

## NOTICE OF DECISION

The Indiana Department of Environmental Management (IDEM) has issued a minor permit modification for the National Serv-All Landfill (SW Program ID 02-02) at 6231 MacBeth Road, Fort Wayne, Allen County. This solid waste land disposal facility permit modification allows the permittee, Republic Services of Indiana, LP, d/b/a National Serv-All Landfill, to install a third leachate collection tank at the facility. Documents related to this decision can be found in IDEM's Virtual File Cabinet (VFC) <http://vfc.idem.in.gov/> by selecting the "Solid Waste Program ID" in the "Quick Search" field (in the upper right-hand corner of the page) then enter 02-02. Contact information can be located at <https://www.in.gov/idem/waste/contact/>.

## APPEAL PROCEDURES

If you wish to challenge this decision, IC 13-15-6-1 and IC 4-21.5-3-7 require that you file a Petition for Administrative Review. If you seek to have the effectiveness of the permit stayed during the Administrative Review, you must also file a Petition for Stay. The Petition(s) must be submitted to the Indiana Office of Administrative Proceedings (OALP) at the following address within 15 days of this Notice (18 days if you received this notice by U.S. Mail):

Indiana Office of Administrative Law Proceedings  
Indiana Government Center North, Room N802  
100 North Senate Avenue  
Indianapolis, IN 46204

The Petition(s) must include facts demonstrating that you are either the applicant, a person aggrieved or adversely affected by the decision, or otherwise entitled to review by law. Identifying the permit, decision, or other order for which you seek review by permit number, name of the applicant, location, or date of this notice will expedite review of the petition. Additionally, IC 13-15-6-2 and 315 IAC 1-3-2 require that your Petition include:

1. the name, address, and telephone number of the person making the request;
2. the interest of the person making the request;
3. identification of any persons represented by the person making the request;
4. the reasons, with particularity, for the request;
5. the issues, with particularity, for the request;
6. identification of the terms and conditions which, in the judgment of the person making the request, would be appropriate in the case in question to satisfy the requirements of the law governing documents of the type granted or denied by the Commissioner's action; and
7. a copy of the pertinent portions of the permit, decision, or other order for which you seek review, at a minimum, the portion of the Commissioner's action that identifies the person to whom the action is directed and the identification number of the action.

Pursuant to IC 4-21.5-3-1(f), any document serving as a petition for review or review and stay must be filed with the OALP within the deadline above. Filing of such a document is complete on the date that the petition is:

1. delivered in-person to the OALP;
2. postmarked on the envelope containing the petition, if the petition is mailed to the OALP by United States mail; or
3. deposited with a private carrier, as shown by a receipt issued by the carrier, if the petition is sent to the OALP by private carrier.
4. submitted using OALP's online petition form, available at [IN.gov/oalp](http://IN.gov/oalp).

In order to assist IDEM in tracking any appeals of the decision, please provide a copy of your petition to IDEM, Solid Waste Permits, IGCN 1154, 100 North Senate Ave., Indianapolis, IN 46204-2251 or [SolidWasteSubmittals@idem.in.gov](mailto:SolidWasteSubmittals@idem.in.gov).

The OALP will provide you with notice of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders regarding this decision if you submit a written request to the OALP. If you do not provide a written request to the OALP, you will no longer be notified of any proceedings pertaining to this decision.

For additional information on filing a petition with OALP, visit their website at [IN.gov/oalp](http://IN.gov/oalp).



# What if you are not satisfied with this decision and you want to file an appeal?

## Who may file an appeal?

The decision described in the accompanying Notice of Decision may be administratively appealed. Filing an appeal is formally known as filing a “Petition for Administrative Review” to request an “administrative hearing”.

If you object to this decision issued by the Indiana Department of Environmental Management (IDEM) and are: 1) the person to whom the decision was directed, 2) a party specified by law as being eligible to appeal, or 3) aggrieved or adversely affected by the decision, you are entitled to file an appeal. (An aggrieved and adversely affected person is one who would be considered by the court to be negatively impacted by the decision. If you file an appeal because you feel that you are aggrieved, it will be up to you to demonstrate in your Petition for Administrative Review how you are directly impacted in a negative way by the decision).

The Indiana Office of Administrative Law Proceedings (OALP) was established by state law – see Indiana Code (IC) 4-15-10.5 – and is a separate state agency independent of IDEM. Review by OALP of IDEM decisions is limited to the review of environmental pollution concerns or any alleged technical or legal deficiencies associated with the IDEM decision making process. Once your request has been received by OALP, your appeal may be considered by an Administrative Law Judge.

