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## TITLE 329 SOLID WASTE MANAGEMENT BOARD

### FIRST NOTICE OF COMMENT PERIOD

#05-66(SWMB)

## DEVELOPMENT OF NEW RULES AND AMENDMENTS TO RULES CONCERNING THE 2005 UPDATE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM AT 329 IAC 3.1

### PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on new rules and amendments to rules in 329 IAC 3.1 concerning the following:

- Incorporating by reference the July 1, 2005, edition of the federal hazardous waste management regulations in 40 CFR 260 through 40 CFR 273, including four (4) federal changes to the hazardous waste management program that were published in the Federal Register between April 22, 2004, through March 4, 2005, concerning:
  - rules implementing the National Environmental Performance Track System,
  - National Emission Standards for Hazardous Air Pollutants (NESHAP): Coating of Automobiles and Light-Duty Trucks,
  - Hazardous Waste - Nonwastewaters from Production of Dyes, Pigments, and Food, Drug, and Cosmetic Colorants; Mass Loadings-Based Listing, and
  - Modification of the Hazardous Waste Manifest System.
  - If promulgated by the U.S. Environmental Protection Agency (EPA) on or before June 30, 2005, any or all of the following federal changes to the hazardous waste management system will also be included in the July 1, 2005, edition of 40 CFR 260 through 40 CFR 273:
    - Standardized Permit for Resource Conservation and Recovery Act (RCRA) Hazardous Waste Management Facilities,
    - Methods Innovation Rule,
    - NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combusters (Phase I Final Replacement Standards and Phase II), and
    - Hazardous Waste Management System; Modification of the Hazardous Waste Program: Mercury-Containing Equipment.
- Changes to the listing of chemical munitions as acute hazardous waste in 329 IAC 3.1-6-3 to more accurately describe the actual requirements generators of those wastes must follow.

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 3.1-6-3.

**AUTHORITY:** IC 13-14-8-4; IC 13-14-8-7; IC 13-14-9; IC 13-19-3-1; IC 13-22-2; 40 U.S.C. 6926; 40 U.S.C. 6929; 40 CFR 271.21.

### SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

#### **Basic Purpose and Background**

Sections 3006 and 3009 of Resource Conservation and Recovery Act, as amended (RCRA) (42 U.S.C. 6926 and 42 U.S.C. 6929, respectively) allow a state to administer and enforce a state hazardous waste program. If EPA determines that program to be equivalent to the federal program, EPA can authorize the state to administer the state program in lieu of the federal program. The authorized state must then maintain that program to be at least as stringent as the federal hazardous waste program. The authorized state is required to adopt EPA changes to the federal program that are more stringent or broader in scope than the existing federal program. Authorized states are not required to adopt federal amendments to the hazardous waste regulations that are less stringent than the existing federal hazardous waste program. However, in many cases, federal amendments that are less stringent involve streamlining, cost reduction, or implement other regulatory reduction initiatives.

This rulemaking would incorporate by reference the federal hazardous waste management regulations at 40 CFR 260 through 40 CFR 273, revised as of July 1, 2005, including the following amendments listed in Table 1 that were published by the EPA in the Federal Register from April 22, 2004, through March 4, 2005:

Table 1.

Federal Register	Publication Date	Subject
69 FR 21737	April 22, 2004	National Environmental Performance Track System
69 FR 62217	October 25, 2004	
69 FR 22602	April 26, 2004	NESHAP: Surface Coating of Automobiles and Light-Duty Trucks
70 FR 9138	February 24, 2005	Hazardous Waste - Nonwastewaters from Production of Dyes, Pigments, and Food, Drug, and Cosmetic Colorants; Mass Loadings-Based Listing
70 FR 10776	March 4, 2005	Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System

The federal rules listed above are amendments to the federal hazardous waste regulations that would be incorporated by reference in the Indiana hazardous waste management rules at 329 IAC 3.1.

Two of these amendments (the national environmental performance track system and the NESHAP for surface coating of automobiles and light-duty trucks) are optional (less stringent) but are proposed to be adopted to maintain consistency with the federal program and to allow regulated entities to realize the benefits of those changes. These amendments were adopted under authorities that existed prior to the 1984 Hazardous and Solid Waste Amendments to RCRA. As a result, these amendments will not go into effect in Indiana until adopted in Indiana rules. You can find an explanation of this process in the final rule published in the Federal Register on April 22, 2004, Section III.B.4. "How Will Today's Rule Affect Applicability of RCRA Rules in Authorized States?" at 69 FR 21749.

