ARTICLE 4.1. REGULATION OF WASTES CONTAINING PCBS

Rule 1. General Provisions

329 IAC 4.1-1-1 Applicability
Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 1. This article applies to a person who disposes of any solid or liquid waste containing PCBs. *(Solid Waste Management Division; 329 IAC 4.1-1-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3073; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-1-2 Enforcement
Authority: IC 13-20-15-1
Affected: IC 13-14-2-6; IC 13-20-15-6; IC 13-30-3

Sec. 2. This article shall be enforced under IC 13-14-2-6 or IC 13-30-3, or both. No date contained in the federal regulations incorporated by reference in this article shall be construed to allow or require retroactive enforcement of this article. *(Solid Waste Management Division; 329 IAC 4.1-1-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3073; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-1-3 Penalties
Authority: IC 13-20-15-1; IC 13-20-15-7
Affected: IC 13-20-15-6

Sec. 3. Penalties for a violation of this article are listed in IC 13-20-15-7. *(Solid Waste Management Division; 329 IAC 4.1-1-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3073; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-1-4 Variances
Authority: IC 13-14-8-8; IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 4. The commissioner may grant a variance from compliance with a provision of this article in accordance with IC 13-14-8-8. *(Solid Waste Management Division; 329 IAC 4.1-1-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3074; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-1-5 Dilution
Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 5. No person may avoid any provision of this article specifying a PCB concentration by diluting the PCBs unless otherwise specifically provided. *(Solid Waste Management Division; 329 IAC 4.1-1-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3074; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-1-6 Incorporation by reference
Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 6. (a) When incorporated by reference in this article, references to 40 CFR 264 and 40 CFR 761 shall mean the version of that publication revised as of July 1, 2003.

(b) Sales of the Code of Federal Regulations are handled by the U.S. Government Printing Office, 732 North Capitol Street

NW, Washington, D.C. 20401. The telephone number for the U.S. Government Printing Office is (202) 512-0000. The incorporated materials are available for public review at the Indiana Department of Environmental Management, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(c) 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 the 2006 amendments to this rule. *(Solid Waste Management Division; 329 IAC 4.1-1-6; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3074; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

Rule 2. Definitions

329 IAC 4.1-2-1 Applicability; incorporation by reference

Authority: IC 13-20-15-1
Affected: IC 13-11-2; IC 13-20-15-6

Sec. 1. (a) The definitions in IC 13-11-2 and this rule apply throughout this article.

(b) The definitions at 40 CFR 761.3 are incorporated by reference, except as provided otherwise in section 2 of this rule.

(c) 40 CFR 761.3 is available for viewing and copying at the Indiana Department of Environmental Management, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(d) The Code of Federal Regulations is available from the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401. The telephone number for the U.S. Government Printing Office is (202) 512-0000. *(Solid Waste Management Division; 329 IAC 4.1-2-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3075; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-2-2 Exceptions and additions

Authority: IC 13-20-15-1
Affected: IC 13-11-2-155; IC 13-11-2-158; IC 13-20-15-6

Sec. 2. Exceptions and additions to the definitions contained in 40 CFR 761.3 are as follows:

(1) Delete the definition of "person" and substitute the definition at IC 13-11-2-158(a).

(2) Delete the definition of "PCB and PCBs" and substitute the definition of PCB at IC 13-11-2-155.

(Solid Waste Management Division; 329 IAC 4.1-2-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3075; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

329 IAC 4.1-2-3 "Alternative disposal facility" defined

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 3. (a) "Alternative disposal facility" means a facility that:

(1) separates;
(2) processes;
(3) recovers;
(4) treats;
(5) transfers; or
(6) disposes of;

PCB waste.

(b) The term does not include the following:

(1) A chemical waste landfill.
(2) An incinerator.
(3) A high efficiency boiler.

