



Indiana Department of Environmental Management

Protecting Hoosiers and Our Environment Since 1986



IDEM Regulatory Update

Thursday, April 6, 2017

Partners for Pollution Prevention

Quarterly Meeting

Madison Precision

Clifty Falls State Park

Madison, Indiana



IDEM UPDATE



Jennifer Collins, Assistance and Outreach Manager
Office of Program Support



Staff changes at OPS

- Bruno Pigott, IDEM Commissioner
- Brian Rockensuess, IDEM Chief of Staff
- Nancy King, General Council
- Peggy Dorsey, Assistant Commissioner, Office of Land Quality
- Ryan Clem, IDEM Director of Media
- Joseph Neuklis, CTAP Senior Environmental Manager in the Northern Regional Office
- Ed Clements, CTAP Senior Environmental Manager in the Central Indianapolis Office
- Karen Teliha, Boating Infrastructure Grant Program and Clean Vessel Act



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IDEM's Compliance and Technical Assistance Program

CTAP
Compliance and Technical Assistance Program

Helping Indiana businesses become environmentally compliant.



The Compliance and Technical Assistance Program (CTAP) provides assistance to help Indiana businesses understand and comply with environmental regulations. It is important to note the following about CTAP assistance:

- **Nonregulatory** – CTAP staff members are not regulators and do not have regulatory authority. Therefore, businesses will not be penalized for reporting relevant environmental information to CTAP when requesting assistance.
- **Free and Confidential** – While CTAP staff members serve as liaisons between the regulatory programs and businesses, they do not provide any details about the company to regulators, as the information is protected under Indiana Code 13-28-3-4.



- **Assistance** – CTAP staff members provide assistance through on-site visits or via phone and will provide a full compliance review or just target a single issue. They also develop training programs, brochures, and webinars to help businesses understand the state and federal environmental regulations that affect them.
- **Multimedia** – CTAP staff members are knowledgeable in air, water, land, and Community-Right-to-Know regulations and are happy to answer questions in these areas.

CTAP staff members provide assistance to businesses that contact them directly, are referred by regulatory inspectors or permit writers, or are impacted by a new U.S. Environmental Protection Agency or state regulation.

Contact us if you need assistance

Hotline: (800) 988-7901

Email: CTAP@idem.IN.gov

Website: www.idem.IN.gov/ctap



Upcoming Compliance Due Dates

April 15:

[Air Annual Compliance Certification](#) due for companies in Clark, Elkhart, Floyd, Lake, Marion, Porter, St. Joseph, and Vanderburgh counties.

[Solid Waste Quarterly Reports](#) due.

MSOP Air Permit annual fees are due 30 days after the invoice is generated. All invoices are generated by the 15th of the previous month.

Solid Waste Management Fee Return has been combined with the Solid Waste disposal fee and is due quarterly (January 15, April 15, July 15, October 15).

Forms will be mailed to applicable parties per the reporting schedule.

April 28:

Quarterly Non-Compliance Report due for delegated water Pretreatment Programs (unless otherwise permitted to submit report in May).



Upcoming Compliance Due Dates

April 30:

Air Quarterly Deviation and Compliance Monitoring Report, due for January through March. *Check your permit to determine if you are on a quarterly or semi-annual reporting schedule.*

Quarterly Air Permit reports (e.g., usage reports) due for January through March.

May 15:

[Underground Storage Tank \(UST\)](#) fee is due. *If the UST owner fee is more than \$500 then can elect to submit the first payment due of the fee in four installments.*

May 28:

Quarterly Non-Compliance Report due for those delegated water Pretreatment Programs allowed to submit in May (otherwise due in April).

More Compliance Due Dates at: <http://www.in.gov/idem/ctap/2366.htm>



Environmental Management



E101 is free training offered by IDEM, [CTAP](#) staff for those persons managing environmental responsibilities at Indiana businesses. The goal of this training is to assist environmental managers in understanding current state and federal environmental regulations and determining how they are applied to Indiana businesses.

This training is divided into four (4) modules (Air, RCRA, Water, and Storage Tanks, Spills, and Emergency Planning and Response), each including a written manual, a PowerPoint presentation, and lesson exercises.