In contrast to the optional rules described above, authorized states are required by RCRA Section 3009, 40 CFR 271.4 and 40 CFR 271.10 to adopt the following rules to maintain consistency with the federal hazardous waste program:

- Hazardous Waste - Nonwastewaters from Production of Dyes, Pigments, and Food, Drug, and Cosmetic Colorants; Mass Loadings-Based Listing (70 FR 9138).
- Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System (70 FR 10776).

Both of these amendments are more stringent than the current federal hazardous waste program. RCRA Section 3009 (42 U.S.C. 6929) requires authorized states to maintain their hazardous waste programs to be at least as stringent as the federal program to retain authorization for the state program.

The mass loadings-based listing rule lists specific nonwastewaters from production of dyes, pigments, and food, drug and cosmetic colorants as hazardous wastes. This amendment will add a new hazardous waste code (K181) to 40 CFR 261.32, "Hazardous wastes from specific sources," and adds new treatment standards and universal treatment standards to 40 CFR 268.40. This amendment is promulgated under the Hazardous and Solid Waste Amendments of 1984 (HSWA). As a result, these provisions will go into effect on August 23, 2005, regardless of whether they are adopted as Indiana rules. (See the discussion of the effects of HSWA authority in Section VI. "State Authority and Compliance," at 70 FR 9167 through 70 FR 9168.)

The hazardous waste manifest modification rule modifies the Uniform Hazardous Waste Manifest and requires its use nationwide. Because the federal compliance date for use of the revised hazardous waste manifest form is delayed twelve (12) months from the effective date of the federal rule on September 6, 2005, the effective date of this portion of the incorporation by reference will be delayed until September 5, 2006. To ensure that a system for managing rejected loads is in place for use by regulated entities, the existing rejected load provisions in 329 IAC 3.1-7.5 will be repealed on the same date that the revised manifest rule provisions are effective. (See the discussion of this delayed compliance date in the preamble to the federal hazardous waste manifest rule in section II.H "Delayed Compliance Date for Revised Form" at 70 FR 10793 through 10795.) The manifest modification rule also makes new provisions for rejected loads of hazardous waste that will supercede the current requirements in 329 IAC 3.1-7.5. These amendments were promulgated under RCRA authority that pre-existed HSWA authority. As a result, these amendments will not become effective until adopted in Indiana rules. Failure to adopt these amendments at the same time as the rest of the nation may result in inconvenience and additional expense to regulated entities in Indiana.

In addition to the federal amendments described above that have already been promulgated, EPA has proposed to adopt the following amendments to the hazardous waste management program. These proposed amendments are scheduled for final action during the first half of 2005 in the EPA's semiannual regulatory agenda published in the Federal Register on December 13, 2004 at 69 FR 73786 through 69 FR 73940. The federal notices of proposed rulemaking that describe these proposed amendments are listed in Table 2 as follows:

Table 2.

Federal Register	Publication Date	Subject
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66 FR 52192	October 12, 2001	Standardized Permit for RCRA Hazardous Waste Management Facilities (RIN: 2050-AE44)
67 FR 66252	October 30, 2002	Methods Innovation Rule (RIN: 2050-AE41)
69 FR 21197	April 20, 2004	NESHAPs: Standards for Hazardous Air Pollutants for Hazardous Waste Combusters (Phase I Final Replacement Standards and Phase II) (RIN: 2050-AE01)
67 FR 40507	June 12, 2002	Hazardous Waste Management System; Modification of the Hazardous Waste Program: Mercury-Containing Equipment (RIN: 2050-AG21)

IDEM intends to incorporate by reference any or all of the amendments described in Table 2 above if they are promulgated by EPA on or before June 30, 2005 (the final date for changes to be included in the July 1, 2005 edition of Title 40, Chapter I of the Code of Federal Regulations), and IDEM is specifically soliciting comment on these proposed amendments.

