

Bold = new language

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

TITLE 329 SOLID WASTE MANAGEMENT DIVISION

PROPOSED RULE AS PRELIMINARILY ADOPTED

LSA Document #20-204

DIGEST

Amends 329 IAC 3.1-1-9, 329 IAC 3.1-3-1, 329 IAC 3.1-4-1, 329 IAC 3.1-6-1, 329 IAC 3.1-7-1, 329 IAC 3.1-9-1, 329 IAC 3.1-10-1, 329 IAC 3.1-11-1, 329 IAC 3.1-12-1, 329 IAC 3.1-13-1, and 329 IAC 3.1-16-1 concerning management standards for hazardous waste pharmaceuticals and additional recent hazardous waste updates. 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: April 22, 2020, Indiana Register (DIN: 20200422-IR-329200204FDA).

Notice of First Hearing: April 22, 2020, Indiana Register (DIN: 20200422-IR-329200204PHA).

Change in Notice of Public Hearing: July 29, 2020, Indiana Register (DIN: 20200729-IR-329200204CHA).

Date of First Hearing: September 9, 2020.

Proposed Rule: September 23, 2020, Indiana Register (DIN: 20200923-IR-329200204PRA).

Notice of Second Hearing: September 23, 2020, Indiana Register (DIN: 20200923-IR-329200204PHA).

Date of Second Hearing: November 18, 2020.

329 IAC 3.1-1-9; 329 IAC 3.1-3-1; 329 IAC 3.1-4-1; 329 IAC 3.1-6-1; 329 IAC 3.1-7-1; 329 IAC 3.1-9-1; 329 IAC 3.1-10-1; 329 IAC 3.1-11-1; 329 IAC 3.1-12-1; 329 IAC 3.1-13-1; 329 IAC 3.1-16-1

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.
- (6) EPA region.
- (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 article:

- (1) **40 CFR 260.2(c)*.**

(2) 40 CFR 260.2(d)*.

- ~~(1)~~ **(3)** 40 CFR 260.4(a)(4)*.
- ~~(2)~~ **(4)** 40 CFR 260.5(b)(2)*.
- ~~(3)~~ **(5)** 40 CFR 261.6(a)(3)(i)(A)*.
- ~~(4)~~ **(6)** 40 CFR 261.6(a)(3)(i)(B)*.
- ~~(5)~~ **(7)** 40 CFR 261.39(a)(5)*.
- ~~(6)~~ **(8)** 40 CFR 261.41*.
- ~~(7)~~ **(9)** 40 CFR 262.11*, except for 40 CFR 262.11(f).
- ~~(8)~~ **(10)** 40 CFR 262.20(a)(3)(ii)*.
- ~~(9)~~ **(11)** 40 CFR 262.21*.
- ~~(10)~~ **(12)** 40 CFR 262.24(a)(3)*.
- ~~(11)~~ **(13)** 40 CFR 262.25*.
- ~~(12)~~ **(14)** 40 CFR 262, Subpart H*.
- ~~(13)~~ **(15)** 40 CFR 264.12(a)*.
- ~~(14)~~ **(16)** 40 CFR 264.71(a)(2)(v)*.
- ~~(15)~~ **(17)** 40 CFR 264.71(d)*.
- ~~(16)~~ **(18)** 40 CFR 264.71(f)(4)*.
- ~~(17)~~ **(19)** 40 CFR 264.71(j)*.
- ~~(18)~~ **(20)** 40 CFR 264, Subpart FF*.
- ~~(19)~~ **(21)** 40 CFR 265.12(a)*.
- ~~(20)~~ **(22)** 40 CFR 265.71(a)(2)(v)*.
- ~~(21)~~ **(23)** 40 CFR 265.71(d)*.
- ~~(22)~~ **(24)** 40 CFR 265.71(f)(4)*.
- ~~(23)~~ **(25)** 40 CFR 265.71(j)*.
- ~~(24)~~ **(26)** 40 CFR 265, Subpart FF*.
- ~~(25)~~ **(27)** 40 CFR 267.71(a)(6)*.
- ~~(26)~~ **(28)** 40 CFR 267.71(d)*.
- ~~(27)~~ **(29)** 40 CFR 270.2*.
- ~~(28)~~ **(30)** 40 CFR 270.5*.
- ~~(29)~~ **(31)** 40 CFR 270.11(a)(3)*.
- ~~(30)~~ **(32)** 40 CFR 270.32(b)(2)*.
- ~~(31)~~ **(33)** 40 CFR 270.32(c)*.
- ~~(32)~~ **(34)** 40 CFR 270.72(a)(5)*.
- ~~(33)~~ **(35)** 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; filed Nov 26, 2019, 11:36 a.m.: 20191225-IR-329180481FRA*)