(4) A mobile facility.
(5) A generator of PCB waste.
(c) An alternative disposal facility provides an alternative method of destroying PCBs as described in 40 CFR 761.60(e). *(Solid Waste Management Division; 329 IAC 4.1-2-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3075; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-2-4 "EPA" defined
Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 4. "EPA" means the federal Environmental Protection Agency. *(Solid Waste Management Division; 329 IAC 4.1-2-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3075; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-2-5 "Mobile facility" defined
Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 5. "Mobile facility" means machinery, equipment, or vehicles that are used or intended to be used at more than one (1) location for the:
(1) separation;
(2) processing;
(3) recovery, as defined at 329 IAC 10-2-149; or
(4) treatment;
of PCBs in a material or waste containing PCBs. *(Solid Waste Management Division; 329 IAC 4.1-2-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-2-6 "Municipal solid waste landfill" or "MSWLF" defined
Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 6. "Municipal solid waste landfill" or "MSWLF" has the meaning set forth in 329 IAC 10-2-116. *(Solid Waste Management Division; 329 IAC 4.1-2-6; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-2-7 "Municipal solid waste landfill unit" or "MSWLF unit" defined
Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 7. "Municipal solid waste landfill unit" or "MSWLF unit" has the meaning set forth in 329 IAC 10-2-117. *(Solid Waste Management Division; 329 IAC 4.1-2-7; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-2-8 "Nonmunicipal solid waste landfill" defined
Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 8. "Nonmunicipal solid waste landfill" has the meaning set forth in 329 IAC 10-2-121. *(Solid Waste Management Division; 329 IAC 4.1-2-8; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-2-9 "Single location" defined

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 9. "Single location" means an aggregation of one (1) or more facilities that are:
(1) located on:
(A) one (1) piece of property; or
(B) contiguous or adjacent properties; and
(2) owned or operated by the same person.
(Solid Waste Management Division; 329 IAC 4.1-2-9; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

Rule 3. Conversion of Terms

329 IAC 4.1-3-1 Conversion of federal terms

Authority: IC 13-20-15-1
Affected: IC 13-11-2-71; IC 13-20-15-6

Sec. 1. When used in 40 CFR 264, Subpart D, and 40 CFR 761, as incorporated by reference in this article, the following federal terms are defined as provided in this section unless otherwise indicated:
(1) "Act" means the environmental management laws as defined at IC 13-11-2-71.
(2) "Administrator" or "assistant administrator" means the commissioner of the department.
(3) "Agency" means the department.
(4) "Director", "director, chemical management division", or "director, CMD" means the commissioner of the department.
(5) "Environmental protection agency" or "EPA" means the department.
(6) "He" means he or she, without regard to gender.
(7) "Notification requirements of Section 3010" means the notification requirements of this article.
(8) "RCRA permit" means state hazardous waste permit.
(9) "Regional administrator" means the commissioner of the department.
(10) "She" means he or she, without regard to gender.
(11) "State", "authorized state", "approved state", and "approved program" means Indiana.
(12) "United States" means the state of Indiana.
(Solid Waste Management Division; 329 IAC 4.1-3-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

Rule 4. Requirements for Disposal of Waste Containing PCBs

329 IAC 4.1-4-1 Requirements for storage and disposal incorporated by reference

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 1. (a) 40 CFR 761, Subpart D, consisting of 40 CFR 761.50 through 40 CFR 761.79, is incorporated by reference, except as provided otherwise in section 2 of this rule.

(b) 40 CFR 761, Subpart D is available for viewing and copying at the Indiana Department of Environmental Management, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(c) The Code of Federal Regulations is available from the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401. The telephone number for the U.S. Government Printing Office is (202) 512-0000. *(Solid Waste Management Division; 329 IAC 4.1-4-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-*

329050219FRA)

329 IAC 4.1-4-2 Exceptions and additions

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6; 40 CFR 761, Subpart D

Sec. 2. The exceptions and additions to 40 CFR 761, Subpart D, are as follows:
(1) Delete 40 CFR 761.60(b)(2)(iii)(B).
(2) Delete 40 CFR 761.60(b)(2)(iv)(B).
(3) Delete 40 CFR 761.60(b)(2)(v).
(4) In 40 CFR 761.60(b)(2)(vi), delete "large PCB capacitors or".
(5) Delete 40 CFR 761.60(f)(1)(iii).
(6) In 40 CFR 761.65(b), delete "After July 1, 1978,".
(7) Delete 40 CFR 761.65(d)(1).
(Solid Waste Management Division; 329 IAC 4.1-4-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3076; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

Rule 5. PCB Spill Cleanup Policy

329 IAC 4.1-5-1 PCB spill cleanup policy incorporated by reference

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 1. (a) 40 CFR 761, Subparts G and M through T are incorporated by reference, except as provided otherwise in section 2 of this rule.

