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**TITLE 329 SOLID WASTE MANAGEMENT BOARD****Proposed Rule**  
LSA Document #05-181**DIGEST**

Amends [329 IAC 3.1-6-2](#) and [329 IAC 11-3-1](#) and adds [329 IAC 16](#) concerning electronic waste (e-waste) to set standards for storage, processing, and disposal of e-waste that are consistent with the federal and state hazardous waste and solid waste laws and rules. Effective 30 days after filing with the Publisher.

**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).  
Second Notice of Comment Period: September 27, 2006 (DIN: [20060927-IR-329050181SNA](#)).  
Notice of First Hearing: September 27, 2006 (DIN: [20060927-IR-329050181PHA](#)).  
Date of First Hearing: January 16, 2007.

**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 21 days long.

Because this proposed rule is not substantively different from the draft rule published on September 27, 2006, at DIN: [20060927-IR-329050181SNA](#), the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

**SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD**

IDEM requested public comment from September 27, 2006, through October 27, 2006, on IDEM's draft rule language. IDEM received comments from the following party:

Robert Snodgrass, LFR (LFR)

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

*Comment:* Introduction to rulemaking: The proposed rulemaking does not "include the new exclusion under the hazardous waste rule at 40 CFR 260 et al." at all. The US EPA rule published on July 28, 2006 states at 40 CFR 261.4(a)(22)(I) that used, intact cathode ray tubes (CRTs) ". . . are not solid wastes within the United States unless they are disposed or they are speculatively accumulated. . .". It goes on to state under 40 CFR 261.4(a)(22)(iii) and (iv) that used, broken CRTs and glass removed from CRTs are not solid waste provided certain very minimal requirements are met.

IDEM's proposed rulemaking not only fails to include the new Federal exclusion, it directly contradicts it by continuing to regulate all CRTs as solid waste even when they are managed in full compliance with the provisions under which the US EPA would exclude them. Furthermore, while the US EPA does believe it is necessary to place minimal requirement on the processing of broken CRTs, the US EPA did not believe it was necessary to place any requirements on other used electronics that are being recycled.

We respectfully request IDEM to revise this rulemaking to fully comply with the July 28, 2006 Federal rulemaking. (LFR)

*Response:* This rulemaking is much broader than the federal CRT rule. This rule covers the whole universe of electronic waste. However, IDEM is proposing to adopt the CRT exclusion in the hazardous waste rules at [329 IAC 3.1](#). This will make the rule consistent with federal hazardous waste rules and let Indiana be able to regulate CRTs under this rule. CRTs are only excluded from being a solid waste under the federal hazardous waste rules at 40 CFR 261.1(b)(1). All references to "solid waste" in 40 CFR 260 et al. are only applicable to the two-step process of waste determination in the hazardous waste rules at 40 CFR 261.2 through 40 CFR 261.3. CRTs remain a solid waste under both federal law and Indiana law by the definition at [IC 13-11-2-205\(a\)](#) and are still subject accordingly to Indiana's environmental management laws and associated regulations.

The department, prior to the beginning of this rulemaking, presented an informational "white paper" on electronic waste detailing studies done on the environmental hazards of electronic waste components. The United States Environmental Protection Agency (EPA) has contracted with the University of Florida (Dr. Timothy Townsend) for several studies regarding the health and environmental risks associated with electronic waste. This information was also presented at the first workgroup meeting.

*Comment:* NIFL elements: IDEM has failed to identify that most of the storage requirements they propose are not imposed by the Federal rule. The only storage requirements imposed by the Federal rule are found at 40 CFR 261.39(a)(1), (a)(2) and (b)(1), and those only apply to broken CRTs. Therefore, all storage requirements beyond being in a building with roof, floor and walls or storage in an appropriate, labeled container are in excess of the

Federal requirements. And again, the Federal requirements only apply to broken CRTs.

The only operational requirements imposed by the Federal rule are found at 40 CFR 261.39 (b)(2)(I) and (b)(2)(ii), and those only apply to broken CRTs. Therefore, all operational requirements beyond processing in a building with roof, floor and walls and a restriction against the volatilization of lead are in excess of the Federal requirements. And again, the Federal requirements only apply to broken CRTs.

