Regulatory Analysis

TITLE 328 INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LSA Document #26-13

I. Description of Rule

a. History and Background of the Rule –In response to the detrimental environmental impact of leaking underground storage tanks ("USTs"), Congress amended Subtitle I of the Resource Conservation and Recovery Act in 1986 to direct the United States Environmental Protection Agency ("U.S. EPA") to establish financial responsibility requirements for UST owners and operators. These requirements ensured that UST owners and operators could cover the costs of corrective action and compensate third parties for injuries and property damage caused by leaking tanks.

In lieu of purchasing private insurance, U.S. EPA allowed UST owners and operators to rely on a state assurance fund.[1] Indiana and thirty-five other states have established such a fund. Indiana's fund, the Excess Liability Trust Fund ("ELTF"), was established in 1988[2] and assists UST owners and operators in demonstrating the federally required financial responsibility. The ELTF provides reimbursement for eligible costs related to emergency measures, investigation, corrective action, and indemnity claims related to the release of regulated substances from USTs.[3]

Subsequently, in 2023, the Indiana General Assembly passed a law to allow aboveground petroleum storage tanks ("ASTs") to use the ELTF to satisfy corrective action liabilities.[4] Further, another new law, also passed in 2023, authorized the use of the ELTF to provide reimbursement of fifty percent of the cost of decommissioning and replacing a UST if such replacement is considered necessary by the commissioner of IDEM to protect human health and the environment.[5] The law also places limits on the annual amount that may be expended from the ELTF for the decommissioning or replacing of underground storage tanks.

To comply with this new law and improve the overall management and fiscal integrity of the ELTF, this rulemaking amends and adds additional rules to 328 IAC 1. Currently, 328 IAC 1 defines the scope and management of the ELTF, fund eligibility and access, prioritization of claims, reimbursable costs for claims, indemnity claims, claim and payment procedures, and other aspects of the ELTF. This rulemaking also adds a new article, 328 IAC 3, to address UST decommissioning and replacement as required by Ind. Code § 13-23-9-1.7.

b. Scope of the Rule – The proposed rulemaking would:

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[1] *See* 40 CFR 281.37 (2025).
[2] *See* Ind. Code § 13-23-7 (2025).
[3] *See* Ind. Code § 13-23-9-1.5 (2025).
[4] S.E.A. 246, 123rd Gen. Assemb., 1st Reg. Sess. (Ind. 2023), codified at Ind. Code § 13-23-7 (2025).
[5] Ind. Code § 13-23-9-1.7 (2025).

1. Modify and add definitions to provide clarity and consistency for UST and petroleum AST owners and operators.
2. Clarify ELTF eligibility.
3. Further specify requirements for the preapproval of work and reimbursements.
4. Specify eligible costs after a "no further action" designation.
5. Incorporate updated cost guidelines and tasks eligible for reimbursement.
6. Incorporate coverage of petroleum ASTs.
7. Establish allowable reimbursement for decommissioning and replacement of USTs.

The rulemaking is adding new rules regarding reimbursement and decommissioning because amending existing language to provide for the new legislative requirements would be confusing and cumbersome. IDEM is also proposing to repeal a definition because it is duplicative and unnecessary.

c. Statement of Need – The purpose of this rulemaking is to (1) serve a public need by improving a government process that is essential to promoting public safety and human health and (2) fulfill state statutory requirements.

This rulemaking amends 328 IAC 1 to improve the management and fiscal integrity of the ELTF, in addition to simplifying its use by claimants. ELTF was established by the Indiana General Assembly to assist UST owners in demonstrating the financial responsibility required by Resource Conservation and Recovery Act. The ELTF provides reimbursement of eligible costs related to emergency measures, investigation, corrective action, and indemnity claims resulting from the release of regulated substances from USTs. Such releases, if left unaddressed, can have detrimental effects on soil and groundwater.

Additionally, the rulemaking fulfills a state statutory requirement by incorporating ASTs as eligible for ELTF coverage. Further, the rulemaking creates new rules for the reimbursement of the decommissioning and replacement of certain USTs, which is also required by Ind. Code § 13-23-11-7.

d. Statutory Authority for the Proposed Rule –Ind. Code § 13-23-11-7.

e. Fees, Fines, and Civil Penalties – This rulemaking does not add any fees, fines or civil penalties.

