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TITLE 329 SOLID WASTE MANAGEMENT BOARD

SECOND NOTICE OF COMMENT PERIOD

#02-160(SWMB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING ADOPTION OF GROUND WATER QUALITY STANDARDS IN THE HAZARDOUS WASTE MANAGEMENT PERMIT PROGRAM

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to rules for hazardous waste management at 329 IAC 3.1 to amend provisions in the rules for hazardous waste treatment, storage, and disposal facilities to be consistent with new ground water quality standards at 327 IAC 2-11. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: July 1, 2002, Indiana Register (25 IR 3495).

CITATIONS AFFECTED: 329 IAC 3.1-9-2.

AUTHORITY: IC 13-14-9; IC 13-18-17; IC 13-22-2.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

IC 13-18-17-5 required the water pollution control board to adopt rules establishing ground water quality standards to:

- establish minimum compliance levels for ground water quality monitoring at regulated facilities;
- ban the discharge of effluents into potable ground water;
- establish health protection goals for untreated water in water supply wells; and
- establish concentration limits for contaminants in ambient ground water.

The new ground water quality standards at 327 IAC 2-11 were effective on March 5, 2002, and apply to all IDEM programs.

The Office of Land Quality (OLQ) completed a survey of all OLQ rules in August, 2001 and found that the rules limiting concentrations of hazardous constituents in ground water for permitted hazardous waste facilities were not consistent with the new ground water quality standards. This rule would amend 40 CFR 264.93 and 40 CFR 264.94, incorporated by reference at 329 IAC 3.1-9, to be consistent with the new ground water quality standards.

The ground water protection standards in 327 IAC 2-11 include a number of substances that are not listed in the ground water protection portions of the hazardous waste rules. In this draft rule we are proposing to add those additional substances and make conforming changes as follows:

- We are proposing to add seventeen (17) substances to the ground water monitoring list in 40 CFR 264, Appendix IX. These new substances are the contaminants listed in 327 IAC 2-11-6 that are not already on the ground water monitoring list. The format we used is consistent with the information provided in Appendix IX. This format includes suggested analytical methods for each substance and practical quantitation limits for those methods. The suggested methods are taken from U.S. Environmental Protection Agency (EPA) publication SW-846 where available, or from other EPA sources of methods for drinking water contaminants. The information on suggested analytical methods and practical quantitation limits is advisory in nature and we do not intend it to be regulatory. We selected this option to minimize the number of changes required.
- We are proposing to remove 40 CFR 264.94(a), including Table 1, "Maximum Concentration of Constituents for Ground Water Protection" and replace it with new tables that cover all constituents in the existing Table 1 as well as all contaminants listed in 327 IAC 2-11-6. The new Table 1 includes all constituents listed in the existing 40 CFR 264.94(a)(2), Table 1 as well as all contaminants in 327 IAC 2-11-6 that are also listed as hazardous waste constituents in 40 CFR 261, Appendix VIII. The new Table 2 includes all contaminants listed in 327 IAC 2-11-6 that are not listed in Table 1.
- We are also proposing to replace 40 CFR 264.93(a) with new language that clarifies that these new substances are being added for purposes of ground water protection and are not being added to the list of hazardous constituents in 40 CFR 261, Appendix VIII. These new lists of constituents and contaminants are to be used for ground water monitoring and protection purposes, and do not expand the universe of hazardous waste regulated under 329 IAC 3.1.

Several of the maximum concentrations listed in 327 IAC 2-11-6 were different from those listed in 40 CFR 264.94(a), Table 1. Because this rule cannot be less stringent than either the new ground water protection standard or the federal hazardous waste management program, in each case the lowest concentration was selected.

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from July 1, 2002, through July 31, 2002, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received no comments in response to the first notice of public comment period.