Finally, the employee training requirements proposed in this rulemaking are not imposed by any Federal environmental law. Facilities may be subject to OSHA requirements, but those are beyond the scope of IDEM's authority under [IC 13-14-2](#). (LFR)

*Response:* Indiana state laws and regulations have long included requirements not found in Federal statute or regulations; the lack of regulation at the Federal level does not preclude Indiana from initiating regulatory programs when needed. [IC 13-14-2](#) concerns IDEM's legal authority for court proceedings and orders, compliance inspections, and representation in compacts and conferences, not rulemaking. Instead, IDEM is authorized to propose new rules to the various environmental boards at [IC 13-14-8-1](#). The state rule can be broader in scope, and IDEM does want to provide citizens and the environment with a safety factor regarding the storage, processing and disposal of electronic waste. Much of this waste has been proven through scientific studies to be a hazardous waste.

Under the current rules, CRTs and e-waste are still solid wastes and, if processing, the processing facility would still be required to be permitted for processing under the solid waste processing facility rule. This rule will allow storage and processing under an e-waste rule that is more reasonable and less burdensome.

Employee training is not only an OSHA requirement. The department has the authority to require training and does so for several programs.

*Comment:* NIFL element-environmental hazard: This assertion is directly contradicted by the July 28, 2006 Federal rule that exempts CRTs destined for recycling from the definition of solid waste, and therefore from even the possibility of being hazardous waste, provided certain minimal standards are met. And the minimal standards only apply to broken CRTs, not to intact CRTs and certainly not to all other types of used electronics being managed in legitimate recycling systems. Additionally, IDEM repeatedly stated during the workgroup meetings that "e-waste" facilities currently operating within the state had not caused serious problems. (LFR)

*Response:* As noted above, CRTs remain a solid waste under the Indiana statutory definition at [IC 13-11-2-205\(a\)](#) and are subject to applicable Indiana laws and regulations.

Indiana is proposing consistent rules for all e-waste. All facilities processing electronic waste will be required to meet the same standards. The industry wants a level playing field and to know exactly what is expected of the facilities that store and process e-waste.

*Comment:* NIFL elements-fiscal impact: Please see the above comments regarding which of these proposed requirements actually are required under Federal law. There are significant additional requirements that go well beyond the Federal requirements and common business practices and a detailed analysis should be conducted into the estimated fiscal impact of these requirements.

While it is true that IDEM is not proposing a registration fee, but that is not the same as saying "There will not be cost for registration." If IDEM were requesting all e-waste processors to simply provide notice of where they were located and provide a brief narrative of their operation, then it might be possible to state the cost is insignificant. However, there will be a significant amount of effort required to supply all the details specified in the proposed rule at [329 IAC 16-5-1\(f\)](#) and there will be a cost associated with that effort.

We respectfully request IDEM to review the need for this rulemaking based on current operations and/or environmental impact data relevant to Indiana. If they still decide it is necessary to implement a rule, we respectfully request IDEM revise the proposed language to make it compatible with the Federal CRT rule and to either eliminate any requirement that is more stringent than applicable Federal environmental requirements and conduct a complete and thorough fiscal impact analysis as required by state law before resubmitting the rule for Board review. (LFR)

*Response:* The legal position of EPA is that e-waste that is not a household hazardous waste or a conditionally exempt small quantity generator hazardous waste (CESQG), and if "characteristically" hazardous must be fully regulated as a hazardous waste. That is why EPA wrote an exclusion for CRTs; however, EPA did not address all e-waste and this rule fills the void in a manner consistent with the approach of the federal CRT rule. By excluding CRTs from federal hazardous waste rules, states have more flexibility to regulate under the less stringent solid waste rules.

If an e-waste processing business is being correctly managed, it will already have all the required information and will only need to provide it to IDEM in the format required. Facilities can do this easily without the expense of hiring a consultant.

