead towards programs such as an advanced disposal fee or other manufacturer or generator based, front-end incentives in its efforts to shift the management of discarded e-waste towards reuse. (COV)

Response: This is beyond the scope of this rulemaking.

Comment: Suggestions in wording: 1. E-waste defines it can be thrown away, disposed of or incinerated. E-scrap shows that it can be recycled, if not reused. 2. Defining that prior to purchase, green purchasing criteria is important to reduce the potential hazardous material or lack of planning for end of life. 3. If you can also explain that the best practices for E-scrap is first to define REUSE as a higher form of end of life decisions. So we always suggest either repairing or refurbishing a unit before disposal. Sell or donate to someone who can reuse these end-of-life electronics. 4. Recycle only when reuse is not an option or cost effective to do so. (GGI)

Response: IDEM agrees, in theory, with the suggested wording, but, however valued the concept, these suggestions in wording go beyond the scope of the rulemaking. IDEM regulates waste and "e-waste" is the best name to reflect that.

Comment: Alternative 1–This seems to be the most effective way to get more recyclers to be participating. It seems that the largest issues are around having enough of an infrastructure to deal with the amount of material needed to be processed. I would also add that if a recycler is also a full processor, doing either shredding and or smelting then I believe they should be regulated with much more stringent regulations. However, to put the same level of regulations on a collector, middle processor or reseller, I believe we would impose un-needed regulation that could financially harm these organizations. (GGI)

Response: Processors of all e-waste, except thermal treatment and chemical treatment processors of e-waste, will be registered and have minimal requirements. Collection and storage of less than 23 tons of e-waste is exempt. Thermal and chemical treatment processors of e-waste will be required to obtain a solid waste processing facility permit.

Comment: Alternatives 2 and 3 are not unreasonable but I believe exceeds the regulatory expectations of a collector, processor or reseller. They should be following guidelines like those set forth in the IRC's 4 Best Practices documents. (GGI)

Response: Processors of all e-waste, except thermal treatment and chemical treatment processors of e-waste, will be registered and have minimal requirements. Collection and storage of less than 23 tons of e-waste is exempt.

Comment: Relative to the Potential Fiscal Impact: Our comments are as follows: Alternative 1 is the only fiscally responsible way to go, anything more than that would force the current recyclers to find funding for these expectations and with the current economy I do not believe all of the recyclers could handle these costs. Plus what would be gained by regulating them so? That does not change the opportunity that if there is funding assistance, and a time schedule to be [sic] add a higher level of permitting, then I believe you will find many of the current recyclers willing to take the time and make the capital investments to fulfill these higher level of expected permitting. (GGI)

Response: Registering with the department will cost nothing. The storage, operational, and closure requirements are also good business practices. The financial assurance is for the protection of the State and local communities.

Comment: We believe that the most important things that need to be done are: 1. Funding for E-scrap education, help the IRC (Indiana Recycling Coalition) help the state to spread the word. 2. Funding of Existing E-scrap businesses, collections and possible subsidized labor to help with the collection and disposal process. 3.

Technical Assistance to the E-scrap businesses so they can grow to reach higher toward becoming the state-of-the-art facilities that we know we will surely need to become. 4. Adopt the IRC's 4 best practice documentation, it is well thought out and it draws from experts here in Indiana and all over the US. 5. Guide recyclers with Minimum regulatory rules, while guiding them to function on a higher level so regulation does not force them to where we are expected to go. These regulations will help to show the public the Legitimate vs. non-legitimate recyclers. Recyclers who also shred should be regulated more so than a collector and remarketer. 6. Registering Recyclers is not a bad idea depending on how you go about the process and if you set aside definitions to the differences between a collector, processor that is also a dismantler and or a shredder, as well as a reseller. 7. A CRT Ban is a huge step toward helping with this problem. Along with the ban an education effort and a funding solution needs to be in place when the ban goes into affect. Most of the Recyclers I know are open to a ban. 8. The AISWMD (Association of Indiana Solid Waste Management Districts) has endorsed the IRC CRT Ban and Best Practices documentation. These people are very well versed and experienced with the issues around solid waste in Indiana. I have a lot of respect for these people. I have also learned much from them over the last 2 years working on the Best Practice documentation. The Goldsmith Group, Inc., the owner, employees and I thank you for the opportunity to give input to this process. (GGI)

Response: IDEM agrees that the items listed are important, but go beyond the scope of this rulemaking. Education can be accomplished through the E-scrap Action Program more effectively.

Comment: For nearly three years, through our E-Scrap Action Program, the Indiana Recycling Coalition has led a comprehensive effort to find and implement solutions to the electronics scrap problems in Indiana. The goal of this program is to build a stronger, more sustainable infrastructure for e-scrap management in the state-an infrastructure that will offer environmentally sound, socially beneficial, and cost-effective solutions for e-scrap issues in Indiana. One of the reasons we have worked on this issue is that e-scrap management practices often do not adequately and consistently protect the environment and human health. Therefore, the IRC appreciates IDEM's efforts to evaluate the management of electronics waste in Indiana and to enact new rules geared toward protecting public health and the environment. (IRC)

Response: These rules should protect public health and the environment.

Comment: As you move forward with this rulemaking process, we strongly encourage you to consider the following: 1. The IRC believes that there should be minimum requirements for those performing electronics reuse and recycling activities. 2. The IRC urges IDEM to utilize and promote the four Best Practices documents developed by a multi-stakeholder committee led by the IRC. The Best Practices offer guidance for e-scrap generators, reuse and recycling organizations, and for local government programs, including: procurement practices, responsible acceptance and management practices, data security practices, and documentation and compliance practices. These documents provide guidance for exceeding what is legally required and encouraging greater due diligence when operating a reuse or recycling operation or when donating to or hiring a reuse or recycling service provider. These Best Practices documents were developed as part of our E-Scrap Action Program Toolkit, Solutions to Electronics Scrap Challenges in Indiana. 3. The IRC urges IDEM to adopt the recommendations of our E-Scrap Action Program stakeholder group. The recommendations present ways in which the state can address the issue of e-scrap from policy, regulatory, legislative, and educational perspectives. The complete text of the recommendation is attached. In particular, we call your attention to the recommendation dealing with: funding mechanisms; landfill/incinerator disposal ban; procurement; asset management; reuse. 4. The IRC encourages IDEM to refer to the electronics destined for reuse or recycling as "scrap" instead of "waste" in an effort to promote resource conservation and not disposal. E-Scrap is also the term that is widely used in the industry. (IRC)

Response: During the workgroup process all of the aforementioned items were considered. 1. There will be minimum requirement for e-waste processing and storage. 2. The Best Practices do not lend themselves readily to a rule. These should be left for the Indiana Recycling Coalition to disseminate. 3. Some of these recommendations would have to be proposed as legislation, such as the CRT ban. 4. IDEM regulates waste. It is more appropriate for the IRC to refer to it as e-scrap when providing education and best management practices.

