
TITLE 329 SOLID WASTE MANAGEMENT DIVISION

**FINDINGS AND DETERMINATION OF THE COMMISSIONER
PURSUANT TO [IC 13-14-9-7](#) AND SECOND NOTICE OF COMMENT PERIOD**
LSA Document #14-288

HAZARDOUS WASTE UPDATES**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to the hazardous waste rules at [329 IAC 3.1](#). The purpose of this notice is to seek public comment on the draft rule, including suggestions for specific language to be included in the rule. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

CITATIONS AFFECTED: [329 IAC 3.1-1-7](#); [329 IAC 3.1-6-2](#); [329 IAC 3.1-11-2](#).

AUTHORITY: [IC 13-14-8](#); [IC 13-19-3-1](#); [IC 13-22-2-4](#).

STATUTORY REQUIREMENTS

[IC 13-14-9-7](#) recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that the rulemaking policy alternatives available to IDEM are so limited that the first notice of public comment period would provide no substantial benefit to the environment or persons to be regulated or otherwise affected by the proposed rule, IDEM may forgo this comment period and proceed directly to the notice of second public comment period.

If the commissioner makes the determination of limited rulemaking policy alternatives required by [IC 13-14-9-7](#), the commissioner shall prepare written findings and include them in the second notice of public comment period published in the Indiana Register. This document constitutes the commissioner's written findings pursuant to [IC 13-14-9-7](#).

The statute provides for this shortened rulemaking process if the commissioner determines that "the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under [IC 13-14-9-3](#) would provide no substantial benefit to:

- (1) the environment; or
- (2) persons to be regulated or otherwise affected by the proposed rule."

BACKGROUND

In accordance with Subtitle C of the Resource Conservation and Recovery Act (RCRA), the United States Environmental Protection Agency (U.S. EPA) granted authorization to IDEM to administer the management of hazardous waste in Indiana. To maintain authorization for this program, IDEM must comply with the requirements for state authorization in 40 CFR 271 Subpart A. The activities related to administering the hazardous waste program include permitting, compliance, monitoring, enforcement, and providing technical assistance.

In order to maintain authorization to implement the hazardous waste program, IDEM must revise its program by adopting changes to the hazardous waste rules promulgated by U.S. EPA. IDEM's hazardous waste rules must be at least as stringent as the federal regulations, with the option of adopting more stringent requirements if IDEM determines that action is necessary for the particular situation in Indiana. This rulemaking will adopt the most recent changes that have become effective since July 1, 2011, and an older rulemaking from January 8, 2010, that was delayed because of a pending IDEM rulemaking for spent lead acid batteries.

IDEM has developed draft rule language to incorporate by reference the federal changes into the hazardous waste rules at [329 IAC 3.1](#) for the following:

- On January 8, 2010, U.S. EPA made revisions to the requirement for transboundary shipments of hazardous waste between the Organization for Economic Co-operation and Development (OECD) member countries, and export and import shipments of hazardous wastes, including spent lead acid batteries. While IDEM cannot administer these rule changes because they are matters of foreign policy that are under the authority of the federal government, IDEM is adopting these rule changes to maintain equivalency with the federal requirements. The adoption of these rule changes was delayed because of ongoing revisions to IDEM's requirements for the management of spent lead acid batteries with LSA Document #09-365, which became effective on August 14, 2013.
- On June 13, 2011, U.S. EPA published an alternative standard for the use of the best demonstrated available technologies (BDAT) for treating hazardous wastes from the production of carbamate waste and removal of carbamate Regulated Constituents from the table of Universal Treatment Standards.
- On April 13, 2012, U.S. EPA made the following changes:
 - Technical corrections of a typographical error in a table listing the identification and listings of hazardous

waste at 40 CFR 261.32(a).

- A conforming change at 40 CFR 266.20(b) to clarify that a recycling facility must keep a one-time certification and notification related to recyclable materials being used in a manner constituting disposal.
- On July 31, 2013, U.S. EPA published revisions to conditionally exclude solvent-contaminated wipes from:
 - the definition of solid waste if the wipes are cleaned and reused in accordance with specified procedures in 40 CFR 261.1(a); and
 - the definition of hazardous waste if the wipes are disposed in accordance with specified procedures in 40 CFR 261.1(b).
- On January 3, 2014, U.S. EPA published a conditional exclusion for carbon dioxide streams that are hazardous from the definition of hazardous waste if the streams are captured and injected into Underground Injection Control Class VI wells for geologic sequestration.

