



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

June 25, 2024

Via Certified Mail # 701724000000747 0966

Via Certified Mail # 701724000000747 0973

Dennis M. Murphy, President
Indiana University Health, Inc.
340 West 10th Street, FS-6100
Indianapolis, Indiana 46202

Erin R. Lewis, Registered Agent for
Indiana University Health, Inc.
340 West 10th Street
Indianapolis, Indiana 46202

Dear Interested Parties:

Re: Notice of Violation and Proposed Agreed Order
Indiana University Health
Case No.: 2024-30141-H
EPA ID No.: INR000154880
Indianapolis, Marion County

Qualified offer of settlement: inadmissible per Rule 408 of the Ind. Rules of Evidence. IDEM asserts that any offer to compromise a claim or any acceptance of such offer does not bind or obligate the parties of this enforcement action in the absence of a final order of the agency.

IDEM conducted an investigation of the property located at 2055 North Senate Avenue, Indianapolis, Marion County, Indiana and has made a preliminary determination that violations of environmental management laws and rules exist. Per IC 13-30-3-3, enclosed please find a Notice of Violation that sets forth the alleged violations and a proposed Agreed Order which constitutes a qualified offer of settlement.

You may request a settlement conference to discuss the allegations and the actions necessary to correct and resolve the violations, which may include injunctive relief and the establishment of a compliance schedule. Payment of a civil penalty will also be discussed. The civil penalty amount noted in the proposed Agreed Order contains a preliminary penalty figure for settlement discussion purposes only and is based on penalty calculations associated with the alleged violations set forth in the Notice of Violation.

The individual signing the enclosed Agreed Order should be fully authorized to execute the document and legally bind the parties. The timely entry into an Agreed Order, which saves you and IDEM time and resources, may lead to a reduction in the civil penalty.

IDEM is not required to extend the offer of entry into an Agreed Order for more than 60 days. You may enter into an Agreed Order without admitting that the violations occurred. Additionally, to encourage a timely agreement, IDEM may offer a one time twenty percent reduction (20%) to the Civil Penalty for 60 days after receipt of this Notice of Violation.



If an Agreed Order is not entered into, IDEM may proceed to issue a unilateral notice and order requiring compliance with the environmental laws, rules, and/or permit, including payment of a civil penalty. Please contact me at (317) 233-5954 or via email at lmcclore@idem.IN.gov if you have any questions or if you wish to request a settlement conference.

Sincerely,



Linda L. McClure, Senior Environmental Manager
Land Enforcement Section
Compliance Branch
Office of Land Quality

Enclosures

cc: Marion County Health Department
Carla Johnson, General Counsel, IU Health, Cjohnson61@iuh.org
Susan Lowry, Section Chief, IDEM, OLQ, Hazardous Waste Compliance
IDEM Virtual File Cabinet



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NOTICE OF VIOLATION

Via Certified Mail # 701724000000747 0966

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Dennis M. Murphy, President
Indiana University Health, Inc.
340 West 10th Street, FS-6100
Indianapolis, Indiana 46202

Erin R. Lewis, Registered Agent for
Indiana University Health, Inc.
340 West 10th Street
Indianapolis, Indiana 46202

Case No.: 2024-30141-H

Pursuant to Indiana Code (“IC”) 13-30-3-3, the Indiana Department of Environmental Management (“IDEM”) issues this Notice of Violation. Based on an investigation including a record review conducted on April 25, 2024, by an IDEM representative, IDEM has reason to believe Indiana University Health, Inc. (“Respondent”) violated environmental statutes and rules. The violations are based on the following:

1. Respondent is Indiana University Health, Inc., which owns/operates the facility, with EPA ID No. INR000154880, located at 2055 North Senate Avenue, in Indianapolis, Marion County, Indiana (“Site”).
2. On March 21, 2024, Respondent submitted a “Self-Disclosure and Environmental Audit” form (“Form”) which detailed violations discovered on February 8, 2024. IDEM confirmed the Form was administratively complete on April 3, 2024.
3. 329 Indiana Administrative Code (“IAC”) 3.1 incorporates certain federal hazardous waste management requirements found in 40 Code of Federal Regulations (“CFR”) Parts 260 through 270 and Part 273, including those identified below.
4. Pursuant to 40 CFR 262.13, a generator must determine its generator category. A generator's category is based on the amount of hazardous waste generated each month and may change from month to month.