Comment: Purdue University understands the State's concern regarding the processing, storage, and disposal of e-waste generated within the State of Indiana. With the growing number of obsolete electronic equipment and personal computers being generated across the state, provision should be provided to the regulated community to ensure environmentally responsible handling and recycling of these items. Purdue University manages its e-waste through environmentally sound practices. Further, Purdue University expects IDEM to ensure the Indiana regulated community generating e-waste manage their waste in an environmentally sound manner. (PU)

Response: IDEM works hard to ensure the Indiana regulated community generating a solid or hazardous waste does manage their waste in an environmentally sound manner and according to the laws and rules that are appropriate.

Comment: However, the University is opposed to the development of State level e-waste regulation until more information is available and further guidance is provided by the Federal government. Please remember current Federal and state Solid waste rules already regulate the disposal of any solid waste, including e-waste. In

the case of Cathode Ray Tubes (CRTs), it is widely accepted most of these devices contain high concentrations of lead and may be characterized as hazardous waste. (PU)

Response: There is a tremendous volume of information available on the toxicity of all electronic waste and even individual parts. Please see the United States Environmental Protection website.

Comment: Purdue recommends the following before undertaking the rule making process: 1. To ensure consistency with Federal regulation and save the anticipated time and resources likely to be spent developing this State regulation, the State should solicit the U.S. EPA for guidance and federal rule development. 2. The two methods of performing waste determination use generator knowledge or analytical data. Acceptable analytical methods are unavailable to fully characterize all types of e-waste. Other than CRTs, there is conflicting information on the hazards of e-waste and the potential treat they pose when disposed in the environment. A thorough review of all types of e-waste must be conducted to better understand the respective hazards of each type. It would be premature to regulate all e-waste in a similar fashion recognizing the different types of e-waste represent different risks to harm the environment based on: a) The hazardous constituents they contain, if any b) The relative concentration of hazardous constituents c) The potential to leach or be released to the environment. (PU)

Response: By developing minimum requirements for e-waste storage and processing to ensure the safety of the environment and human health, e-waste can be managed consistently and safely. This rule was intended to regulate e-waste in a reasonable and similar manner.

Comment: (Continued) Purdue recommends the following before undertaking the rule making process: 3. The First Notice of Comment Period #05-181 (SWMB) states, "E-waste can include any item that has an electric cord or battery". Purdue does not believe it is the intent of the IDEM to develop specialized waste management regulations for a discarded desk lamp or a handheld flashlight, for example. The definition of e-waste needs to be narrow in scope. Purdue recommends and supports a regulator designation of CRTs as Universal Waste, which must be initiated at the Federal level. The potential hazards to the environment and human health of other types of e-waste must be better understood and defined before undertaking the regulatory development process. 4. Recently, Bruce Parker, CEO of the National Solid Wastes Management Association, and John Skinner, CEO of the Solid Waste Association of North America, responded in a joint letter to Senator John Thume (R-SD), chairman of the U.S. Senate Superfund and Solid Waste Management subcommittee based on testimony made at the July 26 subcommittee hearing on electronic waste recycling. The testimony claimed CRTs were too hazardous to safely dispose in municipal solid waste landfills. In the joint letter, Bruce Parker and John Skinner say recycling electronics should be the first option. However, Subtitle D landfills are engineered to prevent leakage and therefore can safely handle scrap electronics. Within the State of Indiana, e-waste has been generated, processed and placed in municipal solid waste landfills for many years now. From an environmental performance perspective, a review of available data should be conducted to determine if these practices have resulted in any harm to the environment and on public health. With this information and better understanding of the issues, relevant regulation then could be developed. 5. An estimated volume of e-waste generated in Indiana should be determined. This should be compared to the e-waste volume currently being properly managed by Large Quantity Generators, Small Quantity Generator, and Conditionally Exempt Small Quantity Generators and through Household Hazardous Waste programs. This will provide necessary information on the scope of the problem, if one exits, before developing specialized e-waste regulation. (PU)

Response: IDEM has undertaken the draft rule and Purdue helped develop and comment on the draft language. Many of Purdue's suggestions have been taken into consideration during the workgroup.

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

IDEM requested public comment from February 1, 2006, through March 3, 2006, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. No comments were received.

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:

#05-181 (SWMB) [E-waste Rule]
Marjorie Samuel
Rules, Planning, and Outreach Section
Office of Land Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46206-6015.

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, Indianapolis, Indiana. Comment 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 the faxed comments by calling (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by October 27, 2006.

Additional information regarding this action may be obtained from Lynn West, Rules, Planning, and Outreach Section, Office of Land Quality, (317) 232-3593 or (800) 451-6027, extension 2-3593 (in Indiana).

DRAFT RULE

SECTION 1. 329 IAC 3.1-6-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-6-2 Exceptions and additions; identification and listing of hazardous waste

Authority: IC 13-14-8; IC 13-22-2-4
Affected: IC 13-11-2; IC 13-14-2-2; IC 13-14-10-1; IC 13-22-2-3; P.L.231-2003, SECTION 6; 40 CFR 261

Sec. 2. Exceptions and additions to federal standards for identification and listing of hazardous waste are as follows:

(1) This rule identifies only some of the materials that are solid waste as defined by IC 13-11-2-205(a) and hazardous waste as defined by IC 13-11-2-99(a), including IC 13-22-2-3(b). A material that is not defined as a solid waste in this rule, or is not a hazardous waste identified or listed in this rule, is still a solid waste and a hazardous waste for purposes of this article if, in the case of:

(A) IC 13-14-2-2, the commissioner has reason to believe that the material may be a solid waste within the meaning of IC 13-11-2-205(a) and a hazardous waste within the meaning of IC 13-11-2-99(a); or

(B) IC 13-14-10-1, the statutory elements are established.

(2) Delete 40 CFR 261.2(f) and substitute the following: Respondents in actions to enforce regulations implementing IC 13 who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation to demonstrate that the material is not a waste or is exempt from regulation. An example of appropriate documentation is a contract showing that a second person uses the material as an ingredient in a production process. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

(3) References to the "administrator" in 40 CFR 261.10 through 40 CFR 261.11 means the SWMB.

(4) In addition to the requirements outlined in 40 CFR 261.6(c)(2), owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to 40 CFR 265.10 through 40 CFR 265.77.

(5) In addition to the listing of federal hazardous waste incorporated by reference in section 1 of this rule, the wastes listed in section 3 of this rule are added to the listing.

(6) In 40 CFR 261.4(e)(3)(iii), delete the words "in the Region where the sample is collected".

(7) Delete 40 CFR 261, Appendix IX.

(8) In 40 CFR 261.21(a)(3), delete "an ignitable compressed gas as defined in 49 CFR 173.300" and substitute "a flammable gas as defined in 49 CFR 173.115(a)".

(9) In 40 CFR 261.21(a)(4), delete "an oxidizer as defined in 49 CFR 173.151" and substitute "an oxidizer as defined in 49 CFR 173.127".

(10) Delete 40 CFR 261.23(a)(8) and substitute "It is a forbidden explosive as defined in 49 CFR 173.54; or would have been a Class A explosive as defined in 49 CFR 173.54 prior to HM-181, or a Class B explosive as defined in 49 CFR 173.88 prior to HM-181.".

(11) Delete 40 CFR 261.1(c)(9) through 40 CFR 261.1(c)(12).

