

## **IC 13-20-2**

### **Chapter 2. Permits for Solid Waste Landfills**

#### **IC 13-20-2-1**

##### **Financial statement**

Sec. 1. Before an original permit for the construction or operation of a landfill may be granted, the applicant must submit a statement of financial position that meets the following requirements:

- (1) The statement must have been prepared in accordance with generally accepted accounting principles.
- (2) The statement must have been audited by an independent certified public accountant.
- (3) The accountant referred to in subdivision (2) must have issued an unqualified opinion as to the statement.
- (4) The statement must indicate that, at the end of the calendar year or fiscal year immediately preceding the year in which the permit would be issued, the applicant had a positive net worth of at least two hundred fifty thousand dollars (\$250,000).

*As added by P.L.1-1996, SEC.10.*

#### **IC 13-20-2-2**

##### **State of outstanding judgments**

Sec. 2. Before an original permit for the construction or operation of a landfill may be granted, the applicant or a person authorized to act for the applicant under this section must submit a statement in which the applicant or authorized person swears or affirms, subject to the penalty for perjury set forth in IC 35-44.1-2-1, that, to the best of the applicant's or authorized person's knowledge, there are no unsatisfied and nonappealable judgments requiring the payment of money by the applicant.

*As added by P.L.1-1996, SEC.10. Amended by P.L.126-2012, SEC.34.*

#### **IC 13-20-2-3**

##### **Financial statement by parent satisfactory for subsidiary in certain instances**

Sec. 3. If the applicant is a subsidiary corporation, the submission of the statement of financial position of the ultimate parent satisfies the requirement under section 1 of this chapter if the applicant has been a subsidiary of the parent for at least one (1) year before the submission of the statement of financial position.

*As added by P.L.1-1996, SEC.10.*

#### **IC 13-20-2-4**

##### **Investigation and verification by department**

Sec. 4. The department may investigate and verify the information contained in the statements required by this chapter.

*As added by P.L.1-1996, SEC.10.*

**IC 13-20-2-5****Denial of permit**

Sec. 5. The commissioner may deny an application for an original permit for the construction or operation of a landfill if the commissioner finds that:

- (1) the applicant does not have a positive net worth of at least two hundred fifty thousand dollars (\$250,000); or
- (2) there is at least one (1) unsatisfied and nonappealable judgment requiring the payment of money by the applicant.

*As added by P.L.1-1996, SEC.10.*

**IC 13-20-2-6****Valuation of real property**

Sec. 6. For the purposes of this chapter, real property in which the applicant has an interest must be valued at the property's fair market value as determined under the assumption that the permit application will not be granted.

*As added by P.L.1-1996, SEC.10.*

**IC 13-20-2-7****Rules**

Sec. 7. The board may adopt rules under IC 4-22-2 and IC 13-14-9 to administer this chapter.

*As added by P.L.1-1996, SEC.10. Amended by P.L.133-2012, SEC.136.*

**IC 13-20-2-8****Notice of legal action**

Sec. 8. If a legal action is filed that:

- (1) names the department or a representative of the department as a party to the action; and
- (2) concerns an application that has been filed with the department to obtain an original permit or a permit renewal for a solid waste landfill;

the department shall notify the county executive of the county in which the solid waste landfill is or would be located that the legal action has been filed.

*As added by P.L.1-1996, SEC.10.*

**IC 13-20-2-9****Requirement resulting from inaction on construction permit**

Sec. 9. (a) A person that:

- (1) holds a valid construction permit that is issued under this chapter and authorizes construction for a facility that has not been substantially developed; and
- (2) has not commenced construction within:
  - (A) five (5) years after the date of the permit; or
  - (B) another period established by rule or statute;

must apply for a new construction permit and meet the requirements of all applicable environmental laws existing at the time the new permit is sought.

(b) A person that:

(1) holds a valid construction permit that is issued under this chapter and authorizes construction at an operating facility; and

(2) has not commenced construction within:

(A) five (5) years after the date of the permit; or

(B) another period established by rule or statute;

must meet the requirements of all applicable environmental laws existing at the time construction is substantially commenced.

(c) The periods described in subsections (a) and (b) for a person to commence construction are tolled pending either of the following concerning the construction permit:

(1) An administrative appeal.

(2) A judicial review.

*As added by P.L.205-2007, SEC.1.*

### **IC 13-20-2-10**

#### **Conditions requiring submission of new application for original construction permit; fee inapplicable; ordinance to approve facility location**

Sec. 10. (a) This section applies only:

(1) in a county that does not zone under IC 36-7-4; and

(2) to a facility:

(A) that is proposed to be constructed after April 1, 2008;

(B) that is not exempt under IC 13-20-1-1 from the demonstration of needs requirements of IC 13-20-1; and

(C) for which a permit for construction or operation is required under this article.

(b) If:

(1) a person submitted to the department before April 1, 2008:

(A) an application under this chapter for an original construction permit for a facility;

(B) a modification of an application under this chapter previously submitted to the department for an original construction permit for a facility; or

(C) an application under this chapter for modification of an original construction permit issued by the department under this chapter; and

(2) the department did not issue the permit or modified permit applied for as described in subdivision (1) before April 1, 2008;

the person must submit a new application for an original construction permit for the facility and meet the requirements of all applicable environmental laws existing at the time the new permit is sought.

(c) The fee under IC 13-20-21-3 does not apply to the new application for an original construction permit under subsection (b).

(d) The county executive of a county in which a facility is

proposed to be located must adopt an ordinance approving the proposed facility location before the department may issue an original construction permit in response to:

- (1) a new application for an original construction permit for the facility under subsection (b); or
- (2) an application for an original construction permit for the facility submitted to the department after March 31, 2008.

*As added by P.L.114-2008, SEC.17.*

#### **IC 13-20-2-11**

##### **Zoning approval required for certain facility construction**

Sec. 11. (a) This section applies only:

- (1) in a county that zones under IC 36-7-4; and
- (2) to a facility:
  - (A) for which the zoning required for the construction of the facility was approved before April 1, 1985;
  - (B) for which the department issued a valid construction permit under this chapter before April 1, 2008; and
  - (C) that did not accept waste before April 1, 2008.

(b) The person that holds the permit referred to in subsection (a)(2)(B) may begin or complete construction of the facility referred to in subsection (a)(2) only if after April 1, 2008, the zoning authority that has jurisdiction reviews and approves the:

- (1) appropriateness; and
- (2) legality;

of the zoning referred to in subsection (a)(2)(A) under the requirements of all applicable zoning laws existing at the time of the review.

*As added by P.L.114-2008, SEC.18.*