IDEM believes that a complete fiscal analysis of the draft rule was done. A fiscal impact analysis is conducted as part of any rulemaking.

*Comment:* Potential fiscal impact: IDEM states "There is no cost associated with sending in a registration form", but the proposed requirements in [329 IAC 16-5-1\(f\)](#) go well beyond simply filing a form. And while "sending in" a registration may have almost no cost associated with it, the preparation of the "form" as specified in [329 IAC](#)

[16-5-1\(f\)](#) will be very involved and take considerable time and effort and there will be a significant cost associated with that time and effort.

IDEM states "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." However, as was discussed above, the 2006 Federal CRT rule is significantly simpler than the proposed IDEM rule and in fact completely eliminates most of the requirements proposed in this rule. (Not including the requirements for exporting CRTs, the Federal requirements for managing intact and broken CRTs, including definitions, take up less than 3 columns/1 page in the Federal Register.)

We respectfully request IDEM to revise this rule to make it compatible with the Federal CRT rule and to either eliminate any requirement that is more stringent than an applicable Federal environmental requirement or conduct a complete and thorough fiscal impact analysis as required by state law.

In response to a comment from the Goldsmith Group, Inc regarding potential fiscal impact, IDEM states in part: "Registering with the department will cost nothing." However, see the above comments regarding submitting a simple notification of location and activities versus what is actually proposed in [329 IAC 16-5](#). The proposed language is similar to what is required to be submitted to apply for a solid waste processing facility permit ([329 IAC 11-9-2](#)), and there are considerable costs associated with preparing such a submission. Even if there is no fee for submitting the e-waste registration application, the costs for preparing it must still be considered.

We respectfully request IDEM conduct a complete and thorough fiscal impact analysis as required by state law. (LFR)

*Response:* IDEM's comment was relative to there not being a fee for registration under this rule. There may be some minimal cost to filling out the registration.

This rule is taking a different approach from the federal CRT rule. This rule is regulating all e-waste and trying to identify storage and processing facilities to ensure the facilities manage e-waste properly.

IDEM believes that a complete fiscal analysis of the draft rule was done. A fiscal impact analysis is conducted as part of any rulemaking.

*Comment:* [329 IAC 16-1-1\(b\)](#) The July 28, 2006 Federal rule specifically excludes CRTs destined for recycling from the definition of solid waste, and other used electronics being processed for recycling have similarly been considered exempt from the definition of solid waste as they possess real value in the form of recoverable metal and plastic. Therefore the primary purpose of this proposed regulation seems to be mute. Additionally there are already open dumping and storm water regulations in place that regulate the activities being proposed for additional regulation here.

Given materials being legitimately recycled are not solid waste and IDEM already has adequate means to regulate activities that threaten human health and the environment, we respectfully request IDEM re-evaluate the need for this regulation. (LFR)

*Response:* Under IDEM's current rules, an e-waste processing facility may be considered a solid waste processing facility requiring a solid waste processing facility permit under [329 IAC 11](#). The rapid increase of e-waste processing that led to the recent Federal rule changes has also led Indiana to re-evaluate its oversight of e-waste processing. But instead of using the existing option of requiring a solid waste processing facility permit, IDEM has instead proposed draft rules that will allow facilities to avoid the costly alternative of a permit under [329 IAC 11](#).

CRTs are only excluded from being a solid waste under the hazardous waste rules and this exclusion includes making a hazardous waste determination as provided for in the hazardous waste rules at [329 IAC 3.1](#).

This rule is needed because it provides a higher level of protection for human health and the environment than is provided by existing open dumping and storm water rules.

*Comment:* [329 IAC 16-2-12](#), 14, and 17 Under these definitions, e-waste would include everything from a table lamp, to tennis shoes that light up when you walk, to a greeting card with an LED, etc. These definitions are far too broad given IDEM has failed to document a single example of any of these items posing a risk to human health or the environment and that is not already covered by existing regulations.

