

Bold = new language

~~Strikeout~~ = existing language deleted in this rulemaking

TITLE 329 SOLID WASTE MANAGEMENT DIVISION

DRAFT RULE

LSA Document #18-481

DIGEST

Adds 329 IAC 3.1-5-8, 329 IAC 10-2-198.5, and 329 IAC 11-2-48.5; and amends 329 IAC 3.1-1-9, 329 IAC 3.1-1-10, 329 IAC 3.1-1-14.1, 329 IAC 3.1-4-1, 329 IAC 3.1-4-25.1, 329 IAC 3.1-5-1, 329 IAC 3.1-5-4, 329 IAC 3.1-6-1, 329 IAC 3.1-6-3, 329 IAC 3.1-6-5, 329 IAC 3.1-7-1, 329 IAC 3.1-7-2, 329 IAC 3.1-8-1, 329 IAC 3.1-9-1, 329 IAC 3.1-9-2, 329 IAC 3.1-10-1, 329 IAC 3.1-10-2, 329 IAC 3.1-11-1, 329 IAC 3.1-11-2, 329 IAC 3.1-11.5-1, 329 IAC 3.1-12-1, 329 IAC 3.1-13-1, 329 IAC 3.1-16-1, 329 IAC 10-2-153, 329 IAC 10-3-2, 329 IAC 10-9-2, 329 IAC 11-3-2, 329 IAC 11-13.5-13, and 329 IAC 13-3-1 concerning updates to the hazardous waste management requirements. Repeals 329 IAC 3.1-4-24, 329 IAC 3.1-7-14, 329 IAC 3.1-7-16, 329 IAC 10-2-29.5, and 329 IAC 11-2-5.3. Effective 30 days after filing with the Publisher.

HISTORY

Findings and Determination of the Commissioner Pursuant to IC 13-14-9-7 and Second Notice of Comment Period: November 21, 2018, Indiana Register (DIN: 20181121-IR-329180481FDA).

Notice of First Hearing: November 21, 2018, Indiana Register (DIN: 20181121-IR-329180481PHA).

Change in Notice of Public Hearing: February 20, 2019, Indiana Register (DIN: 20190220-IR-329180481CHA).

Date of First Hearing: May 8, 2019.

329 IAC 3.1-1-9; 329 IAC 3.1-1-10; 329 IAC 3.1-1-14.1; 329 IAC 3.1-4-1; 329 IAC 3.1-4-24; 329 IAC 3.1-4-25.1; 329 IAC 3.1-5-1; 329 IAC 3.1-5-4; 329 IAC 3.1-5-8; 329 IAC 3.1-6-1; 329 IAC 3.1-6-3; 329 IAC 3.1-6-5; 329 IAC 3.1-7-1; 329 IAC 3.1-7-2; 329 IAC 3.1-7-14; 329 IAC 3.1-7-16; 329 IAC 3.1-8-1; 329 IAC 3.1-9-1; 329 IAC 3.1-9-2; 329 IAC 3.1-10-1; 329 IAC 3.1-10-2; 329 IAC 3.1-11-1; 329 IAC 3.1-11-2; 329 IAC 3.1-11.5-1; 329 IAC 3.1-12-1; 329 IAC 3.1-13-1; 329 IAC 3.1-16-1; 329 IAC 10-2-29.5; 329 IAC 10-2-153; 329 IAC 10-2-198.5; 329 IAC 10-3-2; 329 IAC 10-9-2; 329 IAC 11-2-5.3; 329 IAC 11-2-48.5; 329 IAC 11-3-2; 329 IAC 11-13.5-13; 329 IAC 13-3-1

DRAFT RULE

SECTION 1. 329 IAC 3.1-1-9 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-1-9 Conversion of federal terms

Authority: IC 4-22-2-21; IC 13-14-8; IC 13-19-3-1

Affected: IC 13-22

Sec. 9. (a) When used in 40 CFR, as adopted in this article, substitute the following unless otherwise indicated:

- (1) "Act" means the Environmental Management Act.
- (2) "Administrator" means the commissioner of the Indiana department of environmental management.
- (3) "Agency" means the Indiana department of environmental management.
- (4) "Director" means the commissioner of the Indiana department of environmental management.
- (5) "Environmental protection agency" or "EPA" means the Indiana department of environmental management.
- (6) "He" means he, she, or it, 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 Indiana department of environmental management.
- (10) "She" means he, she, or it, without regard to gender.
- (11) "State", "authorized state", "approved state", and "approved program" means Indiana, except at:
 - (A) 40 CFR 260.10* in the definitions of "person", "state", and "United States";
 - (B) 40 CFR 262*; or
 - (C) 40 CFR 270.2* in the definitions of "approved program" or "approved state", "director", "final authorization", "person", and "state".
- (12) "United States" means the state of Indiana.
- (13) "Variance" means exemption.

(b) The following definitions found in 40 CFR 260.10* are excluded from the substitution of "commissioner of the Indiana department of environmental management" for "administrator" or "regional administrator" in subsection (a):

- (1) Administrator.
- (2) Hazardous waste constituent.
- (3) Regional administrator.

(c) The following definitions found in 40 CFR 260.10* are excluded from the substitution of "Indiana department of environmental management" for "environmental protection agency" in subsection (a):

- (1) Administrator.
- (2) Automated export system (AES) filing compliance date.**
- (3) Electronic import-export reporting compliance date.**
- (4) Electronic manifest.**
- (5) Electronic manifest system.**
- ~~(2)~~ **(6) EPA region.**
- ~~(3)~~ **(7) Regional administrator.**

(8) User of the electronic manifest system.

(d) The substitution of terms in subsection (a) does not apply in the following portions of 40 CFR 260 through 40 CFR 270, as adopted in this ~~rule~~ **article**:

- (1) 40 CFR 260.4(a)(4)*.**
- (2) 40 CFR 260.5(b)(2)*.**
- ~~(1)~~ **(3) 40 CFR 261.6(a)(3)(i)(A)*.**
- ~~(2)~~ **(4) 40 CFR 261.6(a)(3)(i)(B)*.**
- (5) 40 CFR 261.39(a)(5)*.**
- (6) 40 CFR 261.41*.**
- ~~(3)~~ **(7) 40 CFR 262.11*, except for 40 CFR 262.11(f).**
- (8) 40 CFR 262.20(a)(3)(ii)*.**
- ~~(4)~~ **(9) 40 CFR 262.21*.**
- ~~(5) 40 CFR 262.51.~~
- ~~(6) 40 CFR 262.52.~~
- ~~(7) 40 CFR 262.53. See 329 IAC 3.1-7-2 for additional information.~~
- ~~(8) 40 CFR 262.54. See 329 IAC 3.1-7-2 for additional information.~~
- ~~(9) 40 CFR 262.60.~~
- (10) 40 CFR 262.24(a)(3)*.**
- (11) 40 CFR 262.25*.**
- (12) 40 CFR 262, Subpart H*.**
- ~~(10)~~ **(13) 40 CFR 264.12(a)*.**
- (14) 40 CFR 264.71(a)(2)(v)*.**
- (15) 40 CFR 264.71(d)*.**
- (16) 40 CFR 264.71(f)(4)*.**
- (17) 40 CFR 264.71(j)*.**
- (18) 40 CFR 264, Subpart FF*.**
- ~~(11)~~ **(19) 40 CFR 265.12(a)*.**
- (20) 40 CFR 265.71(a)(2)(v)*.**
- (21) 40 CFR 265.71(d)*.**
- (22) 40 CFR 265.71(f)(4)*.**
- (23) 40 CFR 265.71(j)*.**
- (24) 40 CFR 265, Subpart FF*.**
- (25) 40 CFR 267.71(a)(6)*.**
- (26) 40 CFR 267.71(d)*.**
- ~~(12)~~ **(27) 40 CFR 270.2*.**
- ~~(13)~~ **(28) 40 CFR 270.5*.**
- ~~(14)~~ **(29) 40 CFR 270.11(a)(3)*.**
- ~~(15)~~ **(30) 40 CFR 270.32(b)(2)*.**
- ~~(16)~~ **(31) 40 CFR 270.32(c)*.**
- ~~(17)~~ **(32) 40 CFR 270.72(a)(5)*.**
- ~~(18)~~ **(33) 40 CFR 270.72(b)(5)*.**

(e) In 40 CFR 263*, all references to "EPA", "United States", and "administrator" are retained.