In addition to incorporating recent federal amendments, IDEM proposes to amend 329 IAC 3.1-6-3 to more accurately describe the requirements for management of these acute hazardous wastes. The 2003 Hazardous Waste Annual Update amended 329 IAC 3.1-6-3 to clarify that chemical munitions including VX (O-ethyl-S-(2-diisopropylaminoethyl) methyl phosphonothiolate) are acute hazardous wastes. This amendment provided that chemical munitions listed in this section must be managed in accordance with the requirements for acute hazardous wastes in the hazardous waste program. This amendment also provided that the commissioner can establish alternate requirements for these wastes. This last provision resulted in some confusion over what the alternate requirements would be and what they would be based on. In this rule IDEM intends to clarify what the alternate requirements are. The sole generator of I001 waste - the U.S. Army Newport Chemical Depot - has requested to use the satellite accumulation provisions in 40 CFR 262.34(c). IDEM has evaluated that request and determined that it will promote safety and help to expedite the disposal operation. IDEM is proposing to amend this section to remove the general statement about "alternate requirements" and substitute language that specifically allows use of those satellite accumulation provisions.

#### **Alternatives to be Considered Within the Rulemaking**

There are no alternatives to rulemaking to accomplish the purposes of this notice. IDEM is considering nine (9) alternatives in this rulemaking, as follows:

Alternative 1. Adopt the National Environmental Performance Track System as promulgated in the Federal Register on April 22, 2004 (69 FR 21737) and corrected on October 25, 2004 (69 FR 62217). This rule revises the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations to allow hazardous waste generators who are members of Performance Track up to one hundred eighty (180) days, and in certain cases two hundred seventy (270) days, to accumulate their hazardous waste without a RCRA permit or interim status. It includes simplified reporting requirements for facilities that are members of Performance Track and governed by Maximum Available Control Technology (MACT) provisions of the Clean Air Act (CAA). Seven (7) Indiana facilities are Performance Track members. Because this rule is adopted under RCRA authority that existed prior to the 1984 Hazardous and Solid Waste Amendments, this amendment will not be effective in Indiana until the Solid Waste Management Board (board) adopts it in state rules.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* This is an incorporation by reference of the federal regulation.
- *Is this alternative imposed by federal law or is there a comparable federal law?* Because this rule is less stringent than the current federal hazardous waste regulations, this rule is optional and is not required to be adopted under RCRA Section 3006.
- *If this alternative is a federal requirement, is it different from federal law?* While federal law does not include this requirement, it is identical to the federal amendments published in the April 22, 2004, final rule and the corrections published in the October 25, 2004, Federal Register.
- *If it is different, describe the differences.* There are no differences.

Alternative 2. Adopt the changes to the hazardous waste program included in the NESHAP for Surface Coating of Automobiles and Light-Duty Trucks as promulgated in the Federal Register on April 26, 2004 (69 FR 22602). This rule amends the Resource Conservation and Recovery Act (RCRA) Air Emission Standards for Equipment Leaks at 40 CFR parts 264 and 265, subparts BB, for owners and operators of hazardous waste treatment, storage, and disposal facilities to exempt air emissions from certain activities covered by the final NESHAP from these RCRA standards.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* This is an incorporation by reference of the federal regulation.
- *Is this alternative imposed by federal law or is there a comparable federal law?* This rule is less stringent than the current federal hazardous waste regulations, therefore it is not required to be adopted under RCRA Section 3006.
- *If this alternative is a federal requirement, is it different from federal law?* While federal law does not include this requirement, it is identical to the federal amendments published in the April 26, 2004, final rule.

- *If it is different, describe the differences.* There are no differences.

Alternative 3. Adopt the Mass Loading-Based Listing of Non-Wastewaters from the Production of Selected Organic Dyes, Pigments, and Food, Drug, and Cosmetic Colorants Rule, as promulgated in the Federal Register on February 24, 2005 (70 FR 9138).

