

IC 13-20-22

Chapter 22. State Solid Waste Management Fees; State Solid Waste Management Fund

IC 13-20-22-1

Fee schedule; rules; deposit into funds; credit against subsequent fee

Sec. 1. (a) Unless the legislative body of a county having a consolidated city elects by ordinance to participate in the rules, ordinances, and governmental structures enacted or created under this chapter, the collection of fees on the disposal of solid waste in a final disposal facility located in that county are exempt until December 2, 2008, from regulation or control under this chapter.

(b) A fee is imposed on the disposal or incineration of solid waste in a final disposal facility in Indiana. Except as provided in section 14 of this chapter, the amount of the fee is as follows:

(1) For solid waste generated in Indiana and delivered to a final disposal facility in a motor vehicle having a registered gross vehicle weight greater than nine thousand (9,000) pounds, fifty cents (\$0.50) a ton.

(2) For solid waste generated outside Indiana and delivered to a final disposal facility in a motor vehicle having a registered gross vehicle weight greater than nine thousand (9,000) pounds:

(A) fifty cents (\$0.50) a ton; and

(B) if the solid waste management board has adopted rules under subsection (c), an additional amount imposed under the rules.

(3) For solid waste generated in Indiana or outside Indiana and delivered to a final disposal facility in:

(A) a motor vehicle having a registered gross vehicle weight of not more than nine thousand (9,000) pounds; or

(B) a passenger motor vehicle (as defined in IC 9-13-2-123); fifty cents (\$0.50) for each load delivered by the motor vehicle.

(c) The solid waste management board may adopt rules to establish and impose a fee on the disposal or incineration of solid waste that is:

(1) generated outside Indiana; and

(2) disposed of or incinerated in a final disposal facility in Indiana.

If rules are adopted under this subsection, the fee shall be set at an amount necessary to offset the costs incurred by the state or a county, municipality, or township that can be attributed to the importation of the solid waste into Indiana and the presence of the solid waste in Indiana.

(d) Revenue from fees collected under subsection (b)(1) and (b)(2)(A) shall be deposited in the state solid waste management fund established by section 2 of this chapter. Revenue from fees collected under subsection (b)(2)(B) shall be deposited in the hazardous substances response trust fund established by IC 13-25-4-1, except that any part of the revenue that the board finds

is necessary to offset costs incurred by counties, municipalities, and townships shall be distributed to solid waste management districts pro rata on the basis of the district's population.

(e) If solid waste has been subject to a fee under this section, the total amount of the fee paid shall be credited against any other fee to which the solid waste may later be subject under this section.

(f) A fee may not be imposed upon material used as alternate daily cover pursuant to a permit issued by the department under 329 IAC 10-20-13.

As added by P.L.1-1996, SEC.10. Amended by P.L.45-1997, SEC.8; P.L.2-1998, SEC.49; P.L.131-2006, SEC.10.

IC 13-20-22-2

Establishment of solid waste management fund; purpose; administration of fund; sources; investments

Sec. 2. (a) The state solid waste management fund is established to provide money for the following:

(1) Programs that provide grants and loans that provide education and promote the following:

(A) Recycling and the use of recycled materials.

(B) Waste reduction.

(C) Management of yard waste.

(2) Providing grants to implement household hazardous waste source reduction or recycling projects.

(3) Providing grants for household hazardous waste and conditionally exempting small quantity generator waste collection, recycling, or disposal projects under IC 13-20-20.

(4) Payments by the department under IC 13-20-17.7-6.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The sources of money for the fund are the following:

(1) All fees deposited into the fund under section 12(2) of this chapter.

(2) Accrued interest and other investment earnings of the fund.

(3) Appropriations made by the general assembly.

(4) Gifts and donations from any person to the fund.

(5) Civil penalties imposed under IC 13-30-4 for violations of IC 13-20-17.7 and proceeds received following a criminal conviction in connection with a violation of IC 13-20-17.7.

(6) Subject to subsection (f), assets assigned and other contributions made by persons.