Pursuant to 329 IAC 3.1-1-10, every hazardous waste generator, transporter, or owner or operator of a hazardous waste facility shall notify the commissioner of its hazardous waste activity on the approved forms.

As noted during the record review, Respondent failed to determine its generator category and failed to notify the commissioner of hazardous waste activities.

5. Pursuant to 40 CFR 262.18(b), a generator who has not received an EPA identification number must obtain one by applying to the Administrator using EPA Form 8700-12.

Upon receiving the request the Administrator will assign an EPA identification number to the generator.

As noted during the record review, Respondent failed to obtain an EPA identification number.

6. Pursuant to 40 CFR 262.16(a) and (b), a generator who generates greater than 100 kilograms but less than 1000 kilograms of non-acute hazardous waste in a calendar month and who accumulates hazardous waste on site for more than 180 days is an operator of a storage facility and is subject to the requirements of 40 CFR Part 264 and the permit requirements of 40 CFR Part 270 unless granted an extension to the 180 day period.

As noted during the record review, Respondent stored one (1) 55-gallon container of hazardous waste on-site for greater than 180 days without complying with 40 CFR Part 264 and 40 CFR Part 270.

7. Pursuant to 40 CFR 270.1(c), a permit is required for the treatment, storage and disposal of any hazardous waste as identified or listed in 40 CFR Part 261.

Pursuant to IC 13-30-2-1(10), Commence or engage in the operation of a hazardous waste facility without having first obtained a permit from the department.

As noted during the record review, Respondent stored one (1) 55-gallon container of hazardous waste, identified or listed in 40 CFR Part 261, without a permit.

8. Pursuant to 40 CFR 262.18(a), a generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator.

As noted during the record review, Respondent stored and offered for transportation one (1) 55-gallon container of hazardous waste prior to receiving an EPA identification number from the Administrator.

9. Pursuant to IC 13-22-4-3.1(b), a hazardous waste small quantity generator (SQG), i.e., a person that generates, in any one or more calendar months of a calendar year:
 - a) more than one hundred (100) kilograms but less than one thousand (1,000) kilograms of hazardous waste;
 - b) less than one (1) kilogram of acute hazardous waste; or
 - c) less than one hundred (100) kilograms of material from the cleanup spillage of acute hazardous waste; or

accumulates at least one thousand (1,000) kilograms of hazardous waste or less than one (1) kilogram of acute hazardous waste shall, before March 1 of each year, submit to the department on forms provided by the department, a report that summarizes the person's hazardous waste shipments during the previous calendar year.

As noted during the record review, Respondent operated as a SQG in 2023 and failed to submit a biennial report as required by March 1, 2024.

Pursuant to IC 13-30-3-3, the Commissioner herein provides notice that the violations may exist and offers an opportunity to enter into an Agreed Order providing for the actions required to correct the violations and, as necessary and appropriate, for the payment of a civil penalty. The Commissioner is not required to extend this offer for more than sixty (60) days.

Pursuant to IC 13-30-3-3, an alleged violator may enter into an Agreed Order without admitting the violations occurred. IDEM encourages settlement by Agreed Order, thereby resulting in quicker correction of the environmental violations and avoidance of extensive litigation. Timely settlement by Agreed Order may result in a reduced civil penalty. Also, settlement discussions will allow Respondent the opportunity to present any mitigating factors that may be relevant to the violations.

