


<b>INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT</b>	<b>STATUS:</b> Effective	<b>POLICY NUMBER:</b> WASTE-0062-NPD	
<b>AGENCY NONRULE POLICY DOCUMENT</b>  <b>SUBJECT:</b> Solid Waste Permits and Registrations – Late Renewal Application Policy	<b>AUTHORIZED:</b> <i>Thomas W. Easterly, Commissioner</i>		
	<b>SUPERSEDES:</b> New	<b>ISSUING OFFICE(S):</b> Office of Land Quality, Permits Branch	
	<b>ORIGINALLY EFFECTIVE:</b> April 14, 2014	<b>RENEWED/REVISED:</b> n/a	

**Disclaimer:** This Nonrule Policy Document (NPD) is being established by the Indiana Department of Environmental Management (IDEM) consistent with its authority under IC 13-14-1-11.5. It is intended solely to provide guidance and shall be used in conjunction with applicable rules or laws. It does not replace applicable rules and laws, and if it conflicts with these rules or laws, the rules or laws shall control. Pursuant to IC 13-14-1-11.5, this policy will be available for public inspection for at least 45 days prior to presentation to the Indiana Environmental Rules Board, and may be put into effect by IDEM 30 days afterward.. IDEM also will submit the policy to the Indiana Register for publication.

## 1.0 PURPOSE

This policy states the Office of Land Quality’s (OLQ’s) Permits Branch procedure to ensure a clear and consistent approach of reviewing and obtaining compliance for late permit renewal applications for the following types of operations: waste tire storage sites and waste tire processing (329 IAC 15-3), waste tire transporters (329 IAC 15-4), solid waste land disposal facilities (329 IAC 10), and solid waste processing facilities (329 IAC 11), biomass digestion or gasification facilities (329 IAC 11.5), mobile home salvage facilities (329 IAC 11.6), and alternative fuel facilities (329 IAC 11.7).

Indiana law (IC 13-15-4-1(b)) requires IDEM to approve or deny a timely and sufficient application for a renewal permit on or before the expiration date stated in the permit for which a renewal is sought. Late renewal applications create a resource issue for OLQ Permits Branch staff as untimely applications force a rush review and penalize regulated operations that have submitted timely applications for permit renewals.

Additionally, permits and registrations submitted on or before their due date, as set by statute or rule, are administratively extended until IDEM’s OLQ issues a decision to either renew the permit for another five years or deny the renewal. On-time submittal allows the permittee to continue operating under their current permit until the new decision is issued. Prior to this new policy, when permit renewal applications were received after their deadlines, the current permit or registration would expire on the date set in the approval, which could cause financial and operational hardships resulting from the temporary cessation of operations at the facility.

IDEM’s Civil Penalty Policy (CPP), Non-Rule Policy Document No. ENFORCEMENT-99-0002-NPD, establishes a guideline for appropriate fines. The CPP, in the Matrix Penalty Calculation section (Section 3.1), sets penalties which are \$1,000 at the lowest. This policy (LRAP) sets lower penalty amounts, intended to provide motivation to submit renewal paperwork on time, without causing a significant financial hardship. If the permittee does not follow the process set out by this policy, causing the facility to operate without a permit, the resulting penalties will follow the CPP.

## 2.0 SCOPE

This NPD clarifies the OLQ policy concerning review and enforcement for late applications for permit renewals issued by OLQ for the following types of operations:

- Waste tire transporters (329 IAC 15-4-10)

- Waste tire processing and storage (329 IAC 15-3-14)
- Solid waste processing facilities (329 IAC 11-9-4)
- Solid waste land disposal facilities (329 IAC 10-11-5.1)
- Biomass digestion or gasification facilities (329 IAC 11.5)
- Mobile home salvage facilities (329 IAC 11.6)
- Alternative fuel facilities (329 IAC 11.7)

All of the types of the operations discussed in this policy must comply with all other applicable laws and regulations. IDEM reserves the right to take appropriate enforcement action on any regulated entity as deemed necessary and specific to that case.

