



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

April 12, 2024

NOTICE OF DECISION

The Commissioner of the Indiana Department of Environmental Management (IDEM) has issued a Hazardous Waste Post-Closure Permit Renewal for U.S. Smelter and Lead Refinery, Inc. (USS Lead), 5300 Kennedy Ave., East Chicago, Indiana. The permit will allow USS Lead to continue to maintain and monitor its closed hazardous waste landfill.

Copies of documents pertaining to the Hazardous Waste Permit are available for public viewing via IDEM's Virtual File Cabinet (VFC). To view these documents, go to www.in.gov/idem/legal/public-records/virtual-file-cabinet/. VFC permit Content IDs are:

Permit Conditions 83623777

Permit Attachments:

A 83623778 B 83623779 C 83623780 D 83623781 Appendices 83623816
Figures 83623817

A Response to Comments has been prepared for comments received during the public comment period. The Response to Comments is enclosed for your information.

Any aggrieved party has the right to appeal this decision pursuant to IC 4-21.5-3-7 (see enclosure). The Petition for Administrative Review and the Petition for Stay must be submitted to the Office of Environmental Adjudication within 15 days of your receipt of this notice.

If you have questions regarding this notice, please contact Mr. Jeff Workman at (317) 232-3221 or jworkman@idem.IN.gov.

Sincerely,

Donald W. Stilz, Chief
Hazardous Waste Permit Section
Permits Branch
Office of Land Quality

JAW/gjo
Enclosures



Visit on.IN.gov/survey or scan the QR code to provide feedback.

We appreciate your input!



RESPONSE TO COMMENTS
RCRA DRAFT PERMIT RENEWAL
U.S. SMELTER AND LEAD REFINERY (USS LEAD)
EAST CHICAGO, INDIANA
IND047030266

INTRODUCTION

The public comment period for the USS Lead Draft Permit Renewal began on February 23, 2024, with a public notice in the Northwest Indiana Times, and a mass mailing to interested parties. The notice requested comments regarding the Draft RCRA Permit Renewal. The public comment period ended on April 8, 2024.

This Response to Comments is issued pursuant to 329 IAC 3.1-13-13, which requires that the Indiana Department of Environmental Management (IDEM) shall:

1. briefly describe and respond to all significant comments on the Draft Permit;
2. specify which provisions, if any, of the Draft Permit have been changed, and the reasons for the change; and
3. explain the right to request an adjudicatory hearing on the permit as specified in IC 4-21.5.3.5 (see Notice of Decision).

RESPONSE TO PUBLIC COMMENTS

The following responses have been prepared by the Indiana Department of Environmental Management (IDEM) to address the concerns expressed by the public during the public comment period. The comments are described in the following sections along with the IDEM's response and any permit changes made as a result of the comments.

No public comments were received.

RESPONSE TO FACILITY COMMENTS

USS Lead submitted an updated Groundwater and Surface Water Sampling and Analysis Plan (Appendix O) (VFC# 83618388) in accordance with the public comment procedures. The submittal provided the revised surface water sampling procedures specified in Draft Compliance Schedule Condition VI.B. IDEM concurs the revised Appendix O addresses the Draft Compliance Schedule Condition. Therefore, Draft Permit Condition VI.B has been removed for the final permit.

ADDITIONAL CHANGES TO THE FINAL PERMIT

The Indiana Department of Environmental Management (IDEM) has determined that the following additional State condition should be revised and/or clarified:

Permit Condition IV.C.1 has been revised to reference the Groundwater Protection Standards in Permit Condition IV.C.2 rather than V.C.2.



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What if you are not satisfied with this decision and you want to file an appeal?

Who may file an appeal?

The decision described in the accompanying Notice of Decision may be administratively appealed. Filing an appeal is formally known as filing a “Petition for Administrative Review” to request an “administrative hearing”.

If you object to this decision issued by the Indiana Department of Environmental Management (IDEM) and are: 1) the person to whom the decision was directed, 2) a party specified by law as being eligible to appeal, or 3) aggrieved or adversely affected by the decision, you are entitled to file an appeal. (An aggrieved and adversely affected person is one who would be considered by the court to be negatively impacted by the decision. If you file an appeal because you feel that you are aggrieved, it will be up to you to demonstrate in your appeal how you are directly impacted in a negative way by the decision).