(12) Delete 40 CFR 261.4(a)(13) and substitute section 4 of this rule.

(13) Delete 40 CFR 261.4(a)(14) and substitute section 4 of this rule.

(14) Delete 40 CFR 261.6(a)(3)(ii) and substitute section 4 of this rule.

(15) Delete 40 CFR 261.2(e)(1)(i) dealing with use or reuse of secondary materials to make products and substitute section 5 of this rule.

(16) In 40 CFR 261.5(j), delete "if it is destined to be burned for energy recovery" in two (2) places.

(17) The conditional exclusions from the definition of solid waste for some zinc fertilizers made from recycled hazardous secondary materials in 40 CFR 261.4(a)(20) and 40 CFR 261.4(a)(21) do not apply to any of the following industries until July 1, 2005:

Standard Industry	Industry Classification Code
Blast furnaces and steel mills	3312

Gray and ductile iron foundries	3321
Malleable iron foundries	3322
Steel investment foundries	3324
Steel foundries	3325
Aluminum foundries	3365
Copper foundries	3366
Nonferrous foundries	3369

(18) In addition to the wastes excluded in 40 CFR 261.4(b), electronic waste or e-waste is excluded, which is any waste that is the following or has the following component:

(A) A circuit board, including a shredded circuit board.

(B) A diode.

(C) A CRT.

(D) A computer.

(E) An electronic device.

E-waste does not include vehicles, as defined by IC 13-11-2-245, or white goods, as defined by IC 13-11-2-266. Electronic waste is regulated under 329 IAC 16 and must comply with all applicable standards and requirements under 329 IAC 16.

(Solid Waste Management Board; 329 IAC 3.1-6-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 924; filed May 6, 1994, 5:00 p.m.: 17 IR 2063; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3355; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3364; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1112; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2741; filed Jan 3, 2000, 10:00 a.m.: 23 IR 1096; filed Mar 6, 2000, 8:02 a.m.: 23 IR 1638; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2432; filed Apr 13, 2005, 11:30 a.m.: 28 IR 2662)

SECTION 2. 329 IAC 11-3-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-3-1 Exclusions; general

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1
Affected: IC 13-11-2-245; IC 13-11-2-266; IC 13-18-10; IC 13-19-3-3; IC 13-30-2; IC 36-9-30

Sec. 1. The following solid waste management activities are not subject to the provisions of this article:
(1) Disposing of only uncontaminated rocks, bricks, concrete, road demolition waste materials, or dirt.
(2) Land application activities regulated by 327 IAC 6.1 and 327 IAC 7.
(3) Confined feeding control activities regulated by IC 13-18-10.
(4) Wastewater discharge activities regulated by 327 IAC 5.
(5) Processing, except for incineration, in which the waste, other than tires, has been segregated from the general solid waste stream ~~prior to~~ **before** arrival at the processing site.
(6) Processing, except for incineration, of solid waste that takes place at the generating facility.
(7) Processing and disposal of uncontaminated and untreated natural growth solid waste, including tree limbs, stumps, leaves, and grass clippings.
(8) Disposal of sawdust that is derived from processing untreated natural wood.
(9) The disposal of coal ash, transported by water, into an ash pond that has received a water pollution control facility construction permit under 327 IAC 3.
(10) The operation of surface impoundments; however, the final disposal of solid waste in such facilities at the end of their operation is subject to approval by the commissioner except as excluded under subdivisions (9) and (11).
(11) The disposal of coal ash at a site receiving a total of less than one hundred (100) cubic yards per year from generators who each produce less than one hundred (100) cubic yards per year.
(12) Uses and disposal of coal waste as exempted from regulation in IC 13-19-3-3.
(13) The legitimate use of iron and steelmaking slags, including the use as a base for road building, but not including use for land reclamation except as allowed under subdivision (15).
(14) The legitimate use of foundry sand ~~which~~ **that** has been demonstrated as suitable for restricted waste site Type III under the provisions of 329 IAC 10-9, including the use as a base for road building, but not including use for land reclamation except as allowed under subdivision (15).
(15) Other uses of solid waste may be approved by the commissioner if the commissioner determines them to be legitimate uses that do not pose a threat to public health and the environment.
(16) Processing or storage of electronic waste or e-waste, which is any waste that is the following or has the following component:

(A) A circuit board, including a shredded circuit board.
(B) A diode.
(C) A CRT.
(D) A computer.
(E) An electronic device.

E-waste does not include vehicles, as defined by IC 13-11-2-245, or white goods, as defined by IC 13-11-2-266. Electronic waste is regulated under 329 IAC 16 and must comply with all applicable standards and requirements under 329 IAC 16.

(Solid Waste Management Board; 329 IAC 11-3-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1933; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; errata filed May 8, 2002, 2:01 p.m.: 25 IR 2741)

SECTION 3. 329 IAC 16 IS ADDED TO READ AS FOLLOWS:

ARTICLE 16. ELECTRONICS WASTE MANAGEMENT

Rule 1. General Provisions

329 IAC 16-1-1 Purpose

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2-1; IC 36-9-30-35

Sec. 1. (a) This article regulates electronic waste through the following:
(1) Providing for the registration of facilities storing or processing electronic waste.
(2) Providing standards for storing or processing electronic waste.
(3) Providing cleanup and closure standards for storing or processing electronic waste.
(4) Providing financial assurance for the cleanup and closure of facilities storing or processing electronic waste.

(b) The purpose of this article is to implement the following statutes relative to electronic waste:
(1) IC 13-30-2-1(3) and IC 13-30-2-1(4) regarding the deposit of contaminants or solid waste upon the land.
(2) IC 13-30-2-1(5) and IC 36-9-30-35 prohibiting dumping, causing, or allowing the open dumping of garbage or of other solid waste.

(c) This article replaces all hazardous waste standards and requirements under 329 IAC 3.1 for e-waste that is a hazardous waste, except disposal or incineration requirements under 329 IAC 16-9-1.

(d) This article replaces all solid waste processing standards and permitting requirements under 329 IAC 11 for e-waste, except disposal or incineration requirements under 329 IAC 16-9-1.

(Solid Waste Management Board; 329 IAC 16-1-1)

329 IAC 16-1-2 Applicability

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 2. This article applies to a person doing any of the following to e-waste:
(1) Collecting.
(2) Brokering.
(3) Storing.
(4) Recycling.
(5) Reselling.
(6) Dismantling.

(7) Demanufacturing.

(Solid Waste Management Board; 329 IAC 16-1-2)

329 IAC 16-1-3 Severability

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 3. If any provision of this article or the application to any person or circumstance is held invalid, the invalidity shall not affect any other provisions or application of this article that can be given effect without the invalid provision or application.

(Solid Waste Management Board; 329 IAC 16-1-3)

329 IAC 16-1-4 Acts prohibited

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 4. No person registered under this article shall cause or allow the storage, containment, processing, or disposal of solid waste in a manner that creates a threat to human health or the environment, including the creating of:
(1) a fire hazard;
(2) a vector attraction;
(3) air, land, or water pollution; or
(4) other contamination.

