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TITLE 329 SOLID WASTE MANAGEMENT BOARD

CONTINUATION OF FIRST NOTICE #05-181(SWMB)

AMENDMENTS TO 329 IAC 3.1 AND THE ADDITION OF 329 IAC 16 CONCERNING ELECTRONIC WASTE

PURPOSE OF NOTICE

Adds 329 IAC 16 concerning provisions for electronic waste (e-waste) management, which may include registration, collection, reporting, processing, storage, and disposal requirements. This rule would add pertinent definitions and appropriate handling requirements, including operational and facility design standards needed to protect surface and ground water. This continuation is for the purpose of soliciting comment on the addition of electronic waste (e-waste) as a universal waste under 329 IAC 3.1-16 and include all the universal waste standards for electronic waste under 329 IAC 16. Other sections of 329 IAC 3.1 may need to be amended for consistency with the addition of electronic waste as a universal waste.

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; 329 IAC 16.

AUTHORITY: IC 4-22-2; IC 13-14-8-1; IC 13-14-8-2; IC 13-14-9; IC 13-15-2; IC 13-19-3-1; IC 13-30-2.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

This rule will be drafted to be comprehensive regarding e-waste management. This rule would list electronic waste (e-waste) as a universal waste under 329 IAC 3.1-16, and then include provisions and standards in 329 IAC 16 for e-waste registration, notification, management, processing, storage, disposal, and all other requirements for universal waste. Listing as a universal waste greatly reduces the management requirements for this type of waste, if hazardous. This would promote e-waste recycling and proper management.

Alternatives to be Considered Within the Rulemaking

Alternative 4. (Three other alternatives to be considered within the rulemaking were presented in the First Notice of Comment Period published August 1, 2005, at 28 IR 3357) List electronic waste as a universal waste.

Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No, but this would cover any facility under the new federal regulations for the less restrictive management standards of cathode ray tubes (CRTs) (from being a solid waste under the hazardous waste rules if certain standards are met).

Is this alternative imposed by federal law or is there a comparable federal law? No, not specifically for e-waste.

If it is a federal requirement, is it different from federal law? This alternative would include the federal exclusion at 40 CFR 260 et al., but is broader to include all specified electronic waste as a universal waste with the accompanying standards.

If it is different, describe the differences.

Applicable Federal Law

Federal law prohibits any solid waste management practice or disposal of solid or hazardous waste that constitutes the open dumping of solid waste or hazardous waste (42 U.S.C. 6945). The regulations at 40 CFR 257.2 defines disposal as “the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water.” Federal regulations (40 CFR 257.3) prohibit solid waste practices that violate the established environmental criteria and pose a reasonable probability of adverse effects on human health or the environment. Federal regulations at 40 CFR 260 et al. exclude CRTs from being a solid waste under the hazardous waste rules if certain standards are met. There are also certain standards for hazardous waste that is managed as a universal waste under 40 CFR 273.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 4. There would be savings by the facilities to manage electronic waste as a universal waste. This savings cannot be determined at this time; however, it would be, at least, the cost of permitting hazardous waste storage (see Potential Fiscal Impact of Alternative 3, First Notice of Comment Period, 28 IR 3357). IDEM specifically solicits comments on the

potential fiscal impact of any of the alternatives to be considered in this rulemaking.

Small Business Assistance Information

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

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 N. Senate Avenue
W-041
Indianapolis, IN 46204-2251
(317) 232-8578
selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen
IDEM Small Business Assistance Program Ombudsman
External Affairs - MC50-01
100 N. Senate Avenue
IGCN 1301
Indianapolis, IN 46204-2251
(317) 234-3386
elevenha@idem.in.gov

Public Participation and Workgroup Information

A workgroup has been formed for this rulemaking. If you are interest in being a member of this workgroup, please contact Lynn West, Rules, Outreach and Planning Section, Office of Land Quality at (317) 232-3593 or (800) 451-6027 (in Indiana).

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 comments on the potential fiscal impact of any of the alternatives to be considered within the rulemaking.

Mailed comments should be addressed to:

#05-181(SWMB) [E-waste Rule]

Marjorie Samuel
Rules, Outreach, and Planning Section
Office of Land Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the eleventh floor reception desk, Office of Land

Quality, Indiana Government Center-North, 100 North Senate Avenue, 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 Marjorie Samuel in the Rules, Outreach and Planning Section at (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by March 3, 2006.

Additional information regarding this action may be obtained from Lynn West, Rules, Outreach and Planning Section, Office of Land Quality, (317) 232-3593 or (800) 451-6027 (in Indiana).

Bruce H. Palin

Deputy Assistant Commissioner

Office of Land Quality