

Bold = new language

~~Strikeout~~ = existing language deleted in this rulemaking

TITLE 329 SOLID WASTE MANAGEMENT DIVISION

DRAFT RULE

LSA Document #20-24

DIGEST

Amends 329 IAC 3.1-1-14.1, 329 IAC 10-14-1, 329 IAC 15-3-4, and 329 IAC 15-4-3, adds 329 IAC 10-11-8 and 329 IAC 11-9-4.1, and repeals 329 IAC 15-3-7 concerning solid waste and hazardous waste program permitting fees as required by Public Law 250-2019. Effective 30 days after filing with the Publisher.

HISTORY

First Notice of Comment Period: February 19, 2020, Indiana Register (DIN: 20200219-IR-329200024FNA).

Findings and Determination of the Commissioner Pursuant to IC 13-14-9-7 and Second Notice of Comment Period: June 2, 2021, Indiana Register (DIN: 20210602-IR-329200024SNA).

Notice of Public Hearing: June 2, 2021, Indiana Register (DIN: 20210602-IR-329200024PHA).

Notice of First Hearing: August 18, 2021, Indiana Register (DIN: 20210602-IR-329200024SNA).

Date of First Hearing: November 10, 2021.

329 IAC 3.1-1-14.1, 329 IAC 10-11-8, 329 IAC 10-14-1, 329 IAC 11-9-4.1, 329 IAC 15-3-4, 329 IAC 15-3-7, 329 IAC 15-4-3.

DRAFT RULE

SECTION 1. 329 IAC 3.1-1-14.1 IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-1-14.1 Fees

Authority: IC 13-14-8; IC 13-16; IC 13-22

Affected: IC 13-15-11; IC 13-16; IC 13-22-2; IC 13-22-12; IC 13-30-4

Sec. 14.1. (a) The following definitions apply throughout this section:

- (1) "Boilers and industrial furnaces" or "BIFs" means facilities as defined under "boilers" and "industrial furnaces" in 40 CFR 260.10*.
- (2) "Class 2 modification" refers to the modification classification system described under 40 CFR 270.42*.
- (3) "Class 3 modification" refers to the modification classification system described under 40 CFR 270.42*.
- (4) "Ground water monitoring well" means a device required by a permit condition or

applicable rule to monitor the quality of ground water during a twelve (12) month period. (5) "Land disposal" includes interim status and permitted hazardous waste landfills and interim status and permitted hazardous waste surface impoundments.

(6) "Large quantity generator" has the meaning set forth in 40 CFR 260.10*.

(7) "Operation" or "operating" means the following:

(A) A hazardous waste treatment, storage, or disposal unit that will close by removing all waste is considered operating if waste is present in the unit as of January 1.

(B) A disposal unit that will close leaving waste in place is considered operating until the unit has permanently stopped receiving waste as of January 1.

(8) "Storage" means the term as defined in 40 CFR 260.10* and includes interim status and permitted hazardous waste storage.

(9) "Treatment" means the term as defined in 40 CFR 260.10* and includes interim status and permitted hazardous waste treatment. The term does not include treatment that is excluded from permitting or interim permitting under 40 CFR 261.4*, 40 CFR 261.6*, and 40 CFR 262.14 through 40 CFR 262.17*.

(b) ~~In accordance with IC 13-22-12-2 and IC 13-22-12-3,~~ Hazardous waste fees are as follows:

(1) New permit application fees are as follows:

(A) Land disposal:	\$40,600
(B) Incinerator (per unit):	\$21,700
(C) Storage:	\$23,800
(D) Treatment (including boilers and industrial furnaces):	\$23,800

(2) Permit renewal and Class 3 modification fees are as follows:

(A) Land disposal:	\$34,000 \$58,600
(B) Incinerator (per unit):	\$21,700 \$37,400
(C) Storage:	\$17,200 \$29,660
(D) Treatment (including boilers and industrial furnaces):	\$17,200 \$29,660

(3) Class 2 modification fee: \$2,250

(4) Annual operation fees are as follows:

(A) Land disposal:	\$37,500 \$50,000
(B) Incinerator (per unit):	\$10,000 \$17,245
(C) Storage:	\$2,500 \$4,300
(D) Treatment (including boilers and industrial furnaces):	\$10,000 \$17,245
(E) Large quantity generator:	\$1,565 \$2,500
(F) Post-closure activity:	\$1,500
(G) Ground water compliance sampling at active facilities (per well):	\$1,000 \$2,100

(c) For the disposal of hazardous waste in Indiana, the following requirements apply:

(1) Fees for hazardous waste disposal are as follows:

(A) For hazardous waste disposed of in a disposal facility, eleven dollars and fifty cents (\$11.50) per ton. If hazardous waste is mixed with or dissolved or suspended in water or another liquid at the time it is disposed of in a disposal facility, the entire mixture, solution, or suspension disposed of is considered hazardous waste disposed of in a disposal facility for the purposes of this clause.

(B) For hazardous waste disposed of by underground injection, eleven dollars and fifty cents (\$11.50) per ton. A person required to pay disposal fees under this clause is not liable for more than twenty-five thousand dollars (\$25,000) in disposal fees under this clause for all hazardous waste disposed of by the person by underground injection in one (1) calendar year.

(2) Fees imposed under subdivision (1)(A) must be paid by the operator of the disposal facility at which the hazardous waste is disposed. For hazardous waste disposed of by underground injection at a location other than a disposal facility, the fee imposed on the disposal of the hazardous waste under subdivision (1)(B) must be paid by the person disposing of the hazardous waste.

(3) Fees imposed under this subsection begin accruing on January 1 of each year. The fees that accrue under this subsection during a calendar year must be paid to the department on or before March 1 of the following year.

(4) The fees imposed under this subsection must be based on the total tonnage of hazardous waste disposed. The fees do not apply to the treatment or storage of hazardous waste in a disposal facility.

(5) The fees paid to the department under this subsection must be handled in accordance with IC 13-22-12-3.6.

~~(c)~~(d) Requirements for application fees are as follows:

(1) The fees must be submitted with the hazardous waste permit application.

(2) The commissioner shall deny hazardous waste permit applications without the application fee.

(3) The fees are not refundable once staff review of the application has commenced.

~~(d)~~(e) The following requirements apply to persons or facilities subject to the annual operation fee schedule:

(1) Annual operation fees established in IC 13-22-12-3 apply to facilities listed in subsection (b) that:

(A) operate with a permit;

(B) operate under interim status;

(C) are a large quantity generator; or

(D) otherwise manage hazardous waste subject to regulation under IC 13-22-2.

(2) A hazardous waste management facility permitted as of January 1 of the assessed year must pay annual operation fees, even if not yet constructed or receiving waste.

(3) Waivers for large quantity generators are prohibited.

(4) A permitted treatment, storage, or disposal facility that has the ability to manage hazardous waste must pay the applicable fee, whether or not hazardous waste is being

managed at the facility.

(5) Permitted treatment and storage facilities that close by removing all waste are not required to pay a post-closure fee because the facility is no longer regulated.

(6) Facilities that are issued a post-closure permit must pay the post-closure fee that is assessed for the duration of the post-closure period.

(7) A person shall remit a hazardous waste annual operation fee or an installment allowed by subsection (g) to the commissioner:

(A) no more than thirty (30) days after the date the fee is assessed; or

(B) by the date the installment is due.

(8) A person or facility that is described in more than one (1) category under this section shall pay all applicable fees.

~~(e)~~(f) The following requirements apply to hazardous waste annual operation fees:

(1) Hazardous waste annual operation fees begin accruing on January 1 of each year.

(2) The commissioner shall:

(A) assess hazardous waste annual operation fees not later than June 15 for the current year's activities; and

(B) base the assessment on a large quantity generator's previous year's activities as defined by the large quantity generator.

~~(f)~~(g) Installment payments may be allowed as follows:

(1) The commissioner shall allow a person to remit installments on the annual fee if:

(A) the person determines that a single payment of the entire fee is an undue hardship; and

(B) the commissioner receives written notification requesting consideration of installment payments before January 30 of the invoiced year.

(2) Installments paid on a:

(A) quarterly basis are due on:

(i) February 15;

(ii) May 15;

(iii) August 15; and

(iv) November 15; or

(B) semiannual basis are due on:

(i) February 15; and

(ii) August 15.

(3) The commissioner shall not send a notice of the installment method to the person who notifies in subdivision (1)(B).

~~(g)~~(h) In addition to the penalties described under IC 13-30-4, the following requirements apply:

(1) A person shall be assessed a delinquency charge equal to ten percent (10%) of the hazardous waste annual operation fee or ten percent (10%) of the installment, whichever is applicable, if the person does not remit a hazardous waste annual operation fee or an installment established under subsection (g)(2) within:

(A) sixty (60) days after the date the fee is assessed; or

- (B) thirty (30) days after the date the installment is due.
- (2) The delinquency charge described in subdivision (1) is due and payable:
 - (A) sixty (60) days after the date the hazardous waste annual operation fee is assessed; or
 - (B) thirty (30) days after the date the installment is due.
- (3) The commissioner may revoke a person's permit if the person does not remit the hazardous waste annual operation fee or an installment established by the commissioner and any applicable delinquency charge within:
 - (A) ninety (90) days after the date the hazardous waste annual operation fee is assessed; or
 - (B) sixty (60) days after the date the installment is due.
- (4) Before revoking a person's permit under subdivision (3), the commissioner shall send a written notice by certified mail that:
 - (A) describes what fees and delinquency charge are due; and
 - (B) indicates that the commissioner may revoke the person's permit for nonpayment thirty (30) days after receipt of the notice.

~~(h)~~(i) The fees and delinquency charges collected under this section:

- (1) are payable to the department; and
- (2) must be deposited in the environmental management permit operation fund established under IC 13-15-11.

*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (*Solid Waste Management Division; 329 IAC 3.1-1-14.1; filed Jan 3, 2000, 10:00 a.m.: 23 IR 1094; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jun 9, 2006, 3:40 p.m.: 20060712-IR-329050066FRA; filed Nov 26, 2019, 11:36 a.m.: 20191225-IR-329180481FRA*)

SECTION 2. 329 IAC 10-11-8 IS ADDED TO READ AS FOLLOWS:

329 IAC 10-11-8 Solid Waste Fees

Authority: IC 13-14-8-7; IC 13-15; IC 13-16; IC 13-19-3

Affected: IC 13-20-1; IC 13-21-5; IC 36-9-30

Sec. 8. (a) The application fees for solid waste permits are as follows:

New Permit or Major Modification	
	Fee
Construction/Demolition Site	\$20,000
Restricted Waste	
Type I	\$31,000
Type II	\$31,000
Type III	\$20,000

Incinerator	\$28,650
Municipal or Nonmunicipal Solid Waste Landfill	\$53,975
Permit Renewal	
Construction/Demolition Site	\$12,330
Restricted Waste	
Type I	\$26,500
Type II	\$26,500
Type III	\$12,330
Incinerator	\$10,175
Municipal or Nonmunicipal Solid Waste Landfill	\$26,500
Minor Modification	
Minor Modification	\$4,300

(b) The annual operation fees for solid waste facilities are as follows:

Annual Operation Fees	Fee
Municipal or Nonmunicipal Solid Waste Landfill	
Greater than 500 Tons Per Day (TPD)	\$45,000
250-499 TPD	\$25,900
100-249 TPD	\$12,070
Less than 100 TPD	\$3,450
Construction\Demolition Site	\$2,590
Restricted Waste Site	
Type I	\$41,250
Type II	\$35,000
Type III	\$15,000
Incinerator	
Greater than 500 TPD	\$40,000
250-499 TPD	\$15,000
100-249 TPD	\$7,000
Less than 100 TPD	\$2,000
Infectious Waste Incinerator (Greater than 7 TPD)	\$5,000
Groundwater Compliance Sampling (per well)	\$400

(Solid Waste Management Division; 329 IAC 10-11-8)

SECTION 3. 329 IAC 10-14-1 IS AMMENDED TO READ AS FOLLOWS:

329 IAC 10-14-1 Quarterly Reports and Solid Waste Disposal Fees
Authority: IC 13-14-8-7; IC 13-15; IC 13-16; IC 13-19-3

Affected: IC 13-20; IC 13-21-5; IC 36-7-4; IC 36-9-30

Sec. 1. (a) A quarterly tonnage report of solid waste received at the solid waste land disposal facility must be submitted to the commissioner by the owner, operator, or permittee of that facility.

(b) The report required by subsection (a) must be submitted on or before the fifteenth day of the month immediately following the end of the calendar quarter being reported. If the submittal date falls on a Saturday, a Sunday, or a national or state legal holiday, the submittal date will be the next day that is not a Saturday, a Sunday, or a national or state legal holiday.

(c) The report required by subsection (a) must be submitted by the owner, operator, or permittee of the solid waste land disposal facility that is open to accept solid waste for disposal unless the owner, operator, or permittee of the solid waste land disposal facility has ceased accepting solid waste for a period of at least one (1) calendar quarter, and has sent written notification to the commissioner indicating the initiation of final closure under 329 IAC 10-22-4, 329 IAC 10-30-6, or 329 IAC 10-37-6 as appropriate.

(d) The solid waste hauler shall provide the owner, operator, or permittee of the solid waste land disposal facility with the origin of the solid waste delivered to the solid waste land disposal facility. The hauler shall estimate, by percent, the type and amount of solid waste originating in each county and state, or country if other than the United States, if the load contains solid waste from more than one (1) county, state, or country.

(e) The owner, operator, or permittee of the solid waste land disposal facility shall submit the quarterly tonnage report required by subsection (a) as follows:

(1) In the most current paper or electronic submittal format prescribed by the commissioner. The owner, operator, or permittee may obtain a quarterly tonnage report form from the department. The form:

(A) may be photocopied or electronically copied by the owner, operator, or permittee of the solid waste land disposal facility; and

(B) in its most current format, may be computer generated by the owner, operator, or permittee of the solid waste land disposal facility.

(2) The original of each paper report must be signed by the solid waste land disposal facility owner, operator, or permittee as certification of report accuracy.

(3) Each report must be accurate, legible, and complete.

(4) The report required by this subsection must include at least the following information:

(A) The weight in total tons of solid waste received at the solid waste land disposal facility for that calendar quarter compiled by waste type and origin.

(B) The county and state in which the solid waste originated. If the solid waste originated outside of the United States, the country must be designated. The origin must be provided to the solid waste land disposal facility by the solid waste hauler as described in subsection (d).

(C) The type, total weight in tons, and final destination of solid waste diverted from disposal for reuse or recycling after being received at the solid waste land disposal facility.

(D) Waste types, including the following:

(i) Municipal solid waste.

(ii) Construction/demolition waste.

- (iii) Foundry waste.
- (iv) Coal ash.
- (v) Flue gas desulfurization wastes.
- (vi) Other solid waste.

(f) If the owner, operator, or permittee of the solid waste land disposal facility ascertains that there is an error in any report previously submitted as required by subsection (a), a revised report reflecting the correct information must be submitted in the same format as the original submission. The revised report must:

- (1) have "Amended" written or typed at the top of each page of the resubmitted report; and
- (2) be submitted before or with the submission of the next quarterly tonnage report after ascertaining an error.

(g) Copies of reports required by this section must be:

- (1) retained as specified under 329 IAC 10-1-4(b) for three (3) years after the submittal date of the report; and
- (2) made available during normal operating hours for inspection and photocopying or electronic copying by a representative of the department.

(h) The solid waste land disposal facility owner, operator, or permittee shall maintain the documentation to substantiate reports required by this section. ~~Such~~ **The** documentation must be:

- (1) retained as specified under 329 IAC 10-1-4(b) for three (3) years after the submittal date of the report; and
- (2) made available during normal operating hours for inspection and photocopying or electronic copying by a representative of the department.