### 3.0 SUMMARY

This NPD identifies and clarifies OLQ's procedures for processing, reviewing and obtaining compliance for applications of permit renewals that are not submitted in a timely manner in accordance with the applicable regulations.

The process to help ensure timely receipt of permit or registration renewal applications and address applications that are received by the agency after their set deadlines includes the following steps:

- The Permit Manager (PM) assigned to a facility will remind the permittee prior to the renewal application's due date. Written reminders will be mailed or emailed approximately 2-4 months prior to the due date, with a follow-up phone call reminder approximately one week prior to the due date. These reminders are a courtesy to help permittees remember that their application deadline is near. However, a permittee is required by law to submit a permit renewal the specified number of days before their permit expiration. A permittee may not legally rely on reminders or cite the failure to receive a reminder as a justification for not submitting a renewal application in a timely manner.
- When a renewal due date has passed without receiving a renewal application, the PM will send an enforcement referral to the OLQ Land Enforcement Section (LES).
- An Enforcement Case Manager will draft and send to the Permittee a Notice of Violation (NOV) with an attached proposed Agreed Order (AO). The proposed AO will establish a new renewal application due date, and will include the payment of a penalty, which will vary depending on the type of facility, included in Section 6.0 below.
- If the permittee returns the signed proposed AO, submits the penalty assessed by the AO, and submits the renewal application by the new deadline, the permittee may continue to operate under the terms of their current permit or registration until a new decision is issued by OLQ.
- If the permittee does not return the signed proposed AO, pay the penalty assessed by the AO or submit the renewal application by the new deadline, the facility or operation must cease upon the current permit or registration's expiration date.
- If the permit or registration expires and operations continue, LES will issue an enforcement action including violations for operating without a permit and additional penalties in accordance with the CPP.

### 4.0 DEFINITIONS

**4.0 "Accountability"** – The number of days allowed by statute at IC 13-15-4 to make a decision on a permit application, including permit modification requests.

**4.1 "Agreed Order (AO)"** – An AO is the result of an IDEM enforcement action and is a formal legal agreement between the agency and the owner and/or operator of a permitted solid waste facility. The AO specifies the actions that must be taken by the owner and/or operator to comply with the law.

**4.2 "Agency"** – The Indiana Department of Environmental Management (IDEM).

- 4.3 **“Civil Penalty Policy (CPP)”** – IDEM policy establishing appropriate fines for agency enforcement cases.
- 4.4 **“Enforcement Case Manager”** – The individual responsible for managing an enforcement case between the agency and the owner and/or operator of a permitted solid waste facility.
- 4.5 **“Nonrule policy”** - The term assigned by the Indiana Department of Environmental Management (IDEM) to those policies identified in IC 13-14-1-11.5 as any policy that: A. Interprets, supplements, or implements a statute or rule; B. Has not been adopted in compliance with IC 4-22-2; C. Is not intended by IDEM to have the effect of law; and D. Does not apply solely to the internal IDEM organization (is not an Administrative Policy). IDEM provides nonrule policy documents, or NPDs, to inform the public about its nonrule policies.
- 4.6 **“Office of Land Quality (OLQ) Land Enforcement Section (LES)”** – The section that drafts enforcement documents and manages enforcement cases for the Office of Land Quality.
- 4.7 **“Permit Manager (PM)”** – The individual responsible for drafting a facility’s permit and receiving reports and documents related to the permit.
- 4.8 **“Permittee”** – An individual performing a regulated activity subject to a license issued by the Indiana Department of Environmental Management.
- 4.9 **“Renewal”** – A permit or registration that is issued once every five years to renew operating authority of an existing approved operation or facility.
- 4.10 **“Renewal application”** – An application submitted to request the renewal of an existing permit or registration.
- 4.11 **“329 IAC 10”** – The Indiana Administrative Code that sets requirements for the proper disposal of solid waste upon the land.
- 4.12 **“329 IAC 11”** – The Indiana Administrative Code that sets requirements for the proper handling and processing of solid waste.
- 4.13 **“329 IAC 15”** – The Indiana Administrative Code that sets requirements for the proper handling, transporting, storage, and disposal of waste tires and waste tire facilities.

