

TITLE 329 SOLID WASTE MANAGEMENT DIVISION

Rule Information Sheet

Title 329 Civil Penalties
LSA Document #24-48

Overview

Under IC 13-30-4-1, IDEM imposes civil penalties on entities that violate provisions of the state's laws and rules regarding solid waste management and underground storage tanks (USTs). The current civil penalty policies became effective on April 5, 1999, through nonrule policy documents. House Enrolled Act 1623, which became law on May 4, 2023, added IC 4-22-2-19.6. This statute requires any fee, fine, or civil penalty imposed by an agency to be included in the Indiana Administrative Code. Accordingly, this rulemaking adds 329 IAC 1-3 and 329 IAC 9-11 to include IDEM's civil penalty policies and structure in Title 329. 329 IAC 1-3 comprises IDEM's general civil penalty policy as it applies to violations of solid waste management laws and rules. 329 IAC 9-11 comprises IDEM's civil penalty policy as it applies to laws and rules related to the ownership and operation of USTs.

Affected Persons

This rule will apply to all violators of Indiana's laws and rules regarding solid waste management and USTs.

Reasons for the Rule

IDEM imposes civil penalties to encourage compliance, penalize violations, and recover enforcement costs of Indiana's laws and rules related to solid waste management and USTs. IDEM is authorized to impose such penalties by IC 13-30-4-1 and IC 13-23-14-2; however, these statutes do not provide guidance on how to assess such penalties. Instead, the statutes only cap civil penalties at \$25,000 and \$10,000 per violation per day for violations of solid waste management rules and laws and UST rules and laws, respectively.

IDEM developed non-rule policy documents to ensure that civil penalties are assessed in a consistent and fair manner. Because these policies are now required to be included in the Indiana Administrative Code, pursuant to IC 4-22-2-19.6, this rule is necessary to comply with state law.

Economic Impact of the Rule

This rulemaking will have a negligible economic impact because the underlying policy being incorporated into the Indiana Administrative Code has been in place for 25 years.

The mean annual average of the total penalties imposed by the Office of Land Quality under the general civil penalty policy between FY 2019 and FY 2023 is \$697,587. This money is deposited into the Environmental Management Special Fund pursuant to IC 13-14-12.

The mean annual average of the total penalties imposed by the Office of Land Quality under the UST civil penalty policy between FY 2019 and FY 2023 is \$352,982. This money is deposited into the Excess Liability Trust Fund pursuant to IC 13-23-6-2.

Scheduled Board Action and Hearings

First Public Hearing: April 10, 2024, at 1:30 PM at the Indiana Government Center South, 10 North Senate Avenue, Conference Room A, Indianapolis, Indiana.

IDEM Contact

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