***Copies of these documents may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (Solid Waste Management Division; 329 IAC 3.1-1-9; filed Jan 24, 1992, 2:00 p.m.: 15 IR 909; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3353; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jun 9, 2006, 3:40 p.m.: 20060712-IR-329050066FRA, eff Sep 5, 2006)**

SECTION 2. 329 IAC 3.1-1-10 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-1-10 Notification

Authority: IC 13-14-8; IC 13-19-3-1; IC 13-22-2

Affected: IC 13-22

Sec. 10. Every hazardous waste generator, transporter, or owner or operator of a hazardous waste facility shall notify the commissioner of activities subject to this article on forms provided by the commissioner unless the activity is exempt from the notification requirements for hazardous waste generated **in compliance with 329 IAC 3.1-7** by ~~conditionally exempt a very small quantity generators under 329 IAC 3.1-6.~~ **generator.** (Solid Waste Management Division; 329 IAC 3.1-1-10; filed Jan 24, 1992, 2:00 p.m.: 15 IR 910; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Oct 6, 2016, 1:20 p.m.: 20161102-IR-329160093FRA)

SECTION 3. 329 IAC 3.1-1-14.1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-1-14.1 Fees

Authority: IC 13-14-8; IC 13-22

Affected: IC 13-15-11; IC 13-16; IC 13-22-12; IC 13-30-4

Sec. 14.1. (a) The following definitions apply throughout this section:

- (1) "Boilers and industrial furnaces" or "BIFs" means facilities as defined under "boilers" and "industrial furnaces" in 40 CFR 260.10*.
- (2) "Class 2 modification" refers to the modification classification system described under 40 CFR 270.42*.
- (3) "Class 3 modification" refers to the modification classification system described under 40 CFR 270.42*.
- (4) "Generator" or "LQG" means a person that:
 - (A) during the preceding calendar year:
 - (i) generated in any calendar month more than one thousand (1,000) kilograms of hazardous waste or more than one (1) kilogram of acute hazardous waste;
 - (ii) regardless of a person's rate of generation, accumulated at any time more than one (1) kilogram of acute hazardous waste; or
 - (iii) regardless of a person's rate of generation, accumulated at any time

- ~~more than six thousand (6,000) kilograms of hazardous waste; or~~
~~(B) generated or accumulated in any calendar month more than one hundred (100) kilograms of spill clean-up material contaminated with acute hazardous waste.~~
- ~~(5)~~ (4) "Ground water monitoring well" means a device required by a permit condition or applicable rule to monitor the quality of ground water during a twelve (12) month period.
- ~~(6)~~ (5) "Land disposal" includes interim status and permitted hazardous waste landfills and interim status and permitted hazardous waste surface impoundments.
- (6) "Large quantity generator" has the meaning set forth in 40 CFR 260.10*.**
- (7) "Operation" or "operating", ~~for the purpose of this section,~~ means the following:
- (A) A hazardous waste treatment, storage, or disposal unit that will close by removing all waste is considered operating if waste is present in the unit as of January 1.
- (B) A disposal unit that will close leaving waste in place is considered operating until the unit has permanently stopped receiving waste as of January 1.
- (8) "Storage" means the term as defined in 40 CFR 260.10* and includes interim status and permitted hazardous waste storage.
- (9) "Treatment" means the term as defined in 40 CFR 260.10* and includes interim status and permitted hazardous waste treatment. The term does not include treatment that is excluded from permitting or interim permitting under ~~40 CFR 262.34, 40 CFR 261.4*, and 40 CFR 261.6*,~~ **and 40 CFR 262.14 through 40 CFR 262.17*.**
- ~~(10) "Treatment storage disposal" or "TSD" means the term as defined in 40 CFR 260.10.~~

(b) In accordance with IC 13-22-12-2 **and IC 13-22-12-3**, hazardous waste fees are as follows:

- (1) New permit application fees are as follows:
- | | |
|--|----------|
| (A) Land disposal: | \$40,600 |
| (B) Incinerator (per unit): | \$21,700 |
| (C) Storage: | \$23,800 |
| (D) Treatment (including boilers and industrial furnaces): | \$23,800 |
- (2) Permit renewal and Class 3 modification fees are as follows:
- | | |
|--|----------|
| (A) Land disposal: | \$34,000 |
| (B) Incinerator (per unit): | \$21,700 |
| (C) Storage: | \$17,200 |
| (D) Treatment (including boilers and industrial furnaces): | \$17,200 |
- (3) Class 2 modification fee: \$2,250
- (4) Annual operation fees are as follows:
- | | |
|--|----------|
| (A) Land disposal: | \$37,500 |
| (B) Incinerator (per unit): | \$10,000 |
| (C) Storage: | \$2,500 |
| (D) Treatment (including boilers and industrial furnaces): | \$10,000 |
| (E) Large quantity generator: | \$1,565 |
| (F) Post-closure activity: | \$1,500 |

(G) Ground water compliance sampling at active facilities \$1,000
(per well):

(c) Requirements for application fees are as follows:

(1) The fees must be submitted with the hazardous waste permit application.

(2) The commissioner shall deny hazardous waste permit applications will be denied without the application fee.

~~(2)~~ **(3)** The fees are not refundable once staff review of the application has commenced.

~~(d) The annual operation fee schedule is established in IC 13-22-12 and applies to~~ The following **requirements apply to persons or facilities subject to the annual operation fee schedule:**

(1) Annual operation fees established in IC 13-22-12-3 apply to facilities listed in subsection (b) that:

(A) operate with a permit;

(B) operate under interim status;

(C) are a large quantity generator; ~~(LQG)~~; or

(D) otherwise manage hazardous waste subject to regulation under IC 13-22-2.

~~(2) Hazardous waste annual operation fees begin accruing January 1 of each year. The commissioner shall assess hazardous waste annual operation fees not later than January 15 for the current year's activities. However, this is based on a generator's previous year's activities as defined by the generator.~~

~~(3)~~ **(2)** A hazardous waste management ~~facilities~~ **facility** permitted as of January 1 of the assessed year must pay annual ~~operations~~ **operation** fees, even if not yet constructed or receiving waste.

~~(4) No~~ **(3)** Waivers exist for large quantity generators ~~(LQGs)~~. **are prohibited.**

~~(5)~~ **(4)** A permitted TSDs **treatment, storage, or disposal facility** that ~~choose not to manage hazardous waste will be assessed a~~ **has the ability to manage hazardous waste must pay the applicable** fee, Fees are assessed for facilities that have the ability to manage hazardous waste. **whether or not hazardous waste is being managed at the facility.**

~~(6)~~ **(5)** Permitted treatment and storage facilities that close by removing all waste ~~will be assessed~~ **required to pay** a post-closure fee because the facility is no longer regulated.

~~(7)~~ **(6)** Facilities that are issued a post-closure permit ~~will be assessed~~ **must pay** the post-closure fee ~~Landfills will be assessed the fee that is assessed~~ for the duration of the post-closure period.

~~(8)~~ **(7)** A person shall remit a hazardous waste annual operation fee or an installment allowed by subsection ~~(e)~~ **(f)** to the commissioner:

(A) no more than thirty (30) days after the date the fee is assessed; or

(B) by the date the installment is due.

~~(9)~~ **(8)** A person or facility that is described in more than one (1) category under this section shall pay all applicable fees.

(e) The following requirements apply to hazardous waste annual operation fees:

(1) Hazardous waste annual operation fees begin accruing on January 1 of each year.

(2) The commissioner shall:

(A) assess hazardous waste annual operation fees not later than January 15 for the current year's activities; and

(B) base the assessment on a large quantity generator's previous year's activities as defined by the large quantity generator.

~~(e)~~ **(f)** Installment payments ~~are established~~ **may be allowed** as follows:

(1) The commissioner shall allow a person to remit installments on the annual fee if:

(A) the person determines that a single payment of the entire fee is an undue hardship; and

(B) the commissioner receives written notification requesting consideration of installment payments before January 30 of the invoiced year.

(2) Installments ~~are due paid~~ on a:

(A) quarterly basis **are due on:**

(i) February 15;

(ii) May 15;

(iii) August 15; and

(iv) November 15; or

(B) semiannual basis **are due on:**

(i) February 15; and

(ii) August 15.

(3) The commissioner ~~will~~ **shall** not send a notice of the installment method to the person who notifies in subdivision (1)(B).

~~(f)~~ **(g)** In addition to the penalties described under IC 13-30-4, the following ~~will occur:~~ **requirements apply:**

(1) A person shall be assessed a delinquency charge equal to ten percent (10%) of the hazardous waste annual operation fee or ten percent (10%) of the installment, whichever is applicable, if a the person does not remit a hazardous waste annual operation fee or an installment established under subsection ~~(e)~~(2) (f)(2) within:

(A) sixty (60) days after the date the fee is assessed; or

(B) thirty (30) days after the date the installment is due.

~~the person shall be assessed a delinquency charge equal to ten percent (10%) of the hazardous waste annual operation fee or ten percent (10%) of the installment, whichever is applicable.~~

(2) The delinquency charge **described in subdivision (1)** is due and payable:

(A) sixty (60) days after the date the hazardous waste annual operation fee is assessed; or

(B) thirty (30) days after the date the installment is due.

(3) **The commissioner may revoke a person's permit** if a the person does not remit the hazardous waste annual operation fee or an installment established by the commissioner and any applicable delinquency charge within:

(A) ninety (90) days after the date the hazardous waste annual operation fee is

assessed; or

(B) sixty (60) days after the date the installment is due.

~~the commissioner may revoke the person's permit.~~

(4) Before revoking a person's permit under subdivision (3), the commissioner shall send a written notice by certified mail that:

(A) describes what fees and delinquency charge are due; and

(B) indicates that the commissioner may revoke the person's permit for nonpayment thirty (30) days after receipt of the notice.