II. Fiscal Impact Analysis

a. Anticipated Effective Date of the Rule – June 2026

b. Estimated Fiscal Impact on State and Local Government – This rulemaking will likely have a positive fiscal impact on state government, while having no fiscal impact on local governments. The fiscal impact to state government stems from the new reimbursement rate structure for ELTF claims and the clarified claim preapproval requirements. The goal of these provisions is a more streamlined review process for IDEM staff, leading to a reduction in administrative costs.

Additionally, these provisions will give more predictability to stakeholders that utilize the ELTF. Ideally, this predictability will result in less litigation and fewer appeals regarding ELTF claims, saving the agency legal costs. However, the total amount of money that the state will save due to these provisions is unknown considering the individualistic nature of ELTF claims. In the years preceding 2024, IDEM denied roughly 20% of claims submitted for reimbursement. Ideally, this denial rate will go down, also resulting in fewer appeals and less litigation.

It is anticipated that, at the outset, the ELTF will experience higher payouts because of this rulemaking and new statutory requirements. However, these payouts fulfill the statutory purpose of the ELTF and will result in better maintained or new USTs and ASTs, thus benefiting the health and safety of the public and reducing the environmental harm caused by leaking USTs and ASTs. Further, properly maintained or new USTs will result in fewer ELTF claims in the future.

c. Sources of Expenditures or Revenues Affected by the Rule – There are no sources of revenue impacted by this rule. However, the rule will likely result in more payouts from the ELTF immediately following the rule's promulgation. The rule offers and encourages the use of a task-based reimbursement mechanism in addition to the itemized reimbursement mechanism. Further, the reimbursable costs for the tasks are larger than what was formerly in rule to accommodate for inflation and other factors. However, this task-based mechanism is expected to reduce appeals and litigation on ELTF payouts. Accordingly, over time the agency's costs for reimbursing ELTF claims are expected to go down under this rule.

Further, the proposed rulemaking allows for 50% reimbursement for the decommissioning and replacement of certain USTs. This provision is required by Ind. Code § 13-23-9-1.7. There is a statutory cap of $20 million per year for such reimbursements, and IDEM anticipates reaching that cap each year.[6] While this statutorily required expenditure will undoubtedly place a financial burden on the ELTF at the outset, the replacement of older USTs will decrease the number of future releases therefore reducing future reimbursements from the ELTF while also protecting human health and the environment. Finally, while this rulemaking is adding the decommissioning and replacement program into rules, the program is already operating in accordance with statute. Therefore, practically, the rule will have no further impact on expenditures.

III. Impacted Parties

The exact number of individuals affected by this rulemaking is unknown. As of January 1, 2025, there are 3,977 registered facilities with a combined total of 13,017

[6] Specifically, Ind. Code § 13-23-9-1.7(b) (2025) limits annual reimbursement for the decommissioning or replacement of USTs to $10,000,000 for claims submitted by applicants owning not more than twelve USTs; $7,500,000 for claims submitted by applicants owning more than twelve but not more than one hundred USTs; and $2,500,000 for claims submitted by applicants owning more than one hundred USTs.

USTs in the State of Indiana.[7] There are 232 registered ASTs in Indiana, but this number is expected to grow as more parties are made aware of registration requirements. Additionally, environmental consultants who provide clean-up services to these facilities will be impacted by this rulemaking; however, there is no official number of environmental consultants in Indiana. According to the most recent figures presented by the IDEM, between July 2023 and March 2024, the department received a total of 337 ELTF claims. The agency also received 178 decommissioning and replacement applications between June 2023 and March 2024.