(Solid Waste Management Board; 329 IAC 16-1-4)

329 IAC 16-1-5 Penalties

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-14; IC 13-30-2; IC 36-9-30

Sec. 5. Penalties for violation of this article shall be governed by IC 13-14 and IC 13-30.

(Solid Waste Management Board; 329 IAC 16-1-5)

329 IAC 16-1-6 Incorporation by reference

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 6. 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 this article.

(Solid Waste Management Board; 329 IAC 16-1-6)

Rule 2. Definitions

329 IAC 16-2-1 Definitions

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-11-2; IC 13-30-2; IC 36-9-30

Sec. 1. In addition to the definitions in IC 13-11-2 that are applicable, the definitions in this rule apply throughout this article.

(Solid Waste Management Board; 329 IAC 16-2-1)

329 IAC 16-2-2 "Cathode ray tube" or "CRT" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 2. "Cathode ray tube" or "CRT" means a vacuum tube composed primarily of leaded glass, which is:
(1) the visual or video display component of an electronic device; and
(2) used to convert an electrical signal into a visual image.
A used, intact CRT means a CRT whose vacuum has not been released. A used, broken CRT means glass removed from its housing or casing whose vacuum has been released.

(Solid Waste Management Board; 329 IAC 16-2-2)

329 IAC 16-2-3 "Chemical treatment" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 3. "Chemical treatment" means a process that uses chemicals or a variety of chemical processes to treat e-waste to:
(1) recover useable materials;
(2) reduce the volume; or
(3) render the e-waste less toxic.

(Solid Waste Management Board; 329 IAC 16-2-3)

329 IAC 16-2-4 "Circuit board" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 4. "Circuit board" means a board in a computer or electronic device that holds integrated circuits and other electronic components.

(Solid Waste Management Board; 329 IAC 16-2-4)

329 IAC 16-2-5 "Closure" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 5. "Closure" means the activities to be completed at the registered facility at the end of electronic waste acceptance, including:
(1) removal, proper recycling, or disposal of all e-waste and electronic debris at the registered facility; and
(2) notification to the commissioner.

(Solid Waste Management Board; 329 IAC 16-2-5)

329 IAC 16-2-6 "Contaminant" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-11-2-42; IC 13-30-2; IC 36-9-30

Sec. 6. "Contaminant" has the definition set forth in IC 13-11-2-42.

(Solid Waste Management Board; 329 IAC 16-2-6)

329 IAC 16-2-7 "Contingency action plan" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 7. "Contingency action plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of an emergency, such as a fire, explosion, or release of solid waste byproducts, such as gases or chemical contaminants or leachate that could threaten human health or the environment.

(Solid Waste Management Board; 329 IAC 16-2-7)

329 IAC 16-2-8 "Demanufacturing" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 8. "Demanufacturing" means any manual or mechanical processing by sorting of electronic waste into metallic and nonmetallic parts in order to reuse or recycle components and commodities contained within.

(Solid Waste Management Board; 329 IAC 16-2-8)

329 IAC 16-2-9 "Department" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-11-2-51; IC 13-30-2; IC 36-9-30

Sec. 9. "Department" has the meaning set forth in IC 13-11-2-51.

(Solid Waste Management Board; 329 IAC 16-2-9)

329 IAC 16-2-10 "Discard" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 10. "Discard" means to abandon by:
(1) disposal;
(2) burning or incinerating, including being burned as a fuel for the purpose of recovering usable energy; or
(3) accumulating, storing, or physically or chemically treating, other than burning or incinerating, instead of or before disposal.

(Solid Waste Management Board; 329 IAC 16-2-10)

329 IAC 16-2-11 "Disposal" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-11-2-57; IC 13-30-2; IC 36-9-30

Sec. 11. "Disposal" has the meaning set forth in IC 13-11-2-57 and must meet the requirements in 329 IAC 16-9-1.

(Solid Waste Management Board; 329 IAC 16-2-11)

329 IAC 16-2-12 "Electronic component" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 12. "Electronic component" means parts from an electronic device, such as a:
(1) diode;
(2) resistor;
(3) capacitor; or
(4) coil.

(Solid Waste Management Board; 329 IAC 16-2-12)

329 IAC 16-2-13 "Electronic debris" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 13. "Electronic debris" means solid waste, electronic fluff, and residue generated from electronic waste processing or storage.

(Solid Waste Management Board; 329 IAC 16-2-13)

329 IAC 16-2-14 "Electronic device" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 14. "Electronic device" means a product or apparatus that:
(1) has its primary functions provided by electronic circuitry and components; and
(2) may contain a CRT.

(Solid Waste Management Board; 329 IAC 16-2-14)

329 IAC 16-2-15 "Electronic device refurbishing" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 15. "Electronic device refurbishing" means any activity or process to repair or rebuild electronic device so that the electronic device can be:
(1) offered for resale or reuse; and
(2) used for its original intended purpose.

(Solid Waste Management Board; 329 IAC 16-2-15)

329 IAC 16-2-16 "Electronic fluff" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 16. "Electronic fluff" means the residue of nonmetallic waste after shredding of electronic waste has occurred.

(Solid Waste Management Board; 329 IAC 16-2-16)

329 IAC 16-2-17 "Electronic waste" or "e-waste" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-11-2-245; IC 13-11-2-266; IC 13-30-2; IC 36-9-30

Sec. 17. (a) "Electronic waste" or "e-waste" means any waste that is one (1) or more of the following or has one (1) or more of the following components:
(1) A circuit board.
(2) An electronic component, such as a:
(A) diode;
(B) resister;
(C) capacitor; or
(D) coil.
(3) A display device, such as:
(A) a CRT;
(B) a liquid crystal display screen;
(C) a plasma display screen; or
(D) another such display device.
(4) A computer.
(5) An electronic device.

(b) Electronic waste or e-waste is commonly called electronic scrap or e-scrap.

(c) The term does not include the following:
(1) A vehicle, as defined by IC 13-11-2-245.
(2) White goods, as defined by IC 13-11-2-266.

(Solid Waste Management Board; 329 IAC 16-2-17)

329 IAC 16-2-18 "Electronic waste broker" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 18. "Electronic waste broker" means a person who engages in the:
(1) buying;
(2) selling; and
(3) trading;
of electronic waste without demanufacturing.

(Solid Waste Management Board; 329 IAC 16-2-18)

329 IAC 16-2-19 "Electronic waste collection" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 19. "Electronic waste collection" means actively:
(1) accumulating;
(2) gathering; or
(3) consolidating;
discarded electronic waste.

(Solid Waste Management Board; 329 IAC 16-2-19)

329 IAC 16-2-20 "Electronic waste collection facility" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 20. "Electronic waste collection facility" means a facility or place where the collection of discarded electronic waste or electronic debris is actively:
(1) accumulated;
(2) gathered; or
(3) consolidated.

(Solid Waste Management Board; 329 IAC 16-2-20)

329 IAC 16-2-21 "Electronic waste collector" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 21. "Electronic waste collector" means a person who actively:
(1) accumulates;
(2) gathers; or
(3) consolidates;
electronic waste that is generated by other persons. An electronic waste broker may also be an electronic waste collector.