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. Mailed comments should be addressed to:

#02-160(SWMB)[Hazardous Waste Ground Water Quality Standards]
Marjorie Samuel
Rules, Planning and Outreach Section
Office of Land Quality
Indiana Department of Environmental Management
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the receptionist on duty at the eleventh floor reception desk, Office of Land Quality, 100 North Senate Avenue, Eleventh Floor East, Indianapolis, Indiana. Comments may be submitted by facsimile at (317) 232-3403, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules, Planning and Outreach Section at (317) 233-1655 or (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, hand delivered or faxed by January 31, 2003.

Additional information regarding this action may be obtained from Steve Mojonier of the Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or call (800) 451-6027 (in Indiana), press 0, and ask for extension 3-1655.

DRAFT RULE

SECTION 1. 329 IAC 3.1-9-2, AS AMENDED AT 25 IR 3112, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-9-2 Exceptions and additions; final permit standards

Authority: IC 13-14-8; IC 13-18-17; IC 13-22-2-4

Affected: IC 13-14-10; IC 13-22-2; IC 13-30-3; 40 CFR 264

Sec. 2. Exceptions and additions to federal final permit standards are as follows:

(1) Delete 40 CFR 264.1(a) dealing with scope of the permit program and substitute the following: The purpose of this rule is to establish minimum standards which define the acceptable management of hazardous waste at final state permitted facilities.

(2) In 40 CFR 264.4 dealing with imminent hazard action, delete "7003 of RCRA" and insert "IC 13-30-3 and IC 13-14-10".

(3) Reports to the state required at 40 CFR 264.56(d) shall be communicated immediately to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206-6015, (317) 233-7745, or (888) 233-7745 (toll-free in Indiana). In addition to the requirements of this rule, all requirements for spill reporting under 327 IAC 2-6.1 shall be complied with.

(4) The written spill report required by 40 CFR 264.56(j) must also include information deemed necessary by the commissioner or the commissioner's authorized agent to carry out the purpose and intent of 327 IAC 2-6.1.

(5) In 40 CFR 264.75 dealing with the biennial report, delete "EPA form 8700-13B" and insert "forms provided by the commissioner".

(6) In 40 CFR 264.76 dealing with unmanifested waste reports, delete "The unmanifested waste report must be submitted on EPA form 8700-13B".

(7) In 40 CFR 264.77 regarding additional reports, insert after the first sentence in (c), "Ground water data for laboratory analytical results and field parameters must be submitted as follows:

(A) Two (2) paper copies on the most current form prescribed by the commissioner.

(B) In addition to the paper copies required in (A), an electronic report in a format prescribed by the commissioner.

(d) The commissioner may request other information, as required by Subparts F, K through N, and AA through CC of this part, be submitted in an electronic format as prescribed by the commissioner."

(8) Delete 40 CFR 264.93(a) and substitute the following: "(a) The commissioner will specify in the facility permit the hazardous constituents and other contaminants to which the ground water protection standard of 40 CFR 264.92 applies. Hazardous constituents are constituents identified in 40 CFR 261, appendix VIII, that have been detected in ground water in the uppermost aquifer underlying a regulated unit and are reasonably expected to be in or derived from waste contained in a regulated unit unless the commissioner has excluded those constituents under 40 CFR 264.93(b). These hazardous constituents are listed in Table 1 in subdivision (10). Other contaminants are those substances that are described in 327 IAC 2-11-6(a) and are not listed in 40 CFR 261, appendix VIII. These other contaminants are listed in Table 2 in subdivision (10)."

(9) In 40 CFR 264.93(b), after "will consider", insert "327 IAC 2-11 and."