(7) Transfers from the Indiana recycling promotion and assistance fund under IC 4-23-5.5-14(i).

(8) Money credited to the fund from the environmental management special fund under IC 13-14-12-1(c).

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) Money in the fund resulting from assets assigned and other contributions made under subsection (c)(6) may be used only by the department of environmental management to make payments under IC 13-20-17.7-6.

As added by P.L.1-1996, SEC.10. Amended by P.L.45-1997, SEC.9; P.L.237-1999, SEC.9; P.L.170-2006, SEC.16; P.L.137-2007, SEC.21.

IC 13-20-22-2.1

Policy on awarding of grants

Sec. 2.1. (a) The department shall adopt and make available a policy concerning the award of grants under section 2 of this chapter.

(b) The policy must include the following considerations:

(1) No private sector services will be displaced if an equipment grant is awarded.

(2) The economic need of the district must be a consideration in awarding a grant.

As added by P.L.45-1997, SEC.10.

IC 13-20-22-3

Appropriation of money; approval of expenditures

Sec. 3. (a) There is annually appropriated to the fund, for the purposes set forth in section 2(a) of this chapter, the amount of money deposited in the fund from the sources set forth in section 2(c) of this chapter.

(b) The governor and the budget agency must approve expenditures from the fund under section 2(a) of this chapter.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-4

Registration of final disposal facility responsible for collecting fees; form

Sec. 4. An owner or operator of a final disposal facility responsible for collecting the fees imposed under section 1 of this chapter shall register with the department of state revenue. To register with the department of state revenue, the owner or operator must do the following:

(1) Pay a registration fee of twenty-five dollars (\$25).

(2) File a verified registration form containing the following:

(A) The registrant's name and address.

(B) The name and address of each final disposal facility owned or operated by the registrant.

(C) Any additional information that the department of state revenue reasonably requires.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-5

Surety bond

Sec. 5. (a) The department of state revenue may require a registrant under section 4 of this chapter to file a surety bond:

(1) in an amount determined by the department of state revenue of:

- (A) not less than two thousand dollars (\$2,000); and
- (B) not more than three (3) months tax liability for the registrant as estimated by the department of state revenue; and

(2) conditioned upon:

- (A) the keeping of records; and
- (B) the making of full and complete reports and payments; as required by this chapter.

(b) If the registrant files a bond, the bond must:

(1) be with a surety company or financial institution approved by the department of state revenue; and

(2) name:

- (A) the registrant as the principal; and
- (B) the state as the obligee.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-6

Current financial statement

Sec. 6. (a) The department of state revenue may require a registrant under section 4 of this chapter to furnish a current financial statement with the registration form.

(b) After registration, the department of state revenue may require a registrant to periodically furnish a current financial statement. If the registrant's financial condition warrants an increase in the surety bond, the department of state revenue may require the registrant to furnish an increased bond.

(c) The department of state revenue may require an audited financial statement under this section.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-7

Registration card; issuance; display

Sec. 7. The department of state revenue shall issue a registration card to each registrant under section 4 of this chapter who complies with this chapter. The registration card shall be prominently displayed at each place in Indiana where the registrant is engaged in business as an owner or operator of a final disposal facility.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-8

Release of surety; new bond; cancellation of registration for failure to submit bond

Sec. 8. (a) Sixty (60) days after making a written request for release to the department of state revenue, the surety of a bond furnished by a registrant under section 5 of this chapter is released from any liability to the state accruing on the bond after the sixty (60) day period. The release does not affect any liability accruing before the expiration of the sixty (60) day period.

(b) The department of state revenue shall promptly notify the registrant furnishing the bond that a release has been requested. The registrant must:

- (1) obtain a new bond that meets the requirements of section 5 of this chapter; and
- (2) file with the department of state revenue a new bond within the sixty (60) day period.