(b) 40 CFR 761, Subparts G and M through T are available for viewing and copying at the Indiana Department of Environmental Management, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(c) The Code of Federal Regulations is available from the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401. The telephone number for the U.S. Government Printing Office is (202) 512-0000. *(Solid Waste Management Division; 329 IAC 4.1-5-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3077; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-5-2 Exceptions and additions

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 2. The exceptions and additions to 40 CFR 761, Subparts G and M through T are as follows:
(1) In 40 CFR 761.398(a), delete "the Director, National Program Chemicals Division (NPCD), (7404), Office of Pollution Prevention and Toxics, 401 M St., SW., Washington, DC" and substitute "the commissioner".
(2) In 40 CFR 761.398(a), delete "From time to time, the Director of NPCD will confirm the use of validated new decontamination solvents and publish the new solvents and validated decontamination procedures in the Federal Register".
(Solid Waste Management Division; 329 IAC 4.1-5-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3077; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

Rule 6. PCB Waste Disposal Records and Reports

329 IAC 4.1-6-1 Requirements for PCB waste disposal records and reports incorporated by reference

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 1. (a) 40 CFR 761, Subpart K, consisting of 40 CFR 761.202 through 40 CFR 761.218, is incorporated by reference, except as provided otherwise in section 2 of this rule.

(b) 40 CFR 761, Subpart K is available for viewing and copying at the Indiana Department of Environmental Management, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor West, Indianapolis, Indiana.

(c) The Code of Federal Regulations is available from the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401. The telephone number for the U.S. Government Printing Office is (202) 783-3238. *(Solid Waste Management Division; 329 IAC 4.1-6-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3077; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-6-2 Exceptions and additions

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 2. Exceptions and additions to 40 CFR 761, Subpart K, are as follows:

(1) Delete 40 CFR 761.202(c).

(2) In 40 CFR 761.205(a)(1), delete "April 4, 1990" and substitute with "February 13, 2001".

(3) In 40 CFR 761.205(b), delete "April 4, 1990" and substitute with "February 13, 2001".

(4) In 40 CFR 761.205(d), delete "Chief, Operations Branch (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460" and substitute "Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, MC 65-45, Indianapolis, Indiana 46204-2251".

(5) In 40 CFR 761.202(b), delete "After June 4, 1990,".

(6) In 40 CFR 761.211(a), delete "After April 4, 1990,".

(Solid Waste Management Division; 329 IAC 4.1-6-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3077; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

Rule 7. Incinerators and High Efficiency Boilers

329 IAC 4.1-7-1 Applicability

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 1. This rule applies to incinerators and high efficiency boilers that are required to be approved by the commissioner under 329 IAC 4.1-4-1, which incorporates 40 CFR 761.60 and 40 CFR 761.70 by reference. *(Solid Waste Management Division; 329 IAC 4.1-7-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-7-2 General

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 2. Incinerators and high efficiency boilers must comply with the provisions of 329 IAC 4.1-4 through 329 IAC 4.1-6. *(Solid Waste Management Division; 329 IAC 4.1-7-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-7-3 Location restrictions

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6; IC 36-7-4

Sec. 3. (a) An incinerator or high efficiency boiler must comply with all applicable zoning and location restrictions of the political subdivision in which the facility is located.

(b) The owner or operator shall provide documentation that all required zoning and other local approvals, if any are required, have been obtained before written approval under 329 IAC 4.1-4-1, which incorporates 40 CFR 761.60 and 40 CFR 761.70 by reference, is requested. Documentation that all required zoning and other local approvals have been obtained may include the following:

(1) A copy of the:

(A) zoning requirements, if any, for solid waste facilities in the area;

(B) improvement location permit or occupancy permit issued by the zoning authority having jurisdiction for the site, if a solid waste land disposal facility is permitted by the zoning ordinance in the area;

(C) amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq., if:

(i) a change in the zone maps is required for the area; or

(ii) such amendment is required for the area; and

(D) variance, special exception, special use, contingent use, or conditional use approved under IC 36-7-4-921 *[IC 36-7-4-921 was repealed by P.L.126-2011, SECTION 68, effective July 1, 2011.]* et seq., if such approval is required for the area;

where the facility is to be located.