## 5.0 ROLES

- 5.1 Enforcement Case Managers are responsible for the Notice of Violation (NOV) and Agreed Order (AO).
- 5.2 The Permit Manager (PM) is responsible for reminding a facility of upcoming deadlines and referring those who miss deadlines to the Enforcement Case Manager.

## 6.0 POLICY

The following process will be followed by the IDEM OLQ to address instances where permit and registration renewal applications are not received by their established deadlines.

- 6.1 The OLQ PM will remind the permittee of the renewal application due date. These reminders typically include:
  - a. A mailed or emailed reminder approximately 2-4 months before the due date, and
  - b. A telephone reminder approximately one week before the due date.

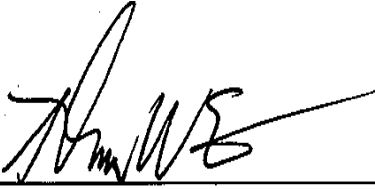
These reminders are a courtesy intended to assist permittees to submit their renewal applications on time. However, it remains the permittee’s responsibility to submit their application by the established due date. An occurrence in which the reminders do not reach the person responsible for submitting the renewal does not exempt a permittee from the process established below.

- 6.2** When a renewal due date has passed without receiving a renewal application, the PM will send an enforcement referral to the Office of Land Quality Land Enforcement Section (LES).
- 6.3** An Enforcement Case Manager will draft and send a NOV with an attached proposed AO to the permittee. The proposed AO will establish a compliance schedule to submit a new renewal application due date, require the permittee to comply with the existing permit until the renewal is issued, and will include the payment of a penalty, which will vary depending on the type of facility. Penalties are non-negotiable and will be assessed as follows:
- a. Solid waste disposal facility: \$500
  - b. Transfer station: \$400
  - c. Solid waste processing facility: \$400
  - d. Waste tire storage and/or processing facility: \$250
  - e. Waste tire transporter: \$100
  - f. Biomass anaerobic digestion or biomass gasification facility: \$100
  - g. Mobile home salvage operation: \$100
  - h. Alternative fuel facility: \$100
- 6.4**
- a. If the permittee returns the signed proposed AO, submits the penalty prescribed by the AO, and submits the renewal application by the new deadline established in the AO, the permittee may continue to operate under the terms of its current permit or registration until a new decision is issued by OLQ.
  - b. If the permittee does not return the signed proposed AO, pay the penalty assessed by the AO or submit the renewal application by the new deadline, the facility must cease operations on the current permit or registration's expiration date.
- 6.5** If the permit or registration expires without following the process set out in this policy and operations continue, LES will issue an enforcement action including violations for operating without a permit and additional penalties in accordance with the IDEM Civil Penalty Policy (CPP).

## **7.0 REFERENCES**

- 7.1. Indiana Administrative Codes:
- A. 329 IAC 10
  - B. 329 IAC 11
  - C. 329 IAC 15
- 7.2. Indiana Statutes:
- A. IC 13-15-4
  - B. IC 13-20-107.4.
- 7.3. Agency Policies:
- A. Civil Penalty Policy (CPP) No. ENFORCEMENT-99-0002-NPD, adopted April 5, 1999
  - B. Compliance and Enforcement Response Policy (CERP) No. MP-005-R1-NPD, adopted October 2, 2009.

8.0 SIGNATURES



Thomas W. Easterly, Commissioner  
Indiana Department of Environmental Management

MARCH 10, 2014  
Date



Bruce Palin, Assistant Commissioner  
Office of Land Quality

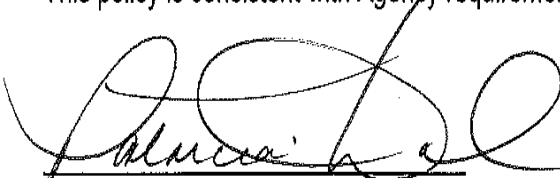
3/6/14  
Date



Carol Comer, Assistant Commissioner  
Office of Legal Counsel and Criminal Investigations

3/10/2014  
Date

This policy is consistent with Agency requirements.



Quality Assurance Program, Planning and Assessment  
Indiana Department of Environmental Management

3/11/2014  
Date