(10) Delete 40 CFR 264.94(a) and substitute the following: “(a) The commissioner will specify in the facility permit concentration limits in the ground water for hazardous constituents and other contaminants established under 40 CFR 264.93. The concentration of a hazardous constituent or other contaminant listed in Table 1 or Table 2:

(A) must not exceed the background level of that constituent or contaminant in the ground water at the time that limit is specified in the permit; or

(B) must not exceed the respective maximum concentration given in those tables if the background level of the constituent is below the maximum concentration given in Table 1 or Table 2; or

Table 1. Maximum Concentration of Constituents for Ground Water Protection

CAS RN ²	Constituent	Maximum concentration ¹
Inorganic Constituents		
7440-36-0	Antimony	0.006
7440-38-2	Arsenic	0.05
7440-39-3	Barium	1.0 ³
7440-41-7	Beryllium	0.004
7440-43-9	Cadmium	0.005 ³
7440-47-3	Chromium (Total)	0.05 ³
7439-92-1	Lead	0.015 ³
7439-97-6	Mercury (inorganic)	0.002
7782-49-2	Selenium	0.01 ³
7440-22-4	Silver	0.05
7440-28-0	Thallium	0.002
Organic Constituents		
71-43-2	Benzene	0.005
50-32-8	Benzo(a)pyrene	0.0002
1563-66-2	Carbofuran	0.04
56-23-5	Carbon tetrachloride	0.005
57-74-9	Chlordane	0.002
94-75-7	2,4-D	0.07 ³
96-12-8	Dibromochloropropane (DBCP) (1,2-Dibromo-3-chloropropane)	0.0002
95-50-1	1,2-Dichlorobenzene	0.6
106-46-7	1,4-Dichlorobenzene	0.075
107-06-2	1,2-Dichloroethane (Ethylene dichloride)	0.005
75-35-4	1,1-Dichloroethylene	0.007
156-60-5	trans-1,2-Dichloroethylene	0.1
75-09-2	Dichloromethane (Methylene chloride)	0.005
78-87-5	1,2-Dichloropropane (Propylene dichloride)	0.005
117-81-7	Di(2-ethylhexyl)phthalate	0.006
88-85-7	Dinoseb (2-(1-methylpropyl)-4,6-dinitrophenol)	0.007
145-73-3	Endothall	0.1
72-20-8	Endrin	0.0002 ³
106-93-4	Ethylene dibromide (EDB) (1,2-dibromoethane)	0.00005
76-44-8	Heptachlor	0.0004

1024-57-3	Heptachlor epoxide	0.0002
118-74-1	Hexachlorobenzene	0.001
77-47-4	Hexachlorocyclopentadiene	0.05
58-89-9	Lindane (gamma-BHC)	0.0002 ³
72-43-5	Methoxychlor	0.04 ³
108-90-7	Monochlorobenzene (Chlorobenzene)	0.1
23135-22-0	Oxamyl (vydate)	0.2
87-86-5	Pentachlorophenol	0.001
1336-36-3	Polychlorinated biphenyls (PCBs)	0.0005
1746-01-6	2,3,7,8-TCDD (Dioxin)	0.00000003
127-18-4	Tetrachloroethylene	0.005
108-88-3	Toluene	1
8001-35-2	Toxaphene	0.003 ³
93-72-1	2,4,5-TP (Silvex)	0.01 ³
120-82-1	1,2,4-Trichlorobenzene	0.07
71-55-6	1,1,1-Trichloroethane (Methyl chloroform)	0.2
79-00-5	1,1,2-Trichloroethane	0.005
79-01-6	Trichloroethylene	0.005
75-01-4	Vinyl chloride	0.002

¹All criteria are in milligrams per liter (mg/l) unless otherwise noted.

²CAS RN means Chemical Abstract Service Registry Number.

³Because 40 CFR 264.94 and 327 IAC 2-11-6 show different maximum concentrations for this substance, the lower value was selected.

Table 2. Maximum Concentration of Additional Contaminants Listed in 327 IAC 2-11-6 for Ground Water Protection

CAS RN ²	Contaminant	Maximum concentration ¹
Inorganic Contaminants		
1332-21-4	Asbestos	7 MFL ³
10098-97-2 10028-17-8	Combined beta/photon emitters	4 mrem/yr ⁴
57-12-5	Cyanide (free)	0.2
16984-48-8	Fluoride	4
12587-46-1	Gross alpha particle activity (including Radium 226 but excluding radon and uranium)	15 pCi/L ⁵
14797-55-8	Nitrate (as N)	10
14797-65-0	Nitrite (as N)	1
13982-63-3 15262-20-1	Radium 226 and 228 (combined)	5 pCi/L ⁵
Organic Contaminants		
15972-60-8	Alachlor	0.002
1912-24-9	Atrazine	0.003
75-99-0	Dalapon	0.2
103-23-1	Di(2-ethylhexyl)adipate	0.4