We respectfully request IDEM withdraw this rulemaking until they can adequately define the items that actually pose an unregulated risk, taking into account the July 28, 2006 Federal CRT rule. (LFR)

*Response:* This a one-stop shopping rule, as requested by the external rule workgroup. If a facility suddenly collects more than 46,000 pounds of any of the waste articles mentioned, it should be regulated under this rule or the solid waste processing facility permitting rules. There is an exclusion at [329 IAC 16-3-1\(8\)](#) for incidental amounts of e-waste mixed in with larger volumes of recyclables. In addition, while the definition is comprehensive, the e-waste rules are meant to be comprehensive in scope. The de minimis exclusion accounts for small amounts of e-waste collected and processed. The regulated community wanted an inclusive definition to avoid hairsplitting, narrow distinctions about what would be regulated in the rule and what would not.

IDEM has provided sufficient documentation of the hazards of e-waste and the hazards of improperly managed e-waste to the solid waste management board and to the public at the workgroup meetings.

*Comment:* [329 IAC 16-2-40](#) and [329 IAC 16-5-1\(h\)](#) IDEM added the phrase "and the approval by" to the

definition in [329 IAC 16-2-40](#) of "registration" following the workgroup meetings. This effectively makes the registration a permit application, which we believe goes beyond the intent originally published in the notification of rulemaking. This attempt to require a new form of permit not mandated by federal regulation (and in fact specifically exempted by the 2006 CRT Rule) or by the state legislation is made even clearer by the language in [329 IAC 16-5-1\(h\)](#) which allows the commissioner to deny or place additional conditions on a registration. It seems contradictory for the state to be requiring a permit for activities that the federal regulators have eliminated from regulation completely.

We respectfully request IDEM re-evaluate the need for this regulatory program. If a program is needed, we request IDEM consider changing the registration to a simple notification with reduced submission requirements. (LFR)

*Response:* A registration can certainly include conditions or be denied by the commissioner as circumstances warrant. A decision by the EPA to remove CRTs from hazardous waste regulation does not constitute a decision that regulation of CRTs by states as a solid waste is not warranted. Indiana may establish statutory and environmental requirements beyond those found in Federal laws and rules. Indiana's confined feeding program, originally established in 1973, preceded Federal involvement with concentrated animal feeding operations (CAFOs) by over 2 decades. These regulations were appropriate and necessary in a state with extensive confined animal feeding operations, as compared to a state like New Mexico that does not have many such operations.

Registration programs have significant precedent, as found in the waste tire storage registration program established under [IAC 13-20-13](#) and the vegetative matter composting registration program under [IC 13-20-10](#), and provide a cost-effective alternative to obtaining a solid waste processing facility permit.

*Comment:* [329 IAC 16-3-1](#) There is no *de minimis* exclusion for outside storage. As written this would require a facility that stores recycled paper on an open shipping dock to become registered if there is a single musical greeting card in a bale of paper. With the overly broad definition of e-waste in this proposed rule, an obsolete fifty-ton pneumatic press with a single electronic gauge would have to be stored inside or the site would have to register. Under the 2006 Federal Rule, there is no requirement to store intact CRTs destined for recycling inside provided there is no speculative accumulation and no disposal. IDEM already has industrial storm water regulations in place to regulate potential contaminants.

We respectfully request IDEM insert some *de minimus* [*sic. de minimis*] language to allow facilities to store e-waste outside.

*Response:* The pneumatic equipment would be better recycled as scrap metal and the exclusion at [329 IAC 16-3-1\(8\)](#) would apply.

*Comment:* [329 IAC 16-5-1\(f\)](#) Despite the repeated assertion that this program is much less stringent than applying for a solid waste permit, the proposed language in this section is as detailed as what is required to be submitted to apply for a solid waste processing facility permit ([329 IAC 11-9-2](#)). Given IDEM repeatedly stated during the workgroup meetings that "e-waste" facilities currently operating within the state had not caused serious problems, there appears to be no justification for requesting this amount of detail.