## What is required of persons filing an appeal?

Filing an appeal is a legal proceeding, so it is suggested that you consult with an attorney. Your request for an appeal must include your name and address and identify your interest in the decision (or, if you are representing someone else, his or her name and address and their interest in the decision). In addition, please include a photocopy of the accompanying Notice of Decision or list the permit number and name of the applicant, or responsible party, in your letter.

Before a hearing is granted, you must identify the reason for the appeal request and the issues proposed for consideration at the hearing. You also must identify the permit terms and conditions that, in your judgment, would appropriately satisfy the requirements of the law with respect to the IDEM decision being appealed. That is, you must suggest an alternative to the language in the permit (or other order, or decision) being appealed, and your suggested changes must be consistent with all applicable laws (See Indiana Code 13-15-6-2) and rules (See Title 315 of the Indiana Administrative Code, or 315 IAC).



The effective date of this agency action is stated on the accompanying Notice of Decision (or other IDEM decision notice). If you file a "Petition for Administrative Review" (appeal), you may wish to specifically request that the action be "stayed" (temporarily halted) because most appeals do not allow for an automatic "stay". If, after an evidentiary hearing, a "stay" is granted, the IDEM-approved action may be halted altogether, or only allowed to continue in part, until a final decision has been made regarding the appeal. However, if the action is not "stayed" the IDEM-approved activity will be allowed to continue during the appeal process.

### **Where can you file an appeal?**

If you wish to file an appeal (Petition for Administrative Review), you must do so in writing. To access the petition form and more information on filing a petition with OALP, visit their website at <https://www.in.gov/oalp/>. Submit your petition form electronically as directed on the OALP website, or send or deliver it to:

**Office of Administrative Law Proceedings  
100 North Senate Avenue, Suite N802  
Indianapolis, IN 46204**

If you file an appeal, also please send a copy of your appeal letter to the IDEM contact person identified in the Notice of Decision, and to the applicant (person receiving an IDEM permit, or other approval).

Your appeal must be received by OALP in a timely manner. The due date for filing an appeal may be given, or the method for calculating it explained, on the accompanying Notice of Decision (NOD). Generally, appeals must be filed within 18 days of the mailing date of the NOD if it was sent by U.S. Mail, or within 15 days after receiving the NOD by email if it was sent electronically. To ensure that you meet this filing requirement, your appeal request must be:

- 1) Delivered in person to OALP, by the close-of-business on the 18th day if the NOD was received by U.S. Mail, or the 15<sup>th</sup> day if the NOD was received by email (if the 18<sup>th</sup> day, or 15<sup>th</sup> day if NOD was received by email, falls on a day when OALP is closed for the weekend or for a state holiday, then your petition will be accepted on the next business day on which OALP is open), or
- 2) Given to a private carrier who will deliver it to the OALP on your behalf, (and from whom you must obtain a receipt dated on or before the 18th day if the NOD was received by U.S. Mail, or the 15<sup>th</sup> day if the NOD was received by email), or
- 3) For those petitions sent by U.S. Mail, your letter must be postmarked by no later than midnight of the 18th day (or the 15<sup>th</sup> day if the NOD was received by email), or
- 4) Submitted using OALP's online petition form, available at <https://www.in.gov/oalp/>

**What are the costs associated with filing an appeal?**

The OALP does not charge a fee for filing documents for an administrative review or for the use of its hearing facilities. A cost that could be associated with your appeal would be for attorney's fees. Although you have the option to act as your own attorney, the administrative review and associated hearing are complex legal proceedings; therefore, you should consider whether your interests would be better represented by an experienced attorney.

**What can you expect from the Office of Administrative Law Proceedings after you file for an appeal?**

The OALP will provide you with notice of any prehearing conference, preliminary hearings, hearings, "stays," or orders disposing of the review of this decision. In addition, you may contact the OALP by phone at 1-800-457-8283 with any scheduling questions. However, technical questions should be directed to the IDEM contact person listed on the Notice of Decision.

Do not expect to discuss details of your case with OALP other than in a formal setting such as a prehearing conference, a formal hearing, or a settlement conference. The OALP is not allowed to discuss a case without all sides being present. All parties to the proceeding are expected to appear at the initial prehearing conference.