(2) The status of any appeal of any zoning determination as described in subdivision (1)(B) through (1)(D) and, if none is pending, the date by which the appeal must be initiated.

(c) The owner or operator of an incinerator or high efficiency boiler shall not dredge or fill wetlands, except in compliance with an appropriate permit required by Section 404 of the Clean Water Act, as amended (33 U.S.C. 1344). *(Solid Waste Management Division; 329 IAC 4.1-7-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-7-4 Public notice and public participation

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 4. (a) Each applicant submitting a request for approval for an incinerator or high efficiency boiler under 329 IAC 4.1-4-1 shall submit a signed affidavit to the department agreeing to notify adjoining landowners with a notice as described in 329 IAC 10-12-1(b) and shall thereafter comply with the public notice and public participation requirements contained in 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f), as follows:

(1) For an incinerator or high efficiency boiler for which construction was started before August 13, 2000, the owner or operator shall comply with 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f), before starting operation under this article.

(2) For an incinerator or high efficiency boiler for which construction is started on or after August 13, 2000, the owner or operator shall comply with 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f), before beginning construction.

(b) The department shall comply with 329 IAC 10-12-1(g) through 329 IAC 10-12-1(i) as appropriate after receipt of a request for approval under this section.

(c) Failure of the applicant to comply with the requirements of this section may result in denial of the application by the commissioner. *(Solid Waste Management Division; 329 IAC 4.1-7-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-7-5 Notice of activity

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 5. (a) The owner or operator of an incinerator or high efficiency boiler shall notify the following at least thirty (30) days before beginning any storage, separation, processing, recovery, treatment, or disposal of waste containing PCBs:

(1) Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, 100 North Senate Avenue, MC 65-45, Indianapolis, Indiana 46204-2251.

(2) The:

(A) county health department;

(B) emergency management director; and

(C) local emergency planning committee;

for the county in which the facility is located.

(3) The fire department with jurisdiction over the facility.

(b) Upon completion of any separation, processing, recovery, or treatment of PCB waste regulated under this article, the owner or operator of an incinerator or high efficiency boiler shall provide written notification to the department that the waste no longer contains PCBs. This notification must include either of the following:

(1) PCB disposal notification.

(2) Analytical documentation demonstrating that the PCBs were destroyed.

(Solid Waste Management Division; 329 IAC 4.1-7-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3078; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

Rule 8. Chemical Waste Landfills

329 IAC 4.1-8-1 Applicability

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 1. This rule applies to a chemical waste landfill required to be approved by the commissioner under 329 IAC 4.1-4-1, which incorporates 40 CFR 761.75(c) by reference. *(Solid Waste Management Division; 329 IAC 4.1-8-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-8-2 General

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 2. A chemical waste landfill must be in compliance with 329 IAC 4.1-4 through 329 IAC 4.1-6. *(Solid Waste Management Division; 329 IAC 4.1-8-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-8-3 Location restrictions

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6; IC 36-7-4

Sec. 3. (a) A chemical waste landfill must comply with the location restrictions in 329 IAC 10-16 that apply to a new MSWLF or MSWLF unit permitted under 329 IAC 10, except that the reduction of setback distances in 329 IAC 10-16-12 does not apply to a chemical waste landfill.

(b) The owner or operator of a chemical waste landfill shall provide documentation that all required zoning and other local approvals, if any are required, have been obtained before written approval under 329 IAC 4.1-4-1, which incorporates 40 CFR 761.75(c) by reference, is requested. Documentation that all required zoning and other local approvals have been obtained may include the following:

(1) A copy of the:

(A) zoning requirements, if any, for solid waste facilities in the area;

(B) improvement location permit or occupancy permit issued by the zoning authority having jurisdiction for the site, if a solid waste land disposal facility is permitted by the zoning ordinance in the area;

(C) amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq., if:

(i) a change in the zone maps is required for the area; or

(ii) such amendment is required for the area; and

(D) variance, special exception, special use, contingent use, or conditional use approved under IC 36-7-4-921 *[IC 36-7-4-921 was repealed by P.L.126-2011, SECTION 68, effective July 1, 2011.]* et seq., if such approval is required for the area;

where the facility is to be located.

(2) The status of any appeal of any zoning determination as described in subdivision (1)(B) through (1)(D) and, if none is pending, the date by which the appeal must be initiated.