156-59-2	cis-1,2-Dichloroethylene	0.07
85-00-7	Diquat	0.02
100-41-4	Ethylbenzene	0.7
1071-83-6	Glyphosate	0.7
1918-02-1	Picloram	0.5
122-34-9	Simazine	0.004
100-42-5	Styrene	0.1
1330-20-7	Xylenes (total)	10

¹All criteria are in milligrams per liter (mg/l) unless otherwise noted.

²CAS RN means Chemical Abstract Service registry number.

³MFL means million fibers per liter greater than 10 micrometers in length.

⁴mrem/yr means millirems per year.

⁵pCi/L means picocuries per liter.

(C) must not exceed an alternate limit established by the commissioner under 40 CFR 264.94(b).”.

(11) In 40 CFR 264.94(b), after “will consider”, insert “327 IAC 2-11 and.”.

(12) In 40 CFR 264.98(g)(5)(ii)(A), after “Table 1”, insert “or Table 2 in 329 IAC 3.1-9-2(11).”.

(13) In 40 CFR 264.99(a)(1), after “hazardous constituents”, insert “or other contaminants.”.

(9) (14) Delete 40 CFR 264, Subpart H dealing with financial requirements and substitute 329 IAC 3.1-15.

(10) (15) Exceptions and additions to the standards for tank systems in 40 CFR 264, Subpart J are under section 3 of this rule.

(11) (16) In 40 CFR 264.221(e)(2)(i)(C), delete “permits under RCRA Section 3005(c)” and insert “with final state permits”.

(12) (17) Delete 40 CFR 264.301(l).

(13) (18) Delete 40 CFR 264, Appendix VI.

(14) (19) In 40 CFR 264.316(b), delete “(49 CFR Parts 178 and 179)” and substitute “(49 CFR Part 178)”.

(15) (20) In 40 CFR 264.316(f), delete “fiber drums” and substitute “nonmetal containers”.

(21) In addition to the substances listed in the ground water monitoring list in 40 CFR 264, Appendix IX, add the following:

Common name	CAS RN ¹	Chemical Abstracts Service index name	Suggested methods ²	PQL (µg/L) ³
Alachlor	15972-60-8	2-chloro-N-(2,6-diethylphenyl)-N-(methoxy-methyl)-acetamide	8081B	0.8
Asbestos	1332-21-4	Asbestos	100.1 ⁴ 100.2 ⁵	0.01 ⁶ 0.2 ⁶
Atrazine	1912-24-9	6-chloro-N-ethyl-N'-(1-methylethyl)-1,3,5-tria-zine-2,4- diamine; 2-chloro-4-(propylamino)-6-ethylamino-s-triazine	8141B	0.3
Combined beta/ photon emitters ⁷	10098-97-2	Strontium-90 (total)	905.0	2 ⁸
	10028-17-8	Tritium (total)	906.0	1000 ⁸
Dalapon	75-99-0	2,2-Dichloropropionic acid	8151A	20
Di(2-ethylhexyl)	103-23-1	Di(2-ethylhexyl)adipate;	525.2 ⁹	10

