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**TITLE 329 SOLID WASTE MANAGEMENT BOARD**

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**Proposed Rule**  
LSA Document #09-613**DIGEST**

Amends [329 IAC 3.1-1-7](#) to incorporate by reference the federal rule amendments entitled "Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities", promulgated by the U.S. Environmental Protection Agency on December 1, 2008 (73 FR 72954-72960). Effective 30 days after filing with the Publisher.

**HISTORY**

Findings and Determination of the Commissioner Pursuant to [IC 13-14-9-7](#) and Draft Rule: August 19, 2009, Indiana Register (DIN: [20090819-IR-329090613FDA](#)).

First Public Hearing Notice: August 19, 2009, Indiana Register (DIN: [20090819-IR-329090613PHA](#)).

Date of First Public Hearing: November 17, 2009.

**PUBLIC COMMENTS UNDER [IC 13-14-9-4.5](#)**

[IC 13-14-9-4.5](#) states that a board may not adopt a proposed rule under [IC 13-14-9](#) that is substantively different from the draft rule published under [IC 13-14-9-7](#) 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 August 19, 2009 (DIN: [20090819-IR-329090613FDA](#)), the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this rule.

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

IDEM requested public comment from August 19, 2009, through September 18, 2009, on IDEM's draft rule language. No comments were received during the comment period.

**SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST PUBLIC HEARING**

On November 17, 2009, the Solid Waste Management Board (board) conducted the first public hearing/board meeting concerning the development of new rules and amendments to rules at [329 IAC 3.1](#). No comments were received at the first public hearing.

**[329 IAC 3.1-1-7](#)**

SECTION 1. [329 IAC 3.1-1-7](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 3.1-1-7](#) Incorporation by reference**

**Authority:** [IC 13-19-3-1](#); [IC 13-22-4](#)

**Affected:** [IC 13-14-8](#); 40 CFR 260.11

Sec. 7. (a) When incorporated by reference in this article, references to 40 CFR 260 through 40 CFR 270 and 40 CFR 273 shall mean the version of that publication revised as of July 1, 2008, and amended as published in the Federal Register on ~~June 4, 2008, at 73 FR 31768.~~ **December 1, 2008, at 73 FR 72954 through 73 FR 72960.**

(b) When used in 40 CFR 260 through 40 CFR 270 and 40 CFR 273, as incorporated in this article, references to federally incorporated publications shall mean that version of the publication as specified at 40 CFR 260.11.

(c) The following publications are also incorporated by reference:

- (1) 40 CFR 146, revised as of July 1, 2005.
- (2) 40 CFR 60, Appendix A-1, revised as of July 1, 2005.
- (3) 40 CFR 60, Appendix A-2, revised as of July 1, 2005.
- (4) 40 CFR 60, Appendix A-3, revised as of July 1, 2005.
- (5) 40 CFR 60, Appendix A-4, revised as of July 1, 2005.

- (6) 40 CFR 60, Appendix A-5, revised as of July 1, 2005.
- (7) 40 CFR 60, Appendix A-6, revised as of July 1, 2005.
- (8) 40 CFR 60, Appendix A-7, revised as of July 1, 2005.
- (9) 40 CFR 60, Appendix A-8, revised as of July 1, 2005.

(d) Federal regulations that have been incorporated by reference do not include any later amendments than those specified in the incorporation citation in subsections (a) through (c). Sales of the Code of Federal Regulations are handled by the Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954, or online at <http://bookstore.gpo.gov/>. The telephone number for the Superintendent of Documents is (202) 512-1800 or toll-free (866) 512-1800. The incorporated materials are available for public review at the offices of the department of environmental management.

(e) Where exceptions to incorporated federal regulations are necessary, these exceptions will be noted in the text of the rule. In addition, all references to administrative stays are deleted.

(f) Cross-references within federal regulations that have been incorporated by reference shall mean the cross-referenced provision as incorporated in this rule with any indicated additions and exceptions.

(g) The incorporation of federal regulations as state rules does not negate the requirement to comply with federal provisions that may be effective in Indiana that are not incorporated in this article or are retained as federal authority.

*(Solid Waste Management Board; [329 IAC 3.1-1-7](#); filed Jan 24, 1992, 2:00 p.m.: 15 IR 909; filed Oct 23, 1992, 12:00 p.m.: 16 IR 848; filed May 6, 1994, 5:00 p.m.: 17 IR 2061; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3353; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1111; filed Oct 31, 1997, 8:45 a.m.: 21 IR 947; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2739; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; filed Mar 6, 2000, 8:02 a.m.: 23 IR 1637; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2431; errata filed Oct 15, 2001, 11:24 a.m.: 25 IR 813; filed Jun 3, 2002, 10:40 a.m.: 25 IR 3111; filed Jan 14, 2004, 3:20 p.m.: 27 IR 1874; filed Apr 13, 2005, 11:30 a.m.: 28 IR 2661; filed Jun 9, 2006, 3:40 p.m.: [20060712-IR-329050066FRA](#), eff Sep 5, 2006; filed Dec 26, 2007, 1:44 p.m.: [20080123-IR-329060556FRA](#); filed Sep 11, 2009, 2:39 p.m.: [20091007-IR-329080673FRA](#))*

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

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