IV. Changes in Proposed Rule

Rule Citation	Proposed Changes
328 IAC 1-1-3	Updates the definition of "corrective action" instead of citing 329 IAC 9-1-14.5. The cited rule includes a reference to another rule that has since been repealed.
328 IAC 1-1-3.1	Updates the definition of "corrective action plan" to include aboveground storage tanks (ASTs) in accordance with Ind. Code § 13-23-11-7, and cite the federal definition found at 40 CFR 280.66.
328 IAC 1-1-5.1	Removes a subsection that the agency believes is unnecessary and includes threats to "property" to better align the rule to Ind. Code § 13-23-9-1.5.
328 IAC 1-1-7	Repeals the definition of "occurrence" because the word will no longer be used in the rule.
328 IAC 1-1-7.5	Amends the definition of "Off-site" to include ASTs in conformity with Ind. Code § 13-23-11-7.
328 IAC 1-1-8.3	Amends the definition of "Reasonable" to clarify the agency's policy of risk-based remediation. Also includes new references to relevant statutes.
328 IAC 1-1-8.4	Adds a new definition of "Responsible Party" to provide more clarity to claimants.
328 IAC 1-1-8.5	Amends the definition of "Site Characterization" to remove obsolete references to the Indiana Administrative Code and insert references to the Code of Federal Regulations and relevant state statutes.
328 IAC 1-2-1	Removes unnecessary citations and clarifies that the cost range or amount of reimbursable costs are determined by the date the work was completed. Specifies that reimbursement eligibility is determined by the limits in effect on the date of application submission and NOT when the release occurred or was discovered.
328 IAC 1-3-1	Clarifies who may access the ELTF and eliminates references to "fund" in favor of "ELTF" to provide more clarity and consistency. The section also includes new language describing the information required from applicants seeking ELTF eligibility.
328 IAC 1-3-1.3	Adds language that permits the agency to request additional information from claimants to help determine the cost-effectiveness of work. Adds

[7] Indiana Department of Environmental Management. (2024). *Energy Policy Act Public Record Summary Information on Underground Storage Tanks*. https://www.in.gov/idem/tanks/files/records_energy_policy_act.pdf

	language to ensure remediation objectives are consistent with statutory requirements. Adds language that clarifies the agency's ability to determine that a corrective action plan is no longer cost-effective.
328 IAC 1-3-1.6	Provides instructions for preapproval of work. Provides exceptions for preapproval in accordance with the Code of Federal Regulations. Outlines information required of applicants seeking preapproval of work.
328 IAC 1-3-3	Modifies language for clarity and inserts relevant references to state statutes and the Code of Federal Regulations. Also imposes a 365-day deadline for the submission of certain reimbursable costs incurred before the effective date of this rule. Removes language concerning claims for releases made prior to July 2016, as this language is no longer relevant. Inserts references to ASTs in conformity with Ind. Code § 13-23-11-7 and relevant form contents.
328 IAC 1-3-5	Makes minor stylistic changes and inserts references to relevant citations to conform with changes elsewhere in the rulemaking. Inserts references to ASTs in conformity with Ind. Code § 13-23-11-7. Clarifies that reimbursable maintenance must be reasonable and that insurance payments are not reimbursable. Removes most of the prior reimbursement rates as to not conflict with the following section. Specifies that labor rates are indexed to the average monthly producer price index. Includes references to documents required by the Code of Federal Regulations and broadens the language to allow more types of risk evaluations.
328 IAC 1-3-5.1	This section incorporates the maximum hours of work that are reimbursable through the ELTF for tasks related to site characterization and investigations, drilling oversight and sampling activities, groundwater monitoring, site closure, ELTF claim preparation, and other miscellaneous tasks. The section also specifies the maximum rates to be reimbursed from the ELTF for specified analytical, drilling, equipment, and well abandonment costs.
328 IAC 1-3-5.2	This new section details when costs are eligible for reimbursement from the ELTF after a "no further action" status is granted for the eligible release. This section is required by Ind. Code § 13-23-11-7(a)(1)(F).
328 IAC 1-3-5.3	This new section provides the conditions under which the subsequent owner of a property that suffered damage from a leaking UST or AST is eligible for reimbursement from the ELTF for remediation costs.
328 IAC 1-5-1	Makes minor stylistic and conforming changes. Specifies that claims for less than $5,000 are required to conform with the 365-day deadline in 328 IAC 1-3-3. Details the information required from applicants in their application for reimbursement.
328 IAC 3	This new article provides rules for the new requirements at Ind. Code § 13-23-11-7, which allow for reimbursement of 50% of the costs of decommissioning and replacing USTs.

V. Benefit Analysis

a. Estimate of Primary and Direct Benefits of the Rule –

There are two primary and direct benefits to this rulemaking: (1) the rule complies with statutory directives to incorporate AST claims as reimbursable from the ELTF and establish procedures for the fifty percent reimbursement for the decommissioning and replacement of qualified USTs, and (2) the rulemaking would update and overhaul the current ELTF reimbursement system to enhance predictability and reduce appeals.