SECTION 2. 329 IAC 3.1-3-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-3-1 Applicability of confidentiality of business information

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

Affected: IC 13-14-11

Sec. 1. ~~This rule is replaced with~~ (a) The provisions **for confidentiality of hazardous waste information in 329 IAC 6.1 for the purpose of confidential hazardous waste information apply to this article.**

(b) **Hazardous waste information must be handled in accordance with the following applicable provisions:**

(1) **40 CFR 260.2(c)*, as added by 79 FR 7557 through 79 FR 7558.**

(2) **40 CFR 260.2(d)*, as added by 82 FR 60900.**

***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 3.1-3-1; filed Jan 24, 1992, 2:00 p.m.: 15 IR 915; filed Nov 4, 1999, 10:19 a.m.: 23 IR 557; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)**

SECTION 3. 329 IAC 3.1-4-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-4-1 Applicability of federal definitions

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

Affected: IC 13-11-2

Sec. 1. (a) ~~Except as provided in addition to subsection (b),~~ the definitions contained in **the following documents are applicable throughout this article:**

(1) ~~IC 13-11-2. and in~~

(2) ~~This rule. the definitions contained in~~

(3) **40 CFR 260 through 40 CFR 270* and 40 CFR 273***, as amended by:

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

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

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

(D) 83 FR 61562 through 83 FR 61563*;

(E) 84 FR 5938 through 84 FR 5950*; ~~and~~

(F) 84 FR 67217 through 84 FR 67220*.

~~are 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; filed Nov 26, 2019, 11:36 a.m.: 20191225-IR-329180481FRA*)

SECTION 4. 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 that are subject to:

- (1) regulation as hazardous waste under this article; and ~~that are subject to~~
- (2) 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*, as amended by:

- (1) 81 FR 85713 through 81 FR 85715*;
- (2) 81 FR 85806*; ~~and~~
- (3) 82 FR 60900*;
- (4) **83 FR 61562 through 83 FR 61563***;
- (5) **84 FR 5938 through 84 FR 5939***; and
- (6) **84 FR 67217***;

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; filed Nov 26, 2019, 11:36 a.m.: 20191225-IR-329180481FRA*)

SECTION 5. 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*, 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*;
- (5) 83 FR 61563*; and**
- (6) 84 FR 5939 through 84 FR 5940*.**

(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; filed Nov 26, 2019, 11:36 a.m.: 20191225-IR-329180481FRA*)

SECTION 6. 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*, 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*;
- (4) 84 FR 5940*; and**
- (5) 84 FR 67217*.**

(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; filed Nov 26, 2019, 11:36 a.m.: 20191225-IR-329180481FRA*)

SECTION 7. 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*, as amended by:

(1) 81 FR 85726 through 81 FR 85727*;

(2) 81 FR 85827*; ~~and~~

(3) 83 FR 457 through 83 FR 462*;

(4) 84 FR 5940*; and

(5) 84 FR 67217*.

(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; filed Nov 26, 2019, 11:36 a.m.: 20191225-IR-329180481FRA*)

SECTION 8. 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*, as amended by:

- (1) 81 FR 85727 through 81 FR 85728*; ~~and~~
- (2) 81 FR 85827*; **and**
- (3) **84 FR 5940 through 84 FR 5949***;

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; filed Nov 26, 2019, 11:36 a.m.: 20191225-IR-329180481FRA*)

SECTION 9. 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*, as amended by:

- (1) 81 FR 85827 through 81 FR 85828*;
- (2) **84 FR 5949 through 84 FR 5950***; **and**
- (3) **84 FR 67217***;

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; filed Nov 26, 2019, 11:36 a.m.: 20191225-IR-329180481FRA*)

SECTION 10. 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*, as amended by:

(1) 81 FR 85828*;

(2) **84 FR 5950***; and

(3) **84 FR 67217***;

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; filed Nov 26, 2019, 11:36 a.m.: 20191225-IR-329180481FRA*)

SECTION 11. 329 IAC 3.1-16-1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-16-1 Adoption of standards for universal waste management

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*, as amended by:

(1) 81 FR 85729*; and

(2) 81 FR 85828*;

(3) **84 FR 5950***; and

(4) **84 FR 67217 through 84 FR 67220***.

(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; filed Nov 26, 2019, 11:36 a.m.: 20191225-IR-329180481FRA)