We respectfully request IDEM amend this portion of the rule to simply require facilities provide the location of their operations along with a brief narrative description of the types of activities being conducted. (LFR)

*Response:* IDEM respectfully disagrees that the registration requirements of the proposed rules are as extensive as those for a solid waste processing facility permit. Each facility, simply by operating, would already have the information required for the registration. The department and the regulated community are trying to be proactive and protect the environment and the citizens of Indiana.

IDEM believes that although current facilities have not caused extensive environmental damage, the information required is needed by the department to properly and fairly administer the requirements of the rule and to anticipate additional types of facilities in the state.

*Comment:* [329 IAC 16-5-1\(l\)](#) As discussed above, the application process for this program is basically indistinguishable from the programs regulating solid waste permits, and [329 IAC 10](#) and [329 IAC 11](#) each contain provisions for the transferability of permits. The only justification IDEM gave during the workgroup meetings for not allowing these permits to be transferred is that IDEM does not charge a fee for the registration. However there are significant costs associated with preparing the application so that argument is not justified based on current conditions and requirements. In every other regulation subject to approval by the Solid Waste Management Board where IDEM maintains the right to deny an application, the transferability of the approval is allowed.

We respectfully request IDEM modify this proposed regulation to allow for transferability. (LFR)

*Response:* The external rule workgroup for this rule decided to recommend that the registration not be allowed to be transferred. The rule requirements were not seen as sufficiently burdensome to warrant the transfer provision.

*Comment:* [329 IAC 16-6-1\(a\)](#) See comments above regarding [329 IAC 16-2-12](#), 14, and 17 on the overly broad definition of e-waste and [329 IAC 16-3-1](#) on *de minimis* exclusion for outside storage. IDEM has not documented e-waste poses a threat when stored outside, and the 2006 Federal Rule only requires these stringent storage requirements for broken CRTs based on EPA documentation concerning outside storage of intact and

broken CRTs.

We respectfully request some consideration be given to tightening the definition of e-waste to those items actually posing a potential for harm to human health and the environment and allowing the possibility of outside storage for certain types and amounts of e-waste.

*Response:* IDEM has carefully documented and shared information on the risks of electronic waste with the solid waste management board and the workgroup involved in development of the draft rule. Outdoor storage is already permitted in enclosed containers. The amount excluded is more than 46,000 pounds and there are other temporary storage exclusions.

It is considered open dumping when solid waste is placed on the ground without a permit and is left for more than six months. Storm water requirements also require the use of closed containers for waste.

*Comment:* [329 IAC 16-6-1](#)(b)(2) The proposed requirement for labeling the date of delivery on newly arrived materials may be possible, but once materials go into process it is possible to have containers that are having material added over an extended period of time. This language does not make it clear whether the date should be when the materials start accumulating, when materials were last added or even every date that materials are added.

We respectfully request the proposed language be modified to clarify what dates must be placed on which containers, with consideration given to the realities of actual facility process activity. (LFR)

*Response:* IDEM will modify the language. The rule will be modified to require facilities to put the date on the container within 3 days of the container becoming full.

*Comment:* [329 IAC 16-6-1](#)(c)(2) It is a good business practice to keep track of materials entering and leaving a facility, but the specific list of information proposed in subsections [*sic. clauses*] (A) thru (E) is either too vague or too detailed (sometimes both at the same time) to be useful in making any legitimate regulatory evaluation. The type and amount of "each e-waste" is actually going to change while in the facility depending upon the type of processing. There seems to be no regulatory reason to track where material come from or were generated as specified in subsection [*sic. clause*] (c)(2)(C). Given the need to date each container upon recontainment as specified in subsection [*sic. subdivision*] (b)(2), it would be impossible to track the date required in subsection [*sic. clause*] (c)(2)(D). And while it might be possible to track where material in a container awaiting final disposition is going to go as specified in subsection [*sic. clause*](c)(2)(E), the final disposition of new material just arriving on the site would be subject to market conditions well beyond the control of the facility operator.

We respectfully request either this section be eliminated from the proposed rule as subsection [*sic. subdivision*] (c)(1) contains adequate information to demonstrate that speculative accumulation is not occurring, or this section be limited to requiring general business records showing mass balances or incoming and outgoing materials. (LFR)

*Response:* The rule will be modified to include the change. IDEM agrees that mass balances or tracking of incoming/outgoing material is sufficient. IDEM is working to make the rule clear and simple and appreciates your comments.

