TITLE 329 SOLID WASTE MANAGEMENT DIVISION

IC 13-14-9.5-1.1 NOTICE OF REVIEW OF NONEXPIRING RULES

LSA Document #22-125

This is a notice of rule review as described in IC 13-14-9.5-1.1. Certain rules described in IC 13-14-9.5-1.1 do not expire after seven years. These types of rules are: (1) rules required to receive or maintain delegation, primacy, or approval for implementation or operation of a program established under federal law; and (2) rules required to begin or continue receiving federal funding for implementation or operation of a program.

The Indiana Department of Environmental Management (IDEM) is required to publish a list of these rules that have been effective for seven years and request comment, in a 30 day comment period, on any specific rule that should be reviewed through the regular rulemaking process under IC 13-14-9. IDEM must also notice a public hearing before the Environmental Rules Board (board). IDEM will respond to all comments received during the comment period and provide the comments and responses to the board during the public hearing. The board, after considering the comments, responses, and testimony at the hearing, will direct IDEM on whether additional rulemaking actions must be started to address concerns raised to the board.

IC 13-14-9.5-1 provides that chapter 9.5 does not apply to "a rule that incorporates a federal regulation by reference or adopts under a federal mandate a federal regulation in its entirety without substantive additions." Therefore, those rules are not subject to this notice of readoption; however, for the reader's information, a list of exempt rules is included in this notice.

IC 13-14-9-4(a)(5) THROUGH IC 13-14-9-4(a)(7) IDENTIFICATION OF RESTRICTIONS AND REQUIREMENTS NOT IMPOSED UNDER FEDERAL LAW

IC 13-14-9.5-1.1 requires this notice to contain the information described under IC 13-14-9-4(a)(5) through IC 13-14-9-4(a)(7) regarding restrictions and requirements of the listed rules that are not imposed under federal law. No element of the listed rules imposes either a restriction or requirement on persons to whom the rule applies that is not imposed under federal law.

The Resource Conservation and Recovery Act (RCRA), codified at 42 U.S.C. 6901 et seq., is the authorizing federal law for the management of solid waste. With the approval of the U.S. Environmental Protection Agency (U.S. EPA) under 40 CFR 239, state programs may issue permits for solid waste management and land disposal facilities that implement U.S. EPA requirements authorized under RCRA. In addition, requirements at 40 CFR 256 provide guidelines for the development and implementation of state solid waste management plans. Indiana has an approved state solid waste management program with requirements for solid waste land disposal facilities in 329 IAC 10 and processing facilities in 329 IAC 11.

Hazardous waste management is federally authorized under 42 U.S.C. 6921 et seq., with specific U.S. EPA hazardous waste regulations at 40 CFR 260 through 270 and 40 CFR 273. In accordance with 42 U.S.C. 6926, the U.S. EPA granted IDEM the authority to administer and enforce a hazardous waste program in Indiana. To maintain authorization for this program, IDEM must comply with the requirements for state authorization in 40 CFR 271. Indiana has adopted requirements in 329 IAC 3.1 for the management of hazardous waste.

The U.S. EPA regulates underground storage tank (UST) owners and operators under 42 U.S.C. 6991 et seq., and allows states to maintain their own regulatory programs. Approved state UST programs must comply with the corresponding federal regulations at 40 CFR 280 and 281, which set standards for UST installation, ownership, operation, release prevention, release detection and reporting, closure, and approval of state UST programs. IDEM has an approved state UST program with requirements for UST owners and operators in 329 IAC 9.

LIST OF RULES THAT DO NOT EXPIRE

The following is a list of rules in 329 IAC that have been effective for seven years and are: (1) required to receive or maintain delegation, primacy, or approval for implementation or operation of a program established under federal law; or (2) required to begin or continue receiving federal funding for implementation or operation of a program:

329 IAC 3.1-1	General Provisions
329 IAC 3.1-4-5	"Board" defined
329 IAC 3.1-4-6	"Business" defined
329 IAC 3.1-4-9	"Commissioner" defined
329 IAC 3.1-4-9.5	"Electronic format" defined
329 IAC 3.1-4-11	"Existing tank system" or "existing component" defined
329 IAC 3.1-4-12	"Final (state) permit application" or "final permit application" defined
329 IAC 3.1-4-13	"Hazardous waste records officer" defined
329 IAC 3.1-4-14	"IDEM" defined