This amendment proposes to list nonwastewaters from the production of certain dyes, pigments, and FD&C colorants as hazardous wastes under RCRA, which directs EPA to determine whether these wastes present a hazard to human health or the environment. EPA is proposing a mass loading-based approach for these wastes. Under this approach, these wastes are hazardous if they contain any of the constituents of concern at annual mass loading levels that meet or exceed regulatory levels. If generators determine that their wastes are below regulatory levels for all constituents of concern, then their wastes are nonhazardous. If their wastes meet or exceed the regulatory levels for any of eight specific constituents of concern, the wastes must be managed as listed hazardous wastes. However, even if the wastes meet or exceed the regulatory levels, the wastes would not be hazardous if two conditions are met: (1) The wastes do not meet or exceed annual mass loadings for toluene-2,4-diamine, and (2) the wastes are disposed of in a Subtitle D landfill cell subject to the municipal solid waste landfill design criteria or in a Subtitle C landfill cell subject to applicable design criteria. When mass loadings meet or exceed the specified annual levels, the generator may still manage as nonhazardous all wastes generated up to the loading limit. This proposal would also add the toxic constituents o-anisidine, p-cresidine, 1,2-phenylenediamine, 1,3-phenylenediamine, and 2,4-dimethylaniline associated with these identified wastes to the list of constituents that serves as the basis for classifying wastes as hazardous. In addition, this proposal would establish treatment standards for the wastes. If these dyes and/or pigments production wastes are listed as hazardous waste, then they will be subject to stringent management and treatment standards under Subtitle C of RCRA. Additionally, this rule proposes to designate these wastes as hazardous substances subject to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The proposal would not adjust the one (1) pound statutory reportable quantity (RQ) for K181 waste, nor would EPA develop a “reference RQ” for the new constituents identified for K181. Other actions proposed in this notice would add o-anisidine, p-cresidine, 1,3-phenylenediamine, toluene-2,4-diamine, and 2,4-dimethylaniline to the treatment standards applicable to multisource leachate and also to add these chemicals to the Universal Treatment Standards. As a result, a single waste code would continue to be applicable to multisource landfill leachates and residues of characteristic wastes would require treatment when any of these chemicals are present above the proposed land disposal treatment standards.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* This is an incorporation by reference of the federal regulation.
- *Is this alternative imposed by federal law or is there a comparable federal law?* These changes are more stringent than the existing federal hazardous waste program, therefore they must be adopted as required by RCRA Section 3009.
- *If this alternative is a federal requirement, is it different from federal law?* This provision is identical to the federal amendments promulgated in the Federal Register.
- *If it is different, describe the differences.* There will be no substantive differences.

Alternative 4. Adopt the rules for Modification of the Hazardous Waste Manifest System as promulgated in the Federal Register on March 4, 2005 (70 FR 10776).

This rule establishes new requirements revising the Uniform Hazardous Waste Manifest regulations and the manifest and continuation sheet forms used to track hazardous waste from a generator’s site to the site of its disposition. These revisions will standardize the content and appearance of the manifest form and continuation sheet (Forms 8700-22 and 8700-22a), make the forms available from a greater number of sources and adopt new procedures for tracking certain types of shipments with the manifest. The latter types of shipments include hazardous wastes that are rejected by the destination facility (rejected loads), wastes consisting of residues from non-empty hazardous waste containers, and wastes entering or leaving the United States. This rule must be adopted to maintain EPA authorization for this program, as required by 40 CFR 271, since failure to adopt it would result in a program that is inconsistent with the federal program.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* This is an incorporation by reference of the federal regulation.
- *Is this alternative imposed by federal law or is there a comparable federal law?* This rule is required to be adopted under RCRA Section 3006 and 40 CFR 271.
- *If this alternative is a federal requirement, is it different from federal law?* This rule is identical to the federal amendments published in the March 4, 2005, final rule.
- *If it is different, describe the differences.* There are no differences.

Alternative 5. Adopt the Standardized Permit for RCRA Hazardous Waste Management Facilities, if it is promulgated by EPA on or before June 30, 2005.

This amendment would revise the RCRA hazardous waste permitting program to allow a “standardized permit.” The standardized permit would be available to facilities that generate hazardous waste and then manage the waste in units such as tanks, containers, and containment buildings. The standardized permit process should streamline the permit process by allowing facilities to obtain and modify permits more easily while maintaining the protectiveness currently existing in the individual RCRA permit process.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* This is an incorporation

by reference of the federal regulation.