1. **The proposed rule complies with statutory directives to provide fifty-percent reimbursement of the costs of decommissioning or replacing qualified USTs and incorporates ASTs into the ELTF program.**

Ind. Code § 13-23-11-7(a)(1)(E) requires the Petroleum Tank Financial Assurance Board to "[p]rovide reimbursement from the petroleum storage tank excess liability trust fund for fifty percent of costs of decommissioning or replacing underground petroleum storage tanks . . ." In compliance with this statute, this proposed rule would add a new article at 328 IAC 3. The proposed rules found in this new article share many similarities to the rules currently found at 328 IAC 1 in the way the rules establish who is eligible for reimbursement, how claims are submitted, what costs are reimbursable, as well as application and payment procedures.

Complying with Ind. Code § 13-23-11-7(a)(1)(E) will result in large annual investments in protecting human health and the environment. The reimbursement of the costs associated with decommissioning and replacement of qualified USTs is capped at $20 million per year.[8] IDEM expects to hit this cap annually. This means that $20 million will be spent annually to close and replace old, deteriorating USTs that could adversely impact soil, groundwater, and human health.

Finally, the Indiana General Assembly amended relevant sections of Ind. Code art. 13-23 to allow owners of ASTs to seek reimbursement from the ELTF. To accommodate this addition, the proposed rule inserts references to ASTs into 328 IAC 1 and 328 IAC 2 to acknowledge their eligibility for reimbursement

2. **The proposed rule would enhance ELTF reimbursement predictability, lower review time, and reduce appeals by adding a task-based reimbursement mechanism and modifying when eligibility limits are determined.**

The proposed rule heavily modifies the reimbursement mechanisms found at 328 IAC 1-3-5 and adds a new section at 328 IAC 1-3-5.1. The purpose of these changes is to offer applicants the option, and encourage its use, to base ELTF reimbursement claims on tasks, rather than individual items.

IDEM surveyed claims it received for specific tasks related to corrective action of UST spills, leaks, and overfills, as well as costs and bids submitted to the Indiana Finance Authority for the same work and cost guidelines established in other states. Using this information, the agency developed task-based cost guidelines for corrective actions related to USTs and incorporated these guidelines into a non-rule

[8] *See* Ind. Code § 13-23-9-1.7(b), *supra* note 6

policy document (NPD).[9] The NPD was implemented in two phases. The first phase, which began in 2022, established cost guidelines for five tasks. The second phase, which began in 2024, established guidelines for an additional twenty-five tasks.

This rulemaking would incorporate much of this NPD into the Indiana Administrative Code. While this NPD has only been effective for one year, the agency has been able to see some positive trends that led the agency to conclude that the task-based method is preferable to the itemized list currently found in 328 IAC 1 because (A) it takes less time for the agency to review and results in fewer denials, (B) it reduces disputes and appeals, and (C) it provides the agency and stakeholders predictability in budgeting for corrective action. However, despite the preview provided by the NPD, the overall benefits of this rulemaking are difficult to quantify with a specific dollar amount.

Finally, the rulemaking would specify that ELTF eligibility limits are determined on the date of application and not when the release occurred or was discovered. This small change simplifies the application process and bypasses the tedious process of determining when a release occurred and who owned the facility at that time. Instead, eligibility will be determined at the time of application—which would mean more releases would be eligible for reimbursement. This small change will have a cost. In looking at previous denials over the past five years, IDEM found two releases that were ineligible because they fell under prior, stricter reimbursement schemes due to the time of the release. Under the proposed rules, releases like these would be eligible for reimbursement. IDEM estimates that this change would cost the ELTF, on average, \$122,500 per year based on the average cost of closure, or \$612,500 over five years.

A. Agency review is timelier and results in fewer denials

Since the agency adopted cost guidelines through an NPD, the percentage of claims approved has increased and the task-based reimbursement mechanism has resulted in more timely review of claims.

The increased claim approval rate has resulted in decreases in the labor costs to both eligible parties and the agency associated with claim denials. Specifically, each denial requires eligible parties to reevaluate and resubmit their claims—increasing labor and consulting costs. These resubmitted claims must then be reviewed by agency personnel and are time sensitive. Therefore, it is in the interests of both the agency and the eligible parties for claims to be approved after the first claim submittal. As shown in figure 1 below, the agency's 2024 NPD correlates with an increased percentage of claims approved, which results in less time and money spent by both the agency and eligible parties. Figure 2 corroborates the notion that the amount of time for agency review has been reduced by the implementation of the NPD—resulting in less labor for the agency and quicker reimbursement for stakeholders.