329 IAC 3.1-4-15	"IDEM hazardous waste record" defined
329 IAC 3.1-4-16	"Interim status" defined
329 IAC 3.1-4-17	"Interim status standards" defined
329 IAC 3.1-4-18	"New tank system" or "new tank component" defined
329 IAC 3.1-4-19	"Part A", "Part A permit", or "Part A permit application" defined
329 IAC 3.1-4-20	"Person" defined
329 IAC 3.1-4-20.2	"Processed scrap metal" defined
329 IAC 3.1-4-21.1	"Reclamation" defined
329 IAC 3.1-4-22	"Recorded" defined
329 IAC 3.1-4-23	"Requestor" defined
329 IAC 3.1-4-23.3	"Secondary material" defined
329 IAC 3.1-4-25	"Used oil" defined
329 IAC 3.1-5-2	Petitions for delisting; petitions for equivalent testing or analytical methods
329 IAC 3.1-5-6	Exemptions from land disposal restrictions
329 IAC 3.1-6-2	Exceptions and additions; identification and listing of hazardous waste
329 IAC 3.1-6-4	Exclusions
329 IAC 3.1-6-6	Waste excluded from regulation; Heritage Environmental Services, LLC and Nucor Steel Corporation, Crawfordsville, Indiana
329 IAC 3.1-6-8	Waste excluded from regulation; Alcoa Corporation, Warrick Operations, Newburgh, Indiana
329 IAC 3.1-6-9	Waste excluded from regulation; Rumpke of Indiana, LLC, Medora Sanitary Landfill, Medora, Indiana
329 IAC 3.1-7-15	Additional reporting
329 IAC 3.1-8-2	Exceptions and additions; transporter standards
329 IAC 3.1-8-3	Hazardous waste discharges; additional state requirements
329 IAC 3.1-8-4	Hazardous waste transfer facilities; additional state requirements
329 IAC 3.1-9-3	Exceptions and additions; tank systems
329 IAC 3.1-10-3	Classification of underground injection wells
329 IAC 3.1-11.1	Spent Lead Acid Batteries
329 IAC 3.1-11.5-2	Exceptions and additions to 40 CFR 267
329 IAC 3.1-12-2	Exceptions and additions; land disposal restrictions
329 IAC 3.1-13-2	Exceptions and additions; permit program
329 IAC 3.1-13-3	General application requirements
329 IAC 3.1-13-4	Confidentiality of information
329 IAC 3.1-13-5	Federal issuance of hazardous waste management permits
329 IAC 3.1-13-6	Permit processing
329 IAC 3.1-13-7	Modification, revocation and reissuance, or termination of permits
329 IAC 3.1-13-8	Draft permits
329 IAC 3.1-13-9	Fact sheet
329 IAC 3.1-13-10	Public notice of permit actions and public comment period
329 IAC 3.1-13-11	Public comments and requests for public hearings
329 IAC 3.1-13-12	Public hearings
329 IAC 3.1-13-13	Response to comments
329 IAC 3.1-13-14	Issuance and effective date of permit
329 IAC 3.1-13-15	State-administered permit program; duration of permits
329 IAC 3.1-13-16	Continuation of expiring permits
329 IAC 3.1-13-17	Adjudicatory hearings
329 IAC 3.1-13-18	Preapplication public meeting and notice
329 IAC 3.1-13-19	Public notice requirements at the application stage
329 IAC 3.1-13-20	Information repository
329 IAC 3.1-14	Financial Requirements for Owners and Operators of Interim Status Hazardous Waste Treatment, Storage, and Disposal Facilities
329 IAC 3.1-15	Financial Requirements for Final (State) Permitted Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
329 IAC 3.1-16-2	Exceptions and additions; petitions to add a universal waste
329 IAC 9-1	Applicability, Incorporation by Reference, and Definitions
329 IAC 9-4.5	Delivery Prohibition Program

329 IAC 9-5-2	Initial response
329 IAC 9-5-3.2	Initial abatement measures and site check
329 IAC 9-5-5.1	Initial site characterization
329 IAC 9-5-6	Further site investigations for soil and ground water cleanup
329 IAC 9-5-7	Corrective action plan
329 IAC 9-6-3	Applicability to previously closed UST systems
329 IAC 10-3-1	Exclusions; general
329 IAC 10-9-1	Types of facilities
329 IAC 10-14	Solid Waste Land Disposal Facilities; Quarterly Reports and Weighing Scales
329 IAC 10-19	Municipal Solid Waste Landfills; Preoperational Requirements and Operational Approval