~~(g)~~ (h) The fees and delinquency charges collected under this section: ~~must be:~~

(1) **are** payable to the department; and

(2) **must be** deposited in the environmental management permit operation fund established under ~~IC 13-15-11-3~~. **IC 13-15-11.**

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (Solid Waste Management Division; 329 IAC 3.1-1-14.1; filed Jan 3, 2000, 10:00 a.m.: 23 IR 1094; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jun 9, 2006, 3:40 p.m.: 20060712-IR-329050066FRA)**

SECTION 4. 329 IAC 3.1-4-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-4-1 Applicability

Authority: IC 4-22-2-21; IC 13-14-8; IC 13-19-3-1

Affected: IC 13-11-2

Sec. 1. (a) In addition to the definitions contained in IC 13-11-2 and in this rule, the definitions contained in 40 CFR 260 through 40 CFR 270*, **as amended by:**

(1) 81 FR 85713 through 81 FR 85728*;

(2) 81 FR 85805 through 81 FR 85828*; and

(3) 83 FR 451 through 83 FR 462*;

are hereby adopted and incorporated by reference and made applicable to this article, except as provided otherwise in subsection (b).

(b) The following are exceptions to federal definitions:

(1) Delete the definitions of "existing tank system" or "existing component" in 40 CFR 260.10 and substitute the definition under section 11 of this rule.

(2) Delete the definitions of "new tank system" or "new tank component" in 40 CFR 260.10 and substitute the definition under section 18 of this rule.

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana**

Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.

(Solid Waste Management Division; 329 IAC 3.1-4-1; filed Jan 24, 1992, 2:00 p.m.: 15 IR 920; errata filed Feb 6, 1992, 3:15 p.m.: 15 IR 1024; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3354; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3364; errata filed Jan 10, 2000, 3:01 p.m.: 23 IR 1109; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 14, 2004, 3:20 p.m.: 27 IR 1874)

SECTION 5. 329 IAC 3.1-4-25.1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-4-25.1 "Utilize" defined

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

Affected: IC 13-22

Sec. 25.1. "Utilize" means to legitimately incorporate a secondary material into an industrial or manufacturing process to make a usable product without intervening reclamation or recovery, and includes any necessary transportation directly between the generator and user or storage by the generator or user of the secondary material, but which must occur without speculative accumulation as defined in "accumulating speculatively", defined in ~~40 CFR 261.1(a)(8)~~, **40 CFR 261.1(c)(8)***, or in a manner that constitutes disposal.

***This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**
(Solid Waste Management Division; 329 IAC 3.1-4-25.1; filed Jan 3, 2000, 10:00 a.m.: 23 IR 1096; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 6. 329 IAC 3.1-5-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-5-1 Purpose; scope; applicability

Authority: IC 13-14-8; IC 13-22-2

Affected: IC 4-21.5; IC 13-22

Sec. 1. (a) This rule establishes standards, criteria, and procedures for the following:

- (1) General rulemaking petitions.
- (2) Petitions for equivalent testing or analytical methods.
- (3) Petitions to exclude a waste produced at a particular facility.
- (4) Exemptions to be classified as solid waste.
- (5) Exemptions to be classified as a boiler.
- (6) Additional regulation of certain hazardous waste recycling activities.
- (7) Exemptions from land disposal restrictions.
- (8) Notification and legitimate recycling of secondary hazardous materials.
- (9) Procedures for the hazardous waste electronic manifest system.**

(b) Final decisions of the commissioner made pursuant to this rule are subject to the

notice requirements and procedures prescribed under IC 4-21.5. (*Solid Waste Management Division; 329 IAC 3.1-5-1; filed Jan 24, 1992, 2:00 p.m.: 15 IR 923; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Oct 6, 2016, 1:20 p.m.: 20161102-IR-329160093FRA*)

SECTION 7. 329 IAC 3.1-5-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-5-4 Exemption from classification as a solid waste or to be classified as a boiler; adoption of federal procedures

Authority: IC 4-22-2-21; IC 13-14-8; IC 13-22-2-4

Affected: IC 13-22-2

Sec. 4. ~~(a) The standards, criteria, and procedures for Granting exemptions from classification as a solid waste or to be classified as a boiler contained in~~ **must be performed in accordance with 40 CFR 260.30 through 40 CFR 260.33*.** ~~are hereby adopted and incorporated by reference, and made applicable to this article.~~

~~(b) In 40 CFR 260.33(a)*, delete the words "in the region where the recycler is located".~~

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.** (*Solid Waste Management Division; 329 IAC 3.1-5-4; filed Jan 24, 1992, 2:00 p.m.: 15 IR 924; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3355; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535*)

SECTION 8. 329 IAC 3.1-5-8 IS ADDED TO READ AS FOLLOWS:

329 IAC 3.1-5-8 Hazardous waste electronic manifest system; adoption of federal requirements

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

Affected: IC 4-22-2-21; IC 13-22-2

Sec. 8. Hazardous waste electronic manifest system requirements must be performed in accordance with 40 CFR 260.4* and 40 CFR 260.5*, as added by 83 FR 451*.

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.** (*Solid Waste Management Division; 329 IAC 3.1-5-8*)

SECTION 9. 329 IAC 3.1-6-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-6-1 Adoption of federal identification and listing of hazardous waste

Authority: IC 4-22-2-21; IC 13-14-8; IC 13-22-2-4

Affected: IC 13-22-2-3

Sec. 1. (a) This rule identifies those solid wastes which are subject to regulation as hazardous waste under this article and which are subject to the notification requirements of 329 IAC 3.1-1.

(b) Except as provided otherwise in section 2 of this rule, **the requirements of 40 CFR 261***, ~~is hereby incorporated by reference. as amended by:~~

(1) 81 FR 85713 through 81 FR 85715*;

(2) 81 FR 85806*; and

(3) 82 FR 60900*;

apply to the identification and listing of hazardous waste.

(c) For purposes of this article, a reference to any part of 40 CFR 261 means the version referenced in subsection (b).

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (Solid Waste Management Division; 329 IAC 3.1-6-1; filed Jan 24, 1992, 2:00 p.m.: 15 IR 924; filed May 6, 1994, 5:00 p.m.: 17 IR 2062; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)**

SECTION 10. 329 IAC 3.1-6-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-6-3 Indiana additions; listing of hazardous waste

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

Affected: IC 13-11-2-99; IC 13-11-2-205; IC 13-22-2-3

Sec. 3. (a) In addition to the lists of hazardous waste incorporated by reference in section 1 of this rule, the following chemical munitions are acute hazardous wastes:

(1) GA (Ethyl-N, N-dimethyl phosphoramidocyanidate).

(2) GB (Isopropyl methyl phosphonoflouridate).

(3) H, HD (Bis(2-chloroethyl) sulfide).

(4) HT (sixty percent (60%) HD and forty percent (40%) T (Bis[2(2-chloroethyl-thio)ethyl]ester)).

(5) L (Dichloro(2-chlorovinyl)arsine).

(6) VX (O-ethyl-S-(2-diisopropylaminoethyl) methyl phosphonothiolate).

(b) The chemical munitions in subdivisions (1) through (6) subsection (a) have the Indiana hazardous waste number I001 and are subject to all requirements for acute hazardous wastes in this article except as provided in subsection ~~(b)~~ (c).

~~(b)~~ (c) A generator may accumulate as much as fifty-five (55) gallons of waste derived from a waste listed in subsection (a)(6) at or near any point of generation where wastes initially

accumulate, when that waste is managed in accordance with all other requirements of ~~40 CFR 262.34(e)(1)~~. **40 CFR 262.15***.

***This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.** *(Solid Waste Management Division; 329 IAC 3.1-6-3; filed May 6, 1994, 5:00 p.m.: 17 IR 2063; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Apr 13, 2005, 11:30 a.m.: 28 IR 2663; filed Jun 9, 2006, 3:40 p.m.: 20060712-IR-329050066FRA)*

SECTION 11. 329 IAC 3.1-6-5 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-6-5 Secondary materials

Authority: IC 13-14-8; IC 13-22-2

Affected: IC 13-22

Sec. 5. (a) A secondary material that causes no significant increase in the threat posed to human health or the environment as defined in subsection (e)(4) is not a solid waste if it:

- (1) does not meet the definition of solid waste under ~~40 CFR 261.2(e)~~; **40 CFR 261.2***;
or
- (2) is legitimately utilized as defined under 329 IAC 3.1-4-25.1 in an industrial process, except reclamation as defined under 329 IAC 3.1-4-21.1.

(b) A secondary material generated as a result of the utilization of a secondary material that does not qualify as an exempt secondary material is a solid waste and subject to a waste determination ~~as to~~ **on** the waste's status as a hazardous waste as follows:

- (1) ~~This~~ **The** waste determination ~~shall~~ **must** be conducted according to the requirements of 40 CFR 262.11*.
- (2) In the case of a secondary material that is listed under this rule, a solid waste generated from the utilization **of a secondary material** in accordance with this section does not retain the listing from which the secondary material is derived.

(c) ~~There is no requirement for~~ A permit under this article **is not required** for the use of a secondary material as a manufacturing ingredient when used as a legitimate manufacturing ingredient in accordance with the requirements of this section.