- *Is this alternative imposed by federal law or is there a comparable federal law?* This rule will be neither more or less stringent than the current federal hazardous waste regulations, therefore it is not required to be adopted under RCRA Section 3006.
- *If this alternative is a federal requirement, is it different from federal law?* If it is promulgated by EPA on or before June 30, 2005, this requirement will be adopted as promulgated in the Federal register without substantive changes.
- *If it is different, describe the differences.* There are no differences.

Alternative 6. Adopt the Methods Innovation Rule if it is promulgated by EPA on or before June 30, 2005. This rule proposes to amend a variety of testing and monitoring requirements throughout the Resource Conservation and Recovery Act (RCRA) regulations. It proposes to allow more flexibility when conducting RCRA-related sampling and analysis, by removing unnecessary required uses of methods found in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” also known as “SW-846,” and only retaining the requirement to use SW-846 methods when the method is the only one capable of measuring a particular property (i.e., it is used to measure a required method-defined parameter). This is an important step towards a performance-based measurement system (PBMS), as part of the Agency’s efforts towards Innovating for Better Environmental Results. Additionally, it proposes to: withdraw the reactivity method guidelines from SW-846 Chapter Seven; amend the ignitability and corrosivity hazardous waste characteristic regulations by clarifying the use of certain methods; incorporate by reference Update IIIB to SW-846; add Method 25A for analyses conducted in support of certain RCRA air emission standards; and remove a confidence limit requirement for certain feedstream analyses conducted under the National Emission Standards for Hazardous Air Pollutants (NESHAP). These changes should make it easier and more cost effective to comply with affected regulations, without compromising human health or environmental protection.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* This is an incorporation by reference of the federal regulation.
- *Is this alternative imposed by federal law or is there a comparable federal law?* Because these changes are not more stringent or broader in scope than the existing federal hazardous waste program, they are not required to be adopted under RCRA Section 3006.
- *If this alternative is a federal requirement, is it different from federal law?* If it is promulgated by EPA on or before June 30, 2005, this provision will be identical to the federal amendments promulgated in the Federal Register.
- *If it is different, describe the differences.* There will be no substantive differences.

Alternative 7. Adopt the NESHAPs: Standards for Hazardous Air Pollutants for Hazardous Waste Combusters (Phase I Final Replacement Standards and Phase II) Rule, if it is promulgated by EPA on or before June 30, 2005. This amendment proposes national emission standards for hazardous air pollutants (NESHAP) for hazardous waste combusters. These combusters include hazardous waste burning incinerators, cement kilns, lightweight aggregate kilns, industrial/commercial/institutional boilers and process heaters, and hydrochloric acid production furnaces, known collectively as hazardous waste combusters (HWCs). EPA has identified these HWCs as major sources of hazardous air pollutant (HAP) emissions. These proposed standards will, when final, implement section 112(d) of the Clean Air Act (CAA) by requiring hazardous waste combusters to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). The HAP emitted by facilities in the incinerator, cement kiln, lightweight aggregate kiln, industrial/commercial/institutional boiler, process heater, and hydrochloric acid production furnace source categories include arsenic, beryllium, cadmium, chromium, dioxins and furans, hydrogen chloride and chlorine gas, lead, manganese, and mercury. Exposure to these substances has been demonstrated to cause adverse health effects such as irritation on the lung, skin, and mucus membranes, effects on the central nervous system, kidney damage, and cancer. The adverse health effects associated with the exposure to these specific HAPs are further described in the preamble. In general, these findings have only been shown with concentrations higher than those typically in the ambient air.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* This is an incorporation by reference of the federal regulation.
- *Is this alternative imposed by federal law or is there a comparable federal law?* Because these changes are more stringent than the existing federal hazardous waste program, they must be adopted as required by RCRA Section 3006.
- *If this alternative is a federal requirement, is it different from federal law?* If it is promulgated by EPA on or before June 30, 2005, this provision will be identical to the federal amendments promulgated in the Federal Register.
- *If it is different, describe the differences.* There will be no substantive differences.

Alternative 8. Adopt the Modification of the Hazardous Waste Program: Mercury-Containing Equipment Rule, if it is promulgated by EPA on or before June 30, 2005. Many used items of mercury-containing equipment are currently classified as characteristic hazardous wastes under RCRA. As a result, they are subject to the hazardous waste regulations of RCRA Subtitle C unless they come from a household or a conditionally exempt small quantity generator. This amendment proposes to streamline management requirements for used mercury-containing equipment by adding it to the federal list of universal wastes.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* This is an incorporation by reference of the federal regulation.

