

Readoption Review

Pursuant to IC 4-22-2.6-4, before an agency readopts an existing rule, the agency must conduct a review to consider the continued need for the rule. A summary of the agency's finding from this review will be published in the Indiana Register along with the Notice of Readoption. Agencies are encouraged to use this template to facilitate the review and publication process. Agencies should include a response to each high-level section below (denoted with Roman numerals) that covers the information described.

TITLE 328 INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LSA Document #23-811

I. Continued Need for the Rule

There is a continued need for the rule based on both statutory requirements and regulatory reasons. First of all, IC 13-23-7 establishes the Excess Liability Trust Fund (ELTF), the purposes of ELTF, and the sources of money for ELTF. IC 13-23-8 and IC 13-23-9 contain additional statutory requirements for the use of money in ELTF and the payments for ELTF claims, respectively. IC 13-23-11 establishes the Underground Storage Tank Financial Assurance Board (board) and requires the board to adopt rules to administer ELTF. As a result, the board has adopted rules at 328 IAC 1 concerning the administration of ELTF, the reimbursement of ELTF claims, and to provide a financial responsibility option for underground storage tank owners and operators (among other purposes). Therefore, the rules in 328 IAC 1 are necessary to implement the statutory requirements for ELTF and to carry out the statutorily required duties of the board.

The rules in 328 IAC 1 also provide important standards and procedures for the reimbursement of ELTF claims for corrective action of releases from underground and aboveground storage tanks and indemnification of third parties. Corrective action of releases both reduces threats to human health and the environment and facilitates redevelopment or reuse of contaminated properties. The rules are written to achieve these purposes to meet the standards in IC 4-22-2-19.5 and alternatives methods are not practical due to the statutory requirements to establish rules for the administration of ELTF.

II. Analysis of fees, fines, and civil penalties under IC 4-22-2-19.6

The rule does not include any fees, fines, or civil penalties, which means that it does not require an analysis under IC 4-22-2-19.6.

III. Complaints and Comments

The agency has not received any complaints or comments from the public concerning the rules or the rules' implementation by the agency. Therefore, IDEM is not proposing any changes related to complaints or comments from the public.

IV. Difficulties Encountered

The agency is not aware of any difficulties encountered by the agency in administering the rules or by regulated parties in complying with the rules that require changes to 328 IAC 1. Therefore, IDEM is not proposing any changes related to resolving difficulties encountered.

V. Changes in Technology, Economic Conditions, or Other Factors

Technology, economic conditions, or other factors have not changed significantly in the area affected by the rule since the last time the rule was reviewed. In recent years, IDEM has completed rulemakings and multiple readoption reviews, and has an ongoing rulemaking on the subject matter. The rules in 328 IAC 1 were last amended in 2018 with LSA Document #15-231, along with various readoption reviews since that time. In addition, IDEM has an ongoing rulemaking that will propose comprehensive changes to 328 IAC 1. Therefore, rule changes associated with technology, economic conditions, or other factors are not necessary at this time.

VI. Revised Regulatory Analysis

Based on the reasons and analysis provided in the above sections, no revisions are needed to the previous analyses and statements for the rules proposed for readoption in 328 IAC 1.