LIST OF EXEMPT RULES

This is a list of rules in 329 IAC to which IC 13-14-9.5 does not apply in accordance with the exceptions in IC 13-14-9.5-1. This list of exempt rules is provided for informational purposes only. The following rules are exempt from IC 13-14-9.5:

329 IAC 3.1-4-1	Applicability of federal definitions
329 IAC 3.1-5-3	Waste produced at a particular facility; petition to exclude
329 IAC 3.1-5-4	Exemption from classification as a solid waste or to be classified as a boiler; adoption of federal procedures
329 IAC 3.1-5-5	Additional regulation of certain hazardous waste recycling activities; adoption of federal procedures
329 IAC 3.1-5-7	Notification and legitimate recycling of hazardous secondary materials; adoption of federal procedures
329 IAC 3.1-5-8	Hazardous waste electronic manifest system; adoption of federal requirements
329 IAC 3.1-6-1	Adoption of federal identification and listing of hazardous waste
329 IAC 3.1-7-1	Adoption of federal standards applicable to generators of hazardous waste
329 IAC 3.1-8-1	Adoption of federal standards applicable to transporters of hazardous waste
329 IAC 3.1-9-1	Adoption of federal standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities
329 IAC 3.1-10-1	Adoption of federal interim status standards for owners and operators of hazardous waste treatment, storage, and disposal facilities
329 IAC 3.1-11-1	Adoption of federal standards for the management of specific hazardous wastes and specific types of hazardous waste management facilities
329 IAC 3.1-11.5-1	Adoption of federal standards for owners and operators of hazardous waste facilities operating under a standardized permit
329 IAC 3.1-12-1	Adoption of federal land disposal restrictions
329 IAC 3.1-13-1	Adoption of federal procedures for state administered permit program
329 IAC 3.1-13-21	Procedures for RCRA standardized permit
329 IAC 3.1-16-1	Adoption of standards for universal waste management
329 IAC 4.1	REGULATION OF WASTES CONTAINING PCBS
329 IAC 9-5-1	Applicability for release response and corrective action
329 IAC 9-5-4.2	Free product removal
329 IAC 9-5-8	Public participation
329 IAC 9-6-4	Closure records
329 IAC 9-8-1	Applicability
329 IAC 9-8-3	Definitions
329 IAC 9-8-4	Amount and scope of required financial responsibility
329 IAC 9-8-5	Allowable mechanisms and combinations of mechanisms
329 IAC 9-8-6	Financial test of self-insurance
329 IAC 9-8-7	Guarantee
329 IAC 9-8-8	Insurance and risk retention group coverage
329 IAC 9-8-9	Surety bond
329 IAC 9-8-10	Letter of credit
329 IAC 9-8-12	Trust fund
329 IAC 9-8-13	Standby trust fund
329 IAC 9-8-14	Local government bond rating test
329 IAC 9-8-15	Local government financial test

329 IAC 9-8-16	Local government guarantee
329 IAC 9-8-17	Local government fund
329 IAC 9-8-18	Substitution of financial assurance mechanisms by owner or operator
329 IAC 9-8-19	Cancellation or nonrenewal by a provider of financial assurance
329 IAC 9-8-20	Reporting by owner or operator
329 IAC 9-8-21	Record keeping
329 IAC 9-8-22	Drawing on financial assurance mechanisms
329 IAC 9-8-23	Release from the requirements
329 IAC 9-8-24	Bankruptcy or other incapacity of owner or operator or provider of financial assurance
329 IAC 9-8-25	Replenishment of guarantees, letters of credit, surety bonds, or certificates of deposit
329 IAC 13	USED OIL MANAGEMENT

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits comments on the nonexempt rules listed above that should be reviewed through the regular rulemaking process under IC 13-14-9. IDEM requests that specific changes and language suggestions accompany the comments. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:
LSA Document #22-125 2022 Title 329 Rule Review
Dan Watts
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204

(2) 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 email address indicated in this notice.**

Contact Karla Kindrick at kkindric@idem.in.gov or (317) 232-8922 if another method of submitting comments within the comment period is desired. Regardless of the delivery method used, in order 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 or time stamped not later than May 20, 2022.

Additional information regarding this action may be obtained from Dan Watts, Rules Development Branch, Office of Legal Counsel, dwatts1@idem.in.gov, (317) 234-5345 or (800) 451-6027 (in Indiana).

Christine Pedersen, Section Chief
Rules Development Branch
Office of Legal Counsel

Notice of Public Hearing

Posted: 04/20/2022 by Legislative Services Agency
An html version of this document.