Environmental Management 101 Training - <http://www.in.gov/idem/ctap/2471.htm>



IDEM, CTAP presents - E101, Air Module

This module focuses on air permitting regulations and determinations, exercises for calculating potential emissions from common processes, what to expect from a compliance inspection, and how the enforcement process works.

Date: Thursday, April 13, 2017
Location: Eastside Park Community Building, 501 Burkhardt Drive,
Washington, IN 47501
Time: 8:30 AM - 4:15 PM (EST)

Register now at: <https://www.eventbrite.com/e/e101-air-module-tickets-32261299415>



Rule and Policy Update

- Indiana General Assembly – Indiana Register Documents (May 1, 2016 to present):
<http://www.in.gov/legislative/register/irtoc.htm>
- IDEM, Office of Legal Council – Rules in Progress: <http://www.in.gov/idem/4087.htm>
- IDEM, CTAP – Rulemaking Actions:
<http://www.in.gov/idem/ctap/2331.htm>



Title 318 – Indiana Department of Environmental Management

No current active rules under this Title.

Title 326 - Air Pollution Control Division

Rulemaking Action: National Ambient Air Quality Standards for Ozone - [LSA Document #16-529](#) – Public Hearing April 12, 2017

Cross-State Air Pollution Rule and Clean Air Interstate Rule Repeal- [LSA Document #16-209](#) – Public Hearing April 12, 2017

Rulemaking Action: References to the Code of Federal Regulations (CFR) - [LSA Document #16-208](#)(f) - Effective: December 7, 2016

Rulemaking Action: Startup, Shutdown, and Malfunction (SSM) Emissions- [LSA Document #15-326](#)(f) - Effective Date: January 29, 2017

Rulemaking Action: Outdoor Hydronic Heaters Revisions - [LSA Document #16-332](#) - Second Comment Period: March 15, 2017 – April 14, 2017



Title 326 - Air Pollution Control Division

Rulemaking Action: Emergency Rule for Redesignation to Attainment for Lawrenceburg Township, Dearborn County - LSA Document #17-XXX – Board Action/Hearing April 12, 2017

Title 327 - Water Pollution Control Division

Rulemaking Action: Revised Total Coliform Rule - [LSA Document #14-59](#) - Effective Date: February 17, 2017

Rulemaking Action: Interference of a Publicly Owned Treatment Works - [LSA Document #16-4](#) - Effective Date: February 17, 2017

Rulemaking Action: CAFO and CFO Reference Update - [LSA Document #16-3](#) – Public Hearing April 12, 2017



Title 328 – Underground Storage Tank Financial Assurance Board

Rulemaking Action: Excess Liability Trust Fund - [LSA Document #15-231](#) - Second Comment Period: March 8, 2017 – April 7, 2017

Title 329 - Solid Waste Management Division

Rulemaking Action: Coal Combustion Residuals - [LSA Document #16-217\(f\)](#) - Effective: December 10, 2016

- Environmental Rules Board Meeting / Public Hearing tentatively scheduled for April 12, 2017 at 1:30 p.m., at the Indiana Government Center South, 302 West Washington Street, Conference Center Room A, Indianapolis, Indiana.



New Definition of Solid Waste



- Changes to Federal Solid Waste Definition
- New U.S. Environmental Protection Agency Guide- “Solvents in the Workplace: How to determine if they are hazardous waste”



Summary of 2015 Changes to the Federal Definition of Solid Waste (DSW)

- The U.S. Environmental Protection Agency (U.S. EPA) published a [final rule](#) that went into effect July 13, 2015, which revises several recycling-related provisions associated with the definition of solid waste, which is used to determine hazardous waste regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA).
- The rule became effective in Indiana on November 5, 2016. It is a nearly verbatim adoption of the U.S. EPA rule. ([LSA Document #16-93](#)(f))



Summary of Changes to the Federal Definition of Solid Waste (DSW)

- U. S. EPA goals
 - Close gaps in the 2008 rule which encouraged speculative accumulation
 - Eliminate sham recycling
 - Establish a clear, uniform legitimate recycling standard for all hazardous secondary materials (HSM) recycling
 - Encourage recycling
 - Increase environmental safeguards



Revised Regulatory Areas (major provisions)

- **Retained the 2008 generator-controlled exclusion** for hazardous secondary material recycled under the control of the generator (on-site, within the same company and toll manufacturing recycling).
- **Replaced the 2008 exclusion for hazardous secondary materials transferred off-site** with the verified recycler exclusion, increasing oversight by the state or EPA and thus preventing unpermitted facilities from receiving hazardous secondary material, unless they have obtained a variance from the state or EPA or they are RCRA permitted recyclers.
- **Codified new flexible approaches in the legitimacy definition** for in-process recycling and commodity-grade recycled materials.