(Solid Waste Management Board; 329 IAC 16-2-21)

329 IAC 16-2-22 "Electronic waste processing" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 22. "Electronic waste processing" means any activity that processes or recycles e-waste into materials for resale or reuse.

(Solid Waste Management Board; 329 IAC 16-2-22)

329 IAC 16-2-23 "Electronic waste processing facility" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 23. "Electronic waste processing facility" means any facility that is required to be registered under this article to recycle or process electronic waste, such as by one (1) or more of the following:
(1) Manual dismantling.
(2) Mechanical dismantling.
(3) Demanufacturing.

(4) Chemical treatment.
(5) Electronic device refurbishing.
(6) Grinding, shredding.
(7) Thermal treatment.
(8) Smelting.
(9) Mechanical destruction.

(Solid Waste Management Board; 329 IAC 16-2-23)

329 IAC 16-2-24 "Electronic waste processor" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 24. "Electronic waste processor" means a person that owns or operates a facility that is registered under this article to:
(1) store;
(2) recycle; or
(3) process;
electronic waste.

(Solid Waste Management Board; 329 IAC 16-2-24)

329 IAC 16-2-25 "Electronic waste recycling" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 25. "Electronic waste recycling" means any process by which discarded electronic waste is collected, processed, and returned to use in the form of raw material or products. The term may include, but is not limited to, the following:
(1) Demanufacturing.
(2) Electronic waste processing.
(3) Electronic waste refurbishing.

(Solid Waste Management Board; 329 IAC 16-2-25)

329 IAC 16-2-26 "Financial assurance" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 26. "Financial assurance" means, for the purposes of this article, a bond acquired by the owner, operator, or registrant of the registered facility in an amount sufficient to provide for:
(1) remediation of contamination at the registered facility; and
(2) closure of the registered facility.

(Solid Waste Management Board; 329 IAC 16-2-26)

329 IAC 16-2-27 "Generator" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 27. "Generator" means the person that discards an electronic device so that it becomes electronic waste that is either solid waste or hazardous waste.

(Solid Waste Management Board; 329 IAC 16-2-27)

329 IAC 16-2-28 "Hazardous waste" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 28. "Hazardous waste" has the meaning set forth in 329 IAC 3.1.

(Solid Waste Management Board; 329 IAC 16-2-28)

329 IAC 16-2-29 "Household hazardous waste" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 29. "Household hazardous waste" means hazardous waste:
(1) generated by a household; and
(2) exempt from the requirements of the hazardous waste rules at 329 IAC 3.1.

(Solid Waste Management Board; 329 IAC 16-2-29)

329 IAC 16-2-30 "Landowner" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 30. "Landowner" means an owner of real property, as described in the recorded deed and the current county or counties plats. For purposes of this article, the term includes the lessee of the land.

(Solid Waste Management Board; 329 IAC 16-2-30)

329 IAC 16-2-31 "Manual dismantling" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 31. "Manual dismantling" means workers taking e-waste apart by hand, resulting in smaller components.

(Solid Waste Management Board; 329 IAC 16-2-31)

329 IAC 16-2-32 "Mechanical destruction" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 32. "Mechanical destruction" means to demolish e-waste with the use of equipment.

(Solid Waste Management Board; 329 IAC 16-2-32)

329 IAC 16-2-33 "Mechanical dismantling" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 33. "Mechanical dismantling" means taking apart e-waste, by using equipment, resulting in smaller components.

(Solid Waste Management Board; 329 IAC 16-2-33)

329 IAC 16-2-34 "Operator" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 34. "Operator" means the person responsible for managing and overseeing a facility regulated under this article.

(Solid Waste Management Board; 329 IAC 16-2-34)

329 IAC 16-2-35 "Owner" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 35. "Owner" means the person who owns a facility regulated under this article.

(Solid Waste Management Board; 329 IAC 16-2-35)

329 IAC 16-2-36 "Person" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-11-2-158; IC 13-30-2; IC 36-9-30

Sec. 36. "Person" has the meaning set forth in IC 13-11-2-158(a).

(Solid Waste Management Board; 329 IAC 16-2-36)

329 IAC 16-2-37 "Polychlorinated biphenyl" or "PCB" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 37. "Polychlorinated biphenyl" or "PCB" means a chemical comprised of biphenyl molecules that:
(1) has been chlorinated to varying degrees; and
(2) for the purposes of this article, is regulated under 329 IAC 4.1.

(Solid Waste Management Board; 329 IAC 16-2-37)

329 IAC 16-2-38 "Registered facility" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 38. "Registered facility" means the e-waste:
(1) storage;
(2) recycling; or
(3) processing;
facility that is registered under this article.

(Solid Waste Management Board; 329 IAC 16-2-38)

329 IAC 16-2-39 "Registrant" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 39. "Registrant" means the person who has registered a facility under this article.

(Solid Waste Management Board; 329 IAC 16-2-39)

329 IAC 16-2-40 "Registration" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 40. "Registration" means the notification to and the approval by the commissioner regarding an electronic waste processing facility that:
(1) meets the requirements for registration; and
(2) must register under this article.

(Solid Waste Management Board; 329 IAC 16-2-40)

329 IAC 16-2-41 "Residue" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 41. "Residue" means, for the purposes of this article, any discarded solid waste remaining after e-waste demanufacturing or processing of e-waste.

(Solid Waste Management Board; 329 IAC 16-2-41)

329 IAC 16-2-42 "Retailer" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 42. "Retailer" means a person who sells an electronic device in the state to a consumer. The term includes a manufacturer of an electronic device who sells directly to a consumer through any means, including transactions conducted through:
(1) sales outlets;
(2) catalogs;
(3) the Internet; or
(4) any similar electronic means.

(Solid Waste Management Board; 329 IAC 16-2-42)

329 IAC 16-2-43 "Short term electronic waste collection and storage" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 43. "Short term electronic waste collection and storage" means any activity that lasts less than

ten (10) consecutive calendar days:
(1) involving the collection of e-waste that is not on the premises of a registered facility; and
(2) in which all e-waste that has been collected is removed and transported within five (5) business days after the collection to:
(A) a properly registered or permitted facility; or
(B) an appropriate facility out of state.

(Solid Waste Management Board; 329 IAC 16-2-43)

329 IAC 16-2-44 "Solid waste" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 44. "Solid waste" has the meaning set forth in 329 IAC 10-2-174.

(Solid Waste Management Board; 329 IAC 16-2-44)

329 IAC 16-2-45 "Speculative accumulation" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 45. "Speculative accumulation" means the storage before processing or recycling of large quantities of electronic waste without a current outlet.

(Solid Waste Management Board; 329 IAC 16-2-45)

329 IAC 16-2-46 "Storage" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 46. "Storage" means the retention, containment, or accumulation of e-waste on a temporary basis in such a manner that it does not:
(1) threaten or potentially threaten human health; or
(2) impact or potentially impact the environment.
The term does not include speculative accumulation.

(Solid Waste Management Board; 329 IAC 16-2-46)

329 IAC 16-2-47 "Storage facility" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 47. "Storage facility" means a registered facility or place where the storage of:
(1) electronic waste;
(2) electronic debris; or
(3) residue;
is conducted.