(c) The owner or operator of a chemical waste landfill shall not dredge or fill wetlands, except in compliance with an appropriate permit required by Section 404 of the Clean Water Act, as amended (33 U.S.C. 1344). *(Solid Waste Management Division; 329 IAC 4.1-8-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-8-4 Public notice and public participation

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 4. (a) An applicant submitting a request for approval for a chemical waste landfill under 329 IAC 4.1-4-1, which incorporates 40 CFR 761.75(c) by reference, shall do the following:

(1) Submit a signed affidavit to the department agreeing to notify adjoining landowners with a notice as described in 329 IAC 10-12-1(b).

(2) Thereafter comply with the public notice and public participation requirements in 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f).

(b) The department shall comply with 329 IAC 10-12-1(g) through 329 IAC 10-12-1(i) as appropriate after receipt of a request for approval under this section.

(c) Failure of the applicant to comply with the requirements of this section may result in denial of the application by the commissioner. *(Solid Waste Management Division; 329 IAC 4.1-8-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-8-5 Notice of activity

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 5. (a) The owner or operator of a chemical waste landfill shall notify the following at least thirty (30) days before beginning any storage, separation, processing, recovery, treatment, or disposal of waste containing PCBs:

(1) Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, MC 65-45, Indianapolis, Indiana 46204-2251.

(2) The:

(A) county health department;

(B) emergency management director; and

(C) local emergency planning committee;

for the county in which the facility is located.

(3) The fire department with jurisdiction over the facility.

(b) Upon completion of any separation, processing, recovery, or treatment of PCB waste regulated under this article, the owner or operator of a chemical waste landfill shall provide written notification to the department that the waste no longer contains PCBs. This notification must include either of the following:

(1) PCB disposal notification.

(2) Analytical documentation demonstrating that the PCBs were destroyed.

(Solid Waste Management Division; 329 IAC 4.1-8-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3079; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

Rule 9. Alternative Disposal Facilities

329 IAC 4.1-9-1 Applicability

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 1. This rule applies to an alternative disposal facility required to be approved under 329 IAC 4.1-4-1, which incorporates 40 CFR 761.60(e) by reference. *(Solid Waste Management Division; 329 IAC 4.1-9-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-9-2 General

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 2. (a) The owner or operator of an alternative disposal facility must receive written approval from the commissioner as follows:

(1) For an alternative disposal facility for which construction was started before August 13, 2000, written approval must be received from the commissioner before starting operation under this article.

(2) For an alternative disposal facility for which construction is started on or after August 13, 2000, written approval must be received from the commissioner before beginning construction.

(b) The owner or operator of an alternative disposal facility shall do the following:

(1) Provide to the department a copy of the written approval from EPA required by 40 CFR 761.60(e).

(2) Comply with the requirements of 329 IAC 4.1-4 through 329 IAC 4.1-6.

(Solid Waste Management Division; 329 IAC 4.1-9-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

329 IAC 4.1-9-3 Location restrictions

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6; IC 36-7-4

Sec. 3. (a) An alternative disposal facility must comply with all applicable zoning and location restrictions of the political subdivision in which the facility is located.

(b) The owner or operator shall provide documentation that all required zoning and other local approvals, if any are required, have been obtained before written approval under 329 IAC 4.1-4-1, which incorporates 40 CFR 761.60(e) by reference, is requested. Documentation that all required zoning and other local approvals have been obtained may include the following:

(1) A copy of the:

(A) zoning requirements, if any, for solid waste facilities in the area;

(B) improvement location permit or occupancy permit issued by the zoning authority having jurisdiction for the site, if a solid waste land disposal facility is permitted by the zoning ordinance in the area;

(C) amendment to the zoning ordinance adopted under IC 36-7-4-901 et seq., if:

(i) a change in the zone maps is required for the area; or

(ii) such amendment is required for the area; and

(D) variance, special exception, special use, contingent use, or conditional use approved under IC 36-7-4-921 *[IC 36-7-4-921 was repealed by P.L.126-2011, SECTION 68, effective July 1, 2011.]* et seq., if such approval is required for

the area;

where the facility is to be located.

(2) The status of any appeal of any zoning determination as described in subdivision (1)(B) through (1)(D) and, if none is pending, the date by which the appeal must be initiated.