(d) The commissioner shall:

- (1) provide a written determination for recognition of the secondary material exemption upon request; and
- (2) respond no later than ninety (90) days after the request is received.

(e) In making a determination on legitimate use of secondary materials, the following criteria ~~shall~~ **must** be considered, when relevant, for determining legitimate use and exempt status:

- (1) The secondary material must be utilized in the manufacturing process without intervening reclamation or recovery.
 - (2) Transportation must be directly between the generator of the secondary material and the user of the secondary material.
 - (3) The secondary material or the resultant product, or both, must not be accumulated speculatively as defined at ~~40 CFR 261.1(a)(8)~~. **40 CFR 261.1(c)(8)***.
 - (4) The secondary material must be handled in a manner that poses no significant increase in the threat to human health or the environment beyond that posed by the use of the raw material being replaced. This may be demonstrated by showing the secondary material is handled in a manner that: ~~is:~~
 - (A) **is** consistent with the raw materials being replaced; and
 - (B) guards against loss or release during storage.
 - (5) The manufacturing process cannot be a reclamation activity. In evaluating this factor, the commissioner ~~will~~ **shall** use the definition of reclamation in 329 IAC 3.1-4-21.1 to distinguish between reclamation and other manufacturing processes.
 - (6) The secondary material must be a legitimate ingredient necessary to the production process or product. This may be demonstrated by showing any of the following:
 - (A) The secondary material is effective in the manufacturing process.
 - (B) The secondary material is used under controlled conditions.
 - (C) The user documents and can show through records how, when, and in what volumes the secondary material is used.
 - (D) In two-party transactions, there is consideration, usually monetary, reflecting the value of the secondary material to the user.
 - (E) There are written specifications for the incoming material and the product.
 - (F) There is a program in place by which the user verifies that incoming materials meet established specifications.
 - (7) The person must demonstrate that there is a market for the product. This may be demonstrated by showing any of the following:
 - (A) Industry-recognized quality specifications for the product.
 - (B) Any recognitions of the product as a commodity.
 - (C) Contracts for purchase of the product or other agreements.
- (f) The product cannot be burned for energy recovery or used in a manner constituting disposal unless the secondary material is a fuel or originally intended to be used in a manner involving placement on the land.

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**
(Solid Waste Management Division; 329 IAC 3.1-6-5; filed Jan 3, 2000, 10:00 a.m.: 23 IR 1098; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 12. 329 IAC 3.1-7-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-7-1 Adoption of federal standards applicable to generators of hazardous waste
Authority: IC 4-22-2-21; IC 13-14-8; IC 13-22-2-4
Affected: IC 13-22-2

Sec. 1. (a) Except as provided otherwise in section 2 of this rule, **generators of hazardous waste must comply with 40 CFR 262***, ~~is hereby incorporated by reference. as amended by:~~

- (1) 81 FR 85715 through 81 FR 85724*;
- (2) 81 FR 85806 through 81 FR 85825*;
- (3) 82 FR 60900 through 82 FR 60901*; and
- (4) 83 FR 451 through 83 FR 452*.

(b) For purposes of this article, a reference to any part of 40 CFR 262 means the version referenced in subsection (a).

**These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (Solid Waste Management Division; 329 IAC 3.1-7-1; filed Jan 24, 1992, 2:00 p.m.: 15 IR 925; filed May 6, 1994, 5:00 p.m.: 17 IR 2063)*

SECTION 13. 329 IAC 3.1-7-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-7-2 Exceptions and additions; generator standards
Authority: IC 13-14-8; IC 13-22-2-4
Affected: IC 13-22-2; IC 13-22-4-3.1

Sec. 2. **The following are exceptions, and additions, and substitutions** to federal standards for generators: ~~are as follows:~~

- (1) Delete 40 CFR 262.12(b) **40 CFR 262.18(b)** and substitute **with "A generator who has not received an a U.S. EPA identification number may obtain one by applying on forms provided by the commissioner. Upon receipt of the completed forms, an a U.S. EPA identification number will be assigned."**
- (2) In addition to the requirements of 40 CFR 262.40, a generator shall keep the reports required by IC 13-22-4-3.1 on file for at least three (3) years after submission to the department.
- (3) ~~Delete 40 CFR 262.41~~ **In 40 CFR 262.41(a) and 40 CFR 262.41(b) dealing with concerning** biennial reporting, ~~and substitute section 14 of this rule. delete the phrase "EPA form 8700-13 A/B" and substitute with "forms provided by the department and prepared in accordance with the instructions on the form."~~
- (4) In 40 CFR 262.42(a)(2) **and 40 CFR 262.42(b)**, delete "in the Region in which the generator is located".
- (5) Delete 40 CFR 262.43 ~~dealing with~~ **concerning** additional reporting and substitute section 15 of this rule.

(6) ~~In 40 CFR 262.53* and 40 CFR 262.54*, references to the "EPA" are retained.~~ A copy of the notification of intent to export, which must be submitted to ~~the U.S. EPA in accordance with 40 CFR 262.83(b),~~ must also be submitted to the Indiana Department of Environmental Management, Office of Land Quality, 100 North Senate Avenue, Room 1101, Indianapolis, Indiana 46204-2251.

(7) Exception reports required from primary exporters pursuant to ~~40 CFR 262.55*~~ **40 CFR 262.83(h)** must be ~~filed with~~ **sent to** the Regional Administrator of the U.S. EPA and the commissioner.

(8) ~~Delete 40 CFR 262.56 dealing with annual reports for exports and substitute section 16 of this rule.~~

(9) ~~In 40 CFR 262.57(b)*, the reference to the "administrator" is retained.~~ **(8) In addition to the record retention times required in 40 CFR 262.83,** the commissioner may also request extensions of record retention times for hazardous waste export records.

~~*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, 732 North Capitol Street NW, Washington, D.C. 20401, viewed at www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (Solid Waste Management Division; 329 IAC 3.1-7-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 925; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3355; filed Jan 3, 2000, 10:00 a.m.: 23 IR 1098; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2432; filed Jun 3, 2002, 10:40 a.m.: 25 IR 3112; filed Jan 14, 2004, 3:20 p.m.: 27 IR 1875; filed Jun 9, 2006, 3:40 p.m.: 20060712-IR-329050066FRA, eff Sep 5, 2006; filed Oct 6, 2016, 1:20 p.m.: 20161102-IR-329160093FRA)~~

SECTION 14. 329 IAC 3.1-8-1 IS AMENDED TO READ AS FOLLOWS:

Rule 8. Standards Applicable to Transporters of Hazardous Waste

329 IAC 3.1-8-1 Adoption of federal standards applicable to transporters of hazardous waste

Authority: IC 4-22-2-21; IC 13-14-8; IC 13-22-2-4

Affected: IC 13-22

Sec. 1. (a) Except as provided otherwise in section 2 of this rule, **transporters of hazardous waste must comply with 40 CFR 263***, ~~is hereby incorporated by reference.~~ as amended by:

- (1) **81 FR 85724 through 81 FR 85725***;
- (2) **81 FR 85825 through 81 FR 85826***; and
- (3) **83 FR 452 through 83 FR 453***.

(b) For purposes of this article, a reference to any part of **40 CFR 263** means the version referenced in subsection (a).

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (Solid Waste Management Division; 329 IAC 3.1-8-1; filed Jan 24, 1992, 2:00 p.m.: 15 IR 934; filed May 6, 1994, 5:00 p.m.: 17 IR 2064; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)**

SECTION 15. 329 IAC 3.1-9-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-9-1 Adoption of federal standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities

Authority: IC 4-22-2-21; IC 13-14-8; IC 13-22-2-4

Affected: IC 13-22

Sec. 1. (a) Except as provided otherwise in section 2 of this rule, **owners and operators of hazardous waste treatment, storage, and disposal facilities must comply with 40 CFR 264***, ~~is hereby incorporated by reference. as amended by:~~

- (1) 81 FR 85725 through 81 FR 85726*;**
- (2) 81 FR 85826 through 81 FR 85827*;** and
- (3) 83 FR 453 through 83 FR 457*.**

(b) For purposes of this article, a reference to any part of 40 CFR 264 means the version referenced in subsection (a).

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (Solid Waste Management Division; 329 IAC 3.1-9-1; filed Jan 24, 1992, 2:00 p.m.: 15 IR 935; filed Oct 23, 1992, 12:00 p.m.: 16 IR 848; filed May 6, 1994, 5:00 p.m.: 17 IR 2064; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)**

SECTION 16. 329 IAC 3.1-9-2 IS AMENDED TO READ AS FOLLOWS:

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

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

Affected: IC 13-14-10; IC 13-22-2; IC 13-22-4-3.1; IC 13-30-3

Sec. 2. **The following are exceptions, and additions, and substitutions to federal final permit standards:** ~~are as follows:~~

- (1) Delete 40 CFR 264.1(a) ~~dealing with~~ concerning the scope of the permit program and substitute the following: with "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~~ concerning 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~~ **must** be communicated immediately to the ~~Office of Land Quality, Indiana~~ Department of Environmental Management, ~~100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206-6015,~~ **Office of Land Quality, Emergency Response Section, at (317) 233-7745 for out-of-state calls, or (888) 233-7745 for in-state calls** (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.~~ **must be met.**

(4) The written spill report required by ~~40 CFR 264.56(j)~~ **40 CFR 264.56(i)** 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~~ **concerning** the biennial report, delete "EPA form 8700-13B" **"EPA Form 8700-13 A/B"** 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)~~ **(6)** 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)~~ **One (1)** paper ~~copies~~ **copy** on the most current form prescribed by the commissioner.