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

On January 16, 2007, the Solid Waste Management Board (board) conducted the first public hearing/board meeting on new rules at [329 IAC 16](#) concerning electronic waste. Comments were made by the following parties:

Jim Parker, Vice President, Indiana Recycling Coalition (IRC)

Lisa Laflin, Office of Strategic Planning, City of Indianapolis (IC)

Julie Rhodes, Julie Rhodes Consulting (JRC)

Eric Goldsmith, Vice President, Goldsmith Group, Inc. (GGI)

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

*Comment:* My name is Jim Parker. I own a company called New Genesis down in Plainfield—down in Mooresville, Indiana. I'm here speaking on behalf of the Indiana Recycling Coalition. I'm their Vice-President, and I represent the business sector.

And we'd like to thank the Board for their efforts, and we actually—we support the rulemaking process that you're going to hear for each draft. The IRC has been working for over four years helping to educate the public and businesses about the proper disposal of e-scrap in the State of Indiana. The e-scrap initiative that was spearheaded by Julie Rhodes, one of our contractors, has made great inroads with the stakeholders and businesses in the government and the private sector around the state for the last year, year and a half, towards these efforts. We would like to pay particular gratitude to IDEM and their staff for their great support for our agency and also for this initiative. It was a great collaborative effort, and we think everything has gone really well. Through these efforts, and yours, we can make a difference for helping the Indiana environment to make a viable atmosphere that educates the public, develops business, and most of all, creates jobs in the State of Indiana. (IRC)

*Response:* The department also believes that this rule was a collaborative effort and appreciates the time interested parties spent helping to develop and refine rule language and explain the intricacies of the e-waste process. The department makes every effort to work with the workgroup and resolve any outstanding issues prior

to presenting the rule to the board for preliminary adoption.

*Comment:* Mark has some fliers that actually are an outcrop of the –part of the promotion campaign that was sponsored by the initiative, and from time to time on the television. And also, this weekend on the Inside Indiana Business there was a feature and one of our videos that was actually sponsored by part of the IDEM grants initiative, and we think it's a wonderful program and we support your efforts. (IRC)

*Response:* Thank you. The promotion campaign is only one example of the necessity in completing this rulemaking to provide for consistent and fair rules for the collection, storage and disposal of electronic waste.

*Comment:* My name is Lisa Laflin. I'm with the Office of Strategic Planning for the City of Indianapolis, and I just come before you today to say thank you very much for allowing the City to become–be a part of the process that has brought this rule here today. We were very impressed with the inclusion of all voices in the electronic waste industry, everything from nonprofits to businesses to landfill and solid waste people, and we feel that the rule that's before you now is inclusive of everyone's opinions and ideas, and we're very pleased to be a part of it, and would just like to say thank you very much. (IC)

*Response:* IDEM appreciated the assistance of the City of Indianapolis and the staff's faithfulness in workgroup meeting participation. IDEM also thanks the city for providing meeting rooms for the workgroup that did not require attendees to pay for parking to attend the meeting.

*Comment:* My name is Julie Rhodes, and I am an independent consultant, and as Jim mentioned, I'm also the consultant that led Indiana Recycling Coalition's e-scrap effort, and still leading it, actually.

As Lynn's white paper demonstrates, e-scrap has been a growing issue across the country as well as in Indiana. I think once that studies showed that e-scrap failed toxicity testing more often than not, it became apparent that governments were going to be responsible to use that information to protect public health and the environment.

Given that information that's available today, I think it's wise that Indiana took a look beyond just cathode ray tubes and those items that contain cathode ray tubes, primarily the computer monitors and the television monitors, and looked at the entire list of electronics that contain lead in their circuit boards and mercury in the backlighting. (JRC)

*Response:* Thank you, Indiana's leaders are looking to the future. It is wise to regulate all e-waste in a clear and consistent manner. It is also easier for the regulated community to understand and comply with one set of rules.