(c) The owner or operator of an alternative disposal facility shall not dredge or fill wetlands, except in compliance with an appropriate permit required by Section 404 of the Clean Water Act, as amended (33 U.S.C. 1344). *(Solid Waste Management Division; 329 IAC 4.1-9-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-9-4 Public notice and public participation

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 4. (a) An applicant submitting a request for approval of an alternative disposal facility under 329 IAC 4.1-4-1, which incorporates 40 CFR 761.60(e) by reference, shall submit a signed affidavit to the department agreeing to notify adjoining landowners with a notice as described in 329 IAC 10-12-1(b) and shall thereafter comply with the public notice and public participation requirements in 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f) as follows:

(1) For an alternative disposal facility for which construction was started before August 13, 2000, the owner or operator shall comply with 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f) before beginning:

(A) storage;
(B) separation;
(C) processing;
(D) recovery; or
(E) treatment;

of PCB waste under this article.

(2) For an alternative disposal facility for which construction is started on or after August 13, 2000, the owner or operator shall comply with 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f) before beginning construction of the facility.

(b) The department shall comply with 329 IAC 10-12-1(g) through 329 IAC 10-12-1(i) as appropriate after receipt of a request for approval under this section.

(c) Failure of the applicant to comply with the requirements of this section may result in denial of the application by the commissioner. *(Solid Waste Management Division; 329 IAC 4.1-9-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-9-5 Notice of activity

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 5. (a) The owner or operator of an alternative disposal facility shall notify the following at least thirty (30) days before beginning any storage, separation, processing, recovery, treatment, or disposal of waste containing PCBs:

(1) Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, MC 65-45, Indianapolis, Indiana 46204-2251.

(2) The:

(A) county health department;
(B) emergency management director; and
(C) local emergency planning committee;

for the county in which the facility is located.

(3) The fire department with jurisdiction over the facility.

(b) Upon completion of any separation, processing, recovery, or treatment of PCB waste regulated under this article, the owner or operator of an alternative disposal facility shall provide written notification to the department that the waste no longer

contains PCBs. This notification must include either of the following:

(1) PCB disposal notification.

(2) Analytical documentation demonstrating that the PCBs were destroyed.

(Solid Waste Management Division; 329 IAC 4.1-9-5; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3080; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

Rule 10. Mobile Facilities

329 IAC 4.1-10-1 Mobile facilities

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 1. (a) A mobile facility that operates for one hundred eighty (180) days or less in a single location must comply with the following requirements:

(1) 40 CFR 761, Subpart D, incorporated by reference at 329 IAC 4.1-4-1.

(2) The requirements of 329 IAC 4.1-4 through 329 IAC 4.1-6, except the requirement to obtain approval from the commissioner under this article if the facility has obtained approval from the EPA under 40 CFR 761.60(e).

(b) A mobile facility that operates for more than one hundred eighty (180) days in a single location must comply with the following requirements:

(1) 40 CFR 761, Subpart D, incorporated by reference at 329 IAC 4.1-4-1.

(2) 329 IAC 4.1-4 through 329 IAC 4.1-6.

(3) The mobile facility must comply with one (1) of the following:

(A) 329 IAC 4.1-7 for an incinerator or a high efficiency boiler.

(B) 329 IAC 4.1-8 for a chemical waste landfill.

(C) 329 IAC 4.1-9 for an alternative disposal facility.

(4) The owner or operator of the mobile facility shall comply with the public notice and public participation requirements in 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f) before continuing operations under this article.

(5) The owner or operator of the mobile facility shall do the following:

(A) Submit a signed affidavit to the department agreeing to notify adjoining landowners with a notice as described in 329 IAC 10-12-1(b).

(B) Thereafter comply with the public notice and public notice and public participation requirements in 329 IAC 10-12-1(b) through 329 IAC 10-12-1(f).

(6) The department shall comply with 329 IAC 10-12-1(g) through 329 IAC 10-12-1(i) as appropriate after receipt of a request for approval under this section.

(7) Failure of the applicant to comply with the requirements of this section may result in denial of the application by the commissioner.

(c) The owner or operator of a mobile facility shall do the following:

(1) Provide to the department a copy of the written approval from EPA.