The U.S. EPA final regulations published on June 13, 2011; April 13, 2012; July 31, 2013; and January 3, 2014; are optional regulations that IDEM is not required to adopt for IDEM's authorized hazardous waste program. These federal regulations are optional because the regulations are now less stringent than the federal requirements IDEM has previously incorporated by reference. IDEM rules must be at least as stringent as federal requirements, with the option of being more stringent if IDEM determines it is necessary for certain situations. However, with the federal regulations proposed for adoption by incorporation by reference, IDEM believes that the state will benefit from adopting the less stringent federal regulations. Adopting the optional federal regulations will maintain consistency between IDEM's hazardous waste requirements and the U.S. EPA's hazardous waste requirements, reducing confusion for persons and entities affected by the rule changes. In addition, the optional rule changes have the potential to reduce costs for some regulated entities, which is discussed in the Fiscal Impact section of this notice. For these reasons, IDEM chooses to adopt the optional federal regulations.

IDEM proposes to include these federal changes into the hazardous waste program into state rules.

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

The following element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is "not imposed under federal law" (NIFL element or elements):

NIFL Element (A): [329 IAC 3.1-6-2](#)(20). The NIFL element will provide more flexibility for the wording on the container labels for solvent-contaminated wipes.

IDEM is making a change to the required wording for labels on containers that hold solvent contaminated wipes. IDEM believes this change is necessary because the label wording required by federal regulations is too narrow for the possible materials that can be placed in the container. IDEM also would like to allow regulated entities to be more descriptive of the contents in the container, if necessary. Allowing more wording than the federal requirements will provide a more accurate representation of the container contents for inspectors and regulated entities, which could prove useful in the event of an accidental release or exposure.

Also, IDEM would like to allow flexibility for the use of these containers if regulated entities might use the containers for materials other than excluded solvent-contaminated wipes when the regulated entities are accumulating other materials. Having a container with only the phrase "Excluded Solvent-Contaminated Wipes" restricts the containers from being used for other purposes if the regulated entity would like to do so.

This NIFL element is not anticipated to have a fiscal impact. The only change from federal regulations is the option to add an extra phrase on the container label, which should have the same cost as the less flexible label wording required by federal law.

To include this NIFL element in the rule changes, IDEM used experiences from field inspectors and feedback from regulated entities to make the change. IDEM has past experiences with labeling requirements that are too limiting, and prefers to provide flexibility for regulated entities, when possible.

Potential Fiscal Impact

All of the changes from this rulemaking that may have a fiscal impact are mandated by federal rules that IDEM must adopt for IDEM's authorized hazardous waste program to maintain equivalency with federal requirements. The only other change proposed by IDEM, which was described in the NIFL element section, will not have a fiscal impact. Therefore, the potential fiscal impact from the rule derives from federal requirements, not state-only requirements. No rule changes initiated by IDEM will have a fiscal impact. The following is a description of the fiscal impact from the federal rule changes that IDEM proposes to incorporate by reference.

The alternative standard for the treatment and disposal of hazardous wastes from the production of carbamates and carbamate products at 40 CFR 268 does not impose new requirements that could result in increased costs. The rule changes provide an alternative for treating these wastes, and do not add requirements or costs to the established standards for treatment.

The technical corrections and clarifications to the federal hazardous waste rules at 40 CFR 261.32(a) and 40 CFR 266.20(b) will not have a fiscal impact on government agencies, regulated entities, or other affected parties because they do not impose any new requirements or repeal any existing rules. The rule changes simply make corrections and do not have any new impacts.

The adoption of the requirements for the transboundary shipments of hazardous wastes will not have a fiscal impact in addition to the initial fiscal impact estimated by U.S. EPA when the final rule became effective on July 7,

2010. Because the January 8, 2010, federal rule is for import/export requirements which are matters of foreign policy that states are not authorized to administer, affected regulated entities already should be complying with the rule changes before adoption of the final rule by IDEM. The complete fiscal impact from the final rule can be found in U.S. EPA docket #EPA-HQ-RCRA-2005-0018-0041, with the summary of the costs available in the January 8, 2010, Federal Register notice at 75 FR 1249 through 75 FR 1250.

The conditional exclusion for carbon dioxide streams will provide a cost savings for any affected entities because the streams will be excluded from hazardous waste regulations. The main cost savings is the exclusion from treatment as a hazardous waste. For carbon dioxide capture facilities, U.S. EPA estimates a one-time cost savings of \$5,273 per facility and annual cost savings of \$8,130 per facility. For sequestration facilities, U.S. EPA estimates a one-time cost savings of \$4,440 per facility and an annual cost savings of \$4,298 per facility. Additional information on the fiscal impact of this rule can be found in U.S. EPA docket #EPA-HQ-RCRA-2010-0695-0092.