*Comment:* Therefore, I applaud IDEM for getting ahead of this issue and making a rule that's broader than EPA's rule. EPA—a lot of the EPA testing came in after EPA had already started the process with the CRT's, so theirs is not as broad, but probably will, at some point, need to be.

I also applaud IDEM and their process of this rulemaking. The work group allowed a broad base of opinions, and the group worked towards consensus on the issues, and I think that was a really important process to come up with the rule that you're looking at today, but I believe that the new rule helps legitimize the electronics recycling industry.

Moreover, this rule will clear up the confusion about entities—about how entities must comply with solid and hazardous waste rules, and I think that was kind of the big problem and why this one-stop shop is really needed is that when someone would come to IDEM, they really didn't know how to interpret the hazardous and solid waste rules to figure out where they fell, so I think this is very useful in that regard.

I think it will also help generators, who we are constantly trying to educate on their responsibility here on proper management, as well as collectors and processors to understand how they can operate to better protect public health and the environment. (JRC)

*Response:* Thank you. IDEM agrees that one-stop shopping is the least confusing for the regulated community.

*Comment:* When making the rule, it's important to balance that need for protection with reasonable requirements of the small business that must comply with the rule—primarily I'm thinking about the recyclers and the reuse organizations—and I think that balance was struck well in requiring a registration instead of an all-out permit and not creating a situation that would be overly burdensome to cities and towns and solid waste districts that collect these scraps, or to the nonprofit and for-profit businesses engaged in reuse, DMP manufacturing and recycling here in Indiana. (JRC)

*Response:* The department's goal with the rulemaking was to make the rule environmentally protective without adding undue expense above regular operating costs.

*Comment:* I'm Eric Goldsmith, Goldsmith Group. First off, I'd like to thank IDEM and the IRC and the city and all of the other recyclers and other people that helped participate in this process. My first time in dealing with this, so pardon my lack of experience. I think that what the processes taught me as a recycler and, I think, a lot of the other recyclers, is we've never—as far as e-scrap, we've never had any type of rule to guide us. The EPA rule just came out, and on the state level, this is our first one, so I think it really gives us some guidelines on how we can best be a good participant in this process, in business, member of the community, et cetera. (GGI)

*Response:* The department thanks Mr. Goldsmith for his faithful and helpful participation in the rulemaking process. Without the input from the regulated community, staff would not have addressed issues is in as

knowledgeable a manner.

*Comment:* Overall, I think that there's a lot of great things that this rule has given consumers and businesses and the environmental people that really watch the environment for us. I don't think everyone has the time or the energy or the desire necessary to protect our environment. And so, when this comes up after being around e-scrap for probably close to forty (40) years as my path in doing this business, slowly but surely we learn more and more about the mercury in the land and all of the other hazardous materials in the –hazardous commodities in the material.

So, from my perspective, to have guidelines when they're telling me to run our business only guides me as someone who's looking at buying by father's business and then growing it here in the state and seeing where I can take it. (GGI)

*Response:* This rulemaking should make complying with the minimal standards of the rule easy to understand and to follow.

*Comment:* There's only one little thing that confuses me, and I really understand it, but I want to just at least state it, and that is the –and I stated it a moment ago, when I said e-scrap instead of e-waste, and I just want you to know that, to us, it's a commodity, and I understand that you don't regulate commodities, but it's still a commodity and it's not a waste. And we've talked about that in the rulemaking and everyone's dealt with it very well. Just—it still keeps coming up, and sooner or later it's going to come up, so that's the only thing that confuses me at all is what do I tell my customers, what do I tell my employees, and will there be a point at someplace in the rulemaking laws that's going to affect my ability—as I make a capital investment in my business, my ability to convert it into a commodity and not as a waste? (GGI)

*Response:* Electronic waste can be and is a commodity for the e-waste processor. Regarding day to day business activity, e-waste is a commodity that is bought and sold. The department does not want to interfere in daily business activities. However, under the solid and hazardous waste rules, e-waste is a solid waste. The Solid Waste Management Board, as per the statute at [IC 13-19-3-1](#), shall adopt rules...to regulate solid and hazardous waste. The definition of "electronic waste" in the rule includes a reference to "electronic scrap".