(Solid Waste Management Board; 329 IAC 16-2-47)

329 IAC 16-2-48 "Thermal treatment" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 48. "Thermal treatment" means a facility that uses any method, technique, or process that elevates the temperature to treat the e-waste, including:
(1) smelting to recover metals; or
(2) extrusion to recover plastics.

(Solid Waste Management Board; 329 IAC 16-2-48)

329 IAC 16-2-49 "Waste determination" defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 49. "Waste determination" means the documented process of determining the qualitative and quantitative nature of a particular waste in order to establish the regulatory status of the waste and determine if the waste must be disposed of under the hazardous waste rules at 329 IAC 3.1, the PCB rules at 329 IAC 4.1, or the solid waste rules at 329 IAC 10. The regulatory status may be determined using either generator knowledge or testing by the methods in 40 CFR 261, Subpart C, or equivalent methods approved under 40 CFR 260.21 to ascertain the following:
(1) The waste is a hazardous waste under 40 CFR 262.11 and is regulated under 329 IAC 3.1 because of the following:
(A) The waste is not excluded from regulation under 40 CFR 261.4.
(B) The waste is a listed waste under 40 CFR 261, Subpart D.
(C) The waste exhibits characteristics specified in 40 CFR 261, Subpart C.
(2) The waste contains regulated amounts of PCBs and is regulated under 329 IAC 4.1.
(3) The waste is a solid waste and can be disposed of under 329 IAC 10.

(Solid Waste Management Board; 329 IAC 16-2-49)

Rule 3. Exclusions

329 IAC 16-3-1 Exclusions

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 1. The following are excluded from regulation under this article:
(1) A site where there is electronic waste in an amount equal to or less than forty-six thousand (46,000) pounds or twenty-three (23) tons enclosed in a building or an enclosed lockable trailer.
(2) Short term electronic waste collection and storage, where e-waste or electronic devices are removed within five (5) business days after the conclusion of the short term electronic waste collection and storage and removed and transported to:
(A) a facility registered under this article;
(B) a permitted facility; or
(C) an appropriate facility out of state.
(3) Brokers of electronic waste that do not take physical possession of the e-waste or electronic debris.
(4) Electronic device refurbishing or retailers of refurbished electronics.
(5) Facilities that:
(A) hold a valid permit under 329 IAC 3.1, 329 IAC 10, or 329 IAC 11; and
(B) process and store the e-waste according to those permit requirements.
(6) Any storage, processing, or disposal, except for incineration, that takes place where the e-waste is generated, including households and conditionally exempt small quantity hazardous waste generators.

(7) Hazardous waste generators, other than conditionally exempt small quantity hazardous waste generators, are exempt from this article but in order to be exempt must comply with the following regarding e-waste:

(A) Storage of the e-waste must not cause contamination.

(B) Disposal must be accomplished according to 329 IAC 16-9.

(C) Storage must be in a building with a roof, floor, and walls or the e-waste must be placed in a container, such as a barrel or a vehicle that is constructed, filled, and closed to minimize releases to the environment including fines, which are small particles from the e-waste.

(D) Each container, which contains only CRTs, must be labeled or marked clearly with one (1) of the following phrases: "Used cathode ray tube(s)–contains leaded glass" or "Leaded glass from televisions or computers". It must also be labeled: "Do not mix with other glass materials.".

(E) There can be no speculative accumulation, and the e-waste must be disposed of according to 329 IAC 16-9-1.

(E) Each container, which contains e-waste other than CRTs, must be labeled or marked clearly with one (1) of the following phrases: "Electronic waste–may contain lead." or "Electronic waste--contains lead.". It must also be labeled: "Do not mix with other solid waste, other hazardous waste, or other materials.".

(F) The CRTs and other e-waste must be transported in a container that is constructed, filled, and closed to minimize identifiable releases to the environment including fines, which are small particles from the e-waste.

(8) Any recycling operation, such as a materials recovery facility, that may have incidental amounts of e-waste mixed with larger volumes of recyclables.

(Solid Waste Management Board; 329 IAC 16-3-1)

Rule 4. Thermal or Chemical Treatment

329 IAC 16-4-1 Requirements for facilities that process electronic waste by thermal treatment or chemical treatment

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 1. (a) Any facility or person that is processing e-waste by one (1) of the following methods must obtain a solid waste processing facility permit under 329 IAC 11, excluding the requirement for financial responsibility under 329 IAC 11-9-2(a)(9):

(1) Thermal treatment.

(2) Chemical treatment.

(b) Financial assurance under 329 IAC 16-11-1 applies to e-waste thermal treatment and chemical treatment facilities that obtain a permit under 329 IAC 11.

(Solid Waste Management Board; 329 IAC 16-4-1)

Rule 5. Registration

329 IAC 16-5-1 Registration

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 4-21.5-3; IC 13-15-7; IC 13-30-2; IC 36-9-30

Sec. 1. (a) The owners or operators of all applicable facilities listed under 329 IAC 16-1-2 are required to register, unless exempted under 329 IAC 16-3-1 or permitted under 329 IAC 16-4-1. A registration is for a fixed term not to exceed five (5) years.

(b) The registration form must be:

(1) filled out completely; and
(2) submitted to the commissioner on a form or in a format provided by the commissioner.

(c) The commissioner may require the registration to be submitted electronically, as specified in subsection (d), with an electronic signature.

(d) A registration may be submitted electronically via electronic media, such as the following:
(1) Magnetic storage tape or disk.
(2) Compact disc read-only memory or CD-ROM.
(3) Electronic mail or attachments to electronic mail.
(4) File transfer protocol or FTP.
(5) Hypertext transfer protocol or HTTP.

(e) The registration must be renewed as follows:
(1) At least every five (5) years or when the process at the facility changes, or when the amounts of e-waste or electronic debris specified in subsection (f)(5) change.
(2) The renewal form must be submitted at least sixty (60) days before the expiration date of the registration.

(f) The registration must include the following information:
(1) The name of the owner, operator, and landowner, if different from the registered facility owner.
(2) Addresses and telephone numbers for the owner, operator, and landowner.
(3) The location of the facility.
(4) The type of facility.
(5) The maximum amounts, in tons, of e-waste or electronic debris to be stored on site and the probable duration of storage in business days.
(6) Specify where electronic waste will be stored:
(A) in a building;
(B) containers; or
(C) vehicles.
(7) Specifications for the base or floor of all areas where e-waste and electronic debris will be:
(A) stored;
(B) handled;
(C) processed; or
(D) treated.
(8) A detailed description of the:
(A) storage;
(B) handling;
(C) processing;
(D) treatment; and
(E) final disposition;
of the e-waste and electronic debris.
(9) The maximum total amount, in tons, of e-waste capable of being processed per day.
(10) Other permits from the department for the facility.
(11) The date the facility became operational or will be operational.
(12) A site plan.
(13) A contingency action plan that specifies the following:
(A) An outline of the method or methods of waste disposal to be implemented if the registered facility is unable to operate or process.
(B) The maximum amounts of e-waste as specified in subdivision (5) and electronic debris on site at any one (1) time.
(C) Procedures for controlling:
(i) fire;
(ii) explosion;
(iii) spills; and
(iv) contamination.
(D) Areas where e-waste and electronic debris are contained or stored.
(E) A floor plan of the registered facility.
(F) A site map.