adipate		Bis(2-ethylhexyl) adipate		
cis-1,2-Dichloroethylene	156-59-2	cis-1,2-Dichloroethene	8260B	1
Diquat (diquat dibromide)	85-00-7	6,7-dihydro dipyrido (1,2-a:2',1'-c) pyrazine-diium dibromide; 1,1'-Ethylene-2,2'-bipyri-dinium dibromide	549.1 ¹⁰	8
Fluoride	16984-48-8	Fluoride, total (as F); Fluoride, free	9056A	0.10 ¹¹
Glyphosate	1071-83-6	N-(Phosphonomethyl) glycine	547 ¹²	100
Gross alpha particle activity (including Radium 226 but excluding radon and uranium)	12587-46-1	Alpha, gross particle activity	9310	1 ⁸
Nitrate (as N)	14797-55-8	Nitrogen, nitrate total (as N)	9056A	0.010 ¹¹
Nitrite (as N)	14797-65-0	Nitrogen, nitrite total (as N)	9056A	0.010 ¹¹
Picloram	1918-02-1	4-Amino-3,5,6-trichloropyridin e-2-carboxylic acid; 4-amino-3,5,6-trichloro-2-picolinic acid	8151A	10
Radium 226	13982-63-3	Radium 226	9315	1
Radium 228	15262-20-1	Radium 228	9320	1
Simazine	122-34-9	6-Chloro-N,N'-diethyl-1,3,5-triazine-2,4-diyl-diamine; 2-chloro-4,6-bis(ethylamino)-s-triazine	8141B	5

¹CAS RN means Chemical Abstracts Service registry number.

²Suggested methods refer to analytical procedure numbers used in U.S. Environmental Protection Agency Publication SW-846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", Third Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), and IIIA (April 1998),

unless otherwise noted. SW-846 is available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, D.C. 20402-9328.

³PQL means practical quantitation limit. PQLs are the lowest concentrations of analytes in ground waters that can be reliably determined within specified limits of precision and accuracy by the indicated methods under routine laboratory operating conditions. The PQLs listed are generally stated to one (1) significant figure. Caution: The PQL values in many cases are based only on a general estimate for the method and not on a determination for individual compounds. PQLs are not a part of the regulation. PQLs are reported in micrograms per liter ($\mu\text{g/L}$) unless otherwise noted.

⁴Method 100.1 is found in "Analytical method for the Determination of Asbestos Fibers in Water", EPA/600/4-83-043, September 1983, Order Number PB-260471.

⁵Method 100.2 is found in "Determination of Asbestos Structures Over 10 μM in Length in Drinking Water", EPA/600/R-94/134, June 1994, Order Number PB-201902. Both documents are available from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

⁶This PQL is reported in million fibers per liter (mf/L).

⁷See 40 CFR 141.16.

⁸This PQL is reported in picocuries per liter (pCi/L).

⁹Method 525.2 is found in "Methods for the Determination of Organic Compounds in Drinking Water, Supplement III", Publication EPA/600/R-95/131, August 1995, Order Number PB-261616, available from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

¹⁰Method 549.1 is found in "Methods for the Determination of Organic Compounds in Drinking Water, Supplement II", Publication EPA/600/R-92/129, August 1992, Order Number PB-207703, available from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

¹¹This PQL is reported in milligrams per liter (mg/L).

¹²Method 547 is found in "Methods for the Determination of Organic Compounds in Drinking Water, Supplement I", Publication EPA/600/4-90/020, July 1990, Order Number PB-146027, available from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

(Solid Waste Management Board; 329 IAC 3.1-9-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 935; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3356; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3365; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1112; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2741; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 22, 2001, 9:46 a.m.: 24 IR 1617; errata filed Mar 19, 2001, 10:31 a.m.: 24 IR 2470; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2433; filed Jun 3, 2002, 10:40 a.m.: 25 IR 3112)

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on April 15, 2003 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Solid Waste Management Board will hold a public hearing on amendments to the hazardous waste management rules at 329 IAC 3.1-9-2.

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed at this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Steve Mojonniere, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or dial (800) 451-6027 in Indiana, press 0, and ask for extension 3-1655.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of

Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

P.O. Box 6015

Indianapolis, Indiana 46206-6015

or call (317) 234-1208 (V) or (317) 233-6565 (TT). Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file and open for public inspection at the Indiana Department of Environmental Management Central File Room, Indiana Government Center-North, 100 North Senate Avenue, Room 1201 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana.

Mary Beth Touhy
Assistant Commissioner
Office of Land Quality