*Comment:* And other than that, I think everything is really great. I think it's a really solid rule. It seems to start us off on a good footing where I, as a businessperson, will be able to present our documents to the city, to the state, to customers, and my employees, and we'll be able to grow our business because of this.

And I think it'll help bring material—bring awareness to the business and government sectors and organizations that use electronics and help them understand that it needs to be properly managed after they're done with it. (GGI)

*Response:* Thank you.

#### **FISCAL ANALYSIS PREPARED BY THE LEGISLATIVE SERVICES AGENCY**

IDEM has estimated that the economic impact of this rule will be less than \$500,000 on the regulated entities. The proposed rule was not submitted to the Legislative Services Agency for analysis under [IC 4-22-2-28](#).

[329 IAC 3.1-6-2](#); [329 IAC 11-3-1](#); [329 IAC 16](#)

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 13-11-2-99](#); [IC 13-11-2-205](#); [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:

Industry	Standard 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) resistor;**
  - (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 or processing 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](#).
  - (F) 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."
  - (G) 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](#)

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) The material for the building floor for all areas where e-waste and electronic debris will be:
  - (A) stored; or
  - (B) processed.
- (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 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 United States Geological Service (USGS) map that identifies the facility location and any access roads.
  - (G) Telephone numbers for the fire department responsible for responding to a fire or emergency at the registered facility.
- (13) A description of any electronic debris resulting from the processing of e-waste.
- (14) Cleanup procedures for the:
  - (A) storage;
  - (B) electronic waste processing;
  - (C) loading; and
  - (D) unloading;areas.
- (15) 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 total amount of e-waste received.
- (B) The total amount of e-waste or material shipped from the facility for recycling or reuse.
- (C) The total amount of e-waste, solid waste, or hazardous waste shipped from the facility for disposal.

(3) Amounts of e-waste, material, solid waste, and hazardous waste:

- (A) must be measured in weight only; and
- (B) may be kept in a consistent manner either daily, weekly, or monthly.

(4) Shipping papers and manifests as applicable for shipments of e-waste received and e-waste, solid waste, and hazardous waste shipped from the facility shall be maintained by the facility for a period of three (3) years.

(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 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, within three (3) days, when the container becomes full.**

**(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 as required under [329 IAC 16-5-1\(f\)\(12\)](#).**

**(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 with the department 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 has failed to close the registered facility.

(b) The amount that will provide for closure 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 person to pick up all electronic devices that is provided to the department 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 place the amount that will provide for closure into a standby trust fund, as directed by the commissioner, upon notice from the commissioner that the owner, operator, or registrant has failed to close the facility.
- (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.

(5) The owner, operator, or registrant shall establish a standby trust fund to be utilized in the event the owner, operator, or registrant fails to fulfill closure obligations and the bond guarantee is exercised.

Such trust fund must be established in accordance with the following:

- (i) On forms provided by the commissioner or forms as approved by the commissioner.
- (ii) The establishment of a standby trust fund in the amount determined by subsection (b) for commissioner-approved work done to close the facility.

(iii) The requirement of successor trustees to notify the commissioner, in writing, of their appointment at least ten (10) days prior to the appointment becoming effective.

(iv) The requirement that the funded trust is irrevocable unless terminated in writing by the commissioner.

(v) The requirement that all signatures be notarized by a notary public commissioned to be a notary public in the state of Indiana at the time of notarization.

(vi) The requirement that the trustee is authorized to act as a trustee and is an entity whose operations are regulated and examined by a federal and state of Indiana agency.

(e) The owner, operator, or registrant may use a single surety bond 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 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 assurance 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 financial assurance under this article.

*(Solid Waste Management Board; [329 IAC 16-11-1](#))*

#### [Notice of Public Hearing](#)

Posted: 03/07/2007 by Legislative Services Agency

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