(G) Telephone numbers for the fire department responsible for responding to a fire or emergency at the registered facility.
(14) A description of any electronic debris resulting from the processing of e-waste.
(15) Cleanup procedures for the:
(A) storage;
(B) electronic waste processing;
(C) loading; and
(D) unloading;
areas.
(16) The financial assurance documentation required under 329 IAC 16-11-1.

(g) The owner or operator must sign and submit the following certification with the registration: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including a fine or imprisonment for a knowing violation. I further certify that I am authorized to submit this information.".

(h) The commissioner or a designee may deny, limit the length of, or place additional conditions on a registration if the commissioner determines one (1) or more of the following:
(1) The commissioner, under IC 13-15-7, has revoked the applicant's previous registration under this article.
(2) The registration form is incomplete.

(i) The issuance of a registration does not:
(1) convey any property right of any sort or any exclusive privileges;
(2) authorize any injury to persons or private property or invasion of other private rights or any infringement of federal, state, or local laws or regulations; or
(3) preempt any duty to comply with other state or local requirements.

(j) The commissioner or a designee may revoke or modify a registration issued under this article for any of the following reasons:
(1) Violation of a requirement of this article or a condition of the registration.
(2) Failure to disclose all relevant facts in obtaining a registration under this article.
(3) A misrepresentation made in obtaining a registration under this article.
(4) Failing to meet the requirements for a registration.
(5) Failure to correct a condition as agreed to in an Agreed Order with the department or, within the time established in the Agreed Order, come into compliance with:
(A) the registration;
(B) this article; or
(C) both.

(k) If a registration is modified, denied, or revoked under this article, the owner or operator may appeal under IC 4-21.5-3.

(l) A registration is not transferable. A new owner or operator:
(1) must submit a registration form to the commissioner thirty (30) days in advance of taking ownership of the facility; and
(2) may operate the facility in the interim.

(Solid Waste Management Board; 329 IAC 16-5-1)

329 IAC 16-5-2 Transition for submitting registration

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 2. (a) All owners or operators that are required to register under this article must submit a registration form within sixty (60) days after the effective date of this article. These facilities may continue to operate during the sixty (60) day period between the effective date and the submittal of the registration.

(b) No new facility that is required to submit a registration under this article may operate without submitting a registration form.

(Solid Waste Management Board; 329 IAC 16-5-2)

Rule 6. Storage Requirements

329 IAC 16-6-1 Storage requirements

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 1. (a) All registered facilities must store e-waste, electronic debris, and any residue in one (1) of the following:
(1) A building that is weather tight.
(2) A closed container.
(3) A covered vehicle.

(b) Any container holding e-waste or electronic debris must have at least a six (6) inch wide by six (6) inch high label with the following legible information:
(1) The contents of the container specific to the e-waste or electronic debris.
(2) The date of delivery at the registered facility or date of recontainment.

(c) Speculative accumulation of electronic waste is not allowed. Facilities registered under this article must engage in only legitimate recycling as demonstrated by the following:
(1) The owner or operator of the electronic waste processing facility must have a plan to reuse or recycle the e-waste that provides or shows the following:
(A) Identification of the following:
(i) The component or components of the electronic waste to be reused, recycled, or processed.
(ii) The manner in which the electronic waste is intended to be reused, recycled, or processed.
(iii) The intended market or markets for the component or components of the electronic waste.
(B) A reason why any electronic waste is being stored for periods exceeding one (1) year. Reasons may include the following:
(i) Storage is necessary to accumulate sufficient quantities for shipment or processing that saves additional costs.
(ii) Facilities, equipment, or technologies necessary for processing is currently unavailable but reasonably expected to be available within the foreseeable future.
(C) The electronic waste is stored in a manner:
(i) reflecting its value as a commodity; and
(ii) in accordance with this rule.
(2) The electronic waste processing facility must maintain records of electronic waste coming into the electronic waste processing facility and materials leaving the electronic waste processing facility, including the following:
(A) The type of each e-waste.
(B) The amount of each e-waste.
(C) Where the e-waste came from or was generated.
(D) The date the e-waste was delivered to the electronic waste processing facility.
(E) Where the e-waste will be going when the e-waste leaves the electronic waste processing facility.

(d) The building must have fire-extinguishing equipment that complies with the Indiana Fire Code as adopted by the Fire Prevention and Building Safety Commission at 675 IAC 22. Adequate measures must be in place to control fire hazards, and contingency action plans required under 329 IAC 16-7-1(c)(2) must

be submitted to the local fire department that services the area.

(e) The building, container, or vehicle storing e-waste must:
(1) have access controls in place, such as a locked door or fence with locked gate; and
(2) be secured during nonbusiness hours.

(f) The land, building, vehicles, and containers must be maintained clean and free of other solid waste, other than in designated storage areas, except for incidental amounts of solid waste that is not e-waste.

(g) Storage, including the retention, containment, or accumulation of solid waste, other than e-waste, on a temporary basis must be done in such a manner that it does not:
(1) threaten or potentially threaten human health; or
(2) impact or potentially impact the environment.
However, it must be a rebuttable presumption that storage of electronic debris, excluding waste that is a hazardous waste subject to regulation under 329 IAC 3.1 and e-waste, for more than six (6) months constitutes discarding and disposal.

(Solid Waste Management Board; 329 IAC 16-6-1)

Rule 7. Operational Requirements

329 IAC 16-7-1 Operational requirements

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 1. (a) A building used for processing or storage of e-waste must have the following:
(1) A sign at least one (1) foot high by two (2) feet wide prominently displayed by the door and legibly containing the following information in letters at least one (1) inch high:
(A) The name of the facility.
(B) The hours when a facility employee is present and the registered facility is open to accept e-waste from the public. If the facility does not accept e-waste from the public, this information can be omitted.
(C) The registration number.
(D) Clearly says the following, "Electronic waste is stored and/or processed inside.".
(E) The name and telephone number of a designated emergency contact person.
(2) A roof, a floor that is concrete or other impervious surface, and the building is completely enclosed.
(3) Adequate measures must be in place to control fire hazards, and equipment must be available to control fires. Contingency action plans required under subsection (c)(2) must be submitted to the local fire department that services the area.
(4) A telephone, cellular telephone, or radio communication device available when employees are present and the building is in use.

(b) Containers and vehicles that contain e-waste for processing or that has been processed must have at least a six (6) inches wide by six (6) inches high label attached that contains the following legible information:
(1) The contents of the container specific to the e-waste or electronic debris.
(2) The date of delivery or recontainment at the registered facility.