If an Agreed Order is not entered into within sixty (60) days of receipt of this Notice of Violation, the Commissioner may issue a Notice and Order under IC 13-30-3-4 containing the actions that must be taken to correct the violations and requiring the payment of an appropriate civil penalty. Pursuant to IC 13-30-4-1, the Commissioner may assess penalties of up to \$25,000 per day for each violation.

Please contact Linda McClure at (317) 233-5954 or lmccclure@idem.IN.gov within fifteen (15) days of receipt of this Notice to discuss resolution of this matter.

Date: June 24, 2024

For the Commissioner:



Lori Freeman, Chief
Compliance Branch
Office of Land Quality

5. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation (“NOV”) via certified mail to:

Dennis M. Murphy, President
Indiana University Health, Inc.
340 West 10th Street, FS-6100
Indianapolis, Indiana 46202

Erin R. Lewis, Registered Agent for
Indiana University Health, Inc.
340 West 10th Street
Indianapolis, Indiana 46202

6. Respondent notified EPA of Very Small Quantity Generator activities on March 7, 2024.

329 Indiana Administrative Code (“IAC”) 3.1 incorporates federal hazardous waste management requirements found in 40 Code of Federal Regulations (“CFR”) Parts 260 through 270 and Part 273, including those identified below.

7. During an investigation including a record review on April 25, 2024, conducted by a representative of IDEM, the following violations were found:

- a. Pursuant to 40 CFR 262.13, a generator must determine its generator category. A generator's category is based on the amount of hazardous waste generated each month and may change from month to month.

Pursuant to 329 IAC 3.1-1-10, every hazardous waste generator, transporter, or owner or operator of a hazardous waste facility shall notify the commissioner of its hazardous waste activity on the approved forms.

As noted during the record review, Respondent failed to determine its generator category and failed to notify the commissioner of hazardous waste activities.

- b. Pursuant to 40 CFR 262.18(b), a generator who has not received an EPA identification number must obtain one by applying to the Administrator using EPA Form 8700–12. Upon receiving the request the Administrator will assign an EPA identification number to the generator.

As noted during the record review, Respondent failed to obtain an EPA identification number.

Respondent obtained an EPA ID Number on March 7, 2024.

- c. Pursuant to 40 CFR 262.16(a) and (b), a generator who generates greater than 100 kilograms but less than 1000 kilograms of non-acute hazardous waste in a calendar month and who accumulates hazardous waste on site for more than 180 days is an operator of a storage facility and is subject to the requirements of 40 CFR Part 264 and the permit requirements of 40 CFR Part 270 unless granted an extension to the 180 day period.

As noted during the record review, Respondent stored one (1) 55-gallon container of hazardous waste on-site for greater than 180 days without complying with 40 CFR Part 264 and 40 CFR Part 270.

- d. Pursuant to 40 CFR 270.1(c), a permit is required for the treatment, storage and disposal of any hazardous waste as identified or listed in 40 CFR Part 261.

Pursuant to IC 13-30-2-1(10), Commence or engage in the operation of a hazardous waste facility without having first obtained a permit from the department.

As noted during the record review, Respondent stored one (1) 55-gallon container of hazardous waste, identified or listed in 40 CFR Part 261, without a permit.

- e. Pursuant to 40 CFR 262.18(a), a generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator.

As noted during the record review, Respondent stored and offered for transportation one (1) 55-gallon container of hazardous waste prior to receiving an EPA identification number from the Administrator.

Respondent obtained an EPA ID Number on March 7, 2024.

- f. Pursuant to IC 13-22-4-3.1(b), a hazardous waste small quantity generator (SQG), i.e., a person that generates, in any one or more calendar months of a calendar year:

- a) more than one hundred (100) kilograms but less than one thousand (1,000) kilograms of hazardous waste;
- b) less than one (1) kilogram of acute hazardous waste; or
- c) less than one hundred (100) kilograms of material from the cleanup spillage of acute hazardous waste; or

accumulates at least one thousand (1,000) kilograms of hazardous waste or less than one (1) kilogram of acute hazardous waste shall, before March 1 of each year, submit to the department on forms provided by the department, a report that summarizes the person's hazardous waste shipments during the previous calendar year.