The rule changes for the conditional exclusion from solid waste and hazardous waste for solvent contaminated wipes will have an overall cost savings after the first year. In the initial year of implementation, the regulated entities will have minor costs for understanding the rule, purchasing new equipment, and complying with the new requirements. After the first year, the annual benefits greatly outweigh the annual costs. Cost savings include exclusions from hazardous waste requirements, less disposal costs, reduced management of free liquids, and less state fees and taxes. Additional information on the fiscal impact of this rule can be found in U.S. EPA docket #EPA-HQ-RCRA-2003-0004-0482. The following table has the EPA estimates for annual costs and savings of both reusable and disposable wipes:

Facility	One-time Costs (\$)	Annual Cost (\$)	Annual Savings (\$)	Net Annual Savings (\$)
Large Quantity Generators	78	835	30,489	29,654
Small Quantity Generators	26	183	4,207	4,024
Handling Facilities	26	78	208	130

Referenced Materials for Fiscal Impact

1. *Regulatory Impact Analysis for Conditional Exclusions from Solid Waste and Hazardous Waste for Solvent-Contaminated Wipes Final Rule*, Docket #: EPA-HQ-RCRA-2003-0004-0482, Office of Resource Conservation and Recovery, U.S. Environmental Protection Agency: June 21, 2013.
2. *Cost Assessment for the Final Rule on Exports and Imports of Hazardous Waste Destined for the Recovery Among OECD Countries, Exports of Spent Lead-Acid Batteries from the U.S., and Import Consent Documentation*, Docket #: EPA-HQ-RCRA-2005-0018-0041, Office of Resource Conservation and Recovery, Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency: May 2009.
3. *Assessment of the Potential Costs, Benefits, and Other Impacts, Hazardous Waste Management System: Conditional Exclusion for Carbon Dioxide (CO₂) Streams in Geologic Sequestration Activities*, Docket #: EPA-HQ-RCRA-2010-0695-0092, Office of Resource Conservation and Recovery, U.S. Environmental Protection Agency: August 27, 2013.

Public Participation and Work Group Information

No work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Dan Watts, Rules Development Branch, Office of Legal Counsel at (317) 234-5345 or (800) 451-6027 (in Indiana).

Small Business Assistance Information

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

www.in.gov/idem/ctap

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Jessica Faust-Hamblin
IDEM Small Business Regulatory Coordinator
IGCN 1225
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8172 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 4-4-35-8](#) is:
Erik Scheub

Office of Small Business and Entrepreneurship
One North Capitol, Suite 600
Indianapolis, IN 46204
(317) 232-5679
ombudsman@osbe.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 4-4-35-8](#), specifically [IC 4-4-35-8\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Steven N. Howell
IDEM Small Business Assistance Program Ombudsman
IGCN 1301
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8587 or (800) 451-6027
snhowell@idem.in.gov

FINDINGS

The commissioner of IDEM has prepared written findings regarding rulemaking on the hazardous waste rules at [329 IAC 3.1](#). These findings are prepared under [IC 13-14-9-7](#) and are as follows:

- (1) While IDEM is required to include changes to federal regulations into its rules governing the RCRA hazardous waste program to maintain authority to administer the program, the federal regulations IDEM seeks to incorporate are less stringent than existing state rules. Therefore, IDEM may retain existing rules because they would be more stringent than current federal law or adopt the new regulations. Because the policy alternatives to adopting the federal regulations into IDEM rules are so limited, the use of the more expedited rulemaking process under [IC 13-14-9-7](#), allowing for the elimination of the first notice comment period, is appropriate.
- (2) The federal regulations related to wording on disposal containers would limit the use of such containers for other disposal purposes. IDEM proposes to allow flexibility in the use of the disposal containers so long as they are properly labeled. Such containers must contain the federally-required wording when being used for the disposal of excluded solvent contaminated wipes but may be used for the disposal of other materials so long as the containers clearly identify the contents. This is the only element of the rulemaking where IDEM is proposing an additional option. IDEM believes that this amendment will provide cost savings to regulated entities affected by these rules.
- (3) The additional incorporations of federal regulations, while optional, would provide cost savings to regulated entities without sacrificing environmental protection.
- (4) I have determined that under the specific circumstances pertaining to this rule, the rulemaking policy alternatives are so limited that the public notice and comment period provided in the notice of first public comment period would provide no substantial benefit to the environment or to persons to be regulated or otherwise affected by the rule.
- (5) The draft rule is hereby incorporated into these findings.

Thomas W. Easterly
Commissioner
Indiana Department of Environmental Management

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:
LSA Document #14-288 Updates to Hazardous Waste Rules
Dan Watts
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue
Indianapolis, IN 46204-2251
- (2) By facsimile to (317) 233-5970. Please confirm the timely receipt of your faxed comments by calling the

Rules Development Branch at (317) 233-8903.