(2) Notify the following at least thirty (30) days before beginning an activity regulated under this article:

(A) Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, MC 65-45, Indianapolis, Indiana 46204-2251.

(B) The county health department for the county in which the activity takes place.

(C) The emergency management director and the local emergency planning committee for the county in which the facility is located.

(D) The fire department with jurisdiction over the facility.

(d) Upon completion of an activity regulated under this article, the owner or operator of a mobile facility shall provide written notification to the department that the waste no longer contains PCBs. This notification must include either of the following:

(1) PCB disposal notification.

(2) Analytical documentation demonstrating that the PCBs were destroyed.

(Solid Waste Management Division; 329 IAC 4.1-10-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3081; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

Rule 11. Contingency Plan

329 IAC 4.1-11-1 Incorporation by reference; contingency plan

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 1. (a) 40 CFR 264, Subpart D, consisting of 40 CFR 264.50 through 40 CFR 264.56, is incorporated by reference, except as provided in subsection (d).

(b) 40 CFR 264, Subpart D is available for viewing and copying at the Office of Land Quality, Indiana Government Center-North, Eleventh Floor West, 100 North Senate Avenue, Indianapolis, Indiana.

(c) The Code of Federal Regulations is available from the U.S. Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401. The telephone number for the U.S. Government Printing Office is (202) 512-0000.

(d) Delete 40 CFR 264.50. *(Solid Waste Management Division; 329 IAC 4.1-11-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3081; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-11-2 Contingency plan

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 2. (a) The owner or operator of:

(1) an incinerator or high efficiency boiler;
(2) a chemical waste landfill;
(3) an alternative disposal facility; or
(4) a mobile facility;

shall prepare and maintain a contingency plan in accordance with 40 CFR 264.51 through 40 CFR 264.54.

(b) The contingency plan must be as follows:

(1) Designed to minimize hazards to human health and the environment from any of the following:
    (A) Fires.
    (B) Explosions.
    (C) Any unplanned sudden or nonsudden release of PCB waste to any of the following:
        (i) Air.
        (ii) Soil.
        (iii) Surface water.
        (iv) Ground water.
(2) Meet the requirements of 40 CFR 264.51 through 40 CFR 264.54.

(c) A person required to prepare a contingency plan shall provide copies of the contingency plan to the:

(1) local emergency planning committee; and
(2) emergency management director;

for the county in which the facility is located before operation of the facility begins. *(Solid Waste Management Division; 329 IAC 4.1-11-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-11-3 Use of contingency plan

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 3. An owner or operator of a facility described in section 2(a) of this rule shall carry out the provisions of the

contingency plan immediately whenever there is:

(1) a fire;

(2) an explosion; or

(3) a release of PCB waste;

that could threaten human health or the environment. *(Solid Waste Management Division; 329 IAC 4.1-11-3; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-11-4 Emergency coordinator

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 4. (a) An owner or operator of a facility described in section 2(a) of this rule shall designate an employee as the emergency coordinator as required in 40 CFR 264.55.

(b) The emergency coordinator shall carry out the duties described in 40 CFR 264.56 that are appropriate for the facility. *(Solid Waste Management Division; 329 IAC 4.1-11-4; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

Rule 12. Financial Assurance

329 IAC 4.1-12-1 General

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 1. An owner or operator of the following types of facilities shall comply with the financial assurance requirements in 329 IAC 3.1-15:

(1) An incinerator or high efficiency boiler.

(2) A chemical waste landfill.

(3) An alternative disposal facility.

(Solid Waste Management Division; 329 IAC 4.1-12-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

Rule 13. Disposal of Wastes Containing or Contaminated with PCBs in Solid Waste Land Disposal Facilities Regulated under 329 IAC 10

329 IAC 4.1-13-1 Disposal in MSWLF units or nonmunicipal solid waste landfill units

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 1. A person who disposes of waste containing or contaminated with PCBs in a MSWLF unit or a nonmunicipal solid waste landfill unit shall comply with all applicable requirements of:

(1) 40 CFR 761, Subpart D, as incorporated by reference at 329 IAC 4.1-4;

(2) 329 IAC 10; and

(3) this rule.

