

TITLE 326 AIR POLLUTION CONTROL DIVISION

Rule Information Sheet

Title 326 Civil Penalties
LSA Document #24-46

Overview

Under IC 13-30-4-1, IDEM imposes civil penalties on entities that violate provisions of the state's air pollution control laws and rules. The current civil penalty policy and structure became effective on April 5, 1999, through nonrule policy documents. House Enrolled Act 1623, which became law on May 4, 2023, added IC 4-22-2-19.6. This statute requires any fee, fine, or civil penalty imposed by an agency to be included in the Indiana Administrative Code. Accordingly, this rulemaking adds 326 IAC 1-8 to include IDEM's civil penalty policy and structure in Title 326.

Affected Persons

This rule will apply to all violators of Indiana's air pollution control laws and rules.

Reasons for the Rule

IDEM imposes civil penalties to encourage compliance, penalize violations, and recover enforcement costs of Indiana's environmental laws and rules. IDEM is authorized to impose such penalties by IC 13-30-4-1; however, this statute does not provide guidance on how to assess such penalties. Instead, the statute only caps civil penalties at \$25,000 per violation per day.

IDEM developed a non-rule policy document to ensure that civil penalties are assessed in a consistent and fair manner. Because this policy is now required to be included in the Indiana Administrative Code, pursuant to IC 4-22-2-19.6, this rule is necessary to comply with state law.

Economic Impact of the Rule

This rulemaking will have a negligible economic impact because the underlying policy being incorporated into the Indiana Administrative Code has been in place for 25 years. The mean annual average of the total penalties collected under this policy by the Office of Air Quality between FY 2019 and FY 2023 is \$1,441,092. This money is deposited into the Environmental Management Special Fund pursuant to IC 13-14-12.

Scheduled Board Action and Hearings

First Public Hearing: April 10, 2024, at 1:30 PM at the Indiana Government Center South, 10 North Senate Avenue, Conference Room A, Indianapolis, Indiana.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Seth Engdahl, Rules Development Branch, Office of Legal Counsel, at (317) 234-9535, (800) 451-6027 (in Indiana), or sengdahl@idem.in.gov.