[9] IND. DEPT. OF ENV'T. MGMT., WASTE-0078-NPD-R1, EXCESS LIABILITY TRUST FUND COST GUIDANCE (2024)

IDEM anticipates this positive trend to continue if the proposed rule is adopted.

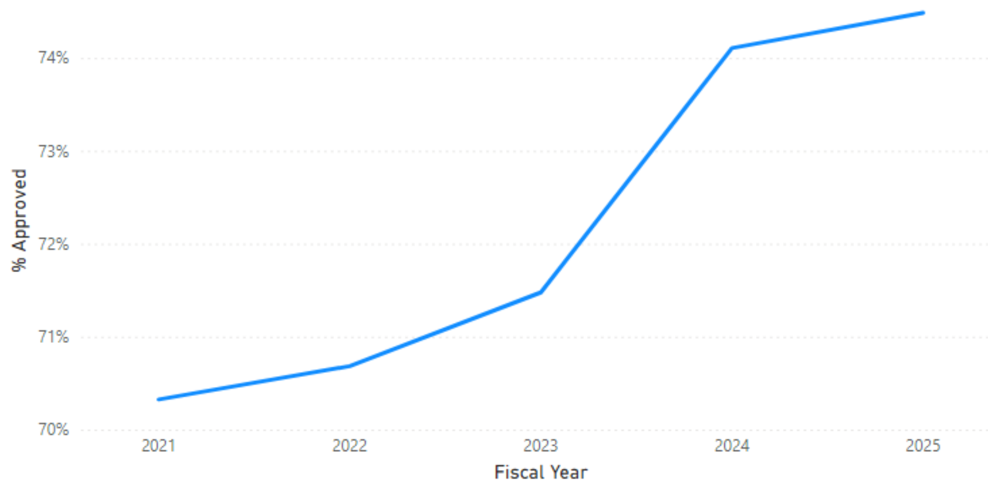

Figure 1: Percent of claims approved by IDEM.

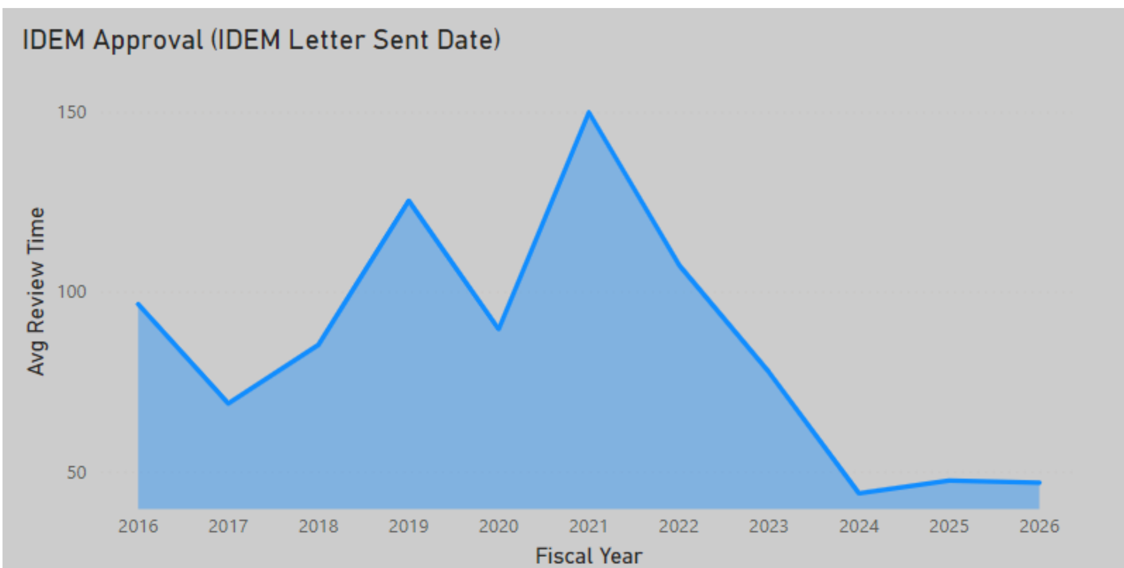

Figure 2: Average ELTF Claim Review Time (in days)