As noted during the record review, Respondent operated as a SQG in 2023 and failed to submit a biennial report as required by March 1, 2024.

8. Orders of the Commissioner are subject to administrative review by the Office of Environmental Adjudication under IC 4-21.5; however, in recognition of the settlement reached, Respondent acknowledges notice of this right and waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective (“Effective Date”) when it is approved by Complainant or Complainant’s delegate and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall comply with the statutes and rules listed in the findings of fact above.
3. Within thirty (30) days of the Effective Date, Respondent shall correct the manifest used for shipment of the one (1), 55-gallon container referenced in Findings of Fact Paragraph # 7c to reflect Respondent’s EPA ID Number. Documentation of correction shall be submitted to eManifest and IDEM.
4. Within thirty (30) days of the Effective Date, Respondent shall submit the biennial report for calendar year 2023 which was due March 1, 2024. The Biennial Report must be submitted electronically via the Biennial Report module in RCRAinfo. Instructions can be found here: <https://www.in.gov/idem/waste/resources/annual-report-and-biennial-report/>. RCRAinfo may be accessed at: <https://rcrainfo.epa.gov/rcrainfoprod/action/secured/login>.
5. All submittals required by this Agreed Order, unless IDEM notifies the Respondent otherwise in writing, shall be sent to:

Linda McClure, Enforcement Case Manager
Office of Land Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251

6. Pursuant to IC 13-30-4-1, Respondent is assessed and agrees to pay a civil penalty of One Thousand Four Hundred and Thirty-Seven Dollars (\$1,437). After this Agreed Order is adopted (signed by the Assistant Commissioner of the Office of Land Quality), Respondent shall pay by the due date printed on the Invoice that will be attached to the adopted Agreed Order.

Civil and stipulated penalties are payable to the “Indiana Department of Environmental Management” by:

Mail:

Civil penalties are payable by check to the “Indiana Department of Environmental Management.” Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of Environmental Management
Accounts Receivable
P.O. Box 3295
Indianapolis, IN 46206

Online:

Accounts Receivable is accepting payments online by e-Check, Master Card, Visa or Discover. Please visit www.IN.gov/IDEM. Under Online Services, click Online Payment options and follow the prompts. A processing fee of \$0.40 plus 2.06% will be charged for credit card payments. A processing fee of \$0.15 will be charged for eCheck payments. The Case Number is required to complete the process.

Phone:

You may also call us at 317-234-3099 and follow the instructions for Master Card, Visa or Discover payments. A processing fee of \$0.40 plus 2.06% will be charged for credit card payments. A processing fee of \$0.15 will be charged for eCheck payments. The Case Number is required to complete the process.

7. In the event the terms and conditions of the following paragraphs are violated, Complainant may assess, and Respondent shall pay a stipulated penalty in the following amount:

<u>Paragraph</u>	<u>Stipulated Penalty</u>
Order paragraph # 3	\$150 per week
Order paragraph # 4	\$100 per week

8. Stipulated penalties shall be due and payable no later than the thirtieth day after Respondent receives written notice that Complainant has determined a stipulated penalty is due; at which time, a separate invoice will be issued. Complainant may notify Respondent at any time that a stipulated penalty is due. Failure to notify Respondent in writing in a timely manner of a stipulated penalty assessment shall not waive Complainant's right to collect such stipulated penalty or preclude Complainant from seeking additional relief against Respondent for violation of this Agreed Order. Neither assessment nor payment of stipulated penalties shall preclude Complainant from seeking additional relief against Respondent for a violation of this Agreed Order; such additional relief includes any remedies or sanctions available pursuant to Indiana law, including, but not limited to, civil penalties pursuant to IC 13-30-4.
9. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay an additional penalty of 10 percent, payable to "Indiana Department of Environmental Management" and shall be payable to IDEM in the manner specified in Paragraph 6, above.
10. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.
11. This Agreed Order shall apply to and be binding upon Respondent and all successors and assigns. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.