(B) In addition to the paper copies required in clause (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)~~ **(7)** In addition to the requirements in 40 CFR 264, Subpart E, the reports required by IC 13-22-4-3.1 must be kept on file for at least three (3) years after submission to the department.

~~(9)~~ **(8)** In 40 CFR 264, Subpart F, the commissioner ~~will~~ **shall** consider the following contaminants in addition to the hazardous constituents listed in 40 CFR 261, Appendix VIII*:

Contaminant	Chemical Abstracts Service Registry Number
Alachlor	15972-60-8
Asbestos	1332-21-4
Atrazine	1912-24-9
Combined beta/photon emitters	10098-97-2, 10028-17-8
Dalapon	75-99-0
Di(2-ethylhexyl)adipate	103-23-1
cis-1,2-Dichloroethylene	156-59-2
Diquat	85-00-7
Ethylbenzene	100-41-4
Fluoride	16984-48-8
Glyphosate	1071-83-6

Gross alpha particle activity (including radium 226 but excluding radon and uranium)	12587-46-1
Nitrate (as N)	14797-55-8
Nitrite (as N)	14797-65-0
Picloram	1918-02-1
Radium 226 and 228 (combined)	13982-63-3, 15262-20-1
Simazine	122-34-9
Styrene	100-42-5

~~(10)~~ **(9)** In 40 CFR 264.93(b), the commissioner may consider 327 IAC 2-11 in addition to the factors listed.

~~(11)~~ **(10)** Delete 40 CFR 264.94(a)(2), Table 1, and substitute the following:

Constituent	Maximum Concentration (mg/L)
Arsenic	0.010
Barium	1.0
Cadmium	0.005
Chromium	0.05
Lead	0.015
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin (1,2,3,4,10,10-hexachloro-1,7-epoxy 1,4,4a,5,6,7,8,9a-octahydro-1,4-endo, endo-5,8-dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer)	0.0002
Methoxychlor (1,1,1-Trichloro-2,2-bis (p-methoxyphenylethane)	0.04
Toxaphene (C ₁₀ H ₁₀ Cl ₆ , Technical chlorinated camphene, 67-69 percent chlorine)	0.003
2,4-D (2,4-Dichlorophenoxyacetic acid)	0.07
2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.01

~~(12)~~ **(11)** In 40 CFR 264.94(b), the commissioner may consider 327 IAC 2-11 in addition to the factors listed.

~~(13)~~ **(12)** In 40 CFR 264.99(g), in addition to the constituents listed in 40 CFR 264, Appendix IX, the commissioner may require a facility to monitor for the following contaminants:

Contaminant	Chemical Abstracts Service Registry Number
Alachlor	15972-60-8
Asbestos	1332-21-4
Atrazine	1912-24-9
Combined beta/photon emitters	10098-97-2, 10028-17-8
Dalapon	75-99-0
Di(2-ethylhexyl)adipate	103-23-1

cis-1,2-Dichloroethylene	156-59-2
Diquat	85-00-7
Fluoride	16984-48-8
Glyphosate	1071-83-6
Gross alpha particle activity (including radium 226 but excluding radon and uranium)	12587-46-1
Nitrate (as N)	14797-55-8
Nitrite (as N)	14797-65-0
Picloram	1918-02-1
Radium 226 and 228 (combined)	13982-63-3, 15262-20-1
Simazine	122-34-9

~~(14)~~ **(13)** Delete 40 CFR 264, Subpart H ~~dealing with~~ **concerning** financial requirements and substitute 329 IAC 3.1-15.

~~(15)~~ **(14)** Exceptions and additions to the standards for tank systems in 40 CFR 264, Subpart J are under section 3 of this rule.

~~(16)~~ **(15)** In 40 CFR 264.221(e)(2)(i)(C), delete "permits under RCRA Section 3005(c)" and insert "with final state permits".

~~(17)~~ **(16)** Delete 40 CFR 264.301(l).

~~(18)~~ **(17)** Delete 40 CFR 264, Appendix VI.

~~(19)~~ **(18)** In 40 CFR 264.316(b), delete "(49 CFR Parts 178 and 179)" and substitute "(49 CFR Part 178)".

~~(20)~~ **(19)** In 40 CFR 264.316(f), delete "fiber drums" and substitute "nonmetal containers".

~~(21)~~ **(20)** Delete 40 CFR 264.555(e)(6).

***This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**

(Solid Waste Management Division; 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; filed Jan 14, 2004, 3:20 p.m.: 27 IR 1875; filed Jul 22, 2004, 10:15 a.m.: 27 IR 3980; errata filed Aug 9, 2004, 10:45 a.m.: 27 IR 4023; filed Dec 26, 2007, 1:44 p.m.: 20080123-IR-329060556FRA)

SECTION 17. 329 IAC 3.1-10-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-10-1 Adoption of federal interim status standards for owners and operators of hazardous waste treatment, storage, and disposal facilities

Authority: IC 4-22-2-21; IC 13-14-8; IC 13-22-2-4

Affected: IC 13-22

Sec. 1. (a) Except as provided otherwise in section 2 of this rule, **owners and operators of hazardous waste treatment, storage, and disposal facilities must comply with the interim status standards in 40 CFR 265***, ~~is hereby incorporated by reference. as amended by:~~

- (1) **81 FR 85726 through 81 FR 85727***;
- (2) **81 FR 85827***; and
- (3) **83 FR 457 through 83 FR 462***.

(b) For purposes of this article, a reference to any part of 40 CFR 265 means the version referenced in subsection (a).

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (Solid Waste Management Division; 329 IAC 3.1-10-1; filed Jan 24, 1992, 2:00 p.m.: 15 IR 937; filed Oct 23, 1992, 12:00 p.m.: 16 IR 849; filed May 6, 1994, 5:00 p.m.: 17 IR 2064; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)**

SECTION 18. 329 IAC 3.1-10-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-10-2 Exceptions and additions; interim status standards

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

Affected: IC 4-21.5; IC 13-14-10; IC 13-22-2; IC 13-22-4-3.1; IC 13-30-3

Sec. 2. **The following are exceptions, and additions, and substitutions** to federal interim status standards: ~~are as follows:~~

- (1) In 40 CFR 265.1(a) ~~dealing with~~ **concerning** scope of the permit, delete "national" and insert "state".
- (2) In 40 CFR 265.1(b), delete "section 3005 of RCRA" and insert "329 IAC 3.1-13" in ~~both places~~ **each place** where it occurs.
- (3) Delete 40 CFR 265.1(c)(4).
- (4) In 40 CFR 265.4 ~~dealing with~~ **concerning** imminent hazard action, delete "7003 of RCRA" and insert "IC 13-30-3 and IC 13-14-10".
- (5) Reports to the state required at 40 CFR 265.56(d) ~~shall~~ **must** be communicated immediately to the ~~Office of Land Quality, Indiana Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206-6015,~~ **Office of Land Quality, Emergency Response Section, at (317) 233-7745 for out-of-state calls, or (888) 233-7745 for in-state calls** (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.~~ **must be met.**
- (6) The written spill report required by ~~40 CFR 265.56(j)~~ **40 CFR 265.56(i)** 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.