(c) The owner or operator shall record and retain at the registered facility, or in an alternative location approved by the commissioner, all records, reports, or audits required by this article until certification of closure is deemed adequate by the commissioner under 329 IAC 16-10-1(e). The following information must be retained:
(1) A paper copy or an accessible copy of the electronically submitted registration.
(2) A contingency action plan that contains the following information:

(A) An outline of the method or methods of waste disposal to be implemented if the registered facility is unable to operate or process.
(B) The maximum amounts of e-waste and electronic debris on site at any one (1) time.
(C) Procedures for controlling:
(i) fire;
(ii) explosion;
(iii) spills; and
(iv) contamination.
(D) A description of the areas where e-waste and electronic debris are contained or stored.
(E) A floor plan of the registered facility.
(F) Telephone numbers for the fire department responsible for responding to a fire or emergency at the registered facility.
(G) Any other hazardous materials and their location at the registered facility.
(3) The records required under 329 IAC 16-6-1(c)(2).
(4) The training log required under 329 IAC 16-8-1(b).
(5) The results of any waste determination tests on electronic debris and residues generated by the registered facility.

(d) The following must be furnished as required and made available during normal operating hours for inspection by any officer, employee, or representative of the commissioner:
(1) All records required by this article.
(2) All test results of electronic debris and residues generated by the registered facility and disposed.

(e) No hazardous waste that is regulated by 329 IAC 3.1 shall be processed at any registered facility, except for e-waste as defined in this article, unless the facility is permitted under 329 IAC 3.1 to process hazardous waste.

(Solid Waste Management Board; 329 IAC 16-7-1)

Rule 8. Employee Training

329 IAC 16-8-1 Employee training

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 1. (a) Annually, the registrant must provide information to all employees who handle or have responsibility for managing the electronic waste. The information must describe proper handling and safety and emergency procedures appropriate to the type of e-waste and other materials handled at the registered facility.

(b) A training log must be maintained on site by the registrant until certification of closure is deemed adequate by the commissioner under 329 IAC 16-10-1(e) and contain the following information:
(1) A copy of the information provided to the employees.
(2) The:
(A) names of the employees that received the information; and
(B) date received by the employee.

(Solid Waste Management Board; 329 IAC 16-8-1)

Rule 9. Disposal of E-Waste

329 IAC 16-9-1 Disposal of e-waste

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 1. Persons, generators, owners, operators, or registrants disposing of e-waste or electronic debris must conduct a waste determination and dispose as applicable at either of the following:
(1) A facility permitted in Indiana under the following:
(A) 329 IAC 3.1.
(B) 329 IAC 4.1.
(C) 329 IAC 10.
(D) 329 IAC 13.
(2) An appropriate facility out of state.

(Solid Waste Management Board; 329 IAC 16-9-1)

Rule 10. Closure

329 IAC 16-10-1 Closure

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-30-2; IC 36-9-30

Sec. 1. (a) The owner, operator, or registrant must notify the commissioner at least fourteen (14) days before the date when the registered facility permanently ceases accepting e-waste.

(b) All e-waste and electronic debris must be:
(1) removed from the:
(A) building;
(B) land;
(C) containers; and
(D) vehicles; and
(2) disposed of according to 329 IAC 16-9-1;
within sixty (60) days of the registered facility no longer accepting e-waste.

(c) Any contaminants resulting from the e-waste storage or processing that are above RISC industrial levels must be contained, removed, and disposed of according to 329 IAC 16-9-1. This requirement does not include any contaminants existing before the storage or processing of e-waste.

(d) A registered facility must be certified closed under subsection (e) after all waste is removed and disposed of in accordance with 329 IAC 3.1, 329 IAC 10, or 329 IAC 13, as applicable.

(e) The owner, operator, or registrant must send a certification statement indicating that the requirements of this section have been met to the commissioner within thirty (30) days after completion of the closure. The closure certification will be deemed adequate unless within ninety (90) days of receipt of the closure certification, the commissioner issues a notice of deficiency of closure, including actions necessary to correct the deficiency.

(f) After the closure certification is deemed adequate by the commissioner, the owner, operator, or registrant of the registered facility is released from the obligation of maintaining closure financial responsibility.

(Solid Waste Management Board; 329 IAC 16-10-1)

Rule 11. Financial Assurance

329 IAC 16-11-1 Financial assurance for cleanup and closure

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-14; IC 13-30-2; IC 36-9-30

Sec. 1. (a) All owners, operators, and registrants that are required to register under this article shall establish financial responsibility for closure of the registered facility. The financial responsibility must be provided as a surety bond as specified in subsection (d) in the amount that will provide for closure of the registered facility in the event the owner, operator, or registrant cannot close the registered facility.

(b) The closure amount is determined by multiplying the maximum amount in tons of e-waste, electronic devices, and electronic debris on site at any one (1) time by two hundred dollars ($200).

(c) For electronic waste brokers handling only intact electronic devices, a contract with another company to pick up all electronic devices will serve in lieu of the surety bond as required in subsection (a).

(d) The surety bond is established as follows:
(1) On:
(A) forms provided by the commissioner; or
(B) such other forms as approved by the commissioner.
(2) All surety bonds must contain the following:
(A) The establishment of penal sums in the amount determined by subsection (b).
(B) Provision that the surety will be liable to fulfill the owner, operator, or registrant's closure obligations upon notice from the commissioner that the owner, operator, or registrant has failed to do so.
(C) Provision that the surety may not cancel the bond without first sending notice of cancellation by certified mail to the owner, operator, or registrant and the commissioner at least one hundred twenty (120) days before the effective date of the cancellation.
(D) Provision that the owner, operator, or registrant may not terminate the bond without prior written authorization by the commissioner.
(3) The surety company issuing the bond must be:
(A) among those listed as acceptable sureties for federal bonds in Circular 570 of the United States Department of the Treasury; and
(B) authorized to do business in Indiana.
(4) The surety will not be liable for deficiencies in the performance of closure by the owner, operator, or registrant after the closure certification is submitted to the commissioner.

(e) The owner, operator, or registrant may use a single financial responsibility mechanism to meet the requirements for more than one (1) facility. Evidence of financial responsibility submitted to the commissioner must include a list showing, for each facility, the following:
(1) The registration number, name, and address.
(2) The amount of funds available through the surety bond that must be not less than the sum of funds that would be available if a separate surety bond had been established and maintained for each facility.

(f) An owner, operator, or registrant shall do the following:
(1) Notify the commissioner by certified mail within ten (10) days after commencement of a voluntary or involuntary proceeding under bankruptcy under 11 U.S.C. 101 et seq., October 1, 1979, naming the owner, operator, or registrant as debtor. An owner, operator, or registrant who has a surety bond shall be deemed to be without the required financial responsibility in the event of bankruptcy of the institution issuing the surety bond.
(2) Reestablish financial responsibility within sixty (60) days after such an event. The registered facility cannot operate outside the sixty (60) day period without establishing financial assurance as a surety bond for the amount required under subsection (b).

(g) In addition to any other penalties provided for in this article or in IC 13-14 and IC 13-30, any failure to obtain, maintain, or fund financial responsibility as required by this rule within the prescribed time limits shall be:
(1) deemed to endanger human health or the environment; and
(2) grounds for a proceeding to revoke the facility's registration or to order final closure of the registered facility.

(h) After the closure certification is deemed adequate by the commissioner, the owner, operator, or registrant of the registered facility is released from the obligation of maintaining closure financial responsibility.

(Solid Waste Management Board; 329 IAC 16-11-1)

Notice of Public Hearing

Posted: 09/27/2006 by Legislative Services Agency
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