12. No change in ownership, corporate, or partnership status of Respondent shall in any way alter the Respondent's status or responsibilities under this Agreed Order.
13. Respondent shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
14. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
15. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of the obligation to comply with the requirements of any applicable permits or any applicable Federal or State laws or regulations.
16. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
17. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to seek additional civil penalties for the violations specified in the NOV.
18. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the U.S. Environmental Protection Agency (U.S. EPA) or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the U.S. EPA or any other agency or entity.
19. This Agreed Order shall remain in effect until IDEM issues a Resolution of Case letter to Respondent.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY

TECHNICAL RECOMMENDATION:
Department of Environmental Management

RESPONDENT:

By: *Jennifer Reno*
Jennifer Reno, Chief
Land Enforcement Section
Compliance Branch
Office of Land Quality

By: _____
Printed: _____
Title: _____

Date: 6/11/2024

Date: _____

COUNSEL FOR RESPONDENT:

By: _____
Printed: _____
Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT THIS _____ DAY OF _____, 20____

For the Commissioner:

Brian Wolff
Assistant Commissioner
Office of Land Quality

Tracking Number:

Remove X

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Latest Update

Your item was delivered to the front desk, reception area, or mail room at 10:41 am on June 27, 2024 in INDIANAPOLIS, IN 46202.

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USPS Tracking Plus®

Delivered

Delivered, Front Desk/Reception/Mail Room

INDIANAPOLIS, IN 46202

June 27, 2024, 10:41 am

[See All Tracking History](#)

Feedback

[What Do USPS Tracking Statuses Mean? \(https://faq.usps.com/s/article/Where-is-my-package\)](https://faq.usps.com/s/article/Where-is-my-package)

Text & Email Updates



USPS Tracking Plus®



Product Information



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Contact USPS Tracking support for further assistance.

[FAQs](#)

Tracking Number:

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7017240000007470966

[Copy](#)

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Latest Update

We were unable to deliver your package at 9:42 am on June 29, 2024 in INDIANAPOLIS, IN 46202 because the business was closed. We will redeliver on the next business day. No action needed.

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Delivery Attempt

Redelivery Scheduled for Next Business Day

INDIANAPOLIS, IN 46202
June 29, 2024, 9:42 am

Redelivery Scheduled for Next Business Day

INDIANAPOLIS, IN 46202
June 27, 2024, 8:39 am

[See All Tracking History](#)

Feedback

[What Do USPS Tracking Statuses Mean? \(https://faq.usps.com/s/article/Where-is-my-package\)](https://faq.usps.com/s/article/Where-is-my-package)

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Product Information



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Enter tracking or barcode numbers

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FAQs

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- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

60-02L (1833) dbates 30141-H
 ERIN R LEWIS REGISTERED AGENT
 INDIANA UNIVERSITY HEALTH INC
 340 WEST 10TH STREET
 INDPLS IN 46202



9590 9402 8575 3244 8933 56

2. Article Number (Transfer from service label)

7017 2400 0000 0747 0973

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X M. Bern Agent
 Address

B. Received by (Printed Name)

M. Bern

C. Date of Delivery

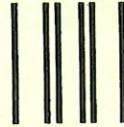
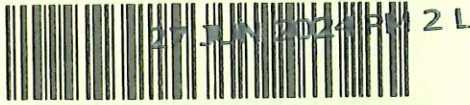
6-27-2

D. Is delivery address different from Item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

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- Adult Signature Restricted Delivery
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- Signature Confirmation®
- Signature Confirmation Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Signature Confirmation®
- Signature Confirmation Restricted Delivery

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INDIANAPOLIS IN 460



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Permit No. G-10

590 9402 8575 3244 8933 56

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DEPT OF ENVIRONMENTAL MGMT
OFFICE OF LAND QUALITY ENFORCEMENT
100 N SENATE AVE RM N1101
INDIANAPOLIS IN 46204