Revised Regulatory Areas (major provisions)

- **Codified a new regulatory definition of the 2008 “contained” standard** in order to prevent mismanagement of hazardous secondary materials during storage.
- **Codified the sham recycling prohibition**, requiring all four legitimacy factors be met, and requiring legitimacy documentation when the recycled product has elevated levels of hazardous constituents.
- **Strengthened provisions related to variances and non-waste determinations**, which are granted to facilities on a case-specific basis.
- **Finalized a new remanufacturing exclusion** for higher-value hazardous solvents which are remanufactured into commercial grade products.



Generator-controlled Exclusion

[261.4\(a\)\(23\)](#)

- The U.S. EPA retained the exclusion for hazardous secondary materials that are legitimately reclaimed under the control of the generator (“generator-controlled exclusion”), with certain revisions from the 2008 Definition of Solid Waste (DSW) final rule.
- The revisions include:
 - (1) adding a codified definition of “contained,”
 - (2) adding record keeping requirements for same-company and toll manufacturing reclamation,
 - (3) making notification a condition of the exclusion,
 - (4) adding a requirement to document that recycling under the exclusion is legitimate, and
 - (5) adding emergency preparedness and response conditions.



Generator-controlled Exclusion (cont'd)

- Additionally, U.S. EPA amended the speculative accumulation provisions to add a record keeping requirement. This requirement applies to all persons subject to speculative accumulation. Must maintain records of shipments (sent and received) for within the same company or under a tolling agreement transfers.
- The generator-controlled exclusion ([40 CFR 261.4\(a\)\(23\)](#)) excludes certain hazardous secondary materials (i.e., listed sludges, listed by-products, and spent materials) from the definition of solid waste if they are generated and legitimately reclaimed within the United States or its territories under the control of the generator.



Generator-controlled Exclusion (cont'd)

Specifically, hazardous secondary materials are excluded if:

- (1) the reclamation process meets the definition of legitimate recycling under [40 CFR 260.43](#);
- (2) the materials are not speculatively accumulated as defined in [40 CFR 261.1\(c\)\(8\)](#) (including a new recordkeeping requirement);
- (3) they meet the notification condition under [40 CFR 260.42](#);
- (4) they are managed in a unit that meets the new definition of “contained” in [40 CFR 260.10](#); and
- (5) the generator satisfies certain emergency preparedness and response conditions.



Revisions to the Definition of Legitimacy

U.S. EPA has changed the definition of legitimate recycling in [40 CFR 260.43](#) to make clear that all four factors identified in 40 CFR 260.43 must be met, but also to provide some flexibility in determining legitimacy for certain types of recycling. In particular, in cases where there is no analogous product made from raw materials, EPA has clarified that the product of recycling is still a legitimate product when it meets widely recognized commodity standards (e.g., commodity-grade scrap metal) or when the hazardous secondary material is recycled back into the production process from which it was generated (e.g., closed-loop recycling).



New Requirements for Generators

- Generators must maintain on-site, a written description of how the recycling meets all four Recycling Legitimacy Criteria ([40 CFR 260.43](#)) and keep for three years after recycling operations cease. Condition for under generator control only.
- A template is available at:
<https://www.epa.gov/hwgenerators/final-rule-2015-definition-solid-waste-dsw>



Four Legitimacy Criteria ([40 CFR 260.43](#))

1. Materials must provide a **useful contribution** to the recycling process or to a product or intermediate.
2. Recycling must produce a **valuable product** or intermediate.
3. Materials must be **managed as valuable commodities** (record keeping, storage and labeling requirements)



Four Legitimacy Criteria ([40 CFR 260.43](#))