B. Appeals and Disputes are Reduced

The adoption of the NPD has also given the agency a preview on the proposed rule's effect on appeals. Prior to the enactment of the NPD and under the current rule structure, eligible parties regularly appealed IDEM's denials based on disagreements with the agency's interpretation of "reasonableness and cost effectiveness." *See* 328 IAC 1-3-1(c). As the table below shows, the agency's new cost guidance has led to a decrease in the number of appeals related to reasonableness and cost effectiveness because IDEM automatically considers costs reimbursed based on the guidelines to be reasonable and cost effective. IDEM expects this trend to continue by adding the cost guidelines to the rule language.

Year	# Appeals total	# Cost appeals	# of appeals disputing reasonableness and cost effectiveness
2025	3	1	n/a
2024	4	2	2
2023	7	4	2
2022	18	13	10
2021	11	11	9
2020	5	2	n/a
2019	12	9	6

Figure 3: Appeals comparison table

C. Corrective action costs are more predictable and easier to budget

Based on feedback from eligible parties, IDEM has concluded that the proposed rule would allow for more predictable reimbursement from the ELTF. Instead of cataloguing individual corrective action-related items listed in current rules, the NPD allows eligible parties to budget based on specific tasks. Indeed, the agency has received feedback on its NPD and found that many consultants have voluntarily adopted the policy in their invoicing structure. Therefore, the amount of time it takes a consultant to generate an invoice is reduced and the eligible party is more likely to know the costs of work before the work is completed.

D. Overall fiscal benefits are difficult to quantify

The benefits of this proposed rule are difficult to quantify in firm dollar amounts. There are three main components to the proposed rule: (1) rules governing the fifty percent reimbursement for the decommission and replacement of certain USTs, (2) incorporation of ASTs into rule governing the ELTF, and (3) encouraging claimants to transition from an item-based to the task-based system.

As mentioned earlier, the statutorily mandated reimbursement for the decommissioning and replacement of certain USTs will result in an annual investment of $20 million in replacing USTs that are potentially hazardous to human health and the environment. Further, ELTF coverage of ASTs is also statutorily mandated. Since these aspects of the rulemaking have been mandated by the Indiana General Assembly, the benefits (and costs) of this rulemaking with respect to these two components will not exceed what is already in statute.

The third component—the switch to task-based reimbursement mechanism—is also difficult to quantify because of the individualistic nature of ELTF claims. It should be mentioned that the proposed changes are largely incorporating policies that are already in effect at the agency through an agency NPD. Due to the previously implemented cost guidance NPD, the department has documented increased percentages for reimbursement of costs incurred. When IDEM requires the investigation or monitoring of a petroleum release, the goal is to reimburse eligible parties 100% (minus their deductible) of their costs incurred. The rule attempts to clarify which costs are eligible so that eligible parties are not left with costs invoiced by their consultant/contractor that IDEM deems ineligible. Through the codification of these cost guidelines, IDEM hopes to eliminate as much administrative uncertainty from the process as possible. While this goal is beneficial to both the agency and stakeholders, quantifying the benefit in dollar amounts is exceedingly difficult.

b. Estimate of Secondary or Indirect Benefits of the Rule - The secondary or indirect benefit would be to the communities and areas near USTs. Improving the efficiency of ELTF claims and instilling a more precise task-based reimbursement process will hasten decision-making by stakeholders performing corrective action, ideally resulting in faster clean-ups of spills, overfills, and leaks. These environmental hazards left unattended can pollute soil, groundwater, and pose a fire hazard.

Additionally, performing corrective action and addressing environmental hazards can make properties available for redevelopment or reuse to provide greater economic benefit for the community. Without corrective action of releases from USTs and ASTs, properties may not be safe for certain types of uses such as commercial business activity or recreation and even affect neighboring areas with established uses. Improvements to the ELTF claims process cited in the primary benefits will facilitate more expedient beneficial economic use of a property that requires corrective action.

c. Estimate of Any Cost Savings to Regulated Industries – Due to the individualistic nature of ELTF claims, it is impossible to estimate cost savings to regulated entities because of this proposed rule. IDEM predicts that payouts, and cost reimbursement percentages, from the ELTF to stakeholders will increase due to the updated cost guidelines and a reduction in denials. Thanks to the rule's improved clarity, eligible parties will be less likely to submit claims for costs that IDEM deems ineligible.