(Solid Waste Management Division; 329 IAC 4.1-13-1; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3082; errata filed Jul 14, 2000, 10:59 a.m.: 23 IR 3091; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

329 IAC 4.1-13-2 Disposal in other solid waste land disposal facilities

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 2. Any wastes containing or contaminated with PCBs must not be disposed of in:

(1) a construction/demolition site as defined at 329 IAC 10-2-36; or

(2) a restricted waste site as defined at 329 IAC 10-2-159.

(Solid Waste Management Division; 329 IAC 4.1-13-2; filed Jul 14, 2000, 11:09 a.m.: 23 IR 3083; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

329 IAC 4.1-13-3 Disposal of waste containing PCBs; state authorization

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 3. (a) This section does not apply to the disposal of PCB household waste, as defined at 40 CFR 761.3.

(b) If the requirements of section 1 of this rule do not include a requirement for approval by the U.S. EPA Regional Administrator before disposal of a PCB waste, then in addition to compliance with the requirements of section 1 of this rule, a person who disposes of any waste containing PCBs in a MSWLF unit that does not meet the design requirements of 329 IAC 10-17 or in a nonmunicipal solid waste landfill that is not specifically permitted to accept the waste shall do the following:

(1) Obtain written authorization from the commissioner before disposal of any quantity of the waste.

(2) Comply with any conditions for disposal in the written authorization by the commissioner.

(c) If the requirements of section 1 of this rule do not include a requirement for approval by the U.S. EPA Regional Administrator before disposal of a PCB waste, then in addition to compliance with the requirements of section 1 of this rule, a person who disposes of a waste listed in Table 1 in a MSWLF unit that meets the design requirements of 329 IAC 10-17, or in a nonmunicipal solid waste landfill permitted to accept the PCB waste, shall do the following:

(1) Obtain written authorization from the commissioner before disposal of any quantity of the waste.

(2) Comply with any conditions for disposal in the written authorization by the commissioner.

Table 1.

Waste that contains PCBs at a concentration less than fifty (50) ppm PCBs, resulting from a source that had a PCB concentration greater than or equal to fifty (50) ppm PCBs.

Items or wastes containing inadvertently generated PCBs.

(Solid Waste Management Division; 329 IAC 4.1-13-1; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)

329 IAC 4.1-13-4 Disposal of PCB wastes; notification to landfills

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 4. A person who disposes of a waste that contains PCBs at a concentration of less than fifty (50) parts per million resulting from a source that had a PCB concentration less than fifty (50) parts per million PCBs in a:

(1) MSWLF; or

(2) nonmunicipal solid waste landfill, permitted to accept the PCB waste;

shall provide a written and signed notification to the landfill stating that the PCB concentration in the source was less than fifty (50) parts per million PCBs. *(Solid Waste Management Division; 329 IAC 4.1-13-4; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

329 IAC 4.1-13-5 Disposal of fluorescent light ballasts containing PCBs

Authority: IC 13-20-15-1
Affected: IC 13-20-15-6

Sec. 5. (a) Fluorescent light ballasts containing PCBs that are:

(1) leaking; or

(2) no longer intact;

must be disposed of in accordance with 40 CFR 761.62(a) or 40 CFR 761.62(c).

(b) Nonleaking fluorescent light ballasts containing PCBs must be disposed of as follows:

(1) Dispose of the ballasts only in a MSWLF unit that meets the design requirements of 329 IAC 10-17.

(2) Place the ballasts in a container that meets the packaging requirements in 40 CFR 761.60(b)(2)(iv) as incorporated by reference in 329 IAC 4.1-4.

(3) Fill the interstitial space in the container with absorbent material capable of absorbing all liquid content of the ballasts and capacitors.

(4) Segregate containers of fluorescent light ballasts from organic liquids disposed of in the landfill unit.

(5) Before compacting with heavy equipment, cover containers of fluorescent light ballasts with a layer of:

(A) daily cover material;

(B) alternative daily cover material; or

(C) solid waste;

that is thick enough to prevent crushing of the containers.

(6) Collect leachate from the landfill unit and monitor the leachate for PCBs.

(c) Nonleaking fluorescent light ballasts containing PCBs must not be disposed of in a MSWLF unit that does not meet the design requirements of 329 IAC 10-17. *(Solid Waste Management Division; 329 IAC 4.1-13-5; filed Nov 21, 2006, 7:21 a.m.: 20061220-IR-329050219FRA)*

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