4. Products of recycling must be **comparable to legitimate products** or intermediates (can use commodity standards)
 - Must notify with U.S. [EPA form 8700-12-Addendum](#)
 - If there are no analogous products, must prove recycling is still legitimate
 - Must justify if “toxics along for the ride” (when the product of the hazardous secondary material has higher levels of hazardous constituents than the product made from raw materials, but recycling is legitimate)



New Requirements for Generators

- Speculative Accumulation Record Keeping Requirements 40 CFR [261.1\(c\)\(8\)](#)
 - 75% (by weight or volume) must be recycled within a calendar year.
 - Label with accumulation date
 - May keep a log if a label isn't practical.
 - Example label available at <https://www.epa.gov/sites/production/files/2015-08/documents/hsm-label.pdf>
 - 3 year record retention for both (documenting off-site shipments and confirmation of receipts)



New Requirements for Generators

- Notification - Must submit a Site ID form: [40 CFR 260.42](#); [329 IAC 3.1-5-1](#)
 - Prior to managing hazardous secondary materials under the exclusion
 - U.S. EPA [Form 8700-12](#) and Addendum
 - By March 1st of even numbered years
 - Use [IDEM Handler ID form](#) and Addendum
 - Notify Within 30 days of stopping management under the exclusion (You won't be fined for failure to comply- but the waste will no longer be excluded from the definition of hazardous waste so it would be added back into your generator status.)



New Requirements for Generators

- Contained in storage ([40 CFR 260.10](#))
 - Arises from Legitimacy Criteria 3- must manage as a valuable commodity
 - Container in good condition
 - Appropriate design for the material
 - Properly labeled- include accumulation date
 - The unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit
 - Any potential risks of fires or explosions addressed



New Requirements for Generators

- Emergency Preparedness and Response ([40 CFR 261 Subpart M](#))
 - ☐ < 6,000 kg – 40 CFR 261.410 and 261.411
 - Small Quantity Generator requirements
 - ☐ > 6,000 kg - 40 CFR 261.410 and 261.420
 - Large Quantity Generator Requirements
 - Specific training
 - Contingency Plan submitted to local authorities



Verified Recycler Exclusion

U.S. EPA is replacing the exclusions at [40 CFR 261.4\(a\)\(24\)](#) and (25) for hazardous secondary materials that are transferred from the generator to other persons for the purpose of reclamation, with an exclusion for hazardous secondary materials sent for reclamation to a “**verified**” recycler.

Under this new exclusion, generators who want to recycle their hazardous secondary materials without having them become hazardous wastes must send their materials to either a **RCRA-permitted reclamation facility** or to a verified recycler of hazardous secondary materials **who has obtained a solid waste variance from U.S. EPA or the authorized state**. Exports are no longer allowed under the verified recycler exclusion.



New Requirements for Generators

- Verified Recycler Exclusion-Document transport to a reclamation facility with a RCRA Subtitle C permit or a facility with a verified recycler variance.
 - No longer required to conduct reasonable efforts environmental audit to transfer. EPA is verifying by either the permit or the variance.
 - Name, date of shipment, type and quantity of HSM shipped or received. (These records may consist of normal business records.)



Prohibition of Sham Recycling

- U.S. EPA codified in its regulations at [40 CFR 261.2\(g\)](#), **Explicitly prohibiting sham recycling**
 - Sham recycling. A hazardous secondary material found to be sham recycled is considered discarded and a solid waste. Sham recycling is recycling that is not legitimate recycling as defined in §260.43.
 - Makes the legitimate recycling regulations more transparent and enforceable and will reduce the risk of environmental damage from sham recycling operations.



Criteria to Become a Verified Recycler

For **reclaimers without a RCRA permit**, in order to obtain a variance and become verified, the third-party reclaimer must:

- Must demonstrate their recycling is **legitimate**;
- Must have **financial assurance (261.143)** in place to properly manage the hazardous secondary material for accidents or when the facility closes (financial assurance plans reviewed by states and U.S. EPA);
- Must not have had any **formal enforcement actions** for RCRA violations in the previous **3 years** and not be classified as a significant non-complier under RCRA Subtitle C, or must provide credible evidence that the facility will manage the hazardous secondary materials properly;



Criteria to Become a Verified Recycler Cont.