(c) The department of state revenue shall cancel the registration for failure to submit a new bond within the sixty (60) day period.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-9

Cancellation of registration

Sec. 9. (a) The department of state revenue may, after a hearing, cancel a registration issued to an owner or operator of a final disposal facility if the owner or operator does any of the following:

- (1) Files a false monthly report of the information required by this chapter.
- (2) Fails or refuses to file a monthly report required by this chapter.
- (3) Fails or refuses to pay the full amount of the fee imposed by this chapter on or before the due date established by section 11 of this chapter.
- (4) Fails or refuses to comply with IC 6-8.1-5-4.
- (5) Knowingly removes or alters a sign posted by the department of state revenue under section 17 of this chapter.
- (6) Fails or refuses to have on file a valid bond, as required by section 5 or 8 of this chapter.
- (7) Fails to honor a subpoena issued under IC 6-8.1-3-12.

(b) The department of state revenue shall notify the owner or operator at least fifteen (15) days before the date set for the hearing of the proposed cancellation. The notice must be sent by registered mail to the last known address of the owner or operator. The owner or operator may appear at the time and place given in the notice to show cause why the registration should not be canceled.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-10

Voluntary cancellation of registration

Sec. 10. A person registered under this chapter may make a written request to the department of state revenue to cancel the person's registration. The department of state revenue may cancel the registration sixty (60) days from the date of the written request if before cancellation the person has:

- (1) paid all fees, penalties, and interest accruing under this chapter or IC 13-9.5-5 (before its repeal); and
- (2) surrendered to the department of state revenue the:
 - (A) registration certificate issued under this chapter or IC 13-9.5-5 (before its repeal); and
 - (B) any additional copies of the registration.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-11

Collection; compensation; time limit on remittance; reports

Sec. 11. (a) The owner or operator of a final disposal facility is responsible for collecting the fees imposed under section 1 of this chapter from persons delivering solid waste to that facility.

(b) Each owner or operator may:

- (1) deduct from the fees an amount equal to one percent (1%) of the fees collected; and
- (2) retain this amount as compensation for collecting and remitting the fees;

if the fees collected and the reports required under subsection (e) are timely remitted and filed.

(c) If:

- (1) the fees collected are remitted; or
- (2) the required report is filed;

after the due date, the owner or operator shall remit all fees collected to the department of state revenue.

(d) The owner or operator shall remit the remainder of the fees that the owner or operator collects during a month to the department of state revenue not later than ten (10) days after the last day of the month in which the fees are collected.

(e) The owner or operator of a final disposal facility shall file monthly reports with the department concerning the fees collected under this section. The department shall adopt a form for these reports. An owner or operator shall use the form in reporting to the department.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-12

Deposits in funds

Sec. 12. Each month the department of state revenue shall deposit the following:

- (1) Not less than fifty percent (50%) of the revenue from the fee imposed under section 1(b)(1) of this chapter into the Indiana recycling promotion and assistance fund established in IC 4-23-5.5-14.
- (2) Not more than fifty percent (50%) of the revenue from the fee imposed under section 1(b)(1) of this chapter into the fund.
- (3) The revenue from the fee imposed under section 1(b)(2) of this chapter into the hazardous substance response trust fund established by IC 13-25-4-1.

As added by P.L.1-1996, SEC.10. Amended by P.L.45-1997, SEC.11; P.L.2-1998, SEC.50; P.L.1-1999, SEC.39.

IC 13-20-22-13

Limitation on imposition of fee

Sec. 13. A fee may not be imposed by the state under section 1 of this chapter on the disposal of solid waste by a person who:

- (1) generated the solid waste; and
- (2) disposed of the solid waste at a site that is:
 - (A) owned by the person; and
 - (B) limited, for purposes of the disposal of solid waste, to use by that person for the disposal of solid waste generated by that person.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-14

Contiguous governmental units; solid waste management agreement; fee imposed

Sec. 14. If:

- (1) the:
 - (A) county executive of the county; or
 - (B) board of directors of the district;in which a final disposal facility is located has entered into an agreement concerning solid waste management with a governmental unit that is, or that is located within, a county that is contiguous to Indiana but within another state; and
- (2) the agreement provides for solid waste generated in that governmental unit to be disposed of in the final disposal facility;

the fee imposed under this chapter upon the disposal in the final disposal facility of solid waste generated in that governmental unit is the fee set forth in section 1(b)(1) of this chapter, not the fee set forth in section 1(b)(2) of this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.2-1998, SEC.51; P.L.1-1999, SEC.40.