The Indiana Office of Environmental Adjudication (OEA) was established by state law – see Indiana Code (IC) 4-21.5-7 – and is a separate state agency independent of IDEM. The jurisdiction of the OEA is limited to the review of environmental pollution concerns or any alleged technical or legal deficiencies associated with the IDEM decision making process. Once your request has been received by OEA, your appeal may be considered by an Environmental Law Judge.

What is required of persons filing an appeal?

Filing an appeal is a legal proceeding, so it is suggested that you consult with an attorney. Your request for an appeal must include your name and address and identify your interest in the decision (or, if you are representing someone else, his or her name and address and their interest in the decision). In addition, please include a photocopy of the accompanying Notice of Decision or list the permit number and name of the applicant, or responsible party, in your letter.

Before a hearing is granted, you must identify the reason for the appeal request and the issues proposed for consideration at the hearing. You also must identify the permit terms and conditions that, in your judgment, would appropriately satisfy the requirements of law with respect to the IDEM decision being appealed. That is, you must suggest an alternative to the language in the permit (or other order, or decision) being appealed, and your suggested changes must be consistent with all applicable laws (See Indiana Code 13-15-6-2) and rules (See Title 315 of the Indiana Administrative Code, or 315 IAC).



A State that Works

The effective date of this agency action is stated on the accompanying Notice of Decision (or other IDEM decision notice). If you file a "Petition for Administrative Review" (appeal), you may wish to specifically request that the action be "stayed" (temporarily halted) because most appeals do not allow for an automatic "stay". If, after an evidentiary hearing, a "stay" is granted, the IDEM-approved action may be halted altogether, or only allowed to continue in part, until a final decision has been made regarding the appeal. However, if the action is not "stayed" the IDEM-approved activity will be allowed to continue during the appeal process.

Where can you file an appeal?

If you wish to file an appeal, you must do so in writing. There are no standard forms to fill out and submit, so you must state your case in a letter (called a petition for administrative review) to the Indiana Office of Environmental Adjudication (OEA). Do not send the original copy of your appeal request to IDEM. Instead, send or deliver your letter to:

**The Indiana Office of Environmental Adjudication
100 North Senate Avenue, Room N103
Indianapolis, IN 46204**

If you file an appeal, also please send a copy of your appeal letter to the IDEM contact person identified in the Notice of Decision, and to the applicant (person receiving an IDEM permit, or other approval).

Your appeal (petition for administrative review) must be received by the Office of Environmental Adjudication in a timely manner. The due date for filing an appeal may be given, or the method for calculating it explained, on the accompanying Notice of Decision (NOD). Generally appeals must be filed within 18 days of the mailing date of the NOD. To ensure that you meet this filing requirement, your appeal request must be:

- 1) Delivered in person to OEA, by the close-of-business on the eighteenth day (if the 18th day falls on a day when the Office of Environmental Adjudication (OEA) is closed for the weekend or for a state holiday, then your petition will be accepted on the next business day on which OEA is open), or
- 2) Given to a private carrier who will deliver it to the OEA on your behalf, (and from whom you must obtain a receipt dated on or before the 18th day), or
- 3) For those appeal requests sent by U.S. Mail, your letter must be postmarked by no later than midnight of the 18th day, or
- 4) Faxed to the OEA at (317) 233-9372 before the close-of-business on the 18th day, provided that the original signed "Petition for Administrative Review" is also sent, or delivered, to the OEA in a timely manner.

What are the costs associated with filing an appeal?

The OEA does not charge a fee for filing documents for an administrative review or for the use of its hearing facilities. However, OEA does charge a fifteen cent (\$.15) per page fee for copies of any documents you may request. Another cost that could be associated with your appeal would be for attorney's fees. Although you have the option to act as your own

attorney, the administrative review and associated hearing are complex legal proceedings; therefore, you should consider whether your interests would be better represented by an experienced attorney.

What can you expect from the Office of Environmental Adjudication (OEA) after you file for an appeal?

The OEA will provide you with notice of any prehearing conference, preliminary hearings, hearings, “stays,” or orders disposing of the review of this decision. In addition, you may contact the OEA by phone at (317) 232-8591 with any scheduling questions. However, technical questions should be directed to the IDEM contact person listed on the Notice of Decision.

Do not expect to discuss details of your case with OEA other than in a formal setting such as a prehearing conference, a formal hearing, or a settlement conference. The OEA is not allowed to discuss a case without all side being present. All parties to the proceeding are expected to appear at the initial prehearing conference.