- *Is this alternative imposed by federal law or is there a comparable federal law?* Because these changes are less stringent than the existing federal hazardous waste program, they are not required to be adopted under RCRA Section 3006.
- *If this alternative is a federal requirement, is it different from federal law?* If it is promulgated by EPA on or before June 30, 2005, this provision will be identical to the federal amendments promulgated in the Federal Register.
- *If it is different, describe the differences.* There will be no substantive differences.

Alternative 9. Amend 329 IAC 3.1-6-3 to allow use of the satellite accumulation provisions in 40 CFR 262.34(c) by Newport Chemical Depot.

- *Is this alternative an incorporation of federal standards, either by reference or full text incorporation?* This is an application of a federal standard to an Indiana hazardous waste.
- *Is this alternative imposed by federal law or is there a comparable federal law?* No.
- *If this alternative is a federal requirement, is it different from federal law?* While I001 wastes are not federal hazardous wastes, we are requiring them to be managed under the provisions for acute hazardous wastes where appropriate.
- *If it is different, describe the differences.* With the exception of allowing use of the satellite accumulation provisions, there are no substantive differences from the federal hazardous waste program.

**Additional Alternatives**

This notice specifically solicits comment on the alternatives listed above and any other alternatives that would accomplish the purpose of this rule. Based on the comments received on this notice, additional alternatives may be considered.

**Applicable Federal Law**

Sections 3006 and 3009 of RCRA and 40 CFR 271 require states that choose to administer and enforce a hazardous waste management program in lieu of the federal program to adopt rules that are at least as stringent as the federal program. These programs can be authorized by the EPA to operate in lieu of the federal hazardous waste program. If the EPA Administrator determines that a state is not maintaining its program to be at least as stringent as the federal program, that authorization can be withdrawn. Rules that are not more stringent than the existing federal program are not required to be adopted unless they must be adopted under separate authority to maintain consistency with the federal program.

40 CFR 260 through 40 CFR 273 contain the federal hazardous waste program. These regulations have been incorporated by reference in 329 IAC 3.1. The amendments proposed in this rule would make 329 IAC 3.1 as consistent as possible with the federal hazardous waste program.

**Potential Fiscal Impact**

As required by IC 13-14-9-3(a)(2)(B) (added by P.L. 240-2003, SECTION 4), alternatives 1, 2, 5, 6, and 8 are not required to be adopted under federal law. However, all alternatives considered in this notice are either currently included, or proposed to be included, in the federal hazardous waste program. These alternatives may or may not be imposed under federal law and may potentially have the following fiscal impact:

Potential Fiscal Impact of Alternative 1. The fiscal impact of this alternative is estimated to be a savings of one thousand, three hundred fifty dollars (\$1,350.00) per facility per year, or nine thousand, four hundred fifty dollars (\$9,450.00) per year for the seven (7) Performance Track facilities in Indiana, as described in the final rule published April 22, 2004 (Section IV.A. “What Are the Cost and Economic Impacts?”, at 69 FR 21749).

Potential Fiscal Impact of Alternative 2. The fiscal impact of this alternative is estimated to be no additional costs or savings resulting from this amendment. This amendment excludes facilities that surface coat automobiles and light-duty trucks and that are affected by the NESHAP from compliance with 40 CFR 264, Subpart BB. See the final rule published April 26, 2004, Section V.B. “What Are the Cost Impacts?” at 69 FR 22618.

Potential Fiscal Impact of Alternative 3. The total compliance costs of this alternative are estimated by EPA to range from four hundred ninety thousand dollars (\$490,000) per year to two million, three hundred eighty thousand dollars (\$2,380,000) per year nationwide, or nine thousand, eight hundred dollars (\$9,800) per year to forty-seven thousand, six hundred dollars (\$47,600) per year to regulated entities in Indiana, assuming that the compliance costs in Indiana are two percent (2%) of the national cost. The economic impact of these amendments is estimated by EPA to range from negligible to two hundred thirty-eight thousandths percent (0.238%) of gross corporate revenues. See the analysis of the economic impacts of this rule in Section VIII.A., “Executive Order 12866: Regulatory Planning and Review,” beginning at 70 FR 9169 of the February 24, 2005, final rule.