- Must have the **proper equipment, trained personnel**, and meet **emergency preparedness** and response requirements to safely reclaim the material,
- Must **manage the residuals** from recycling properly; and
- Must **address risk to nearby communities** from potential releases of the hazardous secondary material and in consideration of existing environmental stressors - reduce risk of potential unpermitted releases of the hazardous secondary material to the environment (*i.e.*, releases that are not covered by a permit (such as a permit to discharge to water or air)).



Remanufacturing Exclusion

Encourages the recycling of 18 higher-value hazardous spent solvents used for reacting, extracting, blending, or purifying chemicals in the pharmaceutical, organic chemical, plastics and resins, and the paint and coatings sectors ([40 CFR 261.4\(a\)\(27\)](#)).

The hazardous secondary material consists of one or more of the following spent solvents: Toluene, xylenes, ethylbenzene, 1,2,4-trimethylbenzene, chlorobenzene, n-hexane, cyclohexane, methyl tert-butyl ether, acetonitrile, chloroform, chloromethane, dichloromethane, methyl isobutyl ketone, NN-dimethylformamide, tetrahydrofuran, n-butyl alcohol, ethanol, and/or methanol



Remanufacturing Exclusion

This remanufacturing exclusion will help promote sustainable materials management by extending the productive use of these materials, which reduces the need for raw materials used and the environmental impacts associated with production of these materials.

Note: Only apply to four NAICS Codes:

- pharmaceutical manufacturing (NAICS 325412),
- basic organic chemical manufacturing (NAICS 325199),
- plastics and resins manufacturing (NAICS 325211), and/or
- paints and coatings manufacturing sectors (NAICS 325510).



Remanufacturing Exclusion

1. Both the generator and remanufacturer must **notify** using EPA form 8700-12.
2. The generator and remanufacturer must jointly develop and maintain a **remanufacturing plan**.
3. Both generators and remanufacturers must maintain **record of shipments and confirmation of receipts** for 3 years.
4. The spent solvents must be managed in **RCRA equivalent tanks and containers**, including meeting applicable air emission standards.
5. Spent solvents managed under this exclusion are subject to the **prohibition on speculative accumulation**.



Revisions to Solid Waste Variances and Non-waste Determinations

- The rule finalized revisions to the solid waste variances and non-waste determinations found in [40 CFR 260.30-260.34](#)
- Revisions include :
 1. Requires facilities to **send a notice** to the Administrator (or State Director, if the state is authorized) and potentially reapply for a variance **in the event of a change** in circumstances that affects how a hazardous secondary material meets the criteria upon which a solid waste variance has been based;



Revisions to Solid Waste Variances and Non-waste Determinations (cont'd)

2. Established a **fixed term** not to exceed ten years for variance and non-waste determinations, at the end of which facilities must reapply for a variance or non-waste determination,
3. Requires facilities to **re-notify every two years** with updated information;
4. Revised the criteria for the **partial reclamation** variance to clarify when the variance applies and to require, among other things, that **all the criteria** for this variance **must be met**; and



Revisions to Solid Waste Variances and Non-waste Determinations (cont'd)

5. For the non-waste determinations in [40 CFR 260.34](#), requires that petitioners **demonstrate why the existing solid waste exclusions would not apply** to their hazardous secondary materials. (U.S. EPA did not finalize the proposed change to designate the Regional Administrator (State) as the recipient of petitions for all variances and non-waste determinations.)



Solvents in the Workplace

- A new U.S. [EPA Guide “Solvents in the Workplace: How to Determine if They Are Hazardous Waste”](#) was provided by U.S. EPA in June of 2016.
- The Guide includes the changes to the 2015 Definition of Solid Waste.



Overview of Guide

This Guide will help you:

- 1) Understand RCRA hazardous waste rules,
- 2) Improve your understanding of the RCRA hazardous waste regulations associated with solvents,
- 3) Characterize and determine if your waste solvents are classified as hazardous wastes subject to RCRA regulations, and
- 4) Answer commonly asked questions about solvents and RCRA.



Questions About This Presentation?



ANGELA TAYLOR

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