- (7) In 40 CFR 265.75 ~~dealing with~~ **concerning** the biennial report, delete “EPA form 8700-13B” “**EPA Form 8700-13 A/B**” and insert “form provided by the commissioner”.
- (8) In 40 CFR 265.76 ~~dealing with unmanifested waste reports~~, delete “The unmanifested waste report must be submitted on EPA form 8700-13B”.
- (9) (8) In 40 CFR 265.77 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)~~ **One (1)** paper ~~copies~~ **copy** on the most current form prescribed by the department.
 - (B) In addition to the paper copies required in (A), an electronic report in a format prescribed by the department.”.
- (10) (9) In 40 CFR 265.77 regarding additional reports, insert, after the first sentence in (d), “The commissioner may request other information as required by Subparts AA through CC of this part be submitted in an electronic format as prescribed by the commissioner.”.
- (11) (10) In addition to the requirements in 40 CFR 265, Subpart E, the reports required by IC 13-22-4-3.1 must be kept on file for at least three (3) years after submission to the department.
- (12) (11) In 40 CFR 265.90 ~~dealing with~~ **concerning** ground water monitoring requirements, delete ~~all references to effective date.~~ **the following phrases:**
- (A) **"Within one year after the effective date of these regulations" at 40 CFR 265.90(a) and 40 CFR 265.90(d)(1).**
 - (B) **"Not later than one year after the effective date of these regulations" at 40 CFR 265.90(d)(2).**
- (13) (12) Delete 40 CFR 265.112(d)(3)(ii) and substitute **with** "Issuance of a judicial decree or final order under section 3008 of RCRA, judiciary decree under IC 13-30-3, or final administrative order under IC 4-21.5 to cease receiving hazardous waste or close".
- (14) (13) Delete 40 CFR 265.118(e)(2) and substitute the language in subdivision (11): **(12).**
- (15) (14) Delete 40 CFR 265, Subpart H ~~dealing with~~ **concerning** financial requirements and substitute 329 IAC 3.1-14.
- (16) (15) In 40 CFR 265.191(a), the January 12, 1988, deadline date for integrity assessments ~~shall~~ **only apply applies** to existing interim status or permitted tank systems that are underground and cannot be entered for inspection. Integrity assessments ~~shall~~ **must** be completed on all remaining tank systems by December 20, 1989.
- (17) (16) In 40 CFR 265.191(c), delete "July 14, 1986" and insert "June 20, 1988".
- (18) (17) In 40 CFR 265.193(a), delete all references to deadline dates for secondary containment for existing systems and substitute the dates specified in 329 IAC 3.1-9-3(c)(1) through 329 IAC 3.1-9-3(c)(8).
- (19) In 40 CFR 265.301(d)(2)(i)(B) ~~dealing with the definition of the term "underground source of drinking water"~~, delete "144.3 of this chapter" and insert "40 CFR 270.2".
- (20) (18) In 40 CFR 265.301(d)(2)(i)(C), delete "RCRA Section 3005(c)" and insert "329 IAC 3.1-13".
- (21) In 40 CFR 265.314(g)(2) ~~dealing with the definition of the term "underground source of drinking water"~~, delete "144.3 of this chapter" and insert "40 CFR 270.2".

~~(22)~~ **(19)** In 40 CFR 265.316(b), delete "(49 CFR Parts 178 and 179)" and substitute "(49 CFR Part 178)".

~~(23)~~ **(20)** In 40 CFR 265.316(f), delete "fiber drums" and substitute "nonmetal containers".

~~(24)~~ **(21)** Delete 40 CFR 265.430(b) and substitute ~~the following:~~ **with** "The requirements of this subpart apply to owners and operators of wells used to dispose of hazardous waste which are classified as Class I and Class IV in section 3 of this rule."

(Solid Waste Management Division; 329 IAC 3.1-10-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 937; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3357; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3365; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1113; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2742; 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 2434; filed Jun 3, 2002, 10:40 a.m.: 25 IR 3113; filed Jan 14, 2004, 3:20 p.m.: 27 IR 1876)

SECTION 19. 329 IAC 3.1-11-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-11-1 Adoption of federal standards for the management of specific hazardous wastes and specific types of hazardous waste management facilities

Authority: IC 4-22-2-21; IC 13-14-8; IC 13-22-2-4

Affected: IC 13-22-2

Sec. 1. **(a)** Except as provided otherwise in section 2 of this rule, **the requirements of 40 CFR 266***, ~~is hereby incorporated by reference.~~ **as amended by:**

(1) 81 FR 85727 through 81 FR 85728*; and

(2) 81 FR 85827*;

apply to the management of specific hazardous wastes and specific types of hazardous waste management facilities.

(b) For purposes of this article, a reference to any part of 40 CFR 266 means the version referenced in subsection (a).

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**

(Solid Waste Management Division; 329 IAC 3.1-11-1; filed Jan 24, 1992, 2:00 p.m.: 15 IR 939; filed Oct 23, 1992, 12:00 p.m.: 16 IR 849; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3358; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 20. 329 IAC 3.1-11-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-11-2 Exceptions and additions; specific standards

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

Affected: IC 13-15-2; IC 13-22-2

Sec. 2. **The following are exceptions, and additions, and substitutions** to standards for the management of specific hazardous waste and specific types of hazardous waste facilities: ~~are as follows:~~

(1) Delete 40 CFR 266.23(b) and substitute ~~the following:~~ **with** "No person may apply or allow the application of used oil as defined in 329 IAC 3.1-4 to any ground surface except for purposes of treatment in accordance with a permit issued by the department under IC 13-15-2. The use of unused waste oil or other waste material, which is contaminated with dioxin or hazardous waste or exhibits any characteristic of hazardous waste except ignitability for dust suppression or road treatment is prohibited."

(2) In 40 CFR 266.102(a)(2)(viii) ~~dealing with~~ **concerning** applicable financial requirements for burners, the references to federal cites ~~shall be~~ **are** converted as follows:

(A) 264.141 means 329 IAC 3.1-15-2.

(B) 264.142 means 329 IAC 3.1-15-3.

(C) 264.143 means 329 IAC 3.1-15-4.

(D) 264.147 through 264.151 means 329 IAC 3.1-15-8 through 329 IAC 3.1-15-10.

(3) Delete 40 CFR 266, Subpart G, except for 40 CFR 266.80(a)(6) through ~~40 CFR 266.80(a)(7),~~ **40 CFR 266.80(a)(10)**, and insert 329 IAC 3.1-11.1.

(Solid Waste Management Division; 329 IAC 3.1-11-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 939; errata filed Feb 6, 1992, 3:15 p.m.: 15 IR 1027; filed Oct 23, 1992, 12:00 p.m.: 16 IR 849; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2743; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jul 15, 2013, 11:02 a.m.: 20130814-IR-329090365FRA; filed Jun 3, 2015, 1:21 p.m.: 20150701-IR-329140288FRA)

SECTION 21. 329 IAC 3.1-11.5-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-11.5-1 Adoption of federal standards for owners and operators of hazardous waste facilities operating under a standardized permit

Authority: IC 4-22-2-21; IC 13-14-8; IC 13-22-2-4

Affected: IC 13-22-2

Sec. 1. (a) Except as provided otherwise in section 2 of this rule, **owners and operators of hazardous waste facilities operating under a standardized permit must comply with 40 CFR 267***, ~~is incorporated by reference.~~ **as amended by:**

(1) **81 FR 85728***; and

(2) **81 FR 85827***.

(b) For purposes of this article, a reference to any part of **40 CFR 267** means the version referenced in subsection (a).

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government**

Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.
*(Solid Waste Management Division; 329 IAC 3.1-11.5-1; filed Jul 31, 2009, 8:35 a.m.:
20090826-IR-329080212FRA)*

SECTION 22. 329 IAC 3.1-12-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-12-1 Adoption of federal land disposal restrictions

Authority: IC 4-22-2-21; IC 13-14-8; IC 13-22-2-4

Affected: IC 13-22-2

Sec. 1. (a) Except as provided otherwise in section 2 of this rule, **the requirements of 40 CFR 268*, is hereby incorporated by reference. as amended by 81 FR 85827 through 81 FR 85828***, apply to the identification of hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.

(b) For purposes of this article, a reference to any part of 40 CFR 268 means the version referenced in subsection (a).

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**
(Solid Waste Management Division; 329 IAC 3.1-12-1; filed Jan 24, 1992, 2:00 p.m.: 15 IR 939; filed May 6, 1994, 5:00 p.m.: 17 IR 2065; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 23. 329 IAC 3.1-13-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-13-1 Adoption of federal procedures for state administered permit program

Authority: IC 4-22-2-21; IC 13-14-8; IC 13-15-1-3; IC 13-15-2; IC 13-22-2-4

Affected: IC 13-15; IC 13-22-2; IC 13-22-3

Sec. 1. (a) Except as provided otherwise in section 2 of this rule, **the requirements of 40 CFR 270*, is hereby incorporated by reference. as amended by 81 FR 85828***, apply to federal procedures for a state administered permit program for hazardous waste facilities.

(b) For purposes of this article, a reference to any part of 40 CFR 270 means the version referenced in subsection (a).

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**
(Solid Waste Management Division; 329 IAC 3.1-13-1; filed Jan 24, 1992, 2:00 p.m.: 15 IR 940; filed May 6, 1994, 5:00 p.m.: 17 IR 2065; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)

SECTION 24. 329 IAC 3.1-16-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-16-1 Adoption of universal waste rule

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

Affected: IC 13-22-2

Sec. 1. (a) Except as provided otherwise in section 2 of this rule, **persons that manage universal waste must comply with the requirements of 40 CFR 273***, ~~is incorporated by reference.~~ **as amended by:**

(1) 81 FR 85729*; and

(2) 81 FR 85828*.

(b) For purposes of this article, a reference to any part of 40 CFR 273 means the version referenced in subsection (a).

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (Solid Waste Management Division; 329 IAC 3.1-16-1; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3367; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)**

SECTION 25. 329 IAC 10-2-153 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-2-153 "Regulated hazardous waste" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1

Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 153. "Regulated hazardous waste" means a solid waste **that is:**

(1) ~~that is~~ a hazardous waste as defined by the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq., January 1, 1989) as amended;

(2) ~~that is~~ not excluded from regulation as a hazardous waste under 329 IAC 3.1; and

(3) ~~that is~~ not generated **in compliance with 329 IAC 3.1-7** by a ~~conditionally exempt~~ very small quantity generator. ~~as defined in 329 IAC 3.1.~~

(Solid Waste Management Division; 329 IAC 10-2-153; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1782)

SECTION 26. 329 IAC 10-2-198.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-2-198.5 "Very small quantity generator" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1

Affected: IC 13-19-3; IC 13-30-2; IC 36-9-30

Sec. 198.5. "Very small quantity generator" has the meaning set forth in 40 CFR

260.10*, as added by 81 FR 85806*.