IC 13-20-22-15

Fee collection; determination of weight of solid waste

Sec. 15. (a) For purposes of the collection of the fees imposed under section 1 of this chapter, the owner or operator of a final disposal facility that:

- (1) receives, on the average, less than two hundred (200) tons of solid waste each day; and
- (2) does not have a scale suitable for weighing the solid waste received at the final disposal facility;

may determine the weight of the solid waste received by conversion from the volume of the solid waste.

(b) The owner or operator shall apply the following conversion factors:

- (1) Three and three-tenths (3.3) cubic yards of compacted solid waste equals one (1) ton of solid waste.
- (2) Six (6) cubic yards of uncompacted solid waste equals one (1) ton of solid waste.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-16

Fees not revenues of facility

Sec. 16. Fees prescribed by this chapter are not:

- (1) revenues (as defined in IC 36-9-31-2) of a facility (as defined in IC 36-9-31-2); or
- (2) revenues under:
 - (A) IC 8-1.5;
 - (B) IC 13-21-3-13;
 - (C) IC 13-21-7 through IC 13-21-12;
 - (D) IC 13-21-14; or
 - (E) IC 36-9-30.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-17

Prohibition of further transactions involving solid waste disposal; posting of sign; conditions

Sec. 17. (a) If any of the following conditions occur, the department of state revenue may post a sign at a solid waste disposal site that prohibits further transactions involving solid waste disposal at the site:

- (1) An owner or operator of a final disposal facility becomes delinquent in payment of any amount due under this chapter.
- (2) There is evidence that the revenue of an owner or operator of a final disposal facility is in jeopardy.
- (3) An owner or operator of a final disposal facility is operating without the registration required by this chapter.
- (4) An owner or operator of a final disposal facility is operating without the bond required by this chapter.
- (5) An owner or operator of a final disposal facility continues to operate the final disposal facility after the registration of the owner or operator has been canceled under this chapter.

(b) The department of state revenue may require that the sign posted under this section must remain posted until the owner or operator of the final disposal facility does all of the following:

- (1) Files all reports and pays in full the fees and penalties imposed by this chapter.
- (2) Pays in full the interest and penalties imposed under IC 6-8.1-10-1 and IC 6-8.1-10-2.1.
- (3) Obtains the registration required by this chapter.
- (4) Provides the bond required by this chapter.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-18

Election and exclusivity of remedies

Sec. 18. The remedies provided by this chapter are cumulative. Action taken by the state may not be construed as an election to pursue a remedy to the exclusion of other remedies.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-19

Failure to pay collected solid waste disposal or incineration fees; offense

Sec. 19. A person who knowingly or intentionally fails to pay the fee to the department of state revenue under section 11 of this chapter commits a Class D felony.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-20

Defacement or removal of signs; offense; notice by owner or operator

Sec. 20. (a) A person who, without authorization:

- (1) removes;
- (2) alters;
- (3) defaces; or
- (4) covers;

a sign posted by the department of state revenue under section 17 of this chapter commits a Class B misdemeanor. However, the offense is a Class D felony if the offense is committed with the intent to evade the fee imposed by this chapter or to defraud the state.

(b) An owner or operator of a final disposal facility shall notify the department of state revenue not later than two (2) days after discovering that a sign posted by the department has been removed, altered, defaced, or covered.

(c) An owner or operator of a final disposal facility who fails to notify the department under subsection (b) commits a Class B misdemeanor.

As added by P.L.1-1996, SEC.10.

IC 13-20-22-21

Criminal penalty for application misstatement

Sec. 21. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for a loan or grant from the fund commits a Class D felony.

As added by P.L.137-2007, SEC.22.