Potential Fiscal Impact of Alternative 4. The fiscal impact of this alternative is estimated to be a four percent (4%) to five percent (5%) average annual paperwork burden reduction for regulated entities in Indiana and state government, representing a cost savings of approximately two hundred fifty-four thousand dollars (\$254,000) to four hundred twelve thousand dollars (\$412,000) to regulated entities in Indiana, based on two percent (2%) of the national economic impact cited in the final rule published on March 4, 2005 in Section VII.A. “Executive Order 12866: Regulatory Planning and Review” at 70 FR 10811 through 10812.

Potential Fiscal Impact of Alternative 5. The fiscal impact of this alternative is estimated to be a net annual savings of seven thousand two hundred dollars (\$7,200) to eleven thousand two hundred dollars (\$11,200) to regulated entities in Indiana, based on two percent (2%) of the national economic impact cited in the proposed rule published on October 12, 2001 (Section XII.A.

"Executive Order 12866" at 66 FR 52238).

Potential Fiscal Impact of Alternative 6. The fiscal impact of this alternative is unquantifiable at this time. The EPA has not published an economic impact analysis for this proposed rule.

Potential Fiscal Impact of Alternative 7. The fiscal impact of this alternative cannot be reliably quantified at this time. See the estimates of the economic impact for this proposed amendment published in the April 20, 2004, proposed rule at 69 FR 21349 through 69 FR 21359.

Potential Fiscal Impact of Alternative 8. The fiscal impact of this alternative is estimated to be a net annual savings of five thousand four hundred sixty dollars (\$5,460) to regulated entities in Indiana, based on two per cent (2%) of the national economic impact as described in the proposed rule published on June 12, 2002 (Section VI.A. "Executive Order 12866," at 67 FR 40521 through 67 FR 40522).

Potential Fiscal Impact of Alternative 9. The Newport Chemical Depot has not estimated the potential economic impact of this amendment to their program to dispose of chemical munitions. IDEM has no independent information to use to estimate this economic impact. If IDEM obtains additional information on the economic impact of this amendment to the Newport Chemical Depot, that information will be included in the Second Notice of Comment Period.

### **Public Participation and Workgroup Information**

We may establish an external workgroup to discuss issues involved in this rulemaking. The workgroup, if established, would be made up of department staff and a cross-section of stakeholders. If you believe a work group would further the purposes of this rule and result in better rulemaking, and you wish to participate in the workgroup, please submit your name, mailing address, telephone number, e-mail address, and the area(s) of interest you wish to represent to:

#05-66(SWMB) [2005 Hazardous Waste Annual Update Work Group]

Marjorie Samuel

Office of Land Quality

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204

If too many applications are received to form a functional work group, the department will select a representative group from the applications on file.

The formation of a work group, if it occurs, will be announced on IDEM's rulemaking website: <http://www.in.gov/idem/rules/>.

If a work group is formed and you wish to provide comments to the workgroup on the rulemaking, attend meetings, or submit suggestions related to the workgroup process, please contact Steve Mojonier, Rules, Planning and Outreach Section, Office of Land Quality at (317) 233-1655 or (800) 451-6027 (in Indiana). Please provide your name, phone number and e-mail address, if applicable, where you can be contacted.

The public is also encouraged to submit comments and questions directly to members of the workgroup who represent their particular interests in the rulemaking. If a work group is established, a list of workgroup members and the interests they represent will be provided on request.

### **STATUTORY AND REGULATORY REQUIREMENTS**

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

### **REQUEST FOR PUBLIC COMMENTS**

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.
- (3) The submission of information on the fiscal impact of each alternative identified in this notice.

Mailed comments should be addressed to:

#05-66(SWMB) [2005 Hazardous Waste Annual Update]

Marjorie Samuel  
Office of Land Quality  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, Indiana 46204

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 the IDEM fax number: (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) 232-1655 or (317) 232-7995.

**COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by May 31, 2005.

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 zero (0), and ask for extension 3-1655. Additional information on this rule may also be found on IDEM's rulemaking Web site at <http://www.in.gov/idem/rules/>.

Bruce H. Palin  
Assistant Commissioner  
Office of Land Quality