***This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana, 46204. (Solid Waste Management Division; 329 IAC 10-2-198.5)**

SECTION 27. 329 IAC 10-3-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-3-2 Exclusion; hazardous waste

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1

Affected: IC 13-14; IC 13-30; IC 36-9-30

Sec. 2. (a) Hazardous wastes are:

(1) regulated by and ~~shall~~ **must** be treated, stored, and disposed of in accordance with 329 IAC 3.1; ~~Hazardous waste that is regulated by 329 IAC 3.1 is~~ **and**

(2) not subject to the provisions of this article, except as provided in subsection (c).

(b) ~~No~~ Hazardous waste that is regulated by 329 IAC 3.1 ~~shall~~ **must not** be disposed at any solid waste land disposal facility regulated under this article, except as provided in subsection (c).

(c) Hazardous waste generated **in compliance with 329 IAC 3.1-7** by a ~~conditionally-exempt~~ **very** small quantity generator (~~CESQG hazardous waste~~), as regulated under ~~40 CFR-261.5, revised July 1, 2002~~, may only be disposed of in either **a:**

(1) ~~a~~ municipal solid waste landfill permitted in accordance with this article; or

(2) ~~a~~ hazardous waste landfill permitted in accordance with 329 IAC 3.1.

(d) Facilities permitted under 329 IAC 3.1 are not required to obtain permits under this article for the storage, treatment, or disposal of nonhazardous solid waste where ~~such~~ **the** solid waste is treated or disposed of as a hazardous waste at the receiving hazardous waste facility. (*Solid Waste Management Division; 329 IAC 10-3-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1795; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3776; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Feb 9, 2004, 4:51 p.m.: 27 IR 1798, eff Apr 1, 2004*)

SECTION 28. 329 IAC 10-9-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 10-9-2 Municipal solid waste landfill waste criteria

Authority: IC 13-14-8-7; IC 13-15-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-19-3; IC 13-20; IC 36-9-30

Sec. 2. (a) Except as provided in subsection (b), a municipal solid waste landfill may accept any solid waste including the following:

(1) Municipal solid waste.

- (2) Construction/demolition waste.
- (3) ~~CESQG~~ Hazardous waste **generated in compliance with 329 IAC 3.1-7 by a very small quantity generator.**
- (4) Industrial process waste.
- (5) Nonhazardous sludge.
- (6) Pollution control waste.
- (7) Any solid waste authorized by the facility permit.

(b) A municipal solid waste landfill may not accept for disposal any of the following solid wastes:

- (1) Solid waste that is prohibited by the facility permit.
- (2) Liquid waste, except those liquids allowed in 329 IAC 10-20-27.
- (3) Hazardous waste, except ~~CESQG~~ hazardous waste **generated in compliance with 329 IAC 3.1-7 by a very small quantity generator.**
- (4) Infectious waste, except as provided in ~~the rules of the Indiana state department of health at 410 IAC 1-3-26.~~
- (5) Whole waste tires, except as provided in 329 IAC 10-20-32.
- (6) Lead-acid batteries prohibited by IC 13-20-16.
- (7) Vegetative matter prohibited by IC 13-20-9.
- (8) Waste or material containing PCB prohibited by 329 IAC 4.1.
- (9) Regulated asbestos-containing material that is not managed in accordance with ~~the rules of the air pollution control board at 326 IAC 14-10 and 329 IAC 10-8.2-4.~~
- (10) Any appliance or motor vehicle air conditioner containing a refrigerant or other class I or class II substance that has not been removed as required by 40 CFR 82.156*, revised as of July 1, 2002. ~~40 CFR 82.156 is available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, (202) 783-3238.~~
- (11) Biosolid, as defined in ~~the rules of the water pollution control board at 327 IAC 6.1-2-7,~~ that is not managed in accordance with ~~the rules of the water pollution control board at 327 IAC 6.1-1-7.~~
- (12) Wastewater, as defined in ~~the rules of the water pollution control board at 327 IAC 7.1-2-41,~~ that is not managed in accordance with ~~the rules of the water pollution control board at 327 IAC 7.1-7-1.~~

***This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana, 46204.** *(Solid Waste Management Division; 329 IAC 10-9-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1805; filed Jan 9, 1998, 9:00 a.m.: 21 IR 1725, eff one hundred eighty (180) days after filing with the secretary of state; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jul 14, 2004, 9:15 a.m.: 27 IR 3963; errata filed Oct 7, 2004, 11:50 a.m.: 28 IR 608; readopted filed May 14, 2007, 1:53 p.m.: 20070523-IR-329070138BFA; readopted filed Jul 29, 2013, 9:20 a.m.: 20130828-IR-329130179BFA)*

SECTION 29. 329 IAC 11-2-48.5 IS ADDED TO READ AS FOLLOWS:

329 IAC 11-2-48.5 “Very small quantity generator” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1

Affected: IC 13-19-3; IC 13-30-2; IC 36-9-30

Sec. 48.5. “Very small quantity generator” has the meaning set forth in 40 CFR 260.10*, as added by 81 FR 85806*.

***This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana, 46204. (Solid Waste Management Division; 329 IAC 11-2-48.5)**

SECTION 30. 329 IAC 11-3-2 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-3-2 Exclusion; hazardous waste

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1

Affected: IC 13-19-3; IC 13-30-2; IC 36-9-30

Sec. 2. (a) Hazardous wastes are:

- (1) regulated by and ~~shall~~ **must** be treated, stored, and disposed of in accordance with 329 IAC 3.1; ~~Hazardous waste that is regulated by 329 IAC 3.1 is~~ **and**
- (2) not subject to the provisions of this article.

(b) ~~No~~ Hazardous waste that is regulated by 329 IAC 3.1 ~~shall~~ **must not** be processed at any solid waste facility regulated under this article.

(c) As used in this article, "hazardous waste that is regulated by 329 IAC 3.1" does not include ~~CESQG hazardous waste as defined in 329 IAC 10-2-29.5. CESQG generated in compliance with 329 IAC 3.1-7 by a very small quantity generator.~~ **Hazardous waste generated in compliance with 328 IAC 3.1-7 by a very small quantity generator** must be disposed of in accordance with ~~329 IAC 10 and 40 CFR 261.5, revised as of July 1, 2002. 40 CFR 261.5 is available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, (202) 783-3238. 329 IAC 10-3-~~ **2(c).**

(d) Facilities permitted under 329 IAC 3.1 are not required to obtain permits under this article for the storage, treatment, or disposal of nonhazardous solid waste where ~~such~~ **the** solid waste is treated or disposed of as a hazardous waste at the receiving hazardous waste facility. (Solid Waste Management Division; 329 IAC 11-3-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1934; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jul 14, 2004, 9:15 a.m.: 27 IR 3971; errata filed Oct 7, 2004, 11:50 a.m.: 28 IR 608; readopted filed May 14, 2007, 1:53 p.m.: 20070523-IR-329070138BFA; readopted filed Jul 29, 2013, 9:20 a.m.: 20130828-IR-

SECTION 31. 329 IAC 11-13.5-13 IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-13.5-13 Monitoring and managing incoming waste for transfer stations

Authority: IC 13-14-8-7; IC 13-15-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-20-9; IC 13-20-16; IC 36-9-30

Sec. 13. (a) Except as provided in subsection (b), a transfer station may accept all solid waste regulated by this article including the following:

- (1) MSW.
- (2) Construction/demolition waste.
- (3) ~~CESQG~~ Hazardous waste **generated in compliance with 329 IAC 3.1-7 by a very small quantity generator.**
- (4) Industrial process waste.
- (5) Pollution control waste in nonleaking containers.
- (6) Any solid waste authorized by the facility permit.

(b) A transfer station may not accept any of the following:

- (1) Solid waste that is prohibited by the facility permit.
- (2) Liquid waste, as defined in 329 IAC 10-2-106.
- (3) Hazardous waste, except ~~CESQG~~ hazardous waste **generated in compliance with 329 IAC 3.1-7 by a very small quantity generator.**
- (4) Infectious waste, except as provided in ~~the rules of the state department of health at 410 IAC 1-3-26 and section 15 of this rule.~~
- (5) Whole waste tires, except as provided in section 16 of this rule.
- (6) Lead-acid batteries prohibited by IC 13-20-16.
- (7) Vegetative matter prohibited by IC 13-20-9.
- (8) Waste or material containing PCB prohibited by 329 IAC 4.1.
- (9) RACM that is not managed in accordance with ~~the rules of the air pollution control board at 326 IAC 14-10 and 329 IAC 10-8.2-4.~~
- (10) Any appliance or motor vehicle air conditioner containing a refrigerant or other class I or class II substance that has not been removed as required by 40 CFR 82.156*, revised as of July 1, 2002. ~~40 CFR 82.156 is available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, (202) 783-3238.~~
- (11) Biosolid, as defined in ~~the rules of the water pollution control board at 327 IAC 6.1-2-7, that is not managed in accordance with the rules of the water pollution control board at 327 IAC 6.1-1-7.~~
- (12) Wastewater, as defined in ~~the rules of the water pollution control board at 327 IAC 7.1-2-41, that is not managed in accordance with the rules of the water pollution control board at 327 IAC 7.1-7-1.~~
- (13) More than two hundred twenty (220) pounds of pollution control waste in a shipment that is not enclosed in nonleaking containers.

