
TITLE 329 SOLID WASTE MANAGEMENT BOARD

FIRST NOTICE OF COMMENT PERIOD

LSA Document #12-200

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING WASTE TIRE MANAGEMENT IN [329 IAC 15](#)**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [329 IAC 15](#) concerning the management of waste tires. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

CITATIONS AFFECTED: [329 IAC 15](#).

AUTHORITY: [IC 13-19-3-1](#); [IC 13-20-13](#); [IC 13-20-14](#).

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**Basic Purpose and Background**

IDEM regulates the disposal of waste tires because tires pose a unique challenge for the solid waste management industry. Before regulations were developed for waste tires, the tires often were stored in large piles on private landholdings. When stored in large piles, waste tires are a major fire hazard and serve as a breeding ground for disease-carrying mosquitoes. In addition, whole tires disposed in landfills decompose slowly and resist compaction, resulting in a tendency for the tires to drift toward the surface of the landfill. In response to these issues, the Indiana General Assembly directed IDEM to create a Waste Tire Task Force in 1991. IDEM subsequently developed a Waste Tire Management Program to eliminate the dangers of stockpiled waste tires, spur alternative disposal, and successfully reuse waste tires.

This rulemaking proposes changes to the waste tire management rules at [329 IAC 15](#). The rule changes are intended to clarify and update the rules to address current conditions in the industry, and incorporate statutory changes mandated by Public Law 37-2012 into the rules. These changes include eliminating outdated references to Indiana Code (IC) citations, adding definitions and references to improve clarity in the rule, removing the waste tire transporter manifest form from the rule, and updating financial assurance requirements. In addition to those updates, the statutory changes will authorize local government tire amnesty programs as another means to collect and process waste tires. All of these rule changes are designed to increase the efficiency and accuracy of the waste tire rules rather than initiate a major overhaul of waste tire management.

The main groups that will be affected by the rulemaking are the transporters, storage sites, and processing sites in the waste tire management industry. For these groups, the changes will update the rule to current conditions in the waste tire management industry without adding fiscal or administrative burdens. The local government tire amnesty program will affect local governments that choose to host an amnesty day and citizens that participate in the amnesty day.

Alternatives to Be Considered Within the Rulemaking

Alternative 1. Clarifying uncertainties, closing loopholes, removing no-longer-applicable phrases, and incorporating statutory changes throughout the rule.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law. It is a "state-only" requirement.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Updating the rules to include statutory changes from Public Law 37-2012.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law. It is a "state-only" requirement.
- If it is a federal requirement, is it different from federal law? No.
- If it is different, describe the differences. Not applicable.
- By making only the required statutory changes, the rule would not reflect the waste tire management industry as it currently operates and would not address necessary clarifications.

Applicable Federal Law

There are no federal rules that are applicable to the management of waste tire programs at the state level. Most changes are driven by new state statutory requirements.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. IDEM anticipates that clarifying and updating the rule will have a small fiscal impact on the regulated community. There is no additional fiscal impact from the changes required

under new state statutes.

Potential Fiscal Impact of Alternative 2. This alternative will not have a fiscal impact. The rule changes are limited to those required under state law, so there is no additional fiscal impact.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

www.in.gov/idem/ctap

For purposes of [IC 4-22-2-28.1](#), the Small Business Regulatory Coordinator for this rule is:

Jessica Faust-Hamblin
IDEM Small Business Regulatory Coordinator
MC 60-04 IGCS W041
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8172 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-5](#) is:

Eric P. Shields
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 234-3997
smallbizombudsman@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-5](#), specifically [IC 5-28-17-5\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Brad Baughn
IDEM Small Business Assistance Program Ombudsman
MC 50-01 IGCN 1301
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-3386 or (800) 451-6027
bbaughn@idem.in.gov

Public Participation and Workgroup Information

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Dan Watts, Rules Development Branch, Office of Legal Counsel at (317) 234-5345 or (800) 451-6027 (in Indiana).

STATUTORY AND REGULATORY REQUIREMENTS

[IC 13-14-8-4](#) requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
 - (2) The submission of suggestions for the development of draft rule language.
- Comments may be submitted in one of the following ways:
- (1) By mail or common carrier to the following address:

LSA Document #12-200 Changes to Waste Tire Management
Janet Pittman
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
MC 65-45
Indianapolis, IN 46204-2251

(2) By facsimile to (317) 233-5970. Please confirm the timely receipt of your faxed comments by calling the Rules Development Branch at (317) 232-8922.

(3) By electronic mail to dwatts1@idem.in.gov. To confirm timely delivery of your comments, please request a document receipt when you send the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

(4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking you are commenting on.

COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped no later than May 25, 2012. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Dan Watts, Rules Development Branch, Office of Legal Counsel, (317) 234-5345 or (800) 451-6027 (in Indiana).

Nancy King, Chief
Rules Development Branch
Office of Legal Counsel

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