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**TITLE 329 SOLID WASTE MANAGEMENT
BOARD**

**FIRST NOTICE OF COMMENT PERIOD
#06-70(SWMB)**

AMENDMENTS TO 329 IAC 11 REGARDING TRANSFER STATIONS

PURPOSE OF NOTICE

Amends 329 IAC 11 concerning provisions for solid waste transfer stations. The rulemaking proposes clarification for the following: definitions, exclusions to the rule, zoning requirements, application and design standards, operating standards, and closure and post-closure requirements. This rule will also make 329 IAC 11 consistent with the standards in 329 IAC 10 and other processing requirements. It will cause some rule reorganization that will make the rule easier to understand and 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 11.

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 13-20-6-9; IC 13-30-2.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

The existing transfer station rule has not undergone significant revision since the early 1990s. The objectives of this rulemaking are to make the language more clear, to maintain consistency with relevant statutes and other solid waste rules, and to improve the organization of the rule to allow for easier location of pertinent requirements. The following list is divided into the three objectives for the rulemaking:

Clarity Changes

General

1. Definition of major/minor modification.
2. Exclusion of transfer and storage of enclosed (not-opened) containers with solid waste other than municipal solid waste.
3. Modification to zoning requirements.
4. Expiration of permit if construction of the facility is not begun within a reasonable time frame.

Application requirement and design standards

1. Information submitted on a plot plan at 329 IAC 11-9-2(h).
2. Requirements for the facility to be in an enclosed building with lockable doors.
3. Waste processing and storage area to be constructed with an impermeable surface for the floor.
4. Liquid waste and wastewater holding areas to be equipped with secondary containment or spill prevention procedures, or both.

Operating standards

1. Information required on the facility sign.
2. Floor cleaning in the loading areas so waste and waste residues are contained.
3. Emergency or contingency procedures for spill, fire, and contaminant release.
4. Closure and post-closure standards.

Consistency Changes

1. Definitions.
2. Application procedure at 329 IAC 11-9-1(d).
3. Miscellaneous provision concerning solid waste management in 329 IAC 11-15.
4. Establish financial assurance with the preoperation requirements.

Organizational Changes

1. Merge 329 IAC 11-13-6, 329 IAC 11-21-5, and 329 IAC 11-21-6.
2. Merge 329 IAC 11-13-4(a), 329 IAC 11-13-4(b), 329 IAC 11-13-4(c), and 329 IAC 11-21-8.
3. Merge 329 IAC 11-13-4(e), 329 IAC 11-13-4(f), and 329 IAC 11-21-9(2).

4. Merge 329 IAC 11-13-4(d) and 329 IAC 11-21-9(3).

Other changes, unknown at this time, may become necessary to improve the efficacy of 329 IAC 11, may be made in response to a comment, or may be made to comply with the Legislative Services Agency Administrative Rules Drafting Manual.

Alternatives to Be Considered Within the Rulemaking

Alternative 1. Clarify, reorganize, and make consistent 329 IAC 11 regarding transfer stations

Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.

Is this alternative imposed by federal law or is there a comparable federal law? No.

If it is a federal requirement, is it different from federal law? Not applicable.

If it is different, describe the differences. Not applicable.

Alternative 2. Attempt to address all the problems and concerns with 329 IAC 11 by departmental policy

Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.

Is this alternative imposed by federal law or is there a comparable federal law? No.

If it is a federal requirement, is it different from federal law? Not applicable.

If it is different, describe the differences. Not applicable.

Applicable Federal Law

Federal law that prohibits any solid waste management practice or disposal of solid or hazardous waste which constitutes the open dumping of solid waste or hazardous waste. (42 U.S.C. 6945) The regulations at 40 CFR 257.2 define 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 at 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.

Potential Fiscal Impact

Potential Fiscal Impact The proposed changes in this rulemaking are anticipated to result in little or no additional costs to the regulated community. IDEM specifically solicits comment on any potential fiscal impacts that may result from the proposed rule amendments.

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 is planned for this rulemaking. If you are interested in being a member of this workgroup, please contact Lynn West, Rules, Planning, and Outreach Section, Office of Land Quality at (317) 232-3593 or (800) 451-6027 (in Indiana). The first meeting of

the workgroup will be on April 18, 2006, at 1:30 p.m., in the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, 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.

Mailed comments should be addressed to:

#06-70(SWMB) [Transfer Station Change Rule]

Marjorie Samuel

Rules, Planning, and Outreach 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, Planning, and Outreach Section at (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by May 1, 2006.

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

Bruce H. Palin

Deputy Assistant Commissioner

Office of Land Quality