(3) By electronic mail to dwatts1@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

(4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than August 22, 2014. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Dan Watts, Rules Development Branch, Office of Legal Counsel (317) 234-5345 or (800) 451-6027 (in Indiana).

DRAFT RULE

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:

- (1) December 1, 2008, at 73 FR 72954 through 73 FR 72960;
- (2) January 8, 2010, at 75 FR 1253 through 75 FR 1262;**
- ~~(2)~~ **(3) June 15, 2010, at 75 FR 33716 through 75 FR 33724;**
- ~~(3)~~ **(4) September 22, 2010, at 75 FR 57687 through 75 FR 57688;**
- ~~(4)~~ **(5) December 17, 2010, at 75 FR 78926; and**
- ~~(5)~~ **(6) December 20, 2010, at 75 FR 79308;**
- (7) June 13, 2011, at 76 FR 34153 through 75 FR 34157;**
- (8) April 13, 2012, at 77 FR 22232;**
- (9) July 31, 2013, at 78 FR 46484 through 78 FR 46485; and**
- (10) January 3, 2014, at 79 FR 363 through 79 FR 364.**

(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 Division; [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](#); filed Aug 27, 2010, 11:54 a.m.: [20100922-IR-329090613FRA](#); filed May 29, 2012, 3:20 p.m.: [20120627-IR-329110090FRA](#); filed Mar 15, 2013, 2:44 p.m.: [20130410-IR-329120506FRA](#))

SECTION 2. [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 13-11-2-245](#); [IC 13-11-2-266](#); [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) 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)".
- (8) 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".
- (9) 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."

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

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

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

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

(14) 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.

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

(16) In 40 CFR 261.33, remove the entries for the U202 hazardous waste code in the table in paragraph (f).

(17) In addition to the solid wastes excluded in 40 CFR 261.4(b), electronic waste or e-waste is excluded, which is any of 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](#).

(18) In 40 CFR 261, Appendix VIII, remove the entries for "Saccharine" and "Saccharin salts" from the table "Hazardous Constituents".

(19) Delete 40 CFR 261.38 as published in the July 1, 2008, edition and substitute the revised text of 40 CFR 261.38 as published at 75 FR 33716 through 75 FR 33724, June 15, 2010.

(20) At 40 CFR 261.4(a)(26)(i) and 40 CFR 261.4(b)(18)(i), delete the phrase "Excluded Solvent-Contaminated Wipes" and substitute the phrase "'Excluded Solvent-Contaminated Wipes' or other words indicating the contents of the container".

(Solid Waste Management Division; [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; filed Aug 15, 2007, 10:22 a.m.: [20070912-IR-329050181FRA](#); filed May 29, 2012, 3:20 p.m.: [20120627-IR-329110090FRA](#))

SECTION 3. [329 IAC 3.1-11-2](#) IS AMENDED TO READ AS FOLLOWS:

[329 IAC 3.1-11-2](#) Exceptions and additions; specific standards

Authority: [IC 13-14-8](#); [IC 13-22-2-4](#)

Affected: [IC 13-15-2](#); [IC 13-22-2](#); 40 CFR 266

Sec. 2. Exceptions and additions to standards for the management of specific hazardous waste and specific types of hazardous waste facilities are as follows:

(1) Delete 40 CFR 266.23(b) and substitute the following: "No person may apply or allow the application of used oil as defined in [329 IAC 3.1-4](#) to any ground surface except for purposes of treatment in accordance with a permit issued by the department under [IC 13-15-2](#). The use of unused waste oil or other waste material, which is contaminated with dioxin or hazardous waste or exhibits any characteristic of hazardous waste except ignitability for dust suppression or road treatment is prohibited."

(2) In 40 CFR 266.102(a)(2)(viii) dealing with applicable financial requirements for burners, the references to federal cites shall be converted as follows:

(A) 264.141 means [329 IAC 3.1-15-2](#).

(B) 264.142 means [329 IAC 3.1-15-3](#).

(C) 264.143 means [329 IAC 3.1-15-4](#).

(D) 264.147 through 264.151 means [329 IAC 3.1-15-8](#) through [329 IAC 3.1-15-10](#).

(3) Delete 40 CFR 266, Subpart G, **except for 40 CFR 266.80(a)(6) through 40 CFR 266.80(a)(7)**, and insert [329 IAC 3.1-11.1](#).

(Solid Waste Management Division; [329 IAC 3.1-11-2](#); filed Jan 24, 1992, 2:00 p.m.: 15 IR 939; errata filed Feb 6, 1992, 3:15 p.m.: 15 IR 1027; filed Oct 23, 1992, 12:00 p.m.: 16 IR 849; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2743; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jul 15,

[Notice of Public Hearing](#)

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