(c) Incoming MSW must be monitored daily by transfer station employees. The monitoring must be conducted by personnel who are able to recognize the visual indications of solid waste as listed in subsection (b) that may be present in the MSW observed.

(d) The monitoring may be accomplished by either of the following methods:

- (1) Conducting, on a daily basis, a minimum of two (2) random inspections that must consist of a visual observation of all off-loaded MSW prior to processing.
- (2) An overview of the MSW on an ongoing basis by facility personnel.

(e) Random inspections conducted under subsection (d)(1) must be recorded in a format established by the department.

(f) A facility conducting overview inspections of the incoming MSW under subsection (d)(2) of this section must only record events in which solid waste as listed in subsection (b) is found. Records of ~~such~~ the events must be in a format established by the department, and the waste must be managed in accordance with the applicable laws.

***This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana, 46204. (Solid Waste Management Division; 329 IAC 11-13.5-13; filed Jun 28, 2010, 2:11 p.m.: 20100728-IR-329060070FRA; readopted filed Jun 6, 2016, 11:52 a.m.: 20160706-IR-329160144BFA)**

SECTION 32. 329 IAC 13-3-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 13-3-1 Applicability

Authority: IC 13-14-8; IC 13-19-3

Affected: IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 261; 40 CFR 279.10; 40 CFR 761.20(e)

Sec. 1. (a) The department presumes that used oil is to be recycled unless a used oil handler disposes of used oil or sends used oil for disposal. Except as provided in section 2 of this rule, this article applies to used oil, and to materials identified in this section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in 40 CFR 261, Subpart C*, revised as of July 1, 2005.

(b) Mixtures of used oil and hazardous waste must be handled as follows:

(1) For mixtures of used oil with a listed hazardous waste, the following ~~shall~~ apply:

- (A) Mixtures of used oil and hazardous waste that is listed in 40 CFR 261, Subpart D*, revised as of July 1, 2005, are subject to regulation as hazardous waste under 329 IAC 3.1 rather than as used oil under this article.
- (B) Used oil containing more than one thousand (1,000) parts per million total halogens is presumed to be a hazardous waste because it has been mixed with

halogenated hazardous waste listed in 40 CFR 261, Subpart D*, revised as of July 1, 2005. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste. For example, this may be done by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in 40 CFR 261, Appendix VIII*, revised as of July 1, 2005. The rebuttable presumption does not apply to the following:

(i) Metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in 329 IAC 13-4-5(3), to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if ~~such~~ **the** oils or fluids are recycled in any other manner or disposed.

(ii) Used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(2) Used oil mixed with characteristic hazardous waste identified in 40 CFR 261, Subpart C*, revised as of July 1, 2005, is subject to 329 IAC 3.1.

(3) Mixtures of used oil and ~~conditionally exempt small quantity generator~~ hazardous waste ~~regulated under 40 CFR 261.5, revised as of July 1, 2005,~~ **generated in compliance with 329 IAC 3.1-7 by a very small quantity generator as defined in 40 CFR 260.10*, as added by 81 FR 85806***, are subject to regulation as used oil under this article.

(c) Materials containing or otherwise contaminated with used oil must be handled as follows:

(1) Except as provided in subdivision (2), materials containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible ~~such~~ **so** that no visible signs of free-flowing oil remain in or on the material:

(A) are not used oil and thus not subject to this article; and

(B) if applicable, are subject to the hazardous waste regulations under 329 IAC 3.1.

(2) Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under this article.

(3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this article.

(d) Mixtures of used oil with products must be handled as follows:

(1) Except as provided in subdivision (2), mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this article.

(2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this article once the used oil and diesel fuel have been mixed. Before mixing, the used oil is subject to the requirements of 329 IAC 13-4.

(e) Materials derived from used oil must be handled as follows:

(1) Materials that are reclaimed from used oil that are used beneficially and are not burned for energy recovery or used in a manner constituting disposal, such as re-refined lubricants, are:

(A) not used oil and thus are not subject to this article; and

(B) not solid wastes and are thus not subject to the hazardous waste regulations under 329 IAC 3.1 as provided in 40 CFR 261.3(c)(2)(A)*, revised as of July 1, 2005.

(2) Materials produced from used oil that are burned for energy recovery, such as used oil fuels, are subject to regulation as used oil under this article.

(3) Except as provided in subdivision (4), materials derived from used oil that are disposed of or used in a manner constituting disposal are:

(A) not used oil and ~~thus~~ are not subject to this article; and

(B) solid wastes and ~~thus~~ are subject to the hazardous waste regulations under 329 IAC 3.1 if the materials are listed or identified as hazardous waste.

(4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this article.

(f) Wastewater, the discharge of which is subject to regulation under either Section 402 or 307(b) of the Clean Water Act, 33 U.S.C. 1342 or 33 U.S.C. 1317(b), respectively, including wastewaters at facilities that have eliminated the discharge of wastewater, contaminated with de minimis quantities of used oil are not subject to the requirements of this article. As used in this subsection, "de minimis quantities of used oils" means small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception ~~will~~ **does** not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

(g) Used oil introduced into crude oil pipelines or a petroleum refining facility must be handled as follows:

(1) Used oil mixed with crude oil or natural gas liquids, such as in a production separator or crude oil stock tank, for insertion into a crude oil pipeline is exempt from the requirements of this article. The used oil is subject to the requirements of this article before the mixing of used oil with crude oil or natural gas liquids.

(2) Mixtures of used oil and crude oil or natural gas liquids containing less than one percent (1%) used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining process at a point before crude distillation or catalytic cracking are exempt from the requirements of this article.

(3) Used oil that is inserted into the petroleum refining facility process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of this article provided that the used oil constitutes less than one percent (1%) of the crude oil feed to any petroleum refining facility process unit at any given time. Before insertion into the petroleum refining facility process, the used oil is subject to the requirements of this article.

(4) Except as provided in subdivision (5), used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this article only if the used oil meets the specification of section 2 of this rule. Before insertion into the petroleum refining facility process, the used oil is subject to the requirements of this article.

(5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as an article of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this article. This exemption does not extend to used oil that is intentionally introduced into a hydrocarbon recovery system, such as by pouring collected used oil into the wastewater treatment system.

(6) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this article.

(h) Used oil produced on vessels from normal shipboard operations is not subject to this article until it is transported ashore.

(i) Used oil containing less than fifty (50) parts per million PCB is subject to the requirements of this article unless, because of dilution, it is regulated under 329 IAC 4.1 as a used oil containing PCB at fifty (50) parts per million or greater. Used oil containing PCB subject to the requirements of this article may also be subject to the prohibitions and requirements found in 329 IAC 4.1.

(j) Used oil containing PCB at concentrations of fifty (50) parts per million or greater is not subject to the requirements of this article, but is subject to regulation under 329 IAC 4.1. ~~No~~ A person may **not** avoid these provisions by diluting used oil containing PCB, unless otherwise specifically provided for in this article or in 329 IAC 4.1.

(k) The use of waste oil that contains equal to or greater than two (2) parts per million PCB as a sealant, coating, or dust control agent is prohibited. Prohibited uses include, but are not limited to, the following:

- (1) Road oiling.
- (2) General dust control.
- (3) Use as a pesticide or herbicide carrier.
- (4) Use as a rust preventative on pipes.

(l) In addition to any applicable requirements under 329 IAC 13-8 and 329 IAC 13-9, marketers and burners of used oil who market, process, or distribute in commerce for energy recovery, used oil containing equal to or greater than two (2) parts per million PCB must comply with section 4 of this rule.

~~(m) 40 CFR 261 and 40 CFR 761 are available from the Government Publishing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or may be viewed at www.gpo.gov.~~

***These documents are incorporated by reference. Copies may be obtained from the**

Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana, 46204.
(Solid Waste Management Division; 329 IAC 13-3-1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1494; readopted filed Sep 7, 2001, 1:35 p.m.: 25 IR 238; filed Jul 14, 2004, 9:15 a.m.: 27 IR 3978; filed Apr 13, 2005, 11:30 a.m.: 28 IR 2666; filed Jun 9, 2006, 3:40 p.m.: 20060712-IR-329050066FRA; errata filed Feb 9, 2016, 2:10 p.m.: 20160224-IR-329160057ACA)

SECTION 33. THE FOLLOWING ARE REPEALED: 329 IAC 3.1-4-24; 329 IAC 3.1-7-14; 329 IAC 3.1-7-16; 329 IAC 10-2-29.5; 329 IAC 11-2-5.3.