IDEM also expects to meet its statutory cap of $20 million for UST decommissioning and replacement—a direct savings to owners of USTs. Further, IDEM also predicts that administrative and legal costs incurred by both the agency and stakeholders will be reduced because of task-based cost guidelines and enhanced preapproval mechanisms. However, quantifying the additional outlays from the ELTF and the cost savings is not possible due to the uncertainty of the future number of claims and payment amounts.

VI. Cost Analysis

a. Estimate of Compliance Costs for Regulated Entities – IDEM does not anticipate any additional compliance costs for regulated entities because of this rulemaking. Indeed, the rulemaking does not impose any requirements on stakeholders that are not already in statute. The addition of a task-based reimbursement mechanism does not require regulated entities to comply with any new regulation and any costs imposed by this change would be administrative (which is addressed below).

It should be mentioned that ASTs are required by this rule to register with the agency, however this requirement is already imposed by Ind. Code § 13-23-12-1. Therefore, the rule does not require entities to comply with any requirement not already imposed by Indiana code.

b. Estimate of Administrative Expenses Imposed by the Rules – IDEM anticipates administrative expenses imposed by this proposed rule to be negligible because many of the changes within the rule are adopting policies that have already been in place since 2024 through the NPD. Indeed, the agency has received feedback from stakeholders and consultants and found that the NPD task-based reimbursement mechanism has already been incorporated by some consultants in their invoicing systems.

Any consultants who have not incorporated the task-based reimbursement mechanism into their invoicing, or any stakeholders who have not familiarized themselves with these new policies, would need to spend time familiarizing themselves with the task-based reimbursement rates, associated forms, and agency policies.

While the agency is aware of nearly 14,000 USTs operating in Indiana, and over 200 ASTs, it is exceedingly difficult to quantify the administrative costs imposed by this rule because (1) UST and AST facilities have varied operational structures; (2) consultants are not required to register with the agency and so the number of consulting firms and their operations are unknown; and (3) the actual time and cost of familiarizing oneself with a new policy is difficult to establish.

c. The fees, fines, and civil penalties analysis required by IC 4-22-2-19.6 – This proposed rule does not include any fees, fines, or penalties.

d. If the implementation costs of the proposed rule are expected to exceed the threshold set in IC 4-22-2-22.7(c)(6) – The combined implementation and compliance costs of the proposed rule are less than one million dollars ($1,000,000) over a two-year period.

VII. Sources of Information

a. Sources Relied Upon in Determining and Calculating Costs and Benefits

Approval of State Underground Storage Tank Programs. 40 CFR § 281 (2015)

Underground Storage Tank Financial Assurance Board. 328 IAC 1 (2018)

Underground Storage Tanks. 329 IAC 9. (2018)

Indiana Department of Environmental Management (2024). *Excess Liability Trust Fund Guidance (Waste-0078-NPD-R1):* https://www.in.gov/idem/files/nrpd_waste-0078-r1_guidance.pdf

Indiana Department of Environmental Management. (2024). *Energy Policy Act Public Record Summary Information on Underground Storage Tanks*. https://www.in.gov/idem/tanks/files/records_energy_policy_act.pdf

U.S. Environmental Protection Agency. (2011). *EPA Study on the Effectiveness of UST Insurance as a Financial Responsibility Mechanism.* https://www.epa.gov/sites/default/files/2014-03/documents/epa-insurance-paper.pdf

VIII. Regulatory Analysis

Ultimately, the rulemaking will have a positive fiscal impact as it aligns 328 IAC 1 with new statutory changes and reimbursement policies as adopted by the agency. The rulemaking also adopts rules for the statutorily required decommissioning and replacement program, which reimburses up to 50% of the costs associated with decommissioning and replacing a UST. These changes will provide a consistent regulatory scheme. However, when considering the potential increase in disbursements from the ELTF due to the incorporation of statutorily required programs and agency policies, the rulemaking will have a positive impact on ELTF claimants and the communities around impacted USTs and ASTs, but require more expenditures from the ELTF at the outset. In summary, the agency has determined that the benefits are likely to exceed the costs under this rule.

IX. Contact Information of Staff to Answer Substantive Questions

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