(i) Failure to submit reports and copies as required by this section or maintain copies of reports and records as required by this section constitutes an operational violation of this article.

(j) Solid waste disposal fees for solid waste disposed in certain facilities must be submitted with each quarterly report in accordance with the following:

- (1) Ten cents (\$0.10) per ton of solid waste disposed in a municipal solid waste landfill.**
- (2) Ten cents (\$0.10) per ton of solid waste disposed in a nonmunicipal solid waste landfill.**
- (3) Five cents (\$0.05) per ton of solid waste disposed in an incinerator.**
- (4) Ten cents (\$0.10) per ton of solid waste disposed in a construction or demolition site.**

(Solid Waste Management Division; 329 IAC 10-14-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1815; filed Mar 19, 1998, 11:07 a.m.: 21 IR 2759; filed Aug 2, 1999, 11:50 a.m.: 22 IR 3795; filed Feb 9, 2004, 4:51 p.m.: 27 IR 1807, eff Apr 1, 2004)

SECTION 4. 329 IAC 11-9-4.1 IS ADDED TO READ AS FOLLOWS:

329 IAC 11-9-4.1 Fees

Authority: IC 13-14-8-7; IC 13-15; IC 13-16; IC 13-19-3

Affected: IC 13-20-1; IC 13-21-5; IC 36-9-30

Sec. 4.1. (a) For solid waste processing facilities, fees are as follows:

New Permit or Major Modification

	Fee
Processing Facility	
Transfer Station	\$12,150
Other	\$12,150
Permit Renewal	
Processing Facility	
Transfer Station	\$3,795
Other	\$3,795

(b) For processing facilities, annual fees are as follows:

Annual Operation Fees

	Fee
Processing Facility	
Transfer Station	\$3,500
Other	\$3,500

(Solid Waste Management Division; 329 IAC 11-9-4.1)

SECTION 5. 329 IAC 15-3-4 IS AMENDED TO READ AS FOLLOWS:

329 IAC 15-3-4 Fees for waste tire storage sites and processing operations

Authority: IC 13-16; IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-20-21; IC 13-30-2; IC 36-9-30

Sec. 4. The owner or operator of a waste tire storage site **or processing operation** shall pay the **following** fees: ~~required by IC 13-20-21~~

	Fee
Storage Site Registration	\$500
Processing Operation Registration	\$200
Storage Site Annual Fee	\$860
Processing Operation Registration Renewal	\$200

(Solid Waste Management Division; 329 IAC 15-3-4; filed Oct 10, 2000, 3:10 p.m.: 24 IR 321; readopted filed Nov 30, 2006, 4:16 p.m.: 20061227-IR-329050168FRA; readopted filed Jul 18, 2012, 2:26 p.m.: 20120815-IR-329120206BFA; readopted filed Jun 6, 2018, 1:57 p.m.: 20180704-IR-329180170BFA)

SECTION 6. 329 IAC 15-4-3 IS AMENDED TO READ AS FOLLOWS:

329 IAC 15-4-3 Fees for waste tire transporters

Authority: IC 13-16;1 IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-20-21; IC 13-30-2; IC 36-9-30

Sec. 3. A waste tire transporter shall pay the **following fee fees** required by ~~IC 13-20-21~~
for waste tire transportation.

Registration	Fee
	\$25
Annual Fee	\$100

(Solid Waste Management Division; 329 IAC 15-4-3; filed Oct 10, 2000, 3:10 p.m.: 24 IR 326; readopted filed Nov 30, 2006, 4:16 p.m.: 20061227-IR-329050168FRA; readopted filed Jul 18, 2012, 2:26 p.m.: 20120815-IR-329120206BFA; readopted filed Jun 6, 2018, 1:57 p.m.: 20180704-IR-329180170BFA)

SECTION 7. 329 IAC 15-3-7 IS REPEALED.