

TITLE 329 SOLID WASTE MANAGEMENT DIVISION

Rule Information Sheet

Solid Waste and Hazardous Waste Program Permitting Fees LSA Document #20-24

Overview

Public Law 250-2019 was passed by the 2019 General Assembly to amend the process in IC 13-16 concerning the adoption of environmental fees by the Environmental Rules Board (board). The amendments to IC 13-16 provide a process by which the board may direct IDEM to initiate a rulemaking under IC 13-14-9 to address fees based on information collected by IDEM and presented to the board for its review and consideration. Public Law 250-2019 also establishes that the board may not change fees more than one time in five years, and the fee increase may not amount to more than ten percent.

In addition to the process established in IC 13-16 for future rulemakings to increase environmental fees, Public Law 250-2019 requires the board to adopt rules once before January 1, 2022, (this date was extended to January 1, 2023, by the General Assembly in the 2021 session) to increase the amount of the fees for solid waste and hazardous waste programs under IC 13-20-21 and IC 13-22-12, along with fees for water-related programs under IC 13-18-10, IC 13-18-20, and IC 13-18-20.5 by an aggregate amount of \$3,200,000 greater than the aggregate fee revenue actually received in the year immediately preceding the proposed fee increases.

This rulemaking addresses the one-time fee increases required under Public Law 250-2019 for IC 13-20-21 and IC 13-22-12, regarding solid and hazardous waste programs. The legislatively allowed fee increase of an aggregate of \$3,200,000 is shared among the affected fees in the water and waste programs in Titles 327 and 329. The waste program fee increases will provide approximately \$1,715,595 in increased revenue for IDEM's waste programs.

There were modifications made to the rule language that was posted in the Indiana Register as part of the Second Notice of Comment Period (DIN: 20210602-IR-329200024SNA). Specifically, Solid Waste Disposal Fees are no longer included as a new section at 329 IAC 10-11-9. IDEM determined that Solid Waste Disposal Fees would be more appropriately placed in 329 IAC 10-14-1 since these fees are required to be submitted with the quarterly reports of solid waste tonnage received at a solid waste facility. Additionally, the language in this section concerning fees for the disposal or incineration of solid waste in a final disposal facility in Indiana has been removed. IDEM determined that this language shall remain in statute as part of IC 13-20-22 and does not need to be in the rule. Further, the fees for Waste Tire Transportation were moved from 329 IAC 15-3-4 to 329 IAC 15-4-3 so they appear in the waste tire transportation rule, rather than the storage and processing operations rule. Finally, the "other" category was removed from 329 IAC 10-11-8. This category was inadvertently included into the draft rule language and will not be part of the final rule.

Affected Persons

The fees increased under this rulemaking affect waste related activities covered by IC 13-20-21 and IC 13-22-12, regarding solid and hazardous waste programs. In 2019, IDEM issued approximately two thousand permits under the solid waste and hazardous waste programs.

Reasons for the Rule

The increases in fees collected by IDEM will be used to fund its work of issuing permits to solid and hazardous waste facilities and other waste related activities under IC 13-20-21 and IC 13-22-12. For some time, the collected fees have not been sufficient to cover IDEM's costs of operating the waste programs. The fees associated with issuing permits, amendments, modifications, and renewals have not changed since 1996.

Economic Impact of the Rule

This rule has no economic impact beyond what is required by Public Law 250-2019.

Scheduled Board Action and Hearings

First Public Hearing: November 10, 2021, at 1:30 P.M., at the Indiana Government Center North, 100 North Senate Avenue, Conference Room 1319, Indianapolis, Indiana. The public may attend the Environmental Rules Board meeting in person or join by using the Zoom link, meeting ID, and passcode, or telephone numbers that can be found prior to the meeting at:

https://events.in.gov/event/environmental_rules_board_meeting.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Seth Engdahl, Rules Development Branch, Office of Legal Counsel, at sengdahl@idem.in.gov, (317) 234-9535, (800) 451-6027 (